AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

[**ERRATUM**]

# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE HUNDRED NINTH CONGRESS
OF THE UNITED STATES OF AMERICA

## 2006

AND

PROCLAMATIONS

## VOLUME 120

IN THREE PARTS

## PART 1

PUBLIC LAWS 109–170 THROUGH 109–172 AND
PUBLIC LAWS 109–174 THROUGH 109–288

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 2007

## [ERRATUM]

An error was made in the Contents for Part 3. The line entry for the Private Laws and its beginning page number were omitted. A corrected page for the Contents for Part 3 is printed on the opposite page.

# CONTENTS

## PART 1


| | Page |
|---|---|
| LIST OF BILLS ENACTED INTO PUBLIC LAW | v |
| LIST OF PUBLIC LAWS | ix |
| LIST OF BILLS ENACTED INTO PRIVATE LAW | xxiii |
| LIST OF PRIVATE LAWS | xxv |
| LIST OF CONCURRENT RESOLUTIONS | xxvii |
| LIST OF PROCLAMATIONS | xxix |
| PUBLIC LAWS 109–170 THROUGH 109–172 AND PUBLIC LAWS 109–174 THROUGH 109–288. | 3 |
| POPULAR NAME INDEX | A1 |
| SUBJECT INDEX | B1 |


## PART 2


| | |
|---|---|
| LIST OF BILLS ENACTED INTO PUBLIC LAW | v |
| LIST OF PUBLIC LAWS | ix |
| LIST OF BILLS ENACTED INTO PRIVATE LAW | xxiii |
| LIST OF PRIVATE LAWS | xxv |
| LIST OF CONCURRENT RESOLUTIONS | xxvii |
| LIST OF PROCLAMATIONS | xxix |
| PUBLIC LAWS 109–289 THROUGH 109–364 | 1257 |
| POPULAR NAME INDEX | A1 |
| SUBJECT INDEX | B1 |


## PART 3


| | |
|---|---|
| LIST OF BILLS ENACTED INTO PUBLIC LAW | v |
| LIST OF PUBLIC LAWS | ix |
| LIST OF BILLS ENACTED INTO PRIVATE LAW | xxiii |
| LIST OF PRIVATE LAWS | xxv |
| LIST OF CONCURRENT RESOLUTIONS | xxvii |
| LIST OF PROCLAMATIONS | xxix |
| PUBLIC LAWS 109–365 THROUGH 109–482 | 2522 |
| PRIVATE LAWS | 3705 |
| CONCURRENT RESOLUTIONS | 3709 |
| PROCLAMATIONS | 3753 |
| POPULAR NAME INDEX | A1 |
| SUBJECT INDEX | B1 |

# LIST OF BILLS ENACTED INTO PUBLIC LAW

THE ONE HUNDRED NINTH CONGRESS OF THE UNITED STATES

SECOND SESSION, 2006

| *BILL* | *PUBLIC LAW* |
|---|---|
| H.R. 4 | 109–280 |
| H.R. 9 | 109–246 |
| H.R. 32 | 109–181 |
| H.R. 42 | 109–243 |
| H.R. 138 | 109–354 |
| H.R. 233 | 109–362 |
| H.R. 315 | 109–339 |
| H.R. 318 | 109–317 |
| H.R. 326 | 109–318 |
| H.R. 394 | 109–419 |
| H.R. 409 | 109–375 |
| H.R. 479 | 109–355 |
| H.R. 482 | 109–474 |
| H.R. 486 | 109–470 |
| H.R. 562 | 109–340 |
| H.R. 683 | 109–312 |
| H.R. 758 | 109–420 |
| H.R. 854 | 109–421 |
| H.R. 860 | 109–376 |
| H.R. 864 | 109–422 |
| H.R. 866 | 109–284 |
| H.R. 889 | 109–241 |
| H.R. 1036 | 109–303 |
| H.R. 1053 | 109–205 |
| H.R. 1129 | 109–377 |
| H.R. 1245 | 109–475 |
| H.R. 1259 | 109–213 |
| H.R. 1285 | 109–423 |
| H.R. 1287 | 109–184 |
| H.R. 1442 | 109–304 |
| H.R. 1463 | 109–341 |
| H.R. 1472 | 109–397 |
| H.R. 1492 | 109–441 |
| H.R. 1499 | 109–227 |
| H.R. 1556 | 109–342 |
| H.R. 1674 | 109–424 |
| H.R. 1691 | 109–206 |
| H.R. 1728 | 109–319 |
| H.R. 1953 | 109–230 |
| H.R. 2066 | 109–313 |
| H.R. 2107 | 109–314 |
| H.R. 2113 | 109–185 |
| H.R. 2322 | 109–343 |
| H.R. 2346 | 109–186 |
| H.R. 2383 | 109–384 |
| H.R. 2413 | 109–187 |
| H.R. 2630 | 109–188 |
| H.R. 2720 | 109–320 |
| H.R. 2808 | 109–285 |
| H.R. 2872 | 109–247 |
| H.R. 2894 | 109–189 |
| H.R. 2977 | 109–252 |
| H.R. 3085 | 109–378 |
| H.R. 3127 | 109–344 |
| H.R. 3199 | 109–177 |
| H.R. 3248 | 109–442 |
| H.R. 3256 | 109–190 |
| H.R. 3351 | 109–221 |
| H.R. 3368 | 109–191 |
| H.R. 3408 | 109–296 |
| H.R. 3439 | 109–192 |
| H.R. 3440 | 109–253 |
| H.R. 3443 | 109–321 |
| H.R. 3508 | 109–356 |
| H.R. 3548 | 109–193 |
| H.R. 3549 | 109–254 |
| H.R. 3682 | 109–269 |
| H.R. 3699 | 109–396 |
| H.R. 3703 | 109–194 |
| H.R. 3770 | 109–195 |
| H.R. 3817 | 109–385 |
| H.R. 3825 | 109–196 |
| H.R. 3829 | 109–231 |
| H.R. 3830 | 109–197 |
| H.R. 3858 | 109–308 |
| H.R. 3934 | 109–255 |
| H.R. 3989 | 109–198 |
| H.R. 4000 | 109–386 |
| H.R. 4019 | 109–264 |
| H.R. 4053 | 109–199 |
| H.R. 4057 | 109–425 |
| H.R. 4101 | 109–256 |
| H.R. 4107 | 109–200 |
| H.R. 4108 | 109–257 |
| H.R. 4109 | 109–327 |
| H.R. 4152 | 109–201 |
| H.R. 4246 | 109–398 |
| H.R. 4295 | 109–202 |
| H.R. 4297 | 109–222 |
| H.R. 4377 | 109–393 |
| H.R. 4416 | 109–426 |
| H.R. 4456 | 109–258 |
| H.R. 4472 | 109–248 |
| H.R. 4510 | 109–427 |
| H.R. 4515 | 109–180 |
| H.R. 4519 | 109–172 |
| H.R. 4559 | 109–387 |
| H.R. 4561 | 109–259 |
| H.R. 4583 | 109–428 |
| H.R. 4588 | 109–471 |
| H.R. 4636 | 109–173 |
| H.R. 4646 | 109–273 |
| H.R. 4659 | 109–170 |
| H.R. 4674 | 109–328 |
| H.R. 4688 | 109–260 |
| H.R. 4709 | 109–476 |
| H.R. 4720 | 109–399 |
| H.R. 4745 | 109–174 |
| H.R. 4766 | 109–394 |
| H.R. 4768 | 109–345 |
| H.R. 4786 | 109–261 |
| H.R. 4805 | 109–346 |
| H.R. 4811 | 109–274 |
| H.R. 4826 | 109–209 |
| H.R. 4841 | 109–309 |
| H.R. 4902 | 109–357 |
| H.R. 4911 | 109–212 |
| H.R. 4912 | 109–240 |
| H.R. 4939 | 109–234 |
| H.R. 4954 | 109–347 |
| H.R. 4957 | 109–363 |
| H.R. 4962 | 109–275 |
| H.R. 4979 | 109–218 |
| H.R. 4995 | 109–262 |
| H.R. 4997 | 109–477 |
| H.R. 5026 | 109–348 |
| H.R. 5037 | 109–228 |
| H.R. 5061 | 109–388 |
| H.R. 5074 | 109–305 |
| H.R. 5076 | 109–443 |
| H.R. 5094 | 109–358 |

| BILL | PUBLIC LAW |
|---|---|
| H.R. 5103 | 109–389 |
| H.R. 5104 | 109–276 |
| H.R. 5107 | 109–277 |
| H.R. 5108 | 109–400 |
| H.R. 5117 | 109–249 |
| H.R. 5122 | 109–364 |
| H.R. 5132 | 109–429 |
| H.R. 5136 | 109–430 |
| H.R. 5160 | 109–359 |
| H.R. 5169 | 109–278 |
| H.R. 5187 | 109–306 |
| H.R. 5224 | 109–329 |
| H.R. 5245 | 109–263 |
| H.R. 5381 | 109–360 |
| H.R. 5401 | 109–232 |
| H.R. 5403 | 109–239 |
| H.R. 5428 | 109–349 |
| H.R. 5434 | 109–350 |
| H.R. 5441 | 109–295 |
| H.R. 5466 | 109–418 |
| H.R. 5483 | 109–478 |
| H.R. 5504 | 109–330 |
| H.R. 5539 | 109–322 |
| H.R. 5540 | 109–279 |
| H.R. 5546 | 109–331 |
| H.R. 5574 | 109–307 |
| H.R. 5585 | 109–390 |
| H.R. 5603 | 109–238 |
| H.R. 5606 | 109–332 |
| H.R. 5631 | 109–289 |
| H.R. 5646 | 109–431 |
| H.R. 5664 | 109–315 |
| H.R. 5682 | 109–401 |
| H.R. 5683 | 109–272 |
| H.R. 5684 | 109–283 |
| H.R. 5690 | 109–391 |
| H.R. 5736 | 109–402 |
| H.R. 5782 | 109–468 |
| H.R. 5842 | 109–379 |
| H.R. 5857 | 109–403 |
| H.R. 5865 | 109–250 |
| H.R. 5877 | 109–267 |
| H.R. 5923 | 109–404 |
| H.R. 5929 | 109–333 |
| H.R. 5946 | 109–479 |
| H.R. 5948 | 109–480 |
| H.R. 5989 | 109–405 |
| H.R. 5990 | 109–406 |
| H.R. 6033 | 109–334 |
| H.R. 6051 | 109–335 |
| H.R. 6060 | 109–472 |
| H.R. 6061 | 109–367 |
| H.R. 6075 | 109–336 |
| H.R. 6078 | 109–407 |
| H.R. 6102 | 109–408 |
| H.R. 6106 | 109–323 |
| H.R. 6111 | 109–432 |
| H.R. 6121 | 109–392 |
| H.R. 6131 | 109–433 |
| H.R. 6138 | 109–292 |
| H.R. 6143 | 109–415 |
| H.R. 6151 | 109–409 |
| H.R. 6159 | 109–316 |
| H.R. 6164 | 109–482 |
| H.R. 6197 | 109–365 |
| H.R. 6198 | 109–293 |
| H.R. 6316 | 109–434 |
| H.R. 6326 | 109–368 |
| H.R. 6338 | 109–481 |
| H.R. 6342 | 109–444 |
| H.R. 6344 | 109–469 |
| H.R. 6345 | 109–473 |
| H.R. 6407 | 109–435 |
| H.R. 6429 | 109–445 |
| H.J. Res. 47 | 109–182 |
| H.J. Res. 81 | 109–216 |
| H.J. Res. 82 | 109–217 |
| H.J. Res. 83 | 109–223 |
| H.J. Res. 86 | 109–251 |
| H.J. Res. 100 | 109–369 |
| H.J. Res. 101 | 109–447 |
| H.J. Res. 102 | 109–383 |
| S. 56 | 109–337 |
| S. 101 | 109–380 |
| S. 176 | 109–297 |
| S. 193 | 109–235 |
| S. 203 | 109–338 |
| S. 213 | 109–324 |
| S. 214 | 109–448 |
| S. 244 | 109–298 |
| S. 250 | 109–270 |
| S. 260 | 109–294 |
| S. 310 | 109–265 |
| S. 362 | 109–449 |
| S. 418 | 109–290 |
| S. 435 | 109–370 |
| S. 449 | 109–179 |
| S. 592 | 109–219 |
| S. 655 | 109–245 |
| S. 707 | 109–450 |
| S. 819 | 109–371 |
| S. 843 | 109–416 |
| S. 895 | 109–451 |
| S. 1025 | 109–299 |
| S. 1096 | 109–452 |
| S. 1131 | 109–372 |
| S. 1140 | 109–381 |
| S. 1165 | 109–225 |
| S. 1184 | 109–210 |
| S. 1219 | 109–410 |
| S. 1235 | 109–233 |
| S. 1275 | 109–300 |
| S. 1323 | 109–301 |
| S. 1346 | 109–436 |
| S. 1378 | 109–453 |
| S. 1382 | 109–224 |
| S. 1445 | 109–237 |
| S. 1496 | 109–266 |
| S. 1529 | 109–454 |
| S. 1578 | 109–183 |
| S. 1608 | 109–455 |
| S. 1736 | 109–229 |
| S. 1773 | 109–286 |
| S. 1777 | 109–176 |
| S. 1820 | 109–411 |
| S. 1869 | 109–226 |
| S. 1932 | 109–171 |
| S. 1989 | 109–175 |
| S. 1998 | 109–437 |
| S. 2064 | 109–207 |
| S. 2089 | 109–203 |
| S. 2116 | 109–214 |
| S. 2120 | 109–215 |
| S. 2125 | 109–456 |
| S. 2146 | 109–325 |
| S. 2150 | 109–457 |
| S. 2205 | 109–458 |
| S. 2250 | 109–395 |
| S. 2271 | 109–178 |
| S. 2275 | 109–208 |
| S. 2320 | 109–204 |
| S. 2363 | 109–211 |
| S. 2370 | 109–446 |
| S. 2430 | 109–326 |
| S. 2464 | 109–373 |
| S. 2562 | 109–361 |
| S. 2590 | 109–282 |
| S. 2653 | 109–459 |
| S. 2690 | 109–302 |
| S. 2735 | 109–460 |
| S. 2784 | 109–287 |
| S. 2803 | 109–236 |
| S. 2856 | 109–351 |
| S. 3187 | 109–310 |
| S. 3421 | 109–461 |
| S. 3504 | 109–242 |
| S. 3525 | 109–288 |
| S. 3534 | 109–281 |
| S. 3546 | 109–462 |
| S. 3613 | 109–311 |
| S. 3661 | 109–352 |
| S. 3678 | 109–417 |
| S. 3693 | 109–271 |
| S. 3728 | 109–353 |
| S. 3741 | 109–268 |
| S. 3759 | 109–412 |
| S. 3821 | 109–463 |
| S. 3850 | 109–291 |
| S. 3880 | 109–374 |
| S. 3930 | 109–366 |
| S. 3938 | 109–438 |
| S. 4001 | 109–382 |
| S. 4042 | 109–464 |
| S. 4044 | 109–439 |
| S. 4046 | 109–440 |
| S. 4050 | 109–413 |
| S. 4073 | 109–414 |
| S. 4091 | 109–465 |

| *BILL* | *PUBLIC LAW* |
|---|---|
| S. 4092 | 109–466 |
| S. 4093 | 109–467 |
| S.J. Res. 28 | 109–220 |
| S.J. Res. 40 | 109–244 |

# LIST OF PUBLIC LAWS

CONTAINED IN THIS VOLUME


| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–170 .... | To amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act. | Feb. 3, 2006 ..... | 3 |
| 109–171 .... | Deficit Reduction Act of 2005 ..... | Feb. 8, 2006 ..... | 4 |
| 109–172[1] .. | State High Risk Pool Funding Extension Act of 2006 ..... | Feb. 10, 2006 ..... | 185 |
| 109–174 .... | Making supplemental appropriations for fiscal year 2006 for the Small Business Administration's disaster loans program, and for other purposes. | Feb. 18, 2006 ..... | 189 |
| 109–175 .... | To designate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office". | Feb. 27, 2006 ..... | 190 |
| 109–176 .... | Katrina Emergency Assistance Act of 2006 ..... | Mar. 6, 2006 ..... | 191 |
| 109–177 .... | USA PATRIOT Improvement and Reauthorization Act of 2005. | Mar. 9, 2006 ..... | 192 |
| 109–178 .... | USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006. | Mar. 9, 2006 ..... | 278 |
| 109–179 .... | To facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes. | Mar. 13, 2006 ..... | 283 |
| 109–180 .... | To designate the facility of the United States Postal Service located at 4422 West Sciota Street in Scio, New York, as the "Corporal Jason L. Dunham Post Office". | Mar. 14, 2006 ..... | 284 |
| 109–181 .... | To amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks. | Mar. 16, 2006 ..... | 285 |
| 109–182 .... | Increasing the statutory limit on the public debt ..... | Mar. 20, 2006 ..... | 289 |
| 109–183 .... | Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005. | Mar. 20, 2006 ..... | 290 |
| 109–184 .... | To designate the facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, as the "Robert T. Ferguson Post Office Building". | Mar. 20, 2006 ..... | 292 |
| 109–185 .... | To designate the facility of the United States Postal Service located at 2000 McDonough Street in Joliet, Illinois, as the "John F. Whiteside Joliet Post Office Building". | Mar. 20, 2006 ..... | 293 |
| 109–186 .... | To designate the facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, as the "John J. Hainkel, Jr. Post Office Building". | Mar. 20, 2006 ..... | 294 |
| 109–187 .... | To designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the "Lillian McKay Post Office Building". | Mar. 20, 2006 ..... | 295 |
| 109–188 .... | To redesignate the facility of the United States Postal Service located at 1927 Sangamon Avenue in Springfield, Illinois, as the "J.M. Dietrich Northeast Annex". | Mar. 20, 2006 ..... | 296 |


[1]For Public Law 109–173, see Volume 119 for the 109th Congress, First Session.

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–189 .... | To designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building". | Mar. 20, 2006 ..... | 297 |
| 109–190 .... | To designate the facility of the United States Postal Service located at 3038 West Liberty Avenue in Pittsburgh, Pennsylvania, as the "Congressman James Grove Fulton Memorial Post Office Building". | Mar. 20, 2006 ..... | 298 |
| 109–191 .... | To designate the facility of the United States Postal Service located at 6483 Lincoln Street in Gagetown, Michigan, as the "Gagetown Veterans Memorial Post Office". | Mar. 20, 2006 ..... | 299 |
| 109–192 .... | To designate the facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, as the "Ava Gardner Post Office". | Mar. 20, 2006 ..... | 300 |
| 109–193 .... | To designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the "Heinz Ahlmeyer, Jr. Post Office Building". | Mar. 20, 2006 ..... | 301 |
| 109–194 .... | To designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building". | Mar. 20, 2006 ..... | 302 |
| 109–195 .... | To designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building". | Mar. 20, 2006 ..... | 303 |
| 109–196 .... | To designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial Post Office Building". | Mar. 20, 2006 ..... | 304 |
| 109–197 .... | To designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the "U.S. Cleveland Post Office Building". | Mar. 20, 2006 ..... | 305 |
| 109–198 .... | To designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the "Albert H. Quie Post Office". | Mar. 20, 2006 ..... | 306 |
| 109–199 .... | To designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office". | Mar. 20, 2006 ..... | 307 |
| 109–200 .... | To designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the "Maryland State Delegate Lena K. Lee Post Office Building". | Mar. 20, 2006 ..... | 308 |
| 109–201 .... | To designate the facility of the United States Postal Service located at 320 High Street in Clinton, Massachusetts, as the "Raymond J. Salmon Post Office". | Mar. 20, 2006 ..... | 309 |
| 109–202 .... | To designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the "Mont and Mark Stephensen Veterans Memorial Post Office Building". | Mar. 20, 2006 ..... | 310 |
| 109–203 .... | To designate the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the "Hiram L. Fong Post Office Building". | Mar. 20, 2006 ..... | 311 |
| 109–204 .... | To make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes. | Mar. 20, 2006 ..... | 312 |
| 109–205 .... | To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine. | Mar. 23, 2006 ..... | 313 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–206 .... | To designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the "John H. Bradley Department of Veterans Affairs Outpatient Clinic". | Mar. 23, 2006 ..... | 315 |
| 109–207 .... | To designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the Malcolm Melville "Mac" Lawrence Post Office. | Mar. 23, 2006 ..... | 316 |
| 109–208 .... | National Flood Insurance Program Enhanced Borrowing Authority Act of 2006. | Mar. 23, 2006 ..... | 317 |
| 109–209 .... | To extend through December 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. | Mar. 24, 2006 ..... | 318 |
| 109–210 .... | To waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member. | Mar. 24, 2006 ..... | 319 |
| 109–211 .... | To extend the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999. | Mar. 24, 2006 ..... | 320 |
| 109–212 .... | Higher Education Extension Act of 2006 ..... | Apr. 1, 2006 ..... | 321 |
| 109–213 .... | To award a congressional gold medal on behalf of the Tuskegee Airmen, collectively, in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces. | Apr. 11, 2006 ..... | 322 |
| 109–214 .... | To transfer jurisdiction of certain real property to the Supreme Court. | Apr. 11, 2006 ..... | 326 |
| 109–215 .... | Milk Regulatory Equity Act of 2005 ..... | Apr. 11, 2006 ..... | 328 |
| 109–216 .... | Providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution. | Apr. 13, 2006 ..... | 331 |
| 109–217 .... | Providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution. | Apr. 13, 2006 ..... | 332 |
| 109–218 .... | Local Community Recovery Act of 2006 ..... | Apr. 20, 2006 ..... | 333 |
| 109–219 .... | Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005. | May 5, 2006 ..... | 334 |
| 109–220 .... | Approving the location of the commemorative work in the District of Columbia honoring former President Dwight D. Eisenhower. | May 5, 2006 ..... | 335 |
| 109–221 .... | Native American Technical Corrections Act of 2006 ..... | May 12, 2006 ..... | 336 |
| 109–222 .... | Tax Increase Prevention and Reconciliation Act of 2005 .... | May 17, 2006 ..... | 345 |
| 109–223 .... | To memorialize and honor the contribution of Chief Justice William H. Rehnquist. | May 18, 2006 ..... | 374 |
| 109–224 .... | To require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe. | May 18, 2006 ..... | 376 |
| 109–225 .... | James Campbell National Wildlife Refuge Expansion Act of 2005. | May 25, 2006 ..... | 378 |
| 109–226 .... | Coastal Barrier Resources Reauthorization Act of 2005 ..... | May 25, 2006 ..... | 381 |
| 109–227 .... | Heroes Earned Retirement Opportunities Act ..... | May 29, 2006 ..... | 385 |
| 109–228 .... | Respect for America's Fallen Heroes Act ..... | May 29, 2006 ..... | 387 |
| 109–229 .... | To provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies. | May 31, 2006 ..... | 390 |
| 109–230 .... | San Francisco Old Mint Commemorative Coin Act ..... | June 15, 2006 .... | 391 |
| 109–231 .... | To designate the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center. | June 15, 2006 .... | 394 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–232 | Lewis and Clark Commemorative Coin Correction Act | June 15, 2006 | 395 |
| 109–233 | Veterans' Housing Opportunity and Benefits Improvement Act of 2006. | June 15, 2006 | 397 |
| 109–234 | Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006. | June 15, 2006 | 418 |
| 109–235 | Broadcast Decency Enforcement Act of 2005 | June 15, 2006 | 491 |
| 109–236 | Mine Improvement and New Emergency Response Act of 2006. | June 15, 2006 | 493 |
| 109–237 | To designate the facility of the United States Postal Service located at 520 Colorado Avenue in Arriba, Colorado, as the "William H. Emery Post Office". | June 23, 2006 | 506 |
| 109–238 | Second Higher Education Extension Act of 2006 | June 30, 2006 | 507 |
| 109–239 | Safe and Timely Interstate Placement of Foster Children Act of 2006. | July 3, 2006 | 508 |
| 109–240 | Rural Health Care Capital Access Act of 2006 | July 10, 2006 | 515 |
| 109–241 | Coast Guard and Maritime Transportation Act of 2006 | July 11, 2006 | 516 |
| 109–242 | Fetus Farming Prohibition Act of 2006 | July 19, 2006 | 570 |
| 109–243 | Freedom to Display the American Flag Act of 2005 | July 24, 2006 | 572 |
| 109–244 | Authorizing the printing and binding of a supplement to, and revised edition of, Senate Procedure. | July 25, 2006 | 574 |
| 109–245 | To amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention. | July 26, 2006 | 575 |
| 109–246 | Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006. | July 27, 2006 | 577 |
| 109–247 | Louis Braille Bicentennial—Braille Literacy Commemorative Coin Act. | July 27, 2006 | 582 |
| 109–248 | Adam Walsh Child Protection and Safety Act of 2006 | July 27, 2006 | 587 |
| 109–249 | To exempt persons with disabilities from the prohibition against providing section 8 rental assistance to college students. | July 27, 2006 | 651 |
| 109–250 | To amend section 1113 of the Social Security Act to temporarily increase funding for the program of temporary assistance for United States citizens returned from foreign countries, and for other purposes. | July 27, 2006 | 652 |
| 109–251 | Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes. | Aug. 1, 2006 | 654 |
| 109–252 | To designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the "Paul Kasten Post Office Building". | Aug. 1, 2006 | 655 |
| 109–253 | To designate the facility of the United States Postal Service located at 100 Avenida RL Rodríguez in Bayamón, Puerto Rico, as the "Dr. José Celso Barbosa Post Office Building". | Aug. 1, 2006 | 656 |
| 109–254 | To designate the facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, as the "William F. Clinger, Jr. Post Office Building". | Aug. 1, 2006 | 657 |
| 109–255 | To designate the facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, as the "Gerard A. Fiorenza Post Office Building". | Aug. 1, 2006 | 658 |
| 109–256 | To designate the facility of the United States Postal Service located at 170 East Main Street in Patchogue, New York, as the "Lieutenant Michael P. Murphy Post Office Building". | Aug. 1, 2006 | 659 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–257 .... | To designate the facility of the United States Postal Service located at 3000 Homewood Avenue in Baltimore, Maryland, as the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building". | Aug. 1, 2006 ..... | 660 |
| 109–258 .... | To designate the facility of the United States Postal Service located at 2404 Race Street in Jonesboro, Arkansas, as the "Hattie W. Caraway Station". | Aug. 2, 2006 ..... | 661 |
| 109–259 .... | To designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the "Francisco 'Pancho' Medrano Post Office Building". | Aug. 2, 2006 ..... | 662 |
| 109–260 .... | To designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the "Mayor John Thompson 'Tom' Garrison Memorial Post Office". | Aug. 2, 2006 ..... | 663 |
| 109–261 .... | To designate the facility of the United States Postal Service located at 535 Wood Street in Bethlehem, Pennsylvania, as the "H. Gordon Payrow Post Office Building". | Aug. 2, 2006 ..... | 664 |
| 109–262 .... | To designate the facility of the United States Postal Service located at 7 Columbus Avenue in Tuckahoe, New York, as the "Ronald Bucca Post Office. | Aug. 2, 2006 ..... | 665 |
| 109–263 .... | To designate the facility of the United States Postal Service located at 1 Marble Street in Fair Haven, Vermont, as the "Matthew Lyon Post Office Building". | Aug. 2, 2006 ..... | 666 |
| 109–264 .... | To amend title 4 of the United States Code to clarify the treatment of self-employment for purposes of the limitation on State taxation of retirement income. | Aug. 3, 2006 ..... | 667 |
| 109–265 .... | Newlands Project Headquarters and Maintenance Yard Facility Transfer Act. | Aug. 3, 2006 ..... | 668 |
| 109–266 .... | Electronic Duck Stamp Act of 2005 ..... | Aug. 3, 2006 ..... | 670 |
| 109–267 .... | To amend the Iran and Libya Sanctions Act of 1996 to extend the authorities provided in such Act until September 29, 2006. | Aug. 4, 2006 ..... | 680 |
| 109–268 .... | To provide funding authority to facilitate the evacuation of persons from Lebanon, and for other purposes. | Aug. 4, 2006 ..... | 681 |
| 109–269 .... | To redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge. | Aug. 12, 2006 ..... | 682 |
| 109–270 .... | Carl D. Perkins Career and Technical Education Improvement Act of 2006. | Aug. 12, 2006 ..... | 683 |
| 109–271 .... | To make technical corrections to the Violence Against Women and Department of Justice Reauthorization Act of 2005. | Aug. 12, 2006 ..... | 750 |
| 109–272 .... | To preserve the Mt. Soledad Veterans Memorial in San Diego, California, by providing for the immediate acquisition of the memorial by the United States. | Aug. 14, 2006 ..... | 770 |
| 109–273 .... | To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John Wooden Post Office Building". | Aug. 17, 2006 ..... | 773 |
| 109–274 .... | To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the "John Paul Hammerschmidt Post Office Building". | Aug. 17, 2006 ..... | 774 |
| 109–275 .... | To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the "Captain George A. Wood Post Office Building". | Aug. 17, 2006 ..... | 775 |
| 109–276 .... | To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the "Morris W. Milton Post Office". | Aug. 17, 2006 ..... | 776 |
| 109–277 .... | To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the "Earl D. Hutto Post Office Building". | Aug. 17, 2006 ..... | 777 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–278 | To designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the "Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office". | Aug. 17, 2006 | 778 |
| 109–279 | To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the "Sergeant Jacob Dan Dones Post Office". | Aug. 17, 2006 | 779 |
| 109–280 | Pension Protection Act of 2006 | Aug. 17, 2006 | 780 |
| 109–281 | YouthBuild Transfer Act | Sept. 22, 2006 | 1173 |
| 109–282 | Federal Funding Accountability and Transparency Act of 2006. | Sept. 26, 2006 | 1186 |
| 109–283 | United States-Oman Free Trade Agreement Implementation Act. | Sept. 26, 2006 | 1191 |
| 109–284 | To make technical corrections to the United States Code | Sept. 27, 2006 | 1211 |
| 109–285 | Abraham Lincoln Commemorative Coin Act | Sept. 27, 2006 | 1215 |
| 109–286 | Pueblo de San Ildefonso Claims Settlement Act of 2005 | Sept. 27, 2006 | 1218 |
| 109–287 | Fourteenth Dalai Lama Congressional Gold Medal Act | Sept. 27, 2006 | 1231 |
| 109–288 | Child and Family Services Improvement Act of 2006 | Sept. 28, 2006 | 1233 |
| 109–289 | Department of Defense Appropriations Act, 2007 | Sept. 29, 2006 | 1257 |
| 109–290 | Military Personnel Financial Services Protection Act | Sept. 29, 2006 | 1317 |
| 109–291 | Credit Rating Agency Reform Act of 2006 | Sept. 29, 2006 | 1327 |
| 109–292 | Third Higher Education Extension Act of 2006 | Sept. 30, 2006 | 1340 |
| 109–293 | Iran Freedom Support Act | Sept. 30, 2006 | 1344 |
| 109–294 | Partners for Fish and Wildlife Act | Oct. 3, 2006 | 1351 |
| 109–295 | Department of Homeland Security Appropriations Act, 2007. | Oct. 4, 2006 | 1355 |
| 109–296 | To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act. | Oct. 5, 2006 | 1464 |
| 109–297 | To extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska. | Oct. 5, 2006 | 1471 |
| 109–298 | To extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming. | Oct. 5, 2006 | 1472 |
| 109–299 | Wichita Project Equus Beds Division Authorization Act of 2005. | Oct. 5, 2006 | 1473 |
| 109–300 | To designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building". | Oct. 5, 2006 | 1475 |
| 109–301 | To designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building". | Oct. 5, 2006 | 1476 |
| 109–302 | To designate the facility of the United States Postal Service located at 8801 Sudley Road in Manassas, Virginia, as the "Harry J. Parrish Post Office". | Oct. 5, 2006 | 1477 |
| 109–303 | Copyright Royalty Judges Program Technical Corrections Act. | Oct. 6, 2006 | 1478 |
| 109–304 | To complete the codification of title 46, United States Code, "Shipping", as positive law. | Oct. 6, 2006 | 1485 |
| 109–305 | Railroad Retirement Technical Improvement Act of 2006 | Oct. 6, 2006 | 1719 |
| 109–306 | To amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007. | Oct. 6, 2006 | 1720 |
| 109–307 | Children's Hospital GME Support Reauthorization Act of 2006. | Oct. 6, 2006 | 1721 |
| 109–308 | Pets Evacuation and Transportation Standards Act of 2006. | Oct. 6, 2006 | 1725 |
| 109–309 | To amend the Ojito Wilderness Act to make a technical correction. | Oct. 6, 2006 | 1727 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–310 .... | To designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the "Richard L. Cevoli Post Office". | Oct. 6, 2006 ..... | 1728 |
| 109–311 .... | To designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the "Major George Quamo Post Office Building". | Oct. 6, 2006 ..... | 1729 |
| 109–312 .... | Trademark Dilution Revision Act of 2006 ..... | Oct. 6, 2006 ..... | 1730 |
| 109–313 .... | General Services Administration Modernization Act ..... | Oct. 6, 2006 ..... | 1734 |
| 109–314 .... | National Law Enforcement Officers Memorial Maintenance Fund Act of 2005. | Oct. 6, 2006 ..... | 1739 |
| 109–315 .... | To designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the "Jacob Samuel Fletcher Post Office Building". | Oct. 10, 2006 ..... | 1741 |
| 109–316 .... | To extend temporarily certain authorities of the Small Business Administration. | Oct. 10, 2006 ..... | 1742 |
| 109–317 .... | To authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes. | Oct. 11, 2006 ..... | 1743 |
| 109–318 .... | To amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area, and for other purposes. | Oct. 11, 2006 ..... | 1745 |
| 109–319 .... | Ste. Genevieve County National Historic Site Study Act of 2005. | Oct. 11, 2006 ..... | 1746 |
| 109–320 .... | Salt Cedar and Russian Olive Control Demonstration Act | Oct. 11, 2006 ..... | 1748 |
| 109–321 .... | To direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District. | Oct. 11, 2006 ..... | 1753 |
| 109–322 .... | North American Wetlands Conservation Reauthorization Act of 2006. | Oct. 11, 2006 ..... | 1756 |
| 109–323 .... | To extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 109–148. | Oct. 11, 2006 ..... | 1757 |
| 109–324 .... | Rio Arriba County Land Conveyance Act ..... | Oct. 11, 2006 ..... | 1758 |
| 109–325 .... | To extend relocation expenses test programs for Federal employees. | Oct. 11, 2006 ..... | 1760 |
| 109–326 .... | Great Lakes Fish and Wildlife Restoration Act of 2006 ..... | Oct. 11, 2006 ..... | 1761 |
| 109–327 .... | To designate the facility of the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, as the "United States Representative Parren J. Mitchell Post Office". | Oct. 12, 2006 ..... | 1767 |
| 109–328 .... | To designate the facility of the United States Postal Service located at 110 North Chestnut Street in Olathe, Kansas, as the "Governor John Anderson, Jr. Post Office Building". | Oct. 12, 2006 ..... | 1768 |
| 109–329 .... | To designate the facility of the United States Postal Service located at 350 Uinta Drive in Green River, Wyoming, as the "Curt Gowdy Post Office Building". | Oct. 12, 2006 ..... | 1769 |
| 109–330 .... | To designate the facility of the United States Postal Service located at 6029 Broadmoor Street in Mission, Kansas, as the "Larry Winn, Jr. Post Office Building". | Oct. 12, 2006 ..... | 1770 |
| 109–331 .... | To designate the United States courthouse to be constructed in Greenville, South Carolina, as the "Carroll A. Campbell, Jr. United States Courthouse". | Oct. 12, 2006 ..... | 1771 |
| 109–332 .... | To designate the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, as the "William M. Steger Federal Building and United States Courthouse". | Oct. 12, 2006 ..... | 1772 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–333 | To designate the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the "Katherine Dunham Post Office Building". | Oct. 12, 2006 | 1773 |
| 109–334 | To designate the facility of the United States Postal Service located at 39–25 61st Street in Woodside, New York, as the "Thomas J. Manton Post Office Building". | Oct. 12, 2006 | 1774 |
| 109–335 | To designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the "John F. Seiberling Federal Building and United States Courthouse". | Oct. 12, 2006 | 1775 |
| 109–336 | To designate the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the "Robert J. Thompson Post Office Building". | Oct. 12, 2006 | 1776 |
| 109–337 | Rio Grande Natural Area Act | Oct. 12, 2006 | 1777 |
| 109–338 | National Heritage Areas Act of 2006 | Oct. 12, 2006 | 1783 |
| 109–339 | To designate the United States courthouse at 300 North Hogan Street, Jacksonville, Florida, as the "John Milton Bryan Simpson United States Courthouse". | Oct. 13, 2006 | 1863 |
| 109–340 | To authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933. | Oct. 13, 2006 | 1864 |
| 109–341 | To designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building". | Oct. 13, 2006 | 1865 |
| 109–342 | To designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the "Clyde S. Cahill Memorial Park". | Oct. 13, 2006 | 1867 |
| 109–343 | To designate the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building". | Oct. 13, 2006 | 1868 |
| 109–344 | Darfur Peace and Accountability Act of 2006 | Oct. 13, 2006 | 1869 |
| 109–345 | To designate the facility of the United States Postal Service located at 777 Corporation Street in Beaver, Pennsylvania, as the "Robert Linn Memorial Post Office Building". | Oct. 13, 2006 | 1882 |
| 109–346 | To designate the facility of the United States Postal Service located at 105 North Quincy Street in Clinton, Illinois, as the "Gene Vance Post Office Building". | Oct. 13, 2006 | 1883 |
| 109–347 | Security and Accountability for Every Port Act of 2006 | Oct. 13, 2006 | 1884 |
| 109–348 | To designate the Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, as the "Andres Toro Building". | Oct. 13, 2006 | 1963 |
| 109–349 | To designate the facility of the United States Postal Service located at 202 East Washington Street in Morris, Illinois, as the "Joshua A. Terando Morris Post Office Building". | Oct. 13, 2006 | 1964 |
| 109–350 | To designate the facility of the United States Postal Service located at 40 South Walnut Street in Chillicothe, Ohio, as the "Larry Cox Post Office". | Oct. 13, 2006 | 1965 |
| 109–351 | Financial Services Regulatory Relief Act of 2006 | Oct. 13, 2006 | 1966 |
| 109–352 | Wright Amendment Reform Act of 2006 | Oct. 13, 2006 | 2011 |
| 109–353 | North Korea Nonproliferation Act of 2006 | Oct. 13, 2006 | 2015 |
| 109–354 | To revise the boundaries of John H. Chafee Coastal Barrier Resources System Jekyll Island Unit GA–06P. | Oct. 16, 2006 | 2017 |
| 109–355 | To replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL–95P in Walton County, Florida. | Oct. 16, 2006 | 2018 |
| 109–356 | 2005 District of Columbia Omnibus Authorization Act | Oct. 16, 2006 | 2019 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–357 | Byron Nelson Congressional Gold Medal Act | Oct. 16, 2006 | 2044 |
| 109–358 | Lake Mattamuskeet Lodge Preservation Act | Oct. 16, 2006 | 2047 |
| 109–359 | Long Island Sound Stewardship Act of 2006 | Oct. 16, 2006 | 2049 |
| 109–360 | National Fish Hatchery System Volunteer Act of 2006 | Oct. 16, 2006 | 2058 |
| 109–361 | Veterans' Compensation Cost-of-Living Adjustment Act of 2006. | Oct. 16, 2006 | 2062 |
| 109–362 | Northern California Coastal Wild Heritage Wilderness Act | Oct. 17, 2006 | 2064 |
| 109–363 | To direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes. | Oct. 17, 2006 | 2074 |
| 109–364 | John Warner National Defense Authorization Act for the Fiscal Year 2007. | Oct. 17, 2006 | 2083 |
| 109–365 | Older Americans Act Amendments of 2006 | Oct. 17, 2006 | 2522 |
| 109–366 | Military Commissions Act of 2006 | Oct. 17, 2006 | 2600 |
| 109–367 | Secure Fence Act of 2006 | Oct. 26, 2006 | 2638 |
| 109–368 | To clarify the provision of nutrition services to older Americans. | Nov. 17, 2006 | 2641 |
| 109–369 | Making further continuing appropriations for the fiscal year 2007, and for other purposes. | Nov. 17, 2006 | 2642 |
| 109–370 | Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005. | Nov. 27, 2006 | 2643 |
| 109–371 | Pactola Reservoir Reallocation Authorization Act of 2005 | Nov. 27, 2006 | 2644 |
| 109–372 | Idaho Land Enhancement Act | Nov. 27, 2006 | 2645 |
| 109–373 | Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006. | Nov. 27, 2006 | 2650 |
| 109–374 | Animal Enterprise Terrorism Act | Nov. 27, 2006 | 2652 |
| 109–375 | Sierra National Forest Land Exchange Act of 2006 | Dec. 1, 2006 | 2656 |
| 109–376 | To provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District, El Paso County, Texas. | Dec. 1, 2006 | 2659 |
| 109–377 | Pitkin County Land Exchange Act of 2006 | Dec. 1, 2006 | 2660 |
| 109–378 | To amend the National Trails System Act to update the feasibility and suitability study originally prepared for the Trail of Tears National Historic Trail and provide for the inclusion of new trail segments, land components, and campgrounds associated with that trail, and for other purposes. | Dec. 1, 2006 | 2664 |
| 109–379 | Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006. | Dec. 1, 2006 | 2666 |
| 109–380 | To convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation. | Dec. 1, 2006 | 2671 |
| 109–381 | To designate the State Route 1 Bridge in the State of Delaware as the "Senator William V. Roth, Jr. Bridge". | Dec. 1, 2006 | 2672 |
| 109–382 | New England Wilderness Act of 2006 | Dec. 1, 2006 | 2673 |
| 109–383 | Making further continuing appropriations for the fiscal year 2007, and for other purposes. | Dec. 9, 2006 | 2678 |
| 109–384 | To redesignate the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, as the "C.W. 'Bill' Jones Pumping Plant". | Dec. 12, 2006 | 2680 |
| 109–385 | Valle Vidal Protection Act of 2005 | Dec. 12, 2006 | 2681 |
| 109–386 | To authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes. | Dec. 12, 2006 | 2683 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–387 | To provide for the conveyance of certain National Forest System land to the towns of Laona and Wabeno, Wisconsin, and for other purposes. | Dec. 12, 2006 | 2685 |
| 109–388 | Paint Bank and Wytheville National Fish Hatcheries Conveyance Act. | Dec. 12, 2006 | 2688 |
| 109–389 | To provide for the conveyance of the former Konnarock Lutheran Girls School in Smyth County, Virginia, which is currently owned by the United States and administered by the Forest Service, to facilitate the restoration and reuse of the property, and for other purposes. | Dec. 12, 2006 | 2690 |
| 109–390 | Financial Netting Improvements Act of 2006 | Dec. 12, 2006 | 2692 |
| 109–391 | Ouachita National Forest Boundary Adjustment Act of 2006. | Dec. 12, 2006 | 2701 |
| 109–392 | To amend the Federal Water Pollution Control Act to reauthorize a program relating to the Lake Pontchartrain Basin, and for other purposes. | Dec. 12, 2006 | 2703 |
| 109–393 | To extend the time required for construction of a hydroelectric project, and for other purposes. | Dec. 13, 2006 | 2704 |
| 109–394 | Esther Martinez Native American Languages Preservation Act of 2006. | Dec. 14, 2006 | 2705 |
| 109–395 | Congressional Tribute to Dr. Norman E. Borlaug Act of 2006. | Dec. 14, 2006 | 2708 |
| 109–396 | Federal and District of Columbia Government Real Property Act of 2006. | Dec. 15, 2006 | 2711 |
| 109–397 | To designate the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the "Tito Puente Post Office Building". | Dec. 18, 2006 | 2722 |
| 109–398 | To designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Dr. Robert E. Price Post Office Building". | Dec. 18, 2006 | 2723 |
| 109–399 | To designate the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the "Beverly J. Wilson Post Office Building". | Dec. 18, 2006 | 2724 |
| 109–400 | To designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the "Lance Corporal Robert A. Martinez Post Office Building". | Dec. 18, 2006 | 2725 |
| 109–401 | To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India. | Dec. 18, 2006 | 2726 |
| 109–402 | To designate the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the "Vincent J. Whibbs, Sr. Post Office Building". | Dec. 18, 2006 | 2754 |
| 109–403 | To designate the facility of the United States Postal Service located at 1501 South Cherrybell Avenue in Tucson, Arizona, as the "Morris K. 'Mo' Udall Post Office Building". | Dec. 18, 2006 | 2755 |
| 109–404 | To designate the facility of the United States Postal Service located at 29–50 Union Street in Flushing, New York, as the "Dr. Leonard Price Stavisky Post Office". | Dec. 18, 2006 | 2756 |
| 109–405 | To designate the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the "John J. Sinde Post Office Building". | Dec. 18, 2006 | 2757 |
| 109–406 | To designate the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the "Wallace W. Sykes Post Office Building". | Dec. 18, 2006 | 2758 |
| 109–407 | To designate the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the "Chuck Fortenberry Post Office Building". | Dec. 18, 2006 | 2759 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–408 | To designate the facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna, Virginia, as the "Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building". | Dec. 18, 2006 | 2760 |
| 109–409 | To designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the "Hamilton H. Judson Post Office". | Dec. 18, 2006 | 2761 |
| 109–410 | To authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc. | Dec. 18, 2006 | 2762 |
| 109–411 | To designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the "Dewey F. Bartlett Post Office". | Dec. 18, 2006 | 2763 |
| 109–412 | To name the Armed Forces Readiness Center in Great Falls, Montana, in honor of Captain William Wylie Galt, a recipient of the Congressional Medal of Honor. | Dec. 18, 2006 | 2764 |
| 109–413 | To designate the facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building". | Dec. 18, 2006 | 2765 |
| 109–414 | To designate the outpatient clinic of the Department of Veterans Affairs located in Farmington, Missouri, as the "Robert Silvey Department of Veterans Affairs Outpatient Clinic". | Dec. 18, 2006 | 2766 |
| 109–415 | Ryan White HIV/AIDS Treatment Modernization Act of 2006. | Dec. 19, 2006 | 2767 |
| 109–416 | Combating Autism Act of 2006 | Dec. 19, 2006 | 2821 |
| 109–417 | Pandemic and All-Hazards Preparedness Act | Dec. 19, 2006 | 2831 |
| 109–418 | Captain John Smith Chesapeake National Historic Trail Designation Act. | Dec. 19, 2006 | 2882 |
| 109–419 | To direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as part of the Minute Man National Historical Park, and for other purposes. | Dec. 20, 2006 | 2884 |
| 109–420 | To establish an interagency aerospace revitalization task force to develop a national strategy for aerospace workforce recruitment, training, and cultivation. | Dec. 20, 2006 | 2886 |
| 109–421 | To provide for certain lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe. | Dec. 20, 2006 | 2889 |
| 109–422 | Sober Truth on Preventing Underage Drinking Act | Dec. 20, 2006 | 2890 |
| 109–423 | Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005. | Dec. 20, 2006 | 2900 |
| 109–424 | Tsunami Warning and Education Act | Dec. 20, 2006 | 2902 |
| 109–425 | To provide that attorneys employed by the Department of Justice shall be eligible for compensatory time for travel under section 5550b of title 5, United States Code. | Dec. 20, 2006 | 2910 |
| 109–426 | To reauthorize permanently the use of penalty and franked mail in efforts relating to the location and recovery of missing children. | Dec. 20, 2006 | 2911 |
| 109–427 | To direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol. | Dec. 20, 2006 | 2912 |
| 109–428 | Wool Suit Fabric Labeling Fairness and International Standards Conforming Act. | Dec. 20, 2006 | 2913 |
| 109–429 | River Raisin National Battlefield Study Act | Dec. 20, 2006 | 2916 |
| 109–430 | National Integrated Drought Information System Act of 2006. | Dec. 20, 2006 | 2918 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–431 | To study and promote the use of energy efficient computer servers in the United States. | Dec. 20, 2006 | 2920 |
| 109–432 | Tax Relief and Health Care Act of 2006 | Dec. 20, 2006 | 2922 |
| 109–433 | To permit certain expenditures from the Leaking Underground Storage Tank Trust Fund. | Dec. 20, 2006 | 3196 |
| 109–434 | To extend through December 31, 2008, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. | Dec. 20, 2006 | 3197 |
| 109–435 | Postal Accountability and Enhancement Act | Dec. 20, 2006 | 3198 |
| 109–436 | Michigan Lighthouse and Maritime Heritage Act | Dec. 20, 2006 | 3264 |
| 109–437 | Stolen Valor Act of 2005 | Dec. 20, 2006 | 3266 |
| 109–438 | Export-Import Bank Reauthorization Act of 2006 | Dec. 20, 2006 | 3268 |
| 109–439 | Religious Liberty and Charitable Donation Clarification Act of 2006. | Dec. 20, 2006 | 3285 |
| 109–440 | Iraq Reconstruction Accountability Act of 2006 | Dec. 20, 2006 | 3286 |
| 109–441 | To provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes. | Dec. 21, 2006 | 3288 |
| 109–442 | Lifespan Respite Care Act of 2006 | Dec. 21, 2006 | 3291 |
| 109–443 | National Transportation Safety Board Reauthorization Act of 2006. | Dec. 21, 2006 | 3297 |
| 109–444 | Veterans Programs Extension Act of 2006 | Dec. 21, 2006 | 3304 |
| 109–445 | Fallen Firefighters Assistance Tax Clarification Act of 2006. | Dec. 21, 2006 | 3317 |
| 109–446 | Palestinian Anti-Terrorism Act of 2006 | Dec. 21, 2006 | 3318 |
| 109–447 | Appointing the day for the convening of the first session of the One Hundred Tenth Congress. | Dec. 22, 2006 | 3327 |
| 109–448 | United States-Mexico Transboundary Aquifer Assessment Act. | Dec. 22, 2006 | 3328 |
| 109–449 | Marine Debris Research, Prevention, and Reduction Act | Dec. 22, 2006 | 3333 |
| 109–450 | Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act. | Dec. 22, 2006 | 3341 |
| 109–451 | Rural Water Supply Act of 2006 | Dec. 22, 2006 | 3345 |
| 109–452 | Musconetcong Wild and Scenic Rivers Act | Dec. 22, 2006 | 3363 |
| 109–453 | National Historic Preservation Act Amendments Act of 2006. | Dec. 22, 2006 | 3367 |
| 109–454 | City of Yuma Improvement Act | Dec. 22, 2006 | 3369 |
| 109–455 | Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006. | Dec. 22, 2006 | 3372 |
| 109–456 | Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006. | Dec. 22, 2006 | 3384 |
| 109–457 | Eugene Land Conveyance Act | Dec. 22, 2006 | 3392 |
| 109–458 | Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006. | Dec. 22, 2006 | 3394 |
| 109–459 | Call Home Act of 2006 | Dec. 22, 2006 | 3399 |
| 109–460 | To amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes. | Dec. 22, 2006 | 3401 |
| 109–461 | Veterans Benefits, Health Care, and Information Technology Act of 2006. | Dec. 22, 2006 | 3403 |
| 109–462 | Dietary Supplement and Nonprescription Drug Consumer Protection Act. | Dec. 22, 2006 | 3469 |
| 109–463 | Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006. | Dec. 22, 2006 | 3477 |
| 109–464 | To amend title 18, United States Code, to prohibit disruptions of funerals of members or former members of the Armed Forces. | Dec. 22, 2006 | 3480 |

| PUBLIC LAW | | DATE | PAGE |
|---|---|---|---|
| 109–465 | Social Security Trust Funds Restoration Act of 2006 | Dec. 22, 2006 | 3482 |
| 109–466 | To clarify certain land use in Jefferson County, Colorado | Dec. 22, 2006 | 3484 |
| 109–467 | To amend the Farm Security and Rural Investment Act of 2002 to extend a suspension of limitation on the period for which certain borrowers are eligible for guaranteed assistance. | Dec. 22, 2006 | 3485 |
| 109–468 | Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. | Dec. 29, 2006 | 3486 |
| 109–469 | Office of National Drug Control Policy Reauthorization Act of 2006. | Dec. 29, 2006 | 3502 |
| 109–470 | Holloman Air Force Base Land Exchange Act | Jan. 11, 2007 | 3550 |
| 109–471 | Water Resources Research Act Amendments of 2006 | Jan. 11, 2007 | 3552 |
| 109–472 | Department of State Authorities Act of 2006 | Jan. 11, 2007 | 3554 |
| 109–473 | To make a conforming amendment to the Federal Deposit Insurance Act with respect to examinations of certain insured depository institutions, and for other purposes. | Jan. 11, 2007 | 3561 |
| 109–474 | Pine Springs Land Exchange Act | Jan. 12, 2007 | 3562 |
| 109–475 | Gynecologic Cancer Education and Awareness Act of 2005 | Jan. 12, 2007 | 3565 |
| 109–476 | Telephone Records and Privacy Protection Act of 2006 | Jan. 12, 2007 | 3568 |
| 109–477 | Physicians for Underserved Areas Act | Jan. 12, 2007 | 3572 |
| 109–478 | Railroad Retirement Disability Earnings Act | Jan. 12, 2007 | 3573 |
| 109–479 | Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. | Jan. 12, 2007 | 3575 |
| 109–480 | Belarus Democracy Reauthorization Act of 2006 | Jan. 12, 2007 | 3666 |
| 109–481 | Geneva Distinctive Emblems Protection Act of 2006 | Jan. 12, 2007 | 3673 |
| 109–482 | National Institutes of Health Reform Act of 2006 | Jan. 15, 2007 | 3675 |

# LIST OF BILLS ENACTED INTO PRIVATE LAW

THE ONE HUNDRED NINTH CONGRESS OF THE UNITED STATES
SECOND SESSION, 2006

| *BILL* | *PRIVATE LAW* |
|---|---|
| S. 584 | 109–1 |

# LIST OF PRIVATE LAWS

CONTAINED IN THIS VOLUME


| *PRIVATE LAW* | | *DATE* | *PAGE* |
|---|---|---|---|
| 109–1 | Betty Dick Residence Protection Act | May 12, 2006 | 3705 |

# LIST OF CONCURRENT RESOLUTIONS

CONTAINED IN THIS VOLUME


| *CONCURRENT RESOLUTION* | | *DATE* | *PAGE* |
|---|---|---|---|
| S. Con. Res. 77 | Joint Resolution | Jan. 25, 2006 | 3709 |
| H. Con. Res. 332 | Adjournment—House of Representatives and Senate. | Feb. 1, 2006 | 3709 |
| S. Con. Res. 79 | Palestinian Authority—Restricting United States assistance. | Feb. 1, 2006 | 3709 |
| H. Con. Res. 331 | West Virginia coal miners and volunteers—Honoring sacrifice and courage. | Feb. 9, 2006 | 3710 |
| H. Con. Res. 71 | Caribbean-American Heritage Month—Support | Feb. 14, 2006 | 3711 |
| H. Con. Res. 315 | American Jewish History Month—Support | Feb. 14, 2006 | 3712 |
| H. Con. Res. 345 | Adjournment—House of Representatives and Senate. | Feb. 17, 2006 | 3713 |
| H. Con. Res. 350 | Days of remembrance of victims of the Holocaust commemoration ceremony—Capitol rotunda authorization. | Mar. 16, 2006 | 3713 |
| H. Con. Res. 361 | Adjournment—House of Representatives and Senate. | Mar. 16, 2006 | 3713 |
| S. Con. Res. 60 | America's National Negro Leagues Baseball Museum—Designation. | Apr. 4, 2006 | 3714 |
| H. Con. Res. 360 | National Peace Officers' Memorial Service—Capitol grounds authorization. | Apr. 6, 2006 | 3715 |
| H. Con. Res. 371 | Minnesota National Guard—150th anniversary recognition. | Apr. 6, 2006 | 3716 |
| H. Con. Res. 366 | Space Shuttle Columbia—25th anniversary | Apr. 7, 2006 | 3718 |
| H. Con. Res. 382 | Adjournment—House of Representatives and Senate. | Apr. 7, 2006 | 3719 |
| H. Con. Res. 349 | Soap Box Derby Races—Capitol grounds authorization. | May 2, 2006 | 3719 |
| H. Con. Res. 90 | Murders of young women in Ciudad Juarez and Chihuahua, Mexico—Condolences. | May 3, 2006 | 3720 |
| H. Con. Res. 359 | 2006 District of Columbia Special Olympics law enforcement torch run—Capitol grounds authorization. | May 4, 2006 | 3723 |
| H. Con. Res. 335 | National Association for the Advancement of Colored People—97th anniversary recognition. | May 10, 2006 | 3724 |
| H. Con. Res. 357 | National Cystic Fibrosis Awareness Month—Support. | May 24, 2006 | 3725 |
| H. Con. Res. 418 | Adjournment—House of Representatives and Senate. | May 26, 2006 | 3726 |
| H. Con. Res. 372 | Interstate Highway System—50th anniversary recognition. | June 19, 2006 | 3726 |
| H. Con. Res. 409 | King Bhumibol Adulyadej of Thailand, ascension to the throne—60th anniversary commemoration. | June 22, 2006 | 3728 |
| S. Con. Res. 103 | Enrollment corrections—H.R. 889 | June 22, 2006 | 3728 |
| H. Con. Res. 367 | National Society of the Sons of the American Revolution, historic Congressional Charter—100th anniversary recognition. | June 26, 2006 | 3729 |

| CONCURRENT RESOLUTION | | DATE | PAGE |
|---|---|---|---|
| H. Con. Res. 426 | Food and Drug Administration—100th anniversary recognition. | June 29, 2006 | 3730 |
| H. Con. Res. 440 | Adjournment—House of Representatives and Senate. | June 29, 2006 | 3731 |
| H. Con. Res. 427 | Department of Veterans Affairs, 75th anniversary ceremony—Capitol rotunda authorization. | July 11, 2006 | 3732 |
| S. Con. Res. 108 | Pocket version of the United States Constitution, "Our Flag", and "A Botanic Garden for the Nation"—Senate prints. | July 12, 2006 | 3732 |
| H. Con. Res. 448 | National Aeronautics and Space Administration, Space Shuttle Discovery STS-121 mission—Commendation. | July 21, 2006 | 3733 |
| S. Con. Res. 112 | Enrollment correction—S. 3693 | July 29, 2006 | 3734 |
| H. Con. Res. 399 | California victory at the 1976 Paris Wine Tasting—30th anniversary recognition. | Aug. 2, 2006 | 3734 |
| H. Con. Res. 467 | Adjournment—House of Representatives and Senate. | Aug. 3, 2006 | 3735 |
| H. Con. Res. 449 | Hall of famer Bob Feller, historic 1946 baseball season—60th anniversary commemoration. | Sept. 11, 2006 | 3735 |
| S. Con. Res. 114 | Enrollment corrections—S. 2590 | Sept. 13, 2006 | 3737 |
| H. Con. Res. 235 | State driver's licenses—white cane and guide dog association requirement. | Sept. 25, 2006 | 3738 |
| H. Con. Res. 480 | Enrollment corrections—H.R. 3127 | Sept. 26, 2006 | 3739 |
| H. Con. Res. 456 | Enrollment correction—S. 203 | Sept. 29, 2006 | 3739 |
| H. Con. Res. 483 | Adjournment—House of Representatives and Senate. | Sept. 29, 2006 | 3740 |
| H. Con. Res. 175 | African descendants of the transatlantic slave trade—Achievements and contributions. | Nov. 16, 2006 | 3741 |
| H. Con. Res. 384 | Alpha Phi Alpha Fraternity—100th anniversary recognition. | Nov. 16, 2006 | 3742 |
| H. Con. Res. 423 | A History, Committee on the Judiciary, United States House of Representatives, 1813–2006—House print. | Nov. 16, 2006 | 3743 |
| H. Con. Res. 496 | Adjournment—House of Representatives and Senate. | Nov. 16, 2006 | 3744 |
| H. Con. Res. 419 | National Purple Heart Hall of Honor—Recognition and support. | Dec. 6, 2006 | 3744 |
| S. Con. Res. 91 | Leroy "Satchel" Paige, posthumous Presidential Medal of Freedom Award—Support. | Dec. 6, 2006 | 3746 |
| H. Con. Res. 497 | Arnold "Red" Auerbach—Honoring | Dec. 7, 2006 | 3747 |
| S. Con. Res. 123 | Enrollment corrections—H.R. 5946 | Dec. 8, 2006 | 3748 |
| H. Con. Res. 495 | "United States House of Representatives, The Committee on Ways and Means: A History, 1789–2006"—House print. | Dec. 9, 2006 | 3749 |
| H. Con. Res. 502 | Enrollment correction—H.R. 5682 | Dec. 9, 2006 | 3749 |

# LIST OF PROCLAMATIONS

CONTAINED IN THIS VOLUME


| PROCLAMATION | | DATE | PAGE |
|---|---|---|---|
| 7973 | Martin Luther King, Jr., Federal Holiday, 2006 | Jan. 13, 2006 | 3753 |
| 7974 | Religious Freedom Day, 2006 | Jan. 13, 2006 | 3754 |
| 7975 | National Sanctity of Human Life Day, 2006 | Jan. 20, 2006 | 3754 |
| 7976 | National African American History Month, 2006 | Jan. 27, 2006 | 3755 |
| 7977 | Fourth Anniversary of the USA Freedom Corps, 2006 | Jan. 30, 2006 | 3756 |
| 7978 | American Heart Month, 2006 | Feb. 1, 2006 | 3757 |
| 7979 | National Consumer Protection Week, 2006 | Feb. 3, 2006 | 3759 |
| 7980 | Death of Coretta Scott King | Feb. 6, 2006 | 3760 |
| 7981 | To Modify the Duty Free Treatment Under the Generalized System of Preferences. | Feb. 22, 2006 | 3760 |
| 7982 | American Red Cross Month | Feb. 24, 2006 | 3761 |
| 7983 | Irish-American Heritage Month | Feb. 24, 2006 | 3762 |
| 7984 | Establishment of the African American Burial Ground National Monument. | Feb. 27, 2006 | 3763 |
| 7985 | Women's History Month | Feb. 27, 2006 | 3768 |
| 7986 | Save Your Vision Week, 2006 | Feb. 27, 2006 | 3769 |
| 7987 | To Implement the Dominican Republic-Central America-United States Free Trade Agreement. | Feb. 28, 2006 | 3770 |
| 7988 | National Poison Prevention Week | Mar. 10, 2006 | 3773 |
| 7989 | Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2006. | Mar. 17, 2006 | 3774 |
| 7990 | Small Business Week, 2006 | Mar. 23, 2006 | 3775 |
| 7991 | To Implement Certain Provisions of the Dominican Republic-Central America-United States Free Trade Agreement With Respect to El Salvador. | Mar. 24, 2006 | 3776 |
| 7992 | Cancer Control Month, 2006 | Mar. 29, 2006 | 3781 |
| 7993 | National Child Abuse Prevention Month, 2006 | Mar. 29, 2006 | 3782 |
| 7994 | National Donate Life Month, 2006 | Mar. 29, 2006 | 3783 |
| 7995 | To Extend Nondiscriminatory Trade Treatment (Normal Trade Relations Treatment) to the Products of Ukraine, and For Other Purposes. | Mar. 31, 2006 | 3784 |
| 7996 | To Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Honduras and Nicaragua. | Mar. 31, 2006 | 3785 |
| 7997 | Education and Sharing Day, U.S.A., 2006 | Apr. 5, 2006 | 3787 |
| 7998 | National Former Prisoner of War Recognition Day, 2006. | Apr. 5, 2006 | 3787 |
| 7999 | Pan American Day and Pan American Week, 2006 | Apr. 7, 2006 | 3788 |
| 8000 | National D.A.R.E. Day, 2006 | Apr. 7, 2006 | 3789 |
| 8001 | Thomas Jefferson Day, 2006 | Apr. 13, 2006 | 3790 |
| 8002 | National Park Week, 2006 | Apr. 18, 2006 | 3791 |
| 8003 | National Physical Fitness and Sports Month, 2006 | Apr. 19, 2006 | 3792 |
| 8004 | National Volunteer Week, 2006 | Apr. 19, 2006 | 3793 |
| 8005 | Jewish American Heritage Month, 2006 | Apr. 20, 2006 | 3794 |
| 8006 | National Crime Victims' Rights Week, 2006 | Apr. 20, 2006 | 3795 |

| PROCLAMATION | | DATE | PAGE |
|---|---|---|---|
| 8007 | National Charter Schools Week, 2006 | Apr. 26, 2006 | 3796 |
| 8008 | Asian/Pacific American Heritage Month, 2006 | Apr. 28, 2006 | 3797 |
| 8009 | Older Americans Month, 2006 | Apr. 28, 2006 | 3798 |
| 8010 | Law Day, U.S.A. | Apr. 28, 2006 | 3799 |
| 8011 | Loyalty Day, 2006 | Apr. 28, 2006 | 3800 |
| 8012 | National Day of Prayer, 2006 | May 3, 2006 | 3801 |
| 8013 | Mother's Day, 2006 | May 4, 2006 | 3801 |
| 8014 | Peace Officers Memorial Day and Police Week, 2006 | May 11, 2006 | 3802 |
| 8015 | Suspension of Entry as Immigrants and Nonimmigrants of Persons Responsible for Policies or Actions That Threaten the Transition to Democracy in Belarus. | May 12, 2006 | 3803 |
| 8016 | National Defense Transportation Day and National Transportation Week, 2006. | May 12, 2006 | 3805 |
| 8017 | National Safe Boating Week, 2006 | May 12, 2006 | 3806 |
| 8018 | Death of G.V. Sonny Montgomery | May 12, 2006 | 3807 |
| 8019 | Prayer for Peace, Memorial Day, 2006 | May 16, 2006 | 3807 |
| 8020 | National Hurricane Preparedness Week, 2006 | May 19, 2006 | 3809 |
| 8021 | National Maritime Day, 2006 | May 19, 2006 | 3809 |
| 8022 | World Trade Week, 2006 | May 19, 2006 | 3810 |
| 8023 | Great Outdoors Month, 2006 | May 23, 2006 | 3811 |
| 8024 | National Homeownership Month, 2006 | May 24, 2006 | 3812 |
| 8025 | Black Music Month, 2006 | May 25, 2006 | 3813 |
| 8026 | National Child's Day, 2006 | June 1, 2006 | 3814 |
| 8027 | National Oceans Week, 2006 | June 2, 2006 | 3815 |
| 8028 | Caribbean-American Heritage Month, 2006 | June 5, 2006 | 3816 |
| 8029 | Flag Day and National Flag Week, 2006 | June 6, 2006 | 3816 |
| 8030 | Father's Day, 2006 | June 6, 2006 | 3818 |
| 8031 | Establishment of the Northwestern Hawaiian Islands Marine National Monument. | June 15, 2006 | 3819 |
| 8032 | Independence Day, 2006 | June 26, 2006 | 3854 |
| 8033 | To Modify Duty-Free Treatment Under the Generalized System of Preferences. | June 30, 2006 | 3854 |
| 8034 | To Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Guatemala, and For Other Purposes. | June 30, 2006 | 3859 |
| 8035 | Parents' Day, 2006 | July 12, 2006 | 3860 |
| 8036 | Captive Nations Week, 2006 | July 13, 2006 | 3861 |
| 8037 | Anniversary of the Americans With Disabilities Act, 2006. | July 25, 2006 | 3862 |
| 8038 | 50th Anniversary of Our National Motto, "In God We Trust," 2006. | July 27, 2006 | 3863 |
| 8039 | To Implement the United States-Bahrain Free Trade Agreement, and for Other Purposes. | July 27, 2006 | 3864 |
| 8040 | Women's Equality Day, 2006 | Aug. 21, 2006 | 3870 |
| 8041 | Minority Enterprise Development Week, 2006 | Aug. 22, 2006 | 3871 |
| 8042 | National Alcohol and Drug Addiction Recovery Month, 2006. | Aug. 25, 2006 | 3872 |
| 8043 | National Day of Remembrance of Hurricane Katrina, 2006. | Aug. 25, 2006 | 3873 |
| 8044 | National Ovarian Cancer Awareness Month, 2006 | Aug. 29, 2006 | 3874 |
| 8045 | National Prostate Cancer Awareness Month, 2006 | Aug. 29, 2006 | 3875 |
| 8046 | National Days of Prayer and Remembrance, 2006 | Sept. 5, 2006 | 3876 |
| 8047 | Patriot Day, 2006 | Sept. 7, 2006 | 3877 |
| 8048 | National Historically Black Colleges and Universities Week, 2006. | Sept. 8, 2006 | 3879 |
| 8049 | National Hispanic Heritage Month, 2006 | Sept. 14, 2006 | 3880 |

| PROCLAMATION | | DATE | PAGE |
|---|---|---|---|
| 8050 | Constitution Day and Citizenship Day, Constitution Week, 2006. | Sept. 14, 2006 | 3881 |
| 8051 | National POW/MIA Recognition Day, 2006 | Sept. 14, 2006 | 3882 |
| 8052 | National Farm Safety and Health Week, 2006 | Sept. 15, 2006 | 3883 |
| 8053 | Literacy Day, 2006 | Sept. 15, 2006 | 3884 |
| 8054 | Gold Star Mother's Day, 2006 | Sept. 20, 2006 | 3885 |
| 8055 | National Employer Support of the Guard and Reserve Week, 2006. | Sept. 21, 2006 | 3886 |
| 8056 | Family Day, 2006 | Sept. 22, 2006 | 3887 |
| 8057 | Child Health Day, 2006 | Sept. 28, 2006 | 3888 |
| 8058 | National Domestic Violence Awareness Month, 2006 | Sept. 29, 2006 | 3889 |
| 8059 | National Breast Cancer Awareness Month, 2006 | Oct. 3, 2006 | 3890 |
| 8060 | National Disability Employment Awareness Month, 2006. | Oct. 3, 2006 | 3891 |
| 8061 | German-American Day, 2006 | Oct. 3, 2006 | 3892 |
| 8062 | Fire Prevention Week, 2006 | Oct. 4, 2006 | 3893 |
| 8063 | Leif Erikson Day, 2006 | Oct. 4, 2006 | 3894 |
| 8064 | National School Lunch Week, 2006 | Oct. 5, 2006 | 3894 |
| 8065 | Columbus Day, 2006 | Oct. 5, 2006 | 3895 |
| 8066 | General Pulaski Memorial Day, 2006 | Oct. 11, 2006 | 3896 |
| 8067 | To Modify Rules of Origin Under the North American Free Trade Agreement. | Oct. 11, 2006 | 3897 |
| 8068 | National Energy Awareness Month, 2006 | Oct. 12, 2006 | 3904 |
| 8069 | White Cane Safety Day, 2006 | Oct. 12, 2006 | 3905 |
| 8070 | National Character Counts Week, 2006 | Oct. 13, 2006 | 3905 |
| 8071 | National Forest Products Week, 2006 | Oct. 13, 2006 | 3906 |
| 8072 | 50th Anniversary of the Hungarian Revolution | Oct. 18, 2006 | 3907 |
| 8073 | United Nations Day, 2006 | Oct. 20, 2006 | 3908 |
| 8074 | National Adoption Month, 2006 | Oct. 30, 2006 | 3909 |
| 8075 | National Alzheimer's Disease Awareness Month, 2006 | Oct. 30, 2006 | 3910 |
| 8076 | National American Indian Heritage Month, 2006 | Oct. 30, 2006 | 3910 |
| 8077 | National Diabetes Month, 2006 | Oct. 30, 2006 | 3911 |
| 8078 | National Family Caregivers Month, 2006 | Oct. 30, 2006 | 3912 |
| 8079 | National Hospice Month, 2006 | Oct. 30, 2006 | 3913 |
| 8080 | Veterans Day, 2006 | Oct. 31, 2006 | 3914 |
| 8081 | World Freedom Day, 2006 | Nov. 2, 2006 | 3915 |
| 8082 | National Farm-City Week, 2006 | Nov. 8, 2006 | 3916 |
| 8083 | America Recycles Day, 2006 | Nov. 14, 2006 | 3917 |
| 8084 | National Family Week, 2006 | Nov. 16, 2006 | 3918 |
| 8085 | Thanksgiving Day, 2006 | Nov. 16, 2006 | 3919 |
| 8086 | National Methamphetamine Awareness Day, 2006 | Nov. 27, 2006 | 3920 |
| 8087 | World AIDS Day, 2006 | Nov. 30, 2006 | 3921 |
| 8088 | National Drunk and Drugged Driving Prevention Month, 2006. | Dec. 1, 2006 | 3922 |
| 8089 | National Pearl Harbor Remembrance Day, 2006 | Dec. 1, 2006 | 3923 |
| 8090 | Human Rights Day, Bill of Rights Day, and Human Rights Week, 2006. | Dec. 8, 2006 | 3924 |

# PUBLIC LAWS

ENACTED DURING

## SECOND SESSION OF THE ONE HUNDRED NINTH CONGRESS

OF THE

## UNITED STATES OF AMERICA

*Begun and held at the City of Washington on Tuesday, January 3, 2006, adjourned sine die on Saturday, December 9, 2006.* GEORGE W. BUSH, *President;* RICHARD CHENEY, *Vice President;* J. DENNIS HASTERT, *Speaker of the House of Representatives.*

Public Law 109–170
109th Congress

# An Act

To amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act.

Feb. 3, 2006
[H.R. 4659]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. EXTENSION OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT.**

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 115 Stat. 295) is amended by striking "February 3, 2006" and inserting "March 10, 2006".

119 Stat. 2957.

Approved February 3, 2006.

LEGISLATIVE HISTORY—H.R. 4659:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 1, considered and passed House.
Feb. 2, considered and passed Senate.

Public Law 109–171
109th Congress

An Act

Feb. 8, 2006
[S. 1932]

To provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Deficit Reduction Act of 2005.
42 USC 1305 note.

**SECTION 1. SHORT TITLE.**

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

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

The table of titles is as follows:

TITLE I—AGRICULTURE PROVISIONS
TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS
TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY
TITLE IV—TRANSPORTATION PROVISIONS
TITLE V—MEDICARE
TITLE VI—MEDICAID AND SCHIP
TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS
TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS
TITLE IX—LIHEAP PROVISIONS
TITLE X—JUDICIARY RELATED PROVISIONS

Agricultural Reconciliation Act of 2005.
7 USC 7901 note.

# TITLE I—AGRICULTURE PROVISIONS

**SECTION 1001. SHORT TITLE.**

This title may be cited as the "Agricultural Reconciliation Act of 2005".

## Subtitle A—Commodity Programs

**SEC. 1101. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

Effective dates.

(a) AMOUNT.—Section 1502(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3)(A) during the period beginning on the first day of the month the producers on a dairy farm enter into a contract under this section and ending on September 30, 2005, 45 percent;

"(B) during the period beginning on October 1, 2005, and ending on August 31, 2007, 34 percent; and

"(C) during the period beginning on September 1, 2007, 0 percent.".

(b) DURATION.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended by striking "2005" each place it appears in subsections (f) and (g)(1) and inserting "2007".

(c) CONFORMING AMENDMENTS.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in subsection (g)(1), by striking "and subsection (h)"; and

(2) by striking subsection (h).

**SEC. 1102. ADVANCE DIRECT PAYMENTS.**

(a) COVERED COMMODITIES.—Section 1103(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(d)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year,".

(b) PEANUTS.—Section 1303(e)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7953(e)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year,".

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

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

(1) by striking subsection (a); and

(2) in subsection (b)(1)—

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

(B) in subparagraph (C), by striking ", for the value of any certificates issued under subsection (a)".

(b) EFFECTIVE DATE.—The amendments made by this section take effect on August 1, 2006. 7 USC 7937 note.

# Subtitle B—Conservation

**SEC. 1201. WATERSHED REHABILITATION PROGRAM.**

The authority to obligate funds previously made available under section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date. Termination date.

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

(a) EXTENSION.—Section 1238A(a) of the Food Security Act of 1985 (16 U.S.C. 3838a(a)) is amended by striking "2007" and inserting "2011".

(b) FUNDING.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by striking "not more than $6,037,000,000" and all that follows through "2014." and inserting the following: "not more than—

"(A) $1,954,000,000 for the period of fiscal years 2006 through 2010; and

"(B) $5,650,000,000 for the period of fiscal years 2006 through 2015.".

**SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

(a) EXTENSION.—Section 1240B(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)(1)) is amended by striking "2007" and inserting "2010".

(b) LIMITATION ON PAYMENTS.—Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended by striking "the period of fiscal years 2002 through 2007" and inserting "any six-year period".

(c) FUNDING.—Section 1241(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D); and

(2) by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) $1,270,000,000 in each of fiscal years 2007 through 2009; and

"(F) $1,300,000,000 in fiscal year 2010.".

# Subtitle C—Energy

**SEC. 1301. RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS PROGRAM.**

Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)) is amended by striking "2007" and inserting "2006 and $3,000,000 for fiscal year 2007".

# Subtitle D—Rural Development

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

Termination date.

The authority to obligate funds previously made available under section 601(j)(1) of the Rural Electrification Act of 1936 for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

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

Termination date.

The authority to obligate funds previously made available under section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

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

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

Termination date.

(b) CANCELLATION OF UNOBLIGATED PRIOR-YEAR FUNDS.—The authority to obligate funds previously made available under such

section and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

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

The authority to obligate funds previously made available under section 385E of the Consolidated Farm and Rural Development Act and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

Termination date.

**SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANTS.**

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

(b) CANCELLATION OF UNOBLIGATED PRIOR-YEAR FUNDS.—The authority to obligate funds previously made available under such section for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

Termination date.

## Subtitle E—Research

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

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

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

"(6) AVAILABILITY OF FUNDS.—

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

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

Effective dates.

# TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS

## Subtitle A—FHA Asset Disposition

**SEC. 2001. DEFINITIONS.**

12 USC 1701z–11 note.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "affordability requirements" means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily

loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

(2) The term "discount sale" means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

(3) The term "discount loan sale" means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

(4) The term "loan market value" means the value of a multifamily loan, without taking into account any affordability requirements.

(5) The term "multifamily real property" means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act.

(6) The term "multifamily loan" means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

(7) The term "property market value" means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

12 USC 1701z–11 note.

**SEC. 2002. APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.**

(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z–11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a)), shall be subject to the availability of appropriations to the extent that

the loan market value exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

**SEC. 2003. UP-FRONT GRANTS.**

(a) 1997 ACT.—Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a)) is amended by adding at the end the following new sentence: "A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.".

(b) 1978 ACT.—Section 203(f)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(f)(4)) is amended by adding at the end the following new sentence: "This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.".

(c) APPLICABILITY.—The amendments made by this section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

12 USC 1701z–11 note.

# Subtitle B—Deposit Insurance

Federal Deposit Insurance Reform Act of 2005.
Banks and banking.
12 USC 1811 note.
12 USC 1821 note.

**SEC. 2101. SHORT TITLE.**

This subtitle may be cited as the "Federal Deposit Insurance Reform Act of 2005".

**SEC. 2102. MERGING THE BIF AND SAIF.**

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(b) REPEAL OF OUTDATED MERGER PROVISION.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

(c) EFFECTIVE DATE.—This section shall take effect no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

**SEC. 2103. INCREASE IN DEPOSIT INSURANCE COVERAGE.**

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3)."; and

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

"(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term 'standard maximum deposit insurance amount' means $100,000, adjusted as provided under subparagraph (F) after March 31, 2010.

"(F) INFLATION ADJUSTMENT.—

Deadlines.

"(i) IN GENERAL.—By April 1 of 2010, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly consider the factors set forth under clause (v), and, upon determining that an inflation adjustment is appropriate, shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

"(I) $100,000; and

"(II) the ratio of the published annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which the adjustment is calculated under this clause, to the published annual value of such index for the calendar year preceding the date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005.

The values used in the calculation under subclause (II) shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.

"(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded down to the nearest $10,000.

"(iii) PUBLICATION AND REPORT TO THE CONGRESS.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

Federal Register, publication.

"(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A)

and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

"(II) jointly submit a report to the Congress containing the amounts described in subclause (I).

Effective dates.

"(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.

"(v) INFLATION ADJUSTMENT CONSIDERATION.—In making any determination under clause (i) to increase the standard maximum deposit insurance amount and the standard maximum share insurance amount, the Board of Directors and the National Credit Union Administration Board shall jointly consider—

"(I) the overall state of the Deposit Insurance Fund and the economic conditions affecting insured depository institutions;

"(II) potential problems affecting insured depository institutions; or

"(III) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of estimated insured deposits.".

(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended to read as follows:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

"(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

"(I) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 38.

"(II) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan' has the same meaning as in paragraph (5)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(III) PASS-THROUGH DEPOSIT INSURANCE.—The term 'pass-through deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.".

(c) INCREASED AMOUNT OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended by striking

"$100,000" and inserting "$250,000 (which amount shall be subject to inflation adjustments as provided in paragraph (1)(F), except that $250,000 shall be substituted for $100,000 wherever such term appears in such paragraph)".

12 USC 1821 note.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date the final regulations required under section 9(a)(2) take effect.

**SEC. 2104. SETTING ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.**

(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

"(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

"(i) The estimated operating expenses of the Deposit Insurance Fund.

"(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

"(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

"(iv) The risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

"(v) Any other factors the Board of Directors may determine to be appropriate."; and

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

"(D) NO DISCRIMINATION BASED ON SIZE.—No insured depository institution shall be barred from the lowest-risk category solely because of size.".

(b) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) DEPOSITORY INSTITUTION REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

"(A) the end of the 3-year period beginning on the due date of the assessment; or

"(B) in the case of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute.".

(c) INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.—Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended to read as follows:

"(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

"(1) IN GENERAL.—Subject to paragraph (3), any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount of not more than 1 percent of the amount of the assessment due for each day that such violation continues.

"(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

"(A) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

"(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

"(3) SPECIAL RULE FOR SMALL ASSESSMENT AMOUNTS.—If the amount of the assessment which an insured depository institution fails or refuses to pay is less than $10,000 at the time of such failure or refusal, the amount of any penalty to which such institution is subject under paragraph (1) shall not exceed $100 for each day that such violation continues.

"(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.".

(d) STATUTE OF LIMITATIONS FOR ASSESSMENT ACTIONS.—Subsection (g) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(g)) is amended to read as follows:

"(g) ASSESSMENT ACTIONS.—

"(1) IN GENERAL.—The Corporation, in any court of competent jurisdiction, shall be entitled to recover from any insured depository institution the amount of any unpaid assessment lawfully payable by such insured depository institution.

Applicability.

"(2) STATUTE OF LIMITATIONS.—The following provisions shall apply to actions relating to assessments, notwithstanding any other provision in Federal law, or the law of any State:

"(A) Any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exception in subparagraph (E).

"(B) Any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exceptions in subparagraphs (C) and (E).

"(C) If an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have until 3 years after the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.

"(D) Except as provided in subparagraph (C), assessment deposit information contained in records no longer required to be maintained pursuant to subsection (b)(4) shall be considered conclusive and not subject to change.

"(E) Any action for the underpaid or overpaid amount of any assessment that became due before the amendment to this subsection under the Federal Deposit Insurance Reform Act of 2005 took effect shall be subject to the statute of limitations for assessments in effect at the time the assessment became due.".

12 USC 1817 note.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(5) take effect.

**SEC. 2105. REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.**

(a) IN GENERAL.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) DESIGNATED RESERVE RATIO.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—Before the beginning of each calendar year, the Board of Directors shall designate the reserve ratio applicable with respect to the Deposit Insurance Fund and publish the reserve ratio so designated.

Notice.

"(ii) RULEMAKING REQUIREMENT.—Any change to the designated reserve ratio shall be made by the Board of Directors by regulation after notice and opportunity for comment.

"(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

"(i) may not exceed 1.5 percent of estimated insured deposits; and

"(ii) may not be less than 1.15 percent of estimated insured deposits.

"(C) FACTORS.—In designating a reserve ratio for any year, the Board of Directors shall—

"(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

"(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

"(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

"(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.

"(D) PUBLICATION OF PROPOSED CHANGE IN RATIO.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A),

the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(1) take effect.

12 USC 1817 note.

**SEC. 2106. REQUIREMENTS APPLICABLE TO THE RISK-BASED ASSESSMENT SYSTEM.**

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following new subparagraphs:

"(E) INFORMATION CONCERNING RISK OF LOSS AND ECONOMIC CONDITIONS.—

"(i) SOURCES OF INFORMATION.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

"(ii) CONSULTATION WITH FEDERAL BANKING AGENCIES.—

"(I) IN GENERAL.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation shall consult with the appropriate Federal banking agency of such institution.

"(II) TREATMENT ON AGGREGATE BASIS.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by such institutions may be made on an aggregate basis.

"(iii) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

"(F) MODIFICATIONS TO THE RISK-BASED ASSESSMENT SYSTEM ALLOWED ONLY AFTER NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal

Deposit Insurance Reform Act of 2005, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.".

**SEC. 2107. REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.**

(a) IN GENERAL.—Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS, DIVIDENDS, AND CREDITS.—

"(1) REFUNDS OF OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

"(2) DIVIDENDS FROM EXCESS AMOUNTS IN DEPOSIT INSURANCE FUND.—

"(A) RESERVE RATIO IN EXCESS OF 1.5 PERCENT OF ESTIMATED INSURED DEPOSITS.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund exceeds 1.5 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.5 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

"(B) RESERVE RATIO EQUAL TO OR IN EXCESS OF 1.35 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.5 PERCENT.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.5 percent of such deposits, the Corporation shall declare the amount in the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

"(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.—

"(i) IN GENERAL.—Solely for the purposes of dividend distribution under this paragraph, the Corporation shall determine each insured depository institution's relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating such institution's share of any dividend declared under this paragraph, taking into account the factors described in clause (ii).

"(ii) FACTORS FOR DISTRIBUTION.—In implementing this paragraph in accordance with regulations, the Corporation shall take into account the following factors:

"(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date.

"(II) The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund).

"(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

"(IV) Such other factors as the Corporation may determine to be appropriate.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph. Regulations.

"(E) LIMITATION.—The Board of Directors may suspend or limit dividends paid under subparagraph (B), if the Board determines in writing that—

"(i) a significant risk of losses to the Deposit Insurance Fund exists over the next 1-year period; and

"(ii) it is likely that such losses will be sufficiently high as to justify a finding by the Board that the reserve ratio should temporarily be allowed—

"(I) to grow without requiring dividends under subparagraph (B); or

"(II) to exceed the maximum amount established under subsection (b)(3)(B)(i).

"(F) CONSIDERATIONS.—In making a determination under subparagraph (E), the Board shall consider—

"(i) national and regional conditions and their impact on insured depository institutions;

"(ii) potential problems affecting insured depository institutions or a specific group or type of depository institution;

"(iii) the degree to which the contingent liability of the Corporation for anticipated failures of insured institutions adequately addresses concerns over funding levels in the Deposit Insurance Fund; and

"(iv) any other factors that the Board determines are appropriate.

"(G) REVIEW OF DETERMINATION.—

"(i) ANNUAL REVIEW.—A determination to suspend or limit dividends under subparagraph (E) shall be reviewed by the Board of Directors annually.

"(ii) ACTION BY BOARD.—Based on each annual review under clause (i), the Board of Directors shall either renew or remove a determination to suspend or limit dividends under subparagraph (E), or shall make a new determination in accordance with this paragraph. Unless justified under the terms of the renewal or new determination, the Corporation shall be required to provide cash dividends under subparagraph (A) or (B), as appropriate.

"(3) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.—

"(A) IN GENERAL.—Before the end of the 270-day period beginning on the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors shall, by regulation after notice and opportunity for comment, provide for a credit to each eligible insured depository institution (or a successor insured depository institution), based on the assessment base of the institution on December 31, 1996, as compared to the combined aggregate assessment base of all eligible insured depository institutions, taking into account such factors as the Board of Directors may determine to be appropriate.

"(B) CREDIT LIMIT.—The aggregate amount of credits available under subparagraph (A) to all eligible insured depository institutions shall equal the amount that the Corporation could collect if the Corporation imposed an assessment of 10.5 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

"(C) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'eligible insured depository institution' means any insured depository institution that—

"(i) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

"(ii) is a successor to any insured depository institution described in clause (i).

"(D) APPLICATION OF CREDITS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(E), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under subparagraph (A).

"(ii) TEMPORARY RESTRICTION ON USE OF CREDITS.—The amount of a credit to any eligible insured depository institution under this paragraph may not be applied to more than 90 percent of the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning in fiscal years 2008, 2009, and 2010.

"(iii) REGULATIONS.—The regulations prescribed under subparagraph (A) shall establish the qualifications and procedures governing the application of assessment credits pursuant to clause (i).

"(E) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average

assessment rate on all insured depository institutions for such assessment period.

"(F) SUCCESSOR DEFINED.—The Corporation shall define the term 'successor' for purposes of this paragraph, by regulation, and may consider any factors as the Board may deem appropriate.

"(4) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—The regulations prescribed under paragraphs (2)(D) and (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

"(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.".

(b) DEFINITION OF RESERVE RATIO.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as amended by section 2105(b) of this subtitle) is amended by adding at the end the following new paragraph:

"(3) RESERVE RATIO.—The term 'reserve ratio', when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.".

**SEC. 2108. DEPOSIT INSURANCE FUND RESTORATION PLANS.**

Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) (as amended by section 2105(a) of this subtitle) is amended by adding at the end the following new subparagraph:

"(E) DIF RESTORATION PLANS.—

"(i) IN GENERAL.—Whenever—

"(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

"(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,

the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Corporation determines to be appropriate. Deadline.

"(ii) REQUIREMENTS OF RESTORATION PLAN.—A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio before the end of the 5-year period beginning upon the implementation of the plan (or such longer period as the Corporation

may determine to be necessary due to extraordinary circumstances).

"(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan under this subparagraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

"(iv) LIMITATION ON RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

"(I) the amount of the assessment; or

"(II) the amount equal to 3 basis points of the institution's assessment base.

Deadline.
Federal Register, publication.

"(v) TRANSPARENCY.—Not more than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.".

12 USC 1817 note.
Deadline.

**SEC. 2109. REGULATIONS REQUIRED.**

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment—

(1) designating the reserve ratio for the Deposit Insurance Fund in accordance with section 7(b)(3) of the Federal Deposit Insurance Act (as amended by section 2105 of this subtitle);

(2) implementing increases in deposit insurance coverage in accordance with the amendments made by section 2103 of this subtitle;

(3) implementing the dividend requirement under section 7(e)(2) of the Federal Deposit Insurance Act (as amended by section 2107 of this subtitle);

(4) implementing the 1-time assessment credit to certain insured depository institutions in accordance with section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 2107 of this subtitle, including the qualifications and procedures under which the Corporation would apply assessment credits; and

(5) providing for assessments under section 7(b) of the Federal Deposit Insurance Act, as amended by this subtitle.

(b) TRANSITION PROVISIONS.—

(1) CONTINUATION OF EXISTING ASSESSMENT REGULATIONS.—No provision of this subtitle or any amendment made by this subtitle shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments pursuant to any regulations in effect before the effective date of the final regulations prescribed under subsection (a).

Applicability.

(2) TREATMENT OF DIF MEMBERS UNDER EXISTING REGULATIONS.—As of the date of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant

to section 2102, the assessment regulations in effect immediately before the date of the enactment of this Act shall continue to apply to all members of the Deposit Insurance Fund, until such regulations are modified by the Corporation, notwithstanding that such regulations may refer to "Bank Insurance Fund members" or "Savings Association Insurance Fund members".

# TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

Digital Television Transition and Public Safety Act of 2005.
47 USC 309 note.

**SEC. 3001. SHORT TITLE; DEFINITION.**

(a) SHORT TITLE.—This title may be cited as the "Digital Television Transition and Public Safety Act of 2005".

(b) DEFINITION.—As used in this Act, the term "Assistant Secretary" means the Assistant Secretary for Communications and Information of the Department of Commerce.

**SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM DEADLINE.**

(a) AMENDMENTS.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) in subparagraph (A)—

(A) by inserting "full-power" before "television broadcast license"; and

(B) by striking "December 31, 2006" and inserting "February 17, 2009";

(2) by striking subparagraph (B);

(3) in subparagraph (C)(i)(I), by striking "or (B)";

(4) in subparagraph (D), by striking "subparagraph (C)(i)" and inserting "subparagraph (B)(i)"; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary—

(1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and

(2) to require by February 18, 2009, that all broadcasting by Class A stations, whether in the analog television service or digital television service, and all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).

(c) CONFORMING AMENDMENTS.—

(1) Section 337(e) of the Communications Act of 1934 (47 U.S.C. 337(e)) is amended—

(A) in paragraph (1)—

(i) by striking "CHANNELS 60 TO 69" and inserting "CHANNELS 52 TO 69";

(ii) by striking "person who" and inserting "full-power television station licensee that";

(iii) by striking "746 and 806 megahertz" and inserting "698 and 806 megahertz"; and

(iv) by striking "the date on which the digital television service transition period terminates, as determined by the Commission" and inserting "February 17, 2009";

(B) in paragraph (2), by striking "746 megahertz" and inserting "698 megahertz".

**SEC. 3003. AUCTION OF RECOVERED SPECTRUM.**

(a) DEADLINE FOR AUCTION.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by redesignating the second paragraph (15) of such section (as added by section 203(b) of the Commercial Spectrum Enhancement Act (Public Law 108–494; 118 Stat. 3993)), as paragraph (16) of such section; and

(2) in the first paragraph (15) of such section (as added by section 3(a) of the Auction Reform Act of 2002 (Public Law 107–195; 116 Stat. 716)), by adding at the end of subparagraph (C) the following new clauses:

"(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

"(vi) RECOVERED ANALOG SPECTRUM.—For purposes of clause (v), the term 'recovered analog spectrum' means the spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

"(I) the spectrum required by section 337 to be made available for public safety services; and

"(II) the spectrum auctioned prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.".

(b) EXTENSION OF AUCTION AUTHORITY.—Section 309(j)(11) of such Act (47 U.S.C. 309(j)(11)) is amended by striking "2007" and inserting "2011".

**SEC. 3004. RESERVATION OF AUCTION PROCEEDS.**

Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B) or subparagraph (D)" and inserting "subparagraphs (B), (D), and (E)";

(2) in subparagraph (C)(i), by inserting before the semicolon at the end the following: ", except as otherwise provided in subparagraph (E)(ii)"; and

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

"(E) TRANSFER OF RECEIPTS.—

"(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

"(ii) PROCEEDS FOR FUNDS.—Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the

use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

"(iii) TRANSFER OF AMOUNT TO TREASURY.—On September 30, 2009, the Secretary shall transfer $7,363,000,000 from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

"(iv) RECOVERED ANALOG SPECTRUM.—For purposes of clause (i), the term 'recovered analog spectrum' has the meaning provided in paragraph (15)(C)(vi).".

**SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.**

(a) CREATION OF PROGRAM.—The Assistant Secretary shall—

(1) implement and administer a program through which households in the United States may obtain coupons that can be applied toward the purchase of digital-to-analog converter boxes; and

(2) make payments of not to exceed $990,000,000, in the aggregate, through fiscal year 2009 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

Effective date.

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $1,500,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons by making a request as required by the regulations under this section between January 1, 2008, and March 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household receives, via the United States Postal Service, no more than two coupons.

(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

(C) DURATION.—All coupons shall expire 3 months after issuance.

(2) DISTRIBUTION OF COUPONS.—The Assistant Secretary shall expend not more than $100,000,000 on administrative expenses and shall ensure that the sum of—

(A) all administrative expenses for the program, including not more than $5,000,000 for consumer education concerning the digital television transition and the availability of the digital-to-analog converter box program; and

(B) the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed $990,000,000.

(3) USE OF ADDITIONAL AMOUNT.—If the Assistant Secretary transmits to the Committee on Energy and Commerce of the House of Representatives and Committee on Commerce,

Science, and Transportation of the Senate a statement certifying that the sum permitted to be expended under paragraph (2) will be insufficient to fulfill the requests for coupons from eligible households—

Applicability.

(A) paragraph (2) shall be applied—

(i) by substituting "$160,000,000" for "$100,000,000"; and

(ii) by substituting "$1,500,000,000" for "$990,000,000";

(B) subsection (a)(2) shall be applied by substituting "$1,500,000,000" for "$990,000,000"; and

Deadline.

(C) the additional amount permitted to be expended shall be available 60 days after the Assistant Secretary sends such statement.

(4) COUPON VALUE.—The value of each coupon shall be $40.

(d) DEFINITION OF DIGITAL-TO-ANALOG CONVERTER BOX.—For purposes of this section, the term "digital-to-analog converter box" means a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device.

**SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.**

(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

(1) may take such administrative action as is necessary to establish and implement a grant program to assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperability with communications systems that can utilize, reallocated public safety spectrum for radio communication; and

(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2010 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

Effective date.

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

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

(1) PUBLIC SAFETY AGENCY.—The term "public safety agency" means any State, local, or tribal government entity, or nongovernmental organization authorized by such entity,

whose sole or principal purpose is to protect the safety of life, health, or property.

(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term "interoperable communications systems" means communications systems which enable public safety agencies to share information amongst local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

(3) REALLOCATED PUBLIC SAFETY SPECTRUM.—The term "reallocated public safety spectrum" means the bands of spectrum located at 764–776 megahertz and 794–806 megahertz, inclusive.

**SEC. 3007. NYC 9/11 DIGITAL TRANSITION.**

New York.
New Jersey.

(a) FUNDS AVAILABLE.—From the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) the Assistant Secretary shall make payments of not to exceed $30,000,000, in the aggregate, which shall be available to carry out this section for fiscal years 2007 through 2008. The Assistant Secretary may borrow from the Treasury beginning October 1, 2006, such sums as may be necessary not to exceed $30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

Effective date.

(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the design and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

Grants.

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

(1) METROPOLITAN TELEVISION ALLIANCE.—The term "Metropolitan Television Alliance" means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

(2) NEW YORK CITY AREA.—The term "New York City area" means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union, and Hudson Counties).

**SEC. 3008. LOW-POWER TELEVISION AND TRANSLATOR DIGITAL-TO-ANALOG CONVERSION.**

(a) CREATION OF PROGRAM.—The Assistant Secretary shall make payments of not to exceed $10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for

Deadline.

transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before February 17, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning October 1, 2006, such sums as may be necessary, but not to exceed $10,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

**SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.**

(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, during fiscal year 2009 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in section 610(b)(2) of the Rural Electrification Act of 1937 (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations no earlier than October 1, 2010. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

Effective date.

(b) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not converted from analog to digital operations prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

**SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PROGRAM.**

The Assistant Secretary shall make payments of not to exceed $156,000,000, in the aggregate, during the fiscal year 2007 through 2012 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement a unified national alert system capable of alerting the public, on a national, regional,

or local basis to emergency situations by using a variety of communications technologies. The Assistant Secretary shall use $50,000,000 of such amounts to implement a tsunami warning and coastal vulnerability program.

**SEC. 3011. ENHANCE 911.**

The Assistant Secretary shall make payments of not to exceed $43,500,000, in the aggregate, from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE 911 Act of 2004.

**SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.**

(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, equals or exceeds $110,000,000 for fiscal year 2007 or 2008, then the Secretary of Commerce shall make $15,000,000 available, from the Digital Television Transition and Public Safety Fund established by section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)), to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

(1) appropriated for that fiscal year; or

(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

(c) ADVANCES.—The Secretary of Transportation may borrow from the Treasury such sums as may be necessary, but not to exceed $30,000,000 on a temporary and reimbursable basis to implement subsection (a). The Secretary of Transportation shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) and made available to the Secretary under subsection (a).

**SEC. 3013. SUPPLEMENTAL LICENSE FEES.**

In addition to any fees assessed under the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission shall assess extraordinary fees for licenses in the aggregate amount of $10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.

# TITLE IV—TRANSPORTATION PROVISIONS

**SEC. 4001. EXTENSION OF VESSEL TONNAGE DUTIES.**

(a) EXTENSION OF DUTIES.—Section 36 of the Act entitled "An Act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes", approved August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended—

(1) by striking "9 cents per ton" and all that follows through "2002," the first place it appears and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010,"; and

(2) by striking "27 cents per ton" and all that follows through "2002," and inserting "13.5 cents per ton, not to exceed 67.5 cents per ton per annum, for fiscal years 2006 through 2010,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "9 cents per ton" and all that follows through "and 2 cents" and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010, and 2 cents".

# TITLE V—MEDICARE

## Subtitle A—Provisions Relating to Part A

**SEC. 5001. HOSPITAL QUALITY IMPROVEMENT.**

(a) SUBMISSION OF HOSPITAL DATA.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (XIX), by striking "2007" and inserting "2006"; and

(B) in subclause (XX), by striking "for fiscal year 2008 and each subsequent fiscal year," and inserting "for each subsequent fiscal year, subject to clause (viii),";

(2) in clause (vii)—

(A) in subclause (I), by striking "for each of fiscal years 2005 through 2007" and inserting "for fiscal years 2005 and 2006"; and

(B) in subclause (II), by striking "Each" and inserting "For fiscal years 2005 and 2006, each"; and

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

"(viii)(I) For purposes of clause (i) for fiscal year 2007 and each subsequent fiscal year, in the case of a subsection (d) hospital that does not submit, to the Secretary in accordance with this clause, data required to be submitted on measures selected under this clause with respect to such a fiscal year, the applicable percentage increase under clause (i) for such fiscal year shall be reduced by 2.0 percentage points. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year, and the Secretary and the Medicare Payment Advisory Commission shall carry out the requirements under section 5001(b) of the Deficit Reduction Act of 2005.

Applicability.

"(II) Each subsection (d) hospital shall submit data on measures selected under this clause to the Secretary in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) The Secretary shall expand, beyond the measures specified under clause (vii)(II) and consistent with the succeeding subclauses, the set of measures that the Secretary determines to be appropriate for the measurement of the quality of care furnished by hospitals in inpatient settings.

"(IV) Effective for payments beginning with fiscal year 2007, in expanding the number of measures under subclause (III), the Secretary shall begin to adopt the baseline set of performance measures as set forth in the November 2005 report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

"(V) Effective for payments beginning with fiscal year 2008, the Secretary shall add other measures that reflect consensus among affected parties and, to the extent feasible and practicable, shall include measures set forth by one or more national consensus building entities.

"(VI) For purposes of this clause and clause (vii), the Secretary may replace any measures or indicators in appropriate cases, such as where all hospitals are effectively in compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

"(VII) The Secretary shall establish procedures for making data submitted under this clause available to the public. Such procedures shall ensure that a hospital has the opportunity to review the data that are to be made public with respect to the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients' perspectives on care, efficiency, and costs of care that relate to services furnished in inpatient settings in hospitals on the Internet website of the Centers for Medicare & Medicaid Services.". Procedures. Public information. Reports.

(b) PLAN FOR HOSPITAL VALUE BASED PURCHASING PROGRAM.— 42 USC 1395ww note.

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a plan to implement a value based purchasing program for payments under the Medicare program for subsection (d) hospitals beginning with fiscal year 2009.

(2) DETAILS.—Such a plan shall include consideration of the following issues:

(A) The on-going development, selection, and modification process for measures of quality and efficiency in hospital inpatient settings.

(B) The reporting, collection, and validation of quality data.

(C) The structure of value based payment adjustments, including the determination of thresholds or improvements in quality that would substantiate a payment adjustment, the size of such payments, and the sources of funding for the value based payments.

(D) The disclosure of information on hospital performance.

In developing such a plan, the Secretary shall consult with relevant affected parties and shall consider experience with such demonstrations that are relevant to the value based purchasing program under this subsection.

(c) QUALITY ADJUSTMENT IN DRG PAYMENTS FOR CERTAIN HOSPITAL ACQUIRED INFECTIONS.—

(1) IN GENERAL.—Section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)) is amended by adding at the end the following new subparagraph:

"(D)(i) For discharges occurring on or after October 1, 2008, the diagnosis-related group to be assigned under this paragraph for a discharge described in clause (ii) shall be a diagnosis-related group that does not result in higher payment based on the presence of a secondary diagnosis code described in clause (iv).

"(ii) A discharge described in this clause is a discharge which meets the following requirements:

"(I) The discharge includes a condition identified by a diagnosis code selected under clause (iv) as a secondary diagnosis.

"(II) But for clause (i), the discharge would have been classified to a diagnosis-related group that results in a higher payment based on the presence of a secondary diagnosis code selected under clause (iv).

"(III) At the time of admission, no code selected under clause (iv) was present.

Effective date.

"(iii) As part of the information required to be reported by a hospital with respect to a discharge of an individual in order for payment to be made under this subsection, for discharges occurring on or after October 1, 2007, the information shall include the secondary diagnosis of the individual at admission.

Deadline.

"(iv) By not later than October 1, 2007, the Secretary shall select diagnosis codes associated with at least two conditions, each of which codes meets all of the following requirements (as determined by the Secretary):

"(I) Cases described by such code have a high cost or high volume, or both, under this title.

"(II) The code results in the assignment of a case to a diagnosis-related group that has a higher payment when the code is present as a secondary diagnosis.

"(III) The code describes such conditions that could reasonably have been prevented through the application of evidence-based guidelines.

The Secretary may from time to time revise (through addition or deletion of codes) the diagnosis codes selected under this clause so long as there are diagnosis codes associated with at least two conditions selected for discharges occurring during any fiscal year.

"(v) In selecting and revising diagnosis codes under clause (iv), the Secretary shall consult with the Centers for Disease Control and Prevention and other appropriate entities.

"(vi) Any change resulting from the application of this subparagraph shall not be taken into account in adjusting the weighting factors under subparagraph (C)(i) or in applying budget neutrality under subparagraph (C)(iii).".

(2) NO JUDICIAL REVIEW.—Section 1886(d)(7)(B) of such Act (42 U.S.C. 1395ww(d)(7)(B)) is amended by inserting before the period the following: ", including the selection and revision of codes under paragraph (4)(D)".

**SEC. 5002. CLARIFICATION OF DETERMINATION OF MEDICAID PATIENT DAYS FOR DSH COMPUTATION.**

(a) IN GENERAL.—Section 1886(d)(5)(F)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended by adding after and below subclause (II) the following:

"In determining under subclause (II) the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, the Secretary may, to the extent and for the period the Secretary determines appropriate, include patient days of patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI.".

(b) RATIFICATION AND PROSPECTIVE APPLICATION OF PREVIOUS REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), regulations described in paragraph (3), insofar as such regulations provide for the treatment of individuals eligible for medical assistance under a demonstration project approved under title XI of the Social Security Act under section 1886(d)(5)(F)(vi) of such Act, are hereby ratified, effective as of the date of their respective promulgations.

(2) NO APPLICATION TO CLOSED COST REPORTS.—Paragraph (1) shall not be applied in a manner that requires the reopening of any cost reports which are closed as of the date of the enactment of this Act.

(3) REGULATIONS DESCRIBED.—For purposes of paragraph (1), the regulations described in this paragraph are as follows:

(A) 2000 REGULATION.—Regulations promulgated on January 20, 2000, at 65 Federal Register 3136 et seq., including the policy in such regulations regarding discharges occurring prior to January 20, 2000.

(B) 2003 REGULATION.—Regulations promulgated on August 1, 2003, at 68 Federal Register 45345 et seq.

**SEC. 5003. IMPROVEMENTS TO THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.**

(a) 5-YEAR EXTENSION.—

(1) EXTENSION OF PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 2006" and inserting "October 1, 2011"; and

(B) in clause (ii)(II)—

(i) by striking "October 1, 2006" and inserting "October 1, 2011"; and

(ii) by inserting "or for discharges in the fiscal year" after "for the cost reporting period".

(2) CONFORMING AMENDMENTS.—

(A) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) of such Act (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(i) in the matter preceding clause (i)—

(I) by striking "beginning" and inserting "occurring"; and

(II) by striking "October 1, 2006" and inserting "October 1, 2011"; and

(ii) in clause (iv), by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

(B) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 1395ww note) is amended by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

(b) OPTION TO USE 2002 AS BASE YEAR.—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (D), by inserting "subject to subparagraph (K)," after "(d)(5)(G)),"; and

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

Applicability.

"(K)(i) With respect to discharges occurring on or after October 1, 2006, in the case of a medicare-dependent, small rural hospital, for purposes of applying subparagraph (D)—

"(I) there shall be substituted for the base cost reporting period described in subparagraph (D)(i) the 12-month cost reporting period beginning during fiscal year 2002; and

"(II) any reference in such subparagraph to the 'first cost reporting period' described in such subparagraph is deemed a reference to the first cost reporting period beginning on or after October 1, 2006.

Applicability.

"(ii) This subparagraph shall only apply to a hospital if the substitution described in clause (i)(I) results in an increase in the target amount under subparagraph (D) for the hospital.".

(c) ENHANCED PAYMENT FOR AMOUNT BY WHICH THE TARGET EXCEEDS THE PPS RATE.—Section 1886(d)(5)(G)(ii)(II) of such Act (42 U.S.C. 1395ww(d)(5)(G)(iv)(II)) is amended by inserting "(or 75 percent in the case of discharges occurring on or after October 1, 2006)" after "50 percent".

(d) ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR MEDICARE-DEPENDENT HOSPITALS.—Section 1886(d)(5)(F)(xiv)(II) of such Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting "or, in the case of discharges occurring on or after October 1, 2006, as a medicare-dependent, small rural hospital under subparagraph (G)(iv)" before the period at the end.

**SEC. 5004. REDUCTION IN PAYMENTS TO SKILLED NURSING FACILITIES FOR BAD DEBT.**

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(V) In determining such reasonable costs for skilled nursing facilities with respect to cost reporting periods beginning on or after October 1, 2005, the amount of bad debts otherwise treated as allowed costs which are attributable to the coinsurance amounts under this title for individuals who are entitled to benefits under part A and—

"(i) are not described in section 1935(c)(6)(A)(ii) shall be reduced by 30 percent of such amount otherwise allowable; and

"(ii) are described in such section shall not be reduced.".

(b) TECHNICAL AMENDMENT.—Section 1861(v)(1)(T) of such Act (42 U.S.C. 1395x(v)(1)(T)) is amended by striking "section 1833(t)(5)(B)" and inserting "section 1833(t)(8)(B)".

**SEC. 5005. EXTENDED PHASE-IN OF THE INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.**

42 USC 1395ww note.

Applicability.

(a) IN GENERAL.—Notwithstanding section 412.23(b)(2) of title 42, Code of Federal Regulations, the Secretary of Health and Human Services shall apply the applicable percent specified in subsection (b) in the classification criterion used under the IRF regulation (as defined in subsection (c)) to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program under title XVIII of the Social Security Act.

(b) APPLICABLE PERCENT.—For purposes of subsection (a), the applicable percent specified in this subsection for cost reporting periods—

(1) beginning during the 12-month period beginning on July 1, 2006, is 60 percent;

(2) beginning during the 12-month period beginning on July 1, 2007, is 65 percent; and

(3) beginning on or after July 1, 2008, is 75 percent.

(c) IRF REGULATION.—For purposes of subsection (a), the term "IRF regulation" means the rule published in the Federal Register on May 7, 2004, entitled "Medicare Program; Final Rule; Changes to the Criteria for Being Classified as an Inpatient Rehabilitation Facility" (69 Fed. Reg. 25752).

**SEC. 5006. DEVELOPMENT OF A STRATEGIC PLAN REGARDING PHYSICIAN INVESTMENT IN SPECIALTY HOSPITALS.**

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall develop a strategic and implementing plan to address issues described in paragraph (2) regarding physician investment in specialty hospitals (as defined in section 1877(h)(7)(A) of the Social Security Act (42 U.S.C. 1395nn(h)(7)(A)).

(2) ISSUES DESCRIBED.—The issues described in this paragraph are the following:

(A) Proportionality of investment return.

(B) Bona fide investment.

(C) Annual disclosure of investment information.

(D) The provision by specialty hospitals of—

(i) care to patients who are eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, including patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI of such Act; and

(ii) charity care.

(E) Appropriate enforcement.

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit an interim report to the appropriate committees of jurisdiction of Congress on the status of the development of the plan under subsection (a).

(2) FINAL REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit a final report to the appropriate committees of jurisdiction of Congress on the plan developed under subsection (a) together

with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) CONTINUATION OF SUSPENSION ON ENROLLMENT.—

Deadline.

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall continue the suspension on enrollment of new specialty hospitals (as so defined) under title XVIII of the Social Security Act until the earlier of—

(A) the date that the Secretary submits the final report under subsection (b)(2); or

(B) the date that is six months after the date of the enactment of this Act.

(2) EXTENSION OF SUSPENSION.—If the Secretary fails to submit the final report described in subsection (b)(2) by the date required under such subsection, the Secretary shall—

(A) extend the suspension on enrollment under paragraph (1) for an additional two months; and

(B) provide a certification to the appropriate committees of jurisdiction of Congress of such failure.

(d) WAIVER.—In developing the plan and report required under this section, the Secretary may waive such requirements of section 553 of title 5, United States Code, as the Secretary determines necessary.

(e) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006, $2,000,000 to carry out this section.

42 USC 1395ww note.

**SEC. 5007. MEDICARE DEMONSTRATION PROJECTS TO PERMIT GAINSHARING ARRANGEMENTS.**

Deadlines.

(a) ESTABLISHMENT.—The Secretary shall establish under this section a qualified gainsharing demonstration program under which the Secretary shall approve demonstration projects by not later than November 1, 2006, to test and evaluate methodologies and arrangements between hospitals and physicians designed to govern the utilization of inpatient hospital resources and physician work to improve the quality and efficiency of care provided to Medicare beneficiaries and to develop improved operational and financial hospital performance with sharing of remuneration as specified in the project. Such projects shall be operational by not later than January 1, 2007.

(b) REQUIREMENTS DESCRIBED.—A demonstration project under this section shall meet the following requirements for purposes of maintaining or improving quality while achieving cost savings:

(1) ARRANGEMENT FOR REMUNERATION AS SHARE OF SAVINGS.—The demonstration project shall involve an arrangement between a hospital and a physician under which the hospital provides remuneration to the physician that represents solely a share of the savings incurred directly as a result of collaborative efforts between the hospital and the physician.

(2) WRITTEN PLAN AGREEMENT.—The demonstration project shall be conducted pursuant to a written agreement that—

(A) is submitted to the Secretary prior to implementation of the project; and

(B) includes a plan outlining how the project will achieve improvements in quality and efficiency.

(3) PATIENT NOTIFICATION.—The demonstration project shall include a notification process to inform patients who are

treated in a hospital participating in the project of the participation of the hospital in such project.

(4) MONITORING QUALITY AND EFFICIENCY OF CARE.—The demonstration project shall provide measures to ensure that the quality and efficiency of care provided to patients who are treated in a hospital participating in the demonstration project is continuously monitored to ensure that such quality and efficiency is maintained or improved.

(5) INDEPENDENT REVIEW.—The demonstration project shall certify, prior to implementation, that the elements of the demonstration project are reviewed by an organization that is not affiliated with the hospital or the physician participating in the project.

(6) REFERRAL LIMITATIONS.—The demonstration project shall not be structured in such a manner as to reward any physician participating in the project on the basis of the volume or value of referrals to the hospital by the physician.

(c) WAIVER OF CERTAIN RESTRICTIONS.—

(1) IN GENERAL.—An incentive payment made by a hospital to a physician under and in accordance with a demonstration project shall not constitute—

(A) remuneration for purposes of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);

(B) a payment intended to induce a physician to reduce or limit services to a patient entitled to benefits under Medicare or a State plan approved under title XIX of such Act in violation of section 1128A of such Act (42 U.S.C. 1320a–7a); or

(C) a financial relationship for purposes of section 1877 of such Act (42 U.S.C. 1395nn).

(2) PROTECTION FOR EXISTING ARRANGEMENTS.—In no case shall the failure to comply with the requirements described in paragraph (1) affect a finding made by the Inspector General of the Department of Health and Human Services prior to the date of the enactment of this Act that an arrangement between a hospital and a physician does not violate paragraph (1) or (2) of section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7(a)).

(d) PROGRAM ADMINISTRATION.—

(1) SOLICITATION OF APPLICATIONS.—By not later than 90 days after the date of the enactment of this Act, the Secretary shall solicit applications for approval of a demonstration project, in such form and manner, and at such time specified by the Secretary. Deadline.

(2) NUMBER OF PROJECTS APPROVED.—The Secretary shall approve not more than 6 demonstration projects, at least 2 of which shall be located in a rural area.

(3) DURATION.—The qualified gainsharing demonstration program under this section shall be conducted for the period beginning on January 1, 2007, and ending on December 31, 2009.

(e) REPORTS.—

(1) INITIAL REPORT.—By not later than December 1, 2006, the Secretary shall submit to Congress a report on the number of demonstration projects that will be conducted under this section.

(2) PROJECT UPDATE.—By not later than December 1, 2007, the Secretary shall submit to Congress a report on the details of such projects (including the project improvements towards quality and efficiency described in subsection (b)(2)(B)).

(3) QUALITY IMPROVEMENT AND SAVINGS.—By not later than December 1, 2008, the Secretary shall submit to Congress a report on quality improvement and savings achieved as a result of the qualified gainsharing demonstration program established under subsection (a).

(4) FINAL REPORT.—By not later than May 1, 2010, the Secretary shall submit to Congress a final report on the information described in paragraph (3).

(f) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006 $6,000,000, to carry out this section.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available for expenditure through fiscal year 2010.

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

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means a project implemented under the qualified gainsharing demonstration program established under subsection (a).

(2) HOSPITAL.—The term "hospital" means a hospital that receives payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), and does not include a critical access hospital (as defined in section 1861(mm) of such Act (42 U.S.C. 1395x(mm))).

(3) MEDICARE.—The term "Medicare" means the programs under title XVIII of the Social Security Act.

(4) PHYSICIAN.—The term "physician" means, with respect to a demonstration project, a physician described in paragraph (1) or (3) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) who is licensed as such a physician in the area in which the project is located and meets requirements to provide services for which benefits are provided under Medicare. Such term shall be deemed to include a practitioner described in section 1842(e)(18)(C) of such Act (42 U.S.C. 1395u(e)(18)(C)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

42 USC 1395b–1 note.

**SEC. 5008. POST-ACUTE CARE PAYMENT REFORM DEMONSTRATION PROGRAM.**

(a) ESTABLISHMENT.—

Deadline.

(1) IN GENERAL.—By not later than January 1, 2008, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration program for purposes of understanding costs and outcomes across different post-acute care sites. Under such program, with respect to diagnoses specified by the Secretary, an individual who receives treatment from a provider for such a diagnosis shall receive a single comprehensive assessment on the date of discharge from a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) of the needs of the patient and the clinical

characteristics of the diagnosis to determine the appropriate placement of such patient in a post-acute care site. The Secretary shall use a standardized patient assessment instrument across all post-acute care sites to measure functional status and other factors during the treatment and at discharge from each provider. Participants in the program shall provide information on the fixed and variable costs for each individual. An additional comprehensive assessment shall be provided at the end of the episode of care.

(2) NUMBER OF SITES.—The Secretary shall conduct the demonstration program under this section with sufficient numbers to determine statistically reliable results.

(3) DURATION.—The Secretary shall conduct the demonstration program under this section for a 3-year period.

(b) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 42 U.S.C. 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(c) REPORT.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, that includes the results of the program and recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(d) FUNDING.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i), $6,000,000 for the costs of carrying out the demonstration program under this section.

# Subtitle B—Provisions Relating to Part B

## CHAPTER 1—PAYMENT PROVISIONS

### SEC. 5101. BENEFICIARY OWNERSHIP OF CERTAIN DURABLE MEDICAL EQUIPMENT (DME).

(a) DME.—

(1) IN GENERAL.—Section 1834(a)(7)(A) of the Social Security Act (42 U.S.C. 1395m(a)(7)(A)) is amended to read as follows:

"(A) PAYMENT.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6), the following rules shall apply: Applicability.

"(i) RENTAL.—

"(I) IN GENERAL.—Except as provided in clause (iii), payment for the item shall be made on a monthly basis for the rental of the item during the period of medical need (but payments under this clause may not extend over a period of continuous use (as determined by the Secretary) of longer than 13 months).

"(II) PAYMENT AMOUNT.—Subject to subparagraph (B), the amount recognized for the item, for each of the first 3 months of such period, is 10 percent of the purchase price recognized under

paragraph (8) with respect to the item, and, for each of the remaining months of such period, is 7.5 percent of such purchase price.

"(ii) OWNERSHIP AFTER RENTAL.—On the first day that begins after the 13th continuous month during which payment is made for the rental of an item under clause (i), the supplier of the item shall transfer title to the item to the individual.

"(iii) PURCHASE AGREEMENT OPTION FOR POWER-DRIVEN WHEELCHAIRS.—In the case of a power-driven wheelchair, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the individual exercises such option.

"(iv) MAINTENANCE AND SERVICING.—After the supplier transfers title to the item under clause (ii) or in the case of a power-driven wheelchair for which a purchase agreement has been entered into under clause (iii), maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

42 USC 1395m note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished for which the first rental month occurs on or after January 1, 2006.

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "and (E)" and inserting "(E), and (F)"; and

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

"(F) OWNERSHIP OF EQUIPMENT.—

"(i) IN GENERAL.—Payment for oxygen equipment (including portable oxygen equipment) under this paragraph may not extend over a period of continuous use (as determined by the Secretary) of longer than 36 months.

"(ii) OWNERSHIP.—

"(I) TRANSFER OF TITLE.—On the first day that begins after the 36th continuous month during which payment is made for the equipment under this paragraph, the supplier of the equipment shall transfer title to the equipment to the individual.

"(II) PAYMENTS FOR OXYGEN AND MAINTENANCE AND SERVICING.—After the supplier transfers title to the equipment under subclause (I)—

"(aa) payments for oxygen shall continue to be made in the amount recognized for oxygen under paragraph (9) for the period of medical need; and

"(bb) maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.— 42 USC 1395m note.

(A) IN GENERAL.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

(B) APPLICATION TO CERTAIN INDIVIDUALS.—In the case of an individual receiving oxygen equipment on December 31, 2005, for which payment is made under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), the 36-month period described in paragraph (5)(F)(i) of such section, as added by paragraph (1), shall begin on January 1, 2006.

**SEC. 5102. ADJUSTMENTS IN PAYMENT FOR IMAGING SERVICES.**

(a) MULTIPLE PROCEDURE PAYMENT REDUCTION FOR IMAGING EXEMPTED FROM BUDGET NEUTRALITY.—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)) is amended—

(1) in clause (ii)(II), by striking "clause (iv)" and inserting "clauses (iv) and (v)";

(2) in clause (iv) in the heading, by inserting "OF CERTAIN ADDITIONAL EXPENDITURES" after "EXEMPTION"; and

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

"(v) EXEMPTION OF CERTAIN REDUCED EXPENDITURES FROM BUDGET-NEUTRALITY CALCULATION.—The following reduced expenditures, as estimated by the Secretary, shall not be taken into account in applying clause (ii)(II):

"(I) REDUCED PAYMENT FOR MULTIPLE IMAGING PROCEDURES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to the multiple procedure payment reduction for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (42 CFR 405, et al.) insofar as it relates to the physician fee schedules for 2006 and 2007.".

(b) REDUCTION IN PHYSICIAN FEE SCHEDULE TO OPD PAYMENT AMOUNT FOR IMAGING SERVICES.—Section 1848 of such Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR IMAGING SERVICES.—

"(A) IN GENERAL.—In the case of imaging services described in subparagraph (B) furnished on or after January 1, 2007, if—

"(i) the technical component (including the technical component portion of a global fee) of the service established for a year under the fee schedule described in paragraph (1) without application of the geographic

adjustment factor described in paragraph (1)(C), exceeds

"(ii) the Medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute the amount described in clause (ii), adjusted by the geographic adjustment factor described in paragraph (1)(C), for the fee schedule amount for such technical component for such year.

"(B) IMAGING SERVICES DESCRIBED.—For purposes of subparagraph (A), imaging services described in this subparagraph are imaging and computer-assisted imaging services, including X-ray, ultrasound (including echocardiography), nuclear medicine (including positron emission tomography), magnetic resonance imaging, computed tomography, and fluoroscopy, but excluding diagnostic and screening mammography."; and

(2) in subsection (c)(2)(B)(v), as added by subsection (a)(3), by adding at the end the following new subclause:

"(II) OPD PAYMENT CAP FOR IMAGING SERVICES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to subsection (b)(4).".

**SEC. 5103. LIMITATION ON PAYMENTS FOR PROCEDURES IN AMBULATORY SURGICAL CENTERS.**

Section 1833(i)(2) of the Social Security Act (42 U.S.C. 1395l(i)(2)) is amended—

(1) in subparagraph (A), by inserting "subject to subparagraph (E)," after "subparagraph (D),";

(2) in subparagraph (D)(ii), by inserting before the period at the end the following: "and taking into account reduced expenditures that would apply if subparagraph (E) were to continue to apply, as estimated by the Secretary"; and

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

"(E) With respect to surgical procedures furnished on or after January 1, 2007, and before the effective date of the implementation of a revised payment system under subparagraph (D), if—

"(i) the standard overhead amount under subparagraph (A) for a facility service for such procedure, without the application of any geographic adjustment, exceeds

"(ii) the Medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute under subparagraph (A) the amount described in clause (ii) for the standard overhead amount for such service referred to in clause (i).".

**SEC. 5104. UPDATE FOR PHYSICIANS' SERVICES FOR 2006.**

(a) UPDATE FOR 2006.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (4)(B), in the matter preceding clause (i), by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

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

"(6) UPDATE FOR 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall be 0 percent.".

(b) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by subsection (a) shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)). 42 USC 1395w–4 note.

(c) MEDPAC REPORT.—

(1) IN GENERAL.—By not later than March 1, 2007, the Medicare Payment Advisory Commission shall submit a report to Congress on mechanisms that could be used to replace the sustainable growth rate system under section 1848(f) of the Social Security Act (42 U.S.C. 1395w–4(f)).

(2) REQUIREMENTS.—The report required under paragraph (1) shall—

(A) identify and examine alternative methods for assessing volume growth;

(B) review options to control the volume of physicians' services under the Medicare program while maintaining access to such services by Medicare beneficiaries;

(C) examine the application of volume controls under the Medicare physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4);

(D) identify levels of application of volume controls, such as group practice, hospital medical staff, type of service, geographic area, and outliers;

(E) examine the administrative feasibility of implementing the options reviewed under subparagraph (B), including the availability of data and time lags;

(F) examine the extent to which the alternative methods identified and examined under subparagraph (A) should be specified in such section 1848; and

(G) identify the appropriate level of discretion for the Secretary of Health and Human Services to change payment rates under the Medicare physician fee schedule or otherwise take steps that affect physician behavior.

Such report shall include such recommendations on alternative mechanisms to replace the sustainable growth rate system as the Medicare Payment Advisory Commission determines appropriate.

(3) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

**SEC. 5105. THREE-YEAR TRANSITION OF HOLD HARMLESS PAYMENTS FOR SMALL RURAL HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.**

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) by inserting "(I)" before "In the case"; and

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

"(II) In the case of a hospital located in a rural area and that has not more than 100 beds and that is not a sole community hospital (as defined in section 1886(d)(5)(D)(iii)), for covered OPD services furnished on or after January 1, 2006, and before January 1, 2009, for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the applicable percentage of the amount of such difference. For purposes of the previous sentence, with respect to covered OPD services furnished during 2006, 2007, or 2008, the applicable percentage shall be 95 percent, 90 percent, and 85 percent, respectively.".

**SEC. 5106. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.**

Section 1881(b)(12) of the Social Security Act (42 U.S.C. 1395rr(b)(12)) is amended—

(1) in subparagraph (F), in the flush matter at the end, by striking "Nothing" and inserting "Except as provided in subparagraph (G), nothing";

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted system under subparagraph (B) for dialysis services furnished on or after January 1, 2006, by 1.6 percent above the amount of such composite rate component for such services furnished on December 31, 2005.".

**SEC. 5107. REVISIONS TO PAYMENTS FOR THERAPY SERVICES.**

(a) EXCEPTION TO CAPS FOR 2006.—

(1) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended—

(A) in each of paragraphs (1) and (3), by striking "paragraph (4)" and inserting "paragraphs (4) and (5)"; and

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

"(5) With respect to expenses incurred during 2006 for services, the Secretary shall implement a process under which an individual enrolled under this part may, upon request of the individual or a person on behalf of the individual, obtain an exception from the uniform dollar limitation specified in paragraph (2), for services described in paragraphs (1) and (3) if the provision of such services is determined to be medically necessary. Under such process, if the Secretary does not make a decision on such a request for an exception within 10 business days of the date of the Secretary's receipt of the request, the Secretary shall be deemed to have found the services to be medically necessary.".

Deadline.

42 USC 1395*l* note.

(2) TIMELY IMPLEMENTATION.—The Secretary of Health and Human Services shall waive such provisions of law and regulation (including those described in section 110(c) of Public Law 108–173) as are necessary to implement the amendments made by paragraph (1) on a timely basis and, notwithstanding any other provision of law, may implement such amendments by

program instruction or otherwise. There shall be no administrative or judicial review under section 1869 or section 1878 of the Social Security Act (42 U.S.C. 1395ff and 1395oo), or otherwise of the process (including the establishment of the process) under section 1833(g)(5) of such Act, as added by paragraph (1).

(b) IMPLEMENTATION OF CLINICALLY APPROPRIATE CODE EDITS IN ORDER TO IDENTIFY AND ELIMINATE IMPROPER PAYMENTS FOR THERAPY SERVICES.—By not later than July 1, 2006, the Secretary of Health and Human Services shall implement clinically appropriate code edits with respect to payments under part B of title XVIII of the Social Security Act for physical therapy services, occupational therapy services, and speech-language pathology services in order to identify and eliminate improper payments for such services, including edits of clinically illogical combinations of procedure codes and other edits to control inappropriate billings.

Deadline.
42 USC 1395*l* note.

## CHAPTER 2—MISCELLANEOUS

### SEC. 5111. ACCELERATED IMPLEMENTATION OF INCOME-RELATED REDUCTION IN PART B PREMIUM SUBSIDY.

Section 1839(i)(3)(B) of the Social Security Act (42 U.S.C. 1395r(i)(3)(B)) is amended—

(1) in the heading, by striking "5-YEAR" and inserting "3-YEAR";

(2) in the matter preceding clause (i), by striking "2011" and inserting "2009";

(3) in clause (i), by striking "20 percent" and inserting "33 percent";

(4) in clause (ii), by striking "40 percent" and inserting "67 percent"; and

(5) by striking clauses (iii) and (iv).

### SEC. 5112. MEDICARE COVERAGE OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSMS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

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

(B) by adding "and" at the end of subparagraph (Z) and moving such subparagraph 2 ems to the left; and

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

"(AA) ultrasound screening for abdominal aortic aneurysm (as defined in subsection (bbb)) for an individual—

"(i) who receives a referral for such an ultrasound screening as a result of an initial preventive physical examination (as defined in section 1861(ww)(1));

"(ii) who has not been previously furnished such an ultrasound screening under this title; and

"(iii) who—

"(I) has a family history of abdominal aortic aneurysm; or

"(II) manifests risk factors included in a beneficiary category recommended for screening by the United States Preventive Services Task Force regarding abdominal aortic aneurysms;"; and

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

"Ultrasound Screening for Abdominal Aortic Aneurysm

"(bbb) The term 'ultrasound screening for abdominal aortic aneurysm' means—

"(1) a procedure using sound waves (or such other procedures using alternative technologies, of commensurate accuracy and cost, that the Secretary may specify) provided for the early detection of abdominal aortic aneurysm; and

"(2) includes a physician's interpretation of the results of the procedure.".

(b) INCLUSION OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM IN INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) of such Act (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

"(L) Ultrasound screening for abdominal aortic aneurysm as defined in section 1861(bbb).".

(c) PAYMENT FOR ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(AA)," after "(2)(W),".

(d) FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting ", and"; and

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

"(N) in the case of ultrasound screening for abdominal aortic aneurysm which is performed more frequently than is provided for under section 1861(s)(2)(AA);".

(e) NON-APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended in the first sentence—

(1) by striking "and" before "(6)"; and

(2) by inserting ", and (7) such deductible shall not apply with respect to ultrasound screening for abdominal aortic aneurysm (as defined in section 1861(bbb))" before the period at the end.

42 USC 1395*l* note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

**SEC. 5113. IMPROVING PATIENT ACCESS TO, AND UTILIZATION OF, COLORECTAL CANCER SCREENING.**

(a) NON-APPLICATION OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)), as amended by section 5112(e), is amended in the first sentence—

(1) by striking "and" before "(7)"; and

(2) by inserting ", and (8) such deductible shall not apply with respect to colorectal cancer screening tests (as described in section 1861(pp)(1))" before the period at the end.

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(d) of such Act (42 U.S.C. 1395m(d)) are each amended—

(1) by striking "DEDUCTIBLE AND" in the heading; and

(2) in subclause (I), by striking "deductible or" each place it appears.

42 USC 1395*l* note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

**SEC. 5114. DELIVERY OF SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.**

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended—

(A) in subparagraph (A), by striking ", and" and inserting "and services described in subsections (qq) and (vv); and";

(B) in subparagraph (B), by striking "sections 329, 330, and 340" and inserting "section 330"; and

(C) in the flush matter at the end, by inserting "by the center or by a health care professional under contract with the center" after "outpatient of a Federally qualified health center".

(2) CONSOLIDATED BILLING.—The first sentence of section 1842(b)(6)(F) of such Act (42 U.S.C. 1395u(b)(6)(F)) is amended—

(A) by striking "and (G)" and inserting "(G)"; and

(B) by inserting before the period at the end the following: ", and (H) in the case of services described in section 1861(aa)(3) that are furnished by a health care professional under contract with a Federally qualified health center, payment shall be made to the center".

(b) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) of such Act (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking "(other than subsection (h))".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 2006. 42 USC 1395u note.

**SEC. 5115. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN INTERNATIONAL VOLUNTEERS.**

(a) IN GENERAL.—

(1) WAIVER OF PENALTY.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended in the second sentence by inserting the following before the period at the end: "or months for which the individual can demonstrate that the individual was an individual described in section 1837(k)(3)".

(2) SPECIAL ENROLLMENT PERIOD.—

(A) IN GENERAL.—Section 1837 of such Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(k)(1) In the case of an individual who—

"(A) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is described in paragraph (3), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; or

"(B) has terminated enrollment under this section during a month in which the individual is described in paragraph (3),

there shall be a special enrollment period described in paragraph (2).

"(2) The special enrollment period described in this paragraph is the 6-month period beginning on the first day of the month which includes the date that the individual is no longer described in paragraph (3).

"(3) For purposes of paragraph (1), an individual described in this paragraph is an individual who—

"(A) is serving as a volunteer outside of the United States through a program—

"(i) that covers at least a 12-month period; and

"(ii) that is sponsored by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

"(B) demonstrates health insurance coverage while serving in the program.".

(B) COVERAGE PERIOD.—Section 1838 of such Act (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

42 USC 1395p note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to months beginning with January 2007 and the amendments made by subsection (a)(2) shall take effect on January 1, 2007.

# Subtitle C—Provisions Relating to Parts A and B

**SEC. 5201. HOME HEALTH PAYMENTS.**

(a) 2006 UPDATE.—Section 1895(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)(ii)) is amended—

(1) in subclause (III), by striking "each of 2005 and 2006" and inserting "all of 2005";

(2) by striking "or" at the end of subclause (III);

(3) in subclause (IV), by striking "2007 and" and by redesignating such subclause as subclause (V); and

(4) by inserting after subclause (III) the following new subclause:

"(IV) 2006, 0 percent; and".

42 USC 1395fff note.

(b) APPLYING RURAL ADD-ON POLICY FOR 2006.—Section 421(a) of Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2283) is amended by inserting "and episodes and visits beginning on or after January 1, 2006, and before January 1, 2007," after "April 1, 2005,".

(c) HOME HEALTH CARE QUALITY IMPROVEMENT.—Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is amended—

(1) in clause (ii)(V), as redesignated by subsection (a)(3), by inserting "subject to clause (v)," after "subsequent year,"; and

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

"(v) ADJUSTMENT IF QUALITY DATA NOT SUBMITTED.—

"(I) ADJUSTMENT.—For purposes of clause (ii)(V), for 2007 and each subsequent year, in the case of a home health agency that does not submit data to the Secretary in accordance with subclause (II) with respect to such a year, the home health

market basket percentage increase applicable under such clause for such year shall be reduced by 2 percentage points. Such reduction shall apply only with respect to the year involved, and the Secretary shall not take into account such reduction in computing the prospective payment amount under this section for a subsequent year, and the Medicare Payment Advisory Commission shall carry out the requirements under section 5201(d) of the Deficit Reduction Act of 2005.

Applicability.

"(II) SUBMISSION OF QUALITY DATA.—For 2007 and each subsequent year, each home health agency shall submit to the Secretary such data that the Secretary determines are appropriate for the measurement of health care quality. Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) PUBLIC AVAILABILITY OF DATA SUBMITTED.—The Secretary shall establish procedures for making data submitted under subclause (II) available to the public. Such procedures shall ensure that a home health agency has the opportunity to review the data that is to be made public with respect to the agency prior to such data being made public.".

Procedures.

(d) MEDPAC REPORT ON VALUE BASED PURCHASING.—

(1) IN GENERAL.—Not later than June 1, 2007, the Medicare Payment Advisory Commission shall submit to Congress a report that includes recommendations on a detailed structure of value based payment adjustments for home health services under the Medicare program under title XVIII of the Social Security Act. Such report shall include recommendations concerning the determination of thresholds, the size of such payments, sources of funds, and the relationship of payments for improvement and attainment of quality.

(2) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

**SEC. 5202. REVISION OF PERIOD FOR PROVIDING PAYMENT FOR CLAIMS THAT ARE NOT SUBMITTED ELECTRONICALLY.**

(a) REVISION.—

(1) PART A.—Section 1816(c)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395h(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

(2) PART B.—Section 1842(c)(3)(B)(ii) of such Act (42 U.S.C. 1395u(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to claims submitted on or after January 1, 2006.

42 USC 1395h note.

**SEC. 5203. TIMEFRAME FOR PART A AND B PAYMENTS.**

Notwithstanding sections 1816(c) and 1842(c)(2) of the Social Security Act or any other provision of law—

(1) any payment from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C.

1395i) or from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t) for claims submitted under part A or B of title XVIII of such Act for items and services furnished under such part A or B, respectively, that would otherwise be payable during the period beginning on September 22, 2006, and ending on September 30, 2006, shall be paid on the first business day of October 2006; and

(2) no interest or late penalty shall be paid to an entity or individual for any delay in a payment by reason of the application of paragraph (1).

**SEC. 5204. MEDICARE INTEGRITY PROGRAM FUNDING.**

Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (B), by striking "The amount" and inserting "Subject to subparagraph (C), the amount"; and

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

"(C) ADJUSTMENTS.—The amount appropriated under subparagraph (A) for a fiscal year is increased as follows:

"(i) For fiscal year 2006, $100,000,000.".

# Subtitle D—Provisions Relating to Part C

**SEC. 5301. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY IN DETERMINING THE AMOUNT OF PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.**

(a) IN GENERAL.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (j)(1)—

(A) in subparagraph (A)—

(i) by inserting "(or, beginning with 2007, 1/12 of the applicable amount determined under subsection (k)(1))" after "1853(c)(1)"; and

(ii) by inserting "(for years before 2007)" after "adjusted as appropriate";

(B) in subparagraph (B), by inserting "(for years before 2007)" after "adjusted as appropriate"; and

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

"(k) DETERMINATION OF APPLICABLE AMOUNT FOR PURPOSES OF CALCULATING THE BENCHMARK AMOUNTS.—

"(1) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (j), subject to paragraph (2), the term 'applicable amount' means for an area—

"(A) for 2007—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount specified in subsection (c)(1)(C) for the area for 2006—

"(I) first adjusted by the rescaling factor for 2006 for the area (as made available by the Secretary in the announcement of the rates on April 4, 2005, under subsection (b)(1), but excluding any national adjustment factors for coding intensity and risk adjustment budget neutrality that were included in such factor); and

"(II) then increased by the national per capita MA growth percentage, described in subsection (c)(6) for 2007, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004;

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year; and

"(B) for a subsequent year—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount determined under this paragraph for the area for the previous year (determined without regard to paragraph (2)), increased by the national per capita MA growth percentage, described in subsection (c)(6) for that succeeding year, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004; and

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year.

"(2) PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), in the case of 2007 through 2010, the applicable amount determined under paragraph (1) shall be multiplied by a factor equal to 1 plus the product of—

"(i) the percent determined under subparagraph (B) for the year; and

"(ii) the applicable phase-out factor for the year under subparagraph (C).

"(B) PERCENT DETERMINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), subject to clause (iv), the percent determined under this subparagraph for a year is a percent equal to a fraction the numerator of which is described in clause (ii) and the denominator of which is described in clause (iii).

"(ii) NUMERATOR BASED ON DIFFERENCE BETWEEN DEMOGRAPHIC RATE AND RISK RATE.—

"(I) IN GENERAL.—The numerator described in this clause is an amount equal to the amount by which the demographic rate described in subclause (II) exceeds the risk rate described in subclause (III).

"(II) DEMOGRAPHIC RATE.—The demographic rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to 1/12 of the annual MA capitation rate

under subsection (c)(1) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(III) RISK RATE.—The risk rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to the amount described in subsection (j)(1)(A) (determined as if this paragraph had not applied) under subsection (j) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(iii) DENOMINATOR BASED ON RISK RATE.—The denominator described in this clause is equal to the total amount estimated for the year under clause (ii)(III).

"(iv) REQUIREMENTS.—In estimating the amounts under the previous clauses, the Secretary shall—

"(I) use a complete set of the most recent and representative Medicare Advantage risk scores under subsection (a)(3) that are available from the risk adjustment model announced for the year;

"(II) adjust the risk scores to reflect changes in treatment and coding practices in the fee-for-service sector;

"(III) adjust the risk scores for differences in coding patterns between Medicare Advantage plans and providers under the original Medicare fee-for-service program under parts A and B to the extent that the Secretary has identified such differences, as required in subsection (a)(1)(C);

"(IV) as necessary, adjust the risk scores for late data submitted by Medicare Advantage organizations;

"(V) as necessary, adjust the risk scores for lagged cohorts; and

"(VI) as necessary, adjust the risk scores for changes in enrollment in Medicare Advantage plans during the year.

"(v) AUTHORITY.—In computing such amounts the Secretary may take into account the estimated health risk of enrollees in preferred provider organization plans (including MA regional plans) for the year.

"(C) APPLICABLE PHASE-OUT FACTOR.—For purposes of subparagraph (A)(ii), the term 'applicable phase-out factor' means—

"(i) for 2007, 0.55;

"(ii) for 2008, 0.40;

"(iii) for 2009, 0.25; and

"(iv) for 2010, 0.05.

"(D) TERMINATION OF APPLICATION.—Subparagraph (A) shall not apply in a year if the amount estimated under subparagraph (B)(ii)(III) for the year is equal to or greater than the amount estimated under subparagraph (B)(ii)(II) for the year.

"(3) NO REVISION IN PERCENT.—

"(A) IN GENERAL.—The Secretary may not make any adjustment to the percent determined under paragraph (2)(B) for any year.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the Secretary to make adjustments to the applicable amounts determined under paragraph (1) as appropriate for purposes of updating data or for purposes of adopting an improved risk adjustment methodology.".

(b) REFINEMENTS TO HEALTH STATUS ADJUSTMENT.—Section 1853(a)(1)(C) of such Act (42 U.S.C. 1395w–23) is amended—

(1) by designating the matter after the heading as a clause (i) with the following heading: "IN GENERAL.—" and indenting appropriately; and

(2) by adding at the end the following:

"(ii) APPLICATION DURING PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—For 2006 through 2010:

"(I) In applying the adjustment under clause (i) for health status to payment amounts, the Secretary shall ensure that such adjustment reflects changes in treatment and coding practices in the fee-for-service sector and reflects differences in coding patterns between Medicare Advantage plans and providers under part A and B to the extent that the Secretary has identified such differences.

"(II) In order to ensure payment accuracy, the Secretary shall conduct an analysis of the differences described in subclause (I). The Secretary shall complete such analysis by a date necessary to ensure that the results of such analysis are incorporated into the risk scores only for 2008, 2009, and 2010. In conducting such analysis, the Secretary shall use data submitted with respect to 2004 and subsequent years, as available.".

**SEC. 5302. RURAL PACE PROVIDER GRANT PROGRAM.**

42 USC 1395eee note.

(a) DEFINITIONS.—In this section:

(1) CMS.—The term "CMS" means the Centers for Medicare & Medicaid Services.

(2) PACE PROGRAM.—The term "PACE program" has the meaning given that term in sections 1894(a)(2) and 1934(a)(2) of the Social Security Act (42 U.S.C. 1395eee(a)(2); 1396u–4(a)(2)).

(3) PACE PROVIDER.—The term "PACE provider" has the meaning given that term in section 1894(a)(3) or 1934(a)(3) of the Social Security Act (42 U.S.C. 1395eee(a)(3); 1396u–4(a)(3)).

(4) RURAL AREA.—The term "rural area" has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) RURAL PACE PILOT SITE.—The term "rural PACE pilot site" means a PACE provider that has been approved to provide services in a geographic service area that is, in whole or in part, a rural area, and that has received a site development grant under this section.

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(b) SITE DEVELOPMENT GRANTS AND TECHNICAL ASSISTANCE PROGRAM.—

(1) SITE DEVELOPMENT GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a process and criteria to award site development grants to qualified PACE providers that have been approved to serve a rural area.

(B) AMOUNT PER AWARD.—A site development grant awarded under subparagraph (A) to any individual rural PACE pilot site shall not exceed $750,000.

(C) NUMBER OF AWARDS.—Not more than 15 rural PACE pilot sites shall be awarded a site development grant under subparagraph (A).

(D) USE OF FUNDS.—Funds made available under a site development grant awarded under subparagraph (A) may be used for the following expenses only to the extent such expenses are incurred in relation to establishing or delivering PACE program services in a rural area:

(i) Feasibility analysis and planning.

(ii) Interdisciplinary team development.

(iii) Development of a provider network, including contract development.

(iv) Development or adaptation of claims processing systems.

(v) Preparation of special education and outreach efforts required for the PACE program.

(vi) Development of expense reporting required for calculation of outlier payments or reconciliation processes.

(vii) Development of any special quality of care or patient satisfaction data collection efforts.

(viii) Establishment of a working capital fund to sustain fixed administrative, facility, or other fixed costs until the provider reaches sufficient enrollment size.

(ix) Startup and development costs incurred prior to the approval of the rural PACE pilot site's PACE provider application by CMS.

(x) Any other efforts determined by the rural PACE pilot site to be critical to its successful startup, as approved by the Secretary.

(E) APPROPRIATION.—

(i) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $7,500,000.

(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available for expenditure through fiscal year 2008.

(2) TECHNICAL ASSISTANCE PROGRAM.—The Secretary shall establish a technical assistance program to provide—

(A) outreach and education to State agencies and provider organizations interested in establishing PACE programs in rural areas; and

(B) technical assistance necessary to support rural PACE pilot sites.

(c) COST OUTLIER PROTECTION FOR RURAL PACE PILOT SITES.—

(1) ESTABLISHMENT OF FUND FOR REIMBURSEMENT OF OUTLIER COSTS.—Notwithstanding any other provision of law, the Secretary shall establish an outlier fund to reimburse rural PACE pilot sites for recognized outlier costs (as defined in paragraph (3)) incurred for eligible outlier participants (as defined in paragraph (2)) in an amount, subject to paragraph (4), equal to 80 percent of the amount by which the recognized outlier costs exceeds $50,000.

(2) ELIGIBLE OUTLIER PARTICIPANT.—For purposes of this subsection, the term "eligible outlier participant" means a PACE program eligible individual (as defined in sections 1894(a)(5) and 1934(a)(5) of the Social Security Act (42 U.S.C. 1395eee(a)(5); 1396u–4(a)(5))) who resides in a rural area and with respect to whom the rural PACE pilot site incurs more than $50,000 in recognized costs in a 12-month period.

(3) RECOGNIZED OUTLIER COSTS DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term "recognized outlier costs" means, with respect to services furnished to an eligible outlier participant by a rural PACE pilot site, the least of the following (as documented by the site to the satisfaction of the Secretary) for the provision of inpatient and related physician and ancillary services for the eligible outlier participant in a given 12-month period:

(i) If the services are provided under a contract between the pilot site and the provider, the payment rate specified under the contract.

(ii) The payment rate established under the original Medicare fee-for-service program for such service.

(iii) The amount actually paid for the services by the pilot site.

(B) INCLUSION IN ONLY ONE PERIOD.—Recognized outlier costs may not be included in more than one 12-month period.

(3) OUTLIER EXPENSE PAYMENT.—

(A) PAYMENT FOR OUTLIER COSTS.—Subject to subparagraph (B), in the case of a rural PACE pilot site that has incurred outlier costs for an eligible outlier participant, the rural PACE pilot site shall receive an outlier expense payment equal to 80 percent of such costs that exceed $50,000.

(4) LIMITATIONS.—

(A) COSTS INCURRED PER ELIGIBLE OUTLIER PARTICIPANT.—The total amount of outlier expense payments made under this subsection to a rural PACE pilot site with respect to an eligible outlier participant for any 12-month period shall not exceed $100,000 for the 12-month period used to calculate the payment.

(B) COSTS INCURRED PER PROVIDER.—No rural PACE pilot site may receive more than $500,000 in total outlier expense payments in a 12-month period.

(C) LIMITATION OF OUTLIER COST REIMBURSEMENT PERIOD.—A rural PACE pilot site shall only receive outlier

expense payments under this subsection with respect to costs incurred during the first 3 years of the site's operation.

(5) REQUIREMENT TO ACCESS RISK RESERVES PRIOR TO PAYMENT.—A rural PACE pilot site shall access and exhaust any risk reserves held or arranged for the provider (other than revenue or reserves maintained to satisfy the requirements of section 460.80(c) of title 42, Code of Federal Regulations) and any working capital established through a site development grant awarded under subsection (b)(1), prior to receiving any payment from the outlier fund.

(6) APPLICATION.—In order to receive an outlier expense payment under this subsection with respect to an eligible outlier participant, a rural PACE pilot site shall submit an application containing—

(A) documentation of the costs incurred with respect to the participant;

Certification.

(B) a certification that the site has complied with the requirements under paragraph (4); and

(C) such additional information as the Secretary may require.

(7) APPROPRIATION.—

(A) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $10,000,000.

(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available for expenditure through fiscal year 2010.

Deadline. Reports.

(d) EVALUATION OF PACE PROVIDERS SERVING RURAL SERVICE AREAS.—Not later than 60 months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing an evaluation of the experience of rural PACE pilot sites.

(e) AMOUNTS IN ADDITION TO PAYMENTS UNDER SOCIAL SECURITY ACT.—Any amounts paid under the authority of this section to a PACE provider shall be in addition to payments made to the provider under section 1894 or 1934 of the Social Security Act (42 U.S.C. 1395eee; 1396u–4).

# TITLE VI—MEDICAID AND SCHIP

## Subtitle A—Medicaid

### CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

#### SEC. 6001. FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS AND OTHER DRUG PAYMENT PROVISIONS.

(a) MODIFICATION OF FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS; DEFINITION OF MULTIPLE SOURCE DRUGS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (e)(4)—

(A) by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

(B) by inserting "(or, effective January 1, 2007, two or more)" after "three or more";

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

"(5) USE OF AMP IN UPPER PAYMENT LIMITS.—Effective January 1, 2007, in applying the Federal upper reimbursement limit under paragraph (4) and section 447.332(b) of title 42 of the Code of Federal Regulations, the Secretary shall substitute 250 percent of the average manufacturer price (as computed without regard to customary prompt pay discounts extended to wholesalers) for 150 percent of the published price.";

Effective date.

(3) in subsection (k)(7)(A)(i), in the matter preceding subclause (I), by striking "are 2 or more drug products" and inserting "at least 1 other drug product"; and

(4) in subclauses (I), (II), and (III) of subsection (k)(7)(A)(i), by striking "are" and inserting "is" each place it appears.

(b) DISCLOSURE OF PRICE INFORMATION TO STATES AND THE PUBLIC.—Subsection (b)(3) of such section is amended—

42 USC 1396r–8.

(1) in subparagraph (A)—

(A) in clause (i), by inserting "month of a" after "last day of each"; and

(B) by adding at the end the following: "Beginning July 1, 2006, the Secretary shall provide on a monthly basis to States under subparagraph (D)(iv) the most recently reported average manufacturer prices for single source drugs and for multiple source drugs and shall, on at least a quarterly basis, update the information posted on the website under subparagraph (D)(v).."; and

Effective date.

(2) in subparagraph (D)—

(A) by striking "and" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting a comma; and

(C) by inserting after clause (iii) the following new clauses:

"(iv) to States to carry out this title, and

"(v) to the Secretary to disclose (through a website accessible to the public) average manufacturer prices.".

(c) DEFINITION OF AVERAGE MANUFACTURER PRICE.—

(1) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—Subsection (k)(1) of such section is amended—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), the term";

(B) by striking ", after deducting customary prompt pay discounts"; and

(C) by adding at the end the following:

"(B) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—The average manufacturer price for a covered outpatient drug shall be determined without regard to customary prompt pay discounts extended to wholesalers.".

(2) MANUFACTURER REPORTING OF PROMPT PAY DISCOUNTS.—Subsection (b)(3)(A)(i) of such section is amended by inserting ", customary prompt pay discounts extended to wholesalers," after "(k)(1))".

(3) REQUIREMENT TO PROMULGATE REGULATION.—

42 USC 1396r–8 note.

Deadline.

(A) INSPECTOR GENERAL RECOMMENDATIONS.—Not later than June 1, 2006, the Inspector General of the Department of Health and Human Services shall—

(i) review the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section; and

(ii) shall submit to the Secretary of Health and Human Services and Congress such recommendations for changes in such requirements or manner as the Inspector General determines to be appropriate.

Regulations.

(B) DEADLINE FOR PROMULGATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, taking into consideration the recommendations submitted to the Secretary in accordance with subparagraph (A)(ii).

(d) EXCLUSION OF SALES AT A NOMINAL PRICE FROM DETERMINATION OF BEST PRICE.—

42 USC 1396r–8.

(1) MANUFACTURER REPORTING OF SALES.—Subsection (b)(3)(A)(iii) of such section is amended by inserting before the period at the end the following: ", and, for calendar quarters beginning on or after January 1, 2007 and only with respect to the information described in subclause (III), for covered outpatient drugs".

(2) LIMITATION ON SALES AT A NOMINAL PRICE.—Subsection (c)(1) of such section is amended by adding at the end the following new subparagraph:

"(D) LIMITATION ON SALES AT A NOMINAL PRICE.—

"(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(III) and subsection (b)(3)(A)(iii)(III), only sales by a manufacturer of covered outpatient drugs at nominal prices to the following shall be considered to be sales at a nominal price or merely nominal in amount:

"(I) A covered entity described in section 340B(a)(4) of the Public Health Service Act.

"(II) An intermediate care facility for the mentally retarded.

"(III) A State-owned or operated nursing facility.

"(IV) Any other facility or entity that the Secretary determines is a safety net provider to which sales of such drugs at a nominal price would be appropriate based on the factors described in clause (ii).

"(ii) FACTORS.—The factors described in this clause with respect to a facility or entity are the following:

"(I) The type of facility or entity.

"(II) The services provided by the facility or entity.

"(III) The patient population served by the facility or entity.

"(IV) The number of other facilities or entities eligible to purchase at nominal prices in the same service area.

"(iii) NONAPPLICATION.—Clause (i) shall not apply with respect to sales by a manufacturer at a nominal price of covered outpatient drugs pursuant to a master agreement under section 8126 of title 38, United States Code.".

(e) RETAIL SURVEY PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—Such section is further amended by inserting after subsection (e) the following new subsection:

"(f) SURVEY OF RETAIL PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—

"(1) SURVEY OF RETAIL PRICES.—

"(A) USE OF VENDOR.—The Secretary may contract services for—

"(i) the determination on a monthly basis of retail survey prices for covered outpatient drugs that represent a nationwide average of consumer purchase prices for such drugs, net of all discounts and rebates (to the extent any information with respect to such discounts and rebates is available); and

"(ii) the notification of the Secretary when a drug product that is therapeutically and pharmaceutically equivalent and bioequivalent becomes generally available.

"(B) SECRETARY RESPONSE TO NOTIFICATION OF AVAILABILITY OF MULTIPLE SOURCE PRODUCTS.—If contractor notifies the Secretary under subparagraph (A)(ii) that a drug product described in such subparagraph has become generally available, the Secretary shall make a determination, within 7 days after receiving such notification, as to whether the product is now described in subsection (e)(4). Deadline.

"(C) USE OF COMPETITIVE BIDDING.—In contracting for such services, the Secretary shall competitively bid for an outside vendor that has a demonstrated history in— Contracts.

"(i) surveying and determining, on a representative nationwide basis, retail prices for ingredient costs of prescription drugs;

"(ii) working with retail pharmacies, commercial payers, and States in obtaining and disseminating such price information; and

"(iii) collecting and reporting such price information on at least a monthly basis.

In contracting for such services, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this subsection, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

"(D) ADDITIONAL PROVISIONS.—A contract with a vendor under this paragraph shall include such terms and conditions as the Secretary shall specify, including the following:

"(i) The vendor must monitor the marketplace and report to the Secretary each time there is a new covered outpatient drug generally available.

"(ii) The vendor must update the Secretary no less often than monthly on the retail survey prices for covered outpatient drugs.

"(iii) The contract shall be effective for a term of 2 years.

"(E) AVAILABILITY OF INFORMATION TO STATES.—Information on retail survey prices obtained under this paragraph, including applicable information on single source drugs, shall be provided to States on at least a monthly basis. The Secretary shall devise and implement a means for providing access to each State agency designated under section 1902(a)(5) with responsibility for the administration or supervision of the administration of the State plan under this title of the retail survey price determined under this paragraph.

"(2) ANNUAL STATE REPORT.—Each State shall annually report to the Secretary information on—

"(A) the payment rates under the State plan under this title for covered outpatient drugs;

"(B) the dispensing fees paid under such plan for such drugs; and

"(C) utilization rates for noninnovator multiple source drugs under such plan.

"(3) ANNUAL STATE PERFORMANCE RANKINGS.—

"(A) COMPARATIVE ANALYSIS.—The Secretary annually shall compare, for the 50 most widely prescribed drugs identified by the Secretary, the national retail sales price data (collected under paragraph (1)) for such drugs with data on prices under this title for each such drug for each State.

"(B) AVAILABILITY OF INFORMATION.—The Secretary shall submit to Congress and the States full information regarding the annual rankings made under subparagraph (A).

"(4) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services $5,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.".

(f) MISCELLANEOUS AMENDMENTS.—

42 USC 1396r–8, 1395x.

(1) IN GENERAL.—Sections 1927(g)(1)(B)(i)(II) and 1861(t)(2)(B)(ii)(I) of such Act are each amended by inserting "(or its successor publications)" after "United States Pharmacopoeia-Drug Information".

(2) PAPERWORK REDUCTION.—The last sentence of section 1927(g)(2)(A)(ii) of such Act (42 U.S.C. 1396r–8(g)(2)(A)(ii)) is amended by inserting before the period at the end the following: ", or to require verification of the offer to provide consultation or a refusal of such offer".

42 USC 1396r–8 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

42 USC 1396r–8 note.

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2007,

without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

**SEC. 6002. COLLECTION AND SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.**

(a) IN GENERAL.—Section 1927(a) of the Social Security Act (42 U.S.C. 1396r–8(a)) is amended by adding at the end the following new paragraph:

"(7) REQUIREMENT FOR SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.—

"(A) SINGLE SOURCE DRUGS.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a single source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2006, the State shall provide for the collection and submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section for drugs administered for which payment is made under this title.

"(B) MULTIPLE SOURCE DRUGS.—

"(i) IDENTIFICATION OF MOST FREQUENTLY PHYSICIAN ADMINISTERED MULTIPLE SOURCE DRUGS.—Not later than January 1, 2007, the Secretary shall publish a list of the 20 physician administered multiple source drugs that the Secretary determines have the highest dollar volume of physician administered drugs dispensed under this title. The Secretary may modify such list from year to year to reflect changes in such volume. Deadline. Publication.

"(ii) REQUIREMENT.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a multiple source drug that is physician administered (as determined by the Secretary), that is on the list published under clause (i), and that is administered on or after January 1, 2008, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section.

"(C) USE OF NDC CODES.—Not later than January 1, 2007, the information shall be submitted under subparagraphs (A) and (B)(ii) using National Drug Code codes unless the Secretary specifies that an alternative coding system should be used. Deadline.

"(D) HARDSHIP WAIVER.—The Secretary may delay the application of subparagraph (A) or (B)(ii), or both, in the case of a State to prevent hardship to States which require additional time to implement the reporting system required under the respective subparagraph.".

(b) LIMITATION ON PAYMENT.—Section 1903(i)(10) of such Act (42 U.S.C. 1396b(i)(10)), is amended—

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

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

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

"(C) with respect to covered outpatient drugs described in section 1927(a)(7), unless information respecting utilization data and coding on such drugs that is required to be submitted under such section is submitted in accordance with such section; or".

**SEC. 6003. IMPROVED REGULATION OF DRUGS SOLD UNDER A NEW DRUG APPLICATION APPROVED UNDER SECTION 505(c) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.**

(a) INCLUSION WITH OTHER REPORTED AVERAGE MANUFACTURER AND BEST PRICES.—Section 1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(A)) is amended—

(1) by striking clause (i) and inserting the following:

Deadline.

"(i) not later than 30 days after the last day of each rebate period under the agreement—

"(I) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the rebate period under the agreement (including for all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act); and

"(II) for single source drugs and innovator multiple source drugs (including all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act), on the manufacturer's best price (as defined in subsection (c)(1)(C)) for such drugs for the rebate period under the agreement;"; and

(2) in clause (ii), by inserting "(including for such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)" after "drugs".

(b) CONFORMING AMENDMENTS.—Section 1927 of such Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (c)(1)(C)—

(A) in clause (i), in the matter preceding subclause (I), by inserting after "or innovator multiple source drug of a manufacturer" the following: "(including the lowest price available to any entity for any such drug of a manufacturer that is sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)"; and

(B) in clause (ii)—

(i) in subclause (II), by striking "and" at the end;

(ii) in subclause (III), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(IV) in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, shall

be inclusive of the lowest price for such authorized drug available from the manufacturer during the rebate period to any manufacturer, wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i).”; and

(2) in subsection (k), as amended by section 6001(c)(1), by adding at the end the following:

“(C) INCLUSION OF SECTION 505(c) DRUGS.—In the case of a manufacturer that approves, allows, or otherwise permits any drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, such term shall be inclusive of the average price paid for such drug by wholesalers for drugs distributed to the retail pharmacy class of trade.”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2007. 42 USC 1396r–8 note.

**SEC. 6004. CHILDREN'S HOSPITAL PARTICIPATION IN SECTION 340B DRUG DISCOUNT PROGRAM.**

(a) IN GENERAL.—Section 1927(a)(5)(B) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amended by inserting before the period at the end the following: “and a children's hospital described in section 1886(d)(1)(B)(iii) which meets the requirements of clauses (i) and (iii) of section 340B(b)(4)(L) of the Public Health Service Act and which would meet the requirements of clause (ii) of such section if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under a State plan under this title”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased on or after the date of the enactment of this Act. 42 USC 1396r–8 note.

## CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

### Subchapter A—Reform of Asset Transfer Rules

**SEC. 6011. LENGTHENING LOOK-BACK PERIOD; CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.**

(a) LENGTHENING LOOK-BACK PERIOD FOR ALL DISPOSALS TO 5 YEARS.—Section 1917(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended by inserting “or in the case of any other disposal of assets made on or after the date of the enactment of the Deficit Reduction Act of 2005” before “, 60 months”.

(b) CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.—Section 1917(c)(1)(D) of such Act (42 U.S.C. 1396p(c)(1)(D)) is amended—

(1) by striking “(D) The date” and inserting “(D)(i) In the case of a transfer of asset made before the date of the enactment of the Deficit Reduction Act of 2005, the date”; and

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

“(ii) In the case of a transfer of asset made on or after the date of the enactment of the Deficit Reduction Act of 2005, the date specified in this subparagraph is the first day of a month

during or after which assets have been transferred for less than fair market value, or the date on which the individual is eligible for medical assistance under the State plan and would otherwise be receiving institutional level care described in subparagraph (C) based on an approved application for such care but for the application of the penalty period, whichever is later, and which does not occur during any other period of ineligibility under this subsection.".

42 USC 1396p note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made on or after the date of the enactment of this Act.

42 USC 1396p note.

(d) AVAILABILITY OF HARDSHIP WAIVERS.—Each State shall provide for a hardship waiver process in accordance with section 1917(c)(2)(D) of the Social Security Act (42 U.S.C. 1396p(c)(2)(D))—

(1) under which an undue hardship exists when application of the transfer of assets provision would deprive the individual—

(A) of medical care such that the individual's health or life would be endangered; or

(B) of food, clothing, shelter, or other necessities of life; and

(2) which provides for—

(A) notice to recipients that an undue hardship exception exists;

(B) a timely process for determining whether an undue hardship waiver will be granted; and

(C) a process under which an adverse determination can be appealed.

(e) ADDITIONAL PROVISIONS ON HARDSHIP WAIVERS.—

(1) APPLICATION BY FACILITY.—Section 1917(c)(2) of the Social Security Act (42 U.S.C. 1396p(c)(2)) is amended—

(A) by striking the semicolon at the end of subparagraph (D) and inserting a period; and

(B) by adding after and below such subparagraph the following:

"The procedures established under subparagraph (D) shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the personal representative of the individual.".

(2) AUTHORITY TO MAKE BED HOLD PAYMENTS FOR HARDSHIP APPLICANTS.—Such section is further amended by adding at the end the following: "While an application for an undue hardship waiver is pending under subparagraph (D) in the case of an individual who is a resident of a nursing facility, if the application meets such criteria as the Secretary specifies, the State may provide for payments for nursing facility services in order to hold the bed for the individual at the facility, but not in excess of payments for 30 days.".

**SEC. 6012. DISCLOSURE AND TREATMENT OF ANNUITIES.**

(a) IN GENERAL.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) In order to meet the requirements of this section for purposes of section 1902(a)(18), a State shall require, as a condition

for the provision of medical assistance for services described in subsection (c)(1)(C)(i) (relating to long-term care services) for an individual, the application of the individual for such assistance (including any recertification of eligibility for such assistance) shall disclose a description of any interest the individual or community spouse has in an annuity (or similar financial instrument, as may be specified by the Secretary), regardless of whether the annuity is irrevocable or is treated as an asset. Such application or recertification form shall include a statement that under paragraph (2) the State becomes a remainder beneficiary under such an annuity or similar financial instrument by virtue of the provision of such medical assistance.

Notification.

"(2)(A) In the case of disclosure concerning an annuity under subsection (c)(1)(F), the State shall notify the issuer of the annuity of the right of the State under such subsection as a preferred remainder beneficiary in the annuity for medical assistance furnished to the individual. Nothing in this paragraph shall be construed as preventing such an issuer from notifying persons with any other remainder interest of the State's remainder interest under such subsection.

"(B) In the case of such an issuer receiving notice under subparagraph (A), the State may require the issuer to notify the State when there is a change in the amount of income or principal being withdrawn from the amount that was being withdrawn at the time of the most recent disclosure described in paragraph (1). A State shall take such information into account in determining the amount of the State's obligations for medical assistance or in the individual's eligibility for such assistance.

"(3) The Secretary may provide guidance to States on categories of transactions that may be treated as a transfer of asset for less than fair market value.

"(4) Nothing in this subsection shall be construed as preventing a State from denying eligibility for medical assistance for an individual based on the income or resources derived from an annuity described in paragraph (1).".

(b) REQUIREMENT FOR STATE TO BE NAMED AS A REMAINDER BENEFICIARY.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), is amended by adding at the end the following:

"(F) For purposes of this paragraph, the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless—

"(i) the State is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant under this title; or

"(ii) the State is named as such a beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or a representative of such child disposes of any such remainder for less than fair market value.".

(c) INCLUSION OF TRANSFERS TO PURCHASE BALLOON ANNUITIES.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(G) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes an annuity purchased by or on behalf of an annuitant who has applied for medical assistance

with respect to nursing facility services or other long-term care services under this title unless—

"(i) the annuity is—

"(I) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

"(II) purchased with proceeds from—

"(aa) an account or trust described in subsection (a), (c), or (p) of section 408 of such Code;

"(bb) a simplified employee pension (within the meaning of section 408(k) of such Code); or

"(cc) a Roth IRA described in section 408A of such Code; or

"(ii) the annuity—

"(I) is irrevocable and nonassignable;

"(II) is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration); and

"(III) provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.".

42 USC 1396p note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions (including the purchase of an annuity) occurring on or after the date of the enactment of this Act.

**SEC. 6013. APPLICATION OF "INCOME-FIRST" RULE IN APPLYING COMMUNITY SPOUSE'S INCOME BEFORE ASSETS IN PROVIDING SUPPORT OF COMMUNITY SPOUSE.**

(a) IN GENERAL.—Section 1924(d) of the Social Security Act (42 U.S.C. 1396r–5(d)) is amended by adding at the end the following new subparagraph:

"(6) APPLICATION OF 'INCOME FIRST' RULE TO REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—For purposes of this subsection and subsections (c) and (e), a State must consider that all income of the institutionalized spouse that could be made available to a community spouse, in accordance with the calculation of the community spouse monthly income allowance under this subsection, has been made available before the State allocates to the community spouse an amount of resources adequate to provide the difference between the minimum monthly maintenance needs allowance and all income available to the community spouse.".

42 USC 1396r–5 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers and allocations made on or after the date of the enactment of this Act by individuals who become institutionalized spouses on or after such date.

**SEC. 6014. DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY.**

(a) IN GENERAL.—Section 1917 of the Social Security Act, as amended by section 6012(a), is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Notwithstanding any other provision of this title, subject to subparagraphs (B) and (C) of this paragraph and paragraph (2), in determining eligibility of an individual for medical assistance with respect to nursing facility services or other long-term care services, the individual shall not be eligible for such assistance

if the individual's equity interest in the individual's home exceeds $500,000.

"(B) A State may elect, without regard to the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability), to apply subparagraph (A) by substituting for '$500,000', an amount that exceeds such amount, but does not exceed $750,000.

"(C) The dollar amounts specified in this paragraph shall be increased, beginning with 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

"(2) Paragraph (1) shall not apply with respect to an individual if—

"(A) the spouse of such individual, or

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

is lawfully residing in the individual's home.

"(3) Nothing in this subsection shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

"(4) The Secretary shall establish a process whereby paragraph (1) is waived in the case of a demonstrated hardship.". Procedures.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who are determined eligible for medical assistance with respect to nursing facility services or other long-term care services based on an application filed on or after January 1, 2006. 42 USC 1396p note.

**SEC. 6015. ENFORCEABILITY OF CONTINUING CARE RETIREMENT COMMUNITIES (CCRC) AND LIFE CARE COMMUNITY ADMISSION CONTRACTS.**

(a) ADMISSION POLICIES OF NURSING FACILITIES.—Section 1919(c)(5) of the Social Security Act (42 U.S.C. 1396r(c)(5)) is amended—

(1) in subparagraph (A)(i)(II), by inserting "subject to clause (v)," after "(II)"; and

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

"(v) TREATMENT OF CONTINUING CARE RETIREMENT COMMUNITIES ADMISSION CONTRACTS.—Notwithstanding subclause (II) of subparagraph (A)(i), subject to subsections (c) and (d) of section 1924, contracts for admission to a State licensed, registered, certified, or equivalent continuing care retirement community or life care community, including services in a nursing facility that is part of such community, may require residents to spend on their care resources declared for the purposes of admission before applying for medical assistance.".

(b) TREATMENT OF ENTRANCE FEES.—Section 1917 of such Act (42 U.S.C. 1396p), as amended by sections 6012(a) and 6014(a),

is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) TREATMENT OF ENTRANCE FEES OF INDIVIDUALS RESIDING IN CONTINUING CARE RETIREMENT COMMUNITIES.—

Applicability.

"(1) IN GENERAL.—For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, the rules specified in paragraph (2) shall apply to individuals residing in continuing care retirement communities or life care communities that collect an entrance fee on admission from such individuals.

"(2) TREATMENT OF ENTRANCE FEE.—For purposes of this subsection, an individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual to the extent that—

"(A) the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care should other resources or income of the individual be insufficient to pay for such care;

"(B) the individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the continuing care retirement community or life care community contract and leaves the community; and

"(C) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community.".

**SEC. 6016. ADDITIONAL REFORMS OF MEDICAID ASSET TRANSFER RULES.**

(a) REQUIREMENT TO IMPOSE PARTIAL MONTHS OF INELIGIBILITY.—Section 1917(c)(1)(E) of the Social Security Act (42 U.S.C. 1396p(c)(1)(E)) is amended by adding at the end the following:

"(iv) A State shall not round down, or otherwise disregard any fractional period of ineligibility determined under clause (i) or (ii) with respect to the disposal of assets.".

(b) AUTHORITY FOR STATES TO ACCUMULATE MULTIPLE TRANSFERS INTO ONE PENALTY PERIOD.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsections (b) and (c) of section 6012, is amended by adding at the end the following:

"(H) Notwithstanding the preceding provisions of this paragraph, in the case of an individual (or individual's spouse) who makes multiple fractional transfers of assets in more than 1 month for less than fair market value on or after the applicable look-back date specified in subparagraph (B), a State may determine the period of ineligibility applicable to such individual under this paragraph by—

"(i) treating the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) during all months on or after the look-back date specified in subparagraph (B) as 1 transfer for purposes of clause (i) or (ii) (as the case may be) of subparagraph (E); and

"(ii) beginning such period on the earliest date which would apply under subparagraph (D) to any of such transfers.".

(c) INCLUSION OF TRANSFER OF CERTAIN NOTES AND LOANS ASSETS.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(I) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes funds used to purchase a promissory note, loan, or mortgage unless such note, loan, or mortgage—

"(i) has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration);

"(ii) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

"(iii) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not satisfy the requirements of clauses (i) through (iii), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the individual's application for medical assistance for services described in subparagraph (C).".

(d) INCLUSION OF TRANSFERS TO PURCHASE LIFE ESTATES.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (c), is amended by adding at the end the following:

"(J) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for a period of at least 1 year after the date of the purchase.".

(e) EFFECTIVE DATES.— 42 USC 1396p note.

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to payments under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters beginning on or after the date of enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) EXCEPTIONS.—The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before the date of enactment;

(B) with respect to assets disposed of on or before the date of enactment of this Act; or

(C) with respect to trusts established on or before the date of enactment of this Act.

(3) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

42 USC 1396p note.

## Subchapter B—Expanded Access to Certain Benefits

### SEC. 6021. EXPANSION OF STATE LONG-TERM CARE PARTNERSHIP PROGRAM.

(a) EXPANSION AUTHORITY.—

(1) IN GENERAL.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)(C)—

(i) in clause (ii), by inserting "and which satisfies clause (iv), or which has a State plan amendment that provides for a qualified State long-term care insurance partnership (as defined in clause (iii))" after "1993,"; and

(ii) by adding at the end the following new clauses:

"(iii) For purposes of this paragraph, the term 'qualified State long-term care insurance partnership' means an approved State plan amendment under this title that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a long-term care insurance policy if the following requirements are met:

"(I) The policy covers an insured who was a resident of such State when coverage first became effective under the policy.

"(II) The policy is a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986) issued not earlier than the effective date of the State plan amendment.

"(III) The policy meets the model regulations and the requirements of the model Act specified in paragraph (5).

"(IV) If the policy is sold to an individual who—

"(aa) has not attained age 61 as of the date of purchase, the policy provides compound annual inflation protection;

"(bb) has attained age 61 but has not attained age 76 as of such date, the policy provides some level of inflation protection; and

"(cc) has attained age 76 as of such date, the policy may (but is not required to) provide some level of inflation protection.

"(V) The State Medicaid agency under section 1902(a)(5) provides information and technical assistance to the State insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care.

Reports. Notification.

"(VI) The issuer of the policy provides regular reports to the Secretary, in accordance with regulations of the Secretary, that include notification regarding when benefits provided under the policy have been paid and the amount of such benefits paid, notification regarding when the policy otherwise terminates, and such other information as the Secretary determines may be appropriate to the administration of such partnerships.

"(VII) The State does not impose any requirement affecting the terms or benefits of such a policy unless the State imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

Applicability.

In the case of a long-term care insurance policy which is exchanged for another such policy, subclause (I) shall be applied based on the coverage of the first such policy that was exchanged. For purposes of this clause and paragraph (5), the term 'long-term care insurance policy' includes a certificate issued under a group insurance contract.

"(iv) With respect to a State which had a State plan amendment approved as of May 14, 1993, such a State satisfies this clause for purposes of clause (ii) if the Secretary determines that the State plan amendment provides for consumer protection standards which are no less stringent than the consumer protection standards which applied under such State plan amendment as of December 31, 2005.

"(v) The regulations of the Secretary required under clause (iii)(VI) shall be promulgated after consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, and shall specify the type and format of the data and information to be reported and the frequency with which such reports are to be made. The Secretary, as appropriate, shall provide copies of the reports provided in accordance with that clause to the State involved.

Records.

"(vi) The Secretary, in consultation with other appropriate Federal agencies, issuers of long-term care insurance, the National Association of Insurance Commissioners, State insurance commissioners, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, shall develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified State long-term care insurance partnerships to a secure, centralized electronic query and report-generating mechanism that the State, the Secretary, and other Federal agencies can access."; and

(B) by adding at the end the following:

"(5)(A) For purposes of clause (iii)(III), the model regulations and the requirements of the model Act specified in this paragraph are:

"(i) In the case of the model regulation, the following requirements:

"(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

"(II) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

"(III) Section 6C (relating to extension of benefits).

"(IV) Section 6D (relating to continuation or conversion of coverage).

"(V) Section 6E (relating to discontinuance and replacement of policies).

"(VI) Section 7 (relating to unintentional lapse).

"(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

"(VIII) Section 9 (relating to required disclosure of rating practices to consumer).

"(IX) Section 11 (relating to prohibitions against post-claims underwriting).

"(X) Section 12 (relating to minimum standards).

"(XI) Section 14 (relating to application forms and replacement coverage).

"(XII) Section 15 (relating to reporting requirements).

"(XIII) Section 22 (relating to filing requirements for marketing).

"(XIV) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

"(XV) Section 24 (relating to suitability).

"(XVI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(XVII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(XVIII) Section 29 (relating to standard format outline of coverage).

"(XIX) Section 30 (relating to requirement to deliver shopper's guide).

"(ii) In the case of the model Act, the following:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(III) The provisions of section 8 relating to contingent nonforfeiture benefits.

"(IV) Section 6F (relating to right to return).

"(V) Section 6G (relating to outline of coverage).

"(VI) Section 6H (relating to requirements for certificates under group plans).

"(VII) Section 6J (relating to policy summary).

"(VIII) Section 6K (relating to monthly reports on accelerated death benefits).

"(IX) Section 7 (relating to incontestability period).

"(B) For purposes of this paragraph and paragraph (1)(C)—

"(i) the terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000);

"(ii) any provision of the model regulation or model Act listed under subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision; and

"(iii) with respect to a long-term care insurance policy issued in a State, the policy shall be deemed to meet applicable requirements of the model regulation or the model Act if the State plan amendment under paragraph (1)(C)(iii) provides that

the State insurance commissioner for the State certifies (in a manner satisfactory to the Secretary) that the policy meets such requirements.

"(C) Not later than 12 months after the National Association of Insurance Commissioners issues a revision, update, or other modification of a model regulation or model Act provision specified in subparagraph (A), or of any provision of such regulation or Act that is substantively related to a provision specified in such subparagraph, the Secretary shall review the changes made to the provision, determine whether incorporating such changes into the corresponding provision specified in such subparagraph would improve qualified State long-term care insurance partnerships, and if so, shall incorporate the changes into such provision.". Deadline.

(2) STATE REPORTING REQUIREMENTS.—Nothing in clauses (iii)(VI) and (v) of section 1917(b)(1)(C) of the Social Security Act (as added by paragraph (1)) shall be construed as prohibiting a State from requiring an issuer of a long-term care insurance policy sold in the State (regardless of whether the policy is issued under a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of such Act) to require the issuer to report information or data to the State that is in addition to the information or data required under such clauses.

(3) EFFECTIVE DATE.—A State plan amendment that provides for a qualified State long-term care insurance partnership under the amendments made by paragraph (1) may provide that such amendment is effective for long-term care insurance policies issued on or after a date, specified in the amendment, that is not earlier than the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary of Health and Human Services.

(b) STANDARDS FOR RECIPROCAL RECOGNITION AMONG PARTNERSHIP STATES.—In order to permit portability in long-term care insurance policies purchased under State long-term care insurance partnerships, the Secretary of Health and Human Services shall develop, not later than January 1, 2007, and in consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, standards for uniform reciprocal recognition of such policies among States with qualified State long-term care insurance partnerships under which— Deadline.

(1) benefits paid under such policies will be treated the same by all such States; and

(2) States with such partnerships shall be subject to such standards unless the State notifies the Secretary in writing of the State's election to be exempt from such standards.

(c) ANNUAL REPORTS TO CONGRESS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall annually report to Congress on the long-term care insurance partnerships established in accordance with section 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)). Such reports shall include analyses of the extent to which such partnerships expand or limit access of individuals to long-term care and the impact of such partnerships on Federal

and State expenditures under the Medicare and Medicaid programs. Nothing in this section shall be construed as requiring the Secretary to conduct an independent review of each long-term care insurance policy offered under or in connection with such a partnership.

(2) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out paragraph (1).

(d) NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE INFORMATION.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a National Clearinghouse for Long-Term Care Information. The Clearinghouse may be established through a contract or interagency agreement.

(2) DUTIES.—

(A) IN GENERAL.—The National Clearinghouse for Long-Term Care Information shall—

(i) educate consumers with respect to the availability and limitations of coverage for long-term care under the Medicaid program and provide contact information for obtaining State-specific information on long-term care coverage, including eligibility and estate recovery requirements under State Medicaid programs;

(ii) provide objective information to assist consumers with the decisionmaking process for determining whether to purchase long-term care insurance or to pursue other private market alternatives for purchasing long-term care and provide contact information for additional objective resources on planning for long-term care needs; and

(iii) maintain a list of States with State long-term care insurance partnerships under the Medicaid program that provide reciprocal recognition of long-term care insurance policies issued under such partnerships.

(B) REQUIREMENT.—In providing information to consumers on long-term care in accordance with this subsection, the National Clearinghouse for Long-Term Care Information shall not advocate in favor of a specific long-term care insurance provider or a specific long-term care insurance policy.

(3) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2010.

## CHAPTER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

### SEC. 6031. ENCOURAGING THE ENACTMENT OF STATE FALSE CLAIMS ACTS.

42 USC 1396h.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1908A the following:

"STATE FALSE CLAIMS ACT REQUIREMENTS FOR INCREASED STATE SHARE OF RECOVERIES

"SEC. 1909. (a) IN GENERAL.—Notwithstanding section 1905(b), if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law, shall be decreased by 10 percentage points.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the Attorney General, determines that the State has in effect a law that meets the following requirements:

"(1) The law establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to any expenditure described in section 1903(a).

"(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 31, United States Code.

"(3) The law contains a requirement for filing an action under seal for 60 days with review by the State Attorney General.

"(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31, United States Code.

"(c) DEEMED COMPLIANCE.—A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

"(d) NO PRECLUSION OF BROADER LAWS.—Nothing in this section shall be construed as prohibiting a State that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to programs in addition to the State program under this title, or with respect to expenditures in addition to expenditures described in section 1903(a), from being considered to be in compliance with the requirements of subsection (a) so long as the law meets such requirements.".

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2007. 42 USC 1396h note.

**SEC. 6032. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY.**

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (66), by striking "and" at the end;

(2) in paragraph (67) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (67) the following:

"(68) provide that any entity that receives or makes annual payments under the State plan of at least $5,000,000, as a condition of receiving such payments, shall—

"(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about Procedures.

the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

"(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

"(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.".

42 USC 1396a note.

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by subsection (a) take effect on January 1, 2007.

**SEC. 6033. PROHIBITION ON RESTOCKING AND DOUBLE BILLING OF PRESCRIPTION DRUGS.**

(a) IN GENERAL.—Section 1903(i)(10) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by section 6002(b), is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "; or" at the end and inserting ", and"; and

(3) by adding at the end the following:

"(D) with respect to any amount expended for reimbursement to a pharmacy under this title for the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment under this title (other than with respect to a reasonable restocking fee for such drug); or".

42 USC 1396b note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

**SEC. 6034. MEDICAID INTEGRITY PROGRAM.**

(a) ESTABLISHMENT OF MEDICAID INTEGRITY PROGRAM.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

42 USC 1396v.

(1) by redesignating section 1936 as section 1937; and

(2) by inserting after section 1935 the following:

"MEDICAID INTEGRITY PROGRAM

Contracts.
42 USC 1396u–6.

"SEC. 1936. (a) IN GENERAL.—There is hereby established the Medicaid Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—Activities described in this subsection are as follows:

"(1) Review of the actions of individuals or entities furnishing items or services (whether on a fee-for-service, risk, or other basis) for which payment may be made under a State

plan approved under this title (or under any waiver of such plan approved under section 1115) to determine whether fraud, waste, or abuse has occurred, is likely to occur, or whether such actions have any potential for resulting in an expenditure of funds under this title in a manner which is not intended under the provisions of this title.

"(2) Audit of claims for payment for items or services furnished, or administrative services rendered, under a State plan under this title, including—

"(A) cost reports;

"(B) consulting contracts; and

"(C) risk contracts under section 1903(m).

"(3) Identification of overpayments to individuals or entities receiving Federal funds under this title.

"(4) Education of providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care.

"(c) ELIGIBLE ENTITY AND CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).

"(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are the following:

"(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

"(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities.

"(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

"(D) The entity meets such other requirements as the Secretary may impose.

"(3) CONTRACTING REQUIREMENTS.—The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following: Regulations.

"(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(B) Competitive procedures to be used—

"(i) when entering into new contracts under this section;

"(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(iii) at any other time considered appropriate by the Secretary.

"(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or

exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

Regulations.

"(4) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(d) COMPREHENSIVE PLAN FOR PROGRAM INTEGRITY.—

"(1) 5-YEAR PLAN.—With respect to the 5-fiscal year period beginning with fiscal year 2006, and each such 5-fiscal year period that begins thereafter, the Secretary shall establish a comprehensive plan for ensuring the integrity of the program established under this title by combatting fraud, waste, and abuse.

"(2) CONSULTATION.—Each 5-fiscal year plan established under paragraph (1) shall be developed by the Secretary in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of the Department of Health and Human Services, and State officials with responsibility for controlling provider fraud and abuse under State plans under this title.

"(e) APPROPRIATION.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to carry out the Medicaid Integrity Program under this section, without further appropriation—

"(A) for fiscal year 2006, $5,000,000;

"(B) for each of fiscal years 2007 and 2008, $50,000,000; and

"(C) for each fiscal year thereafter, $75,000,000.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

"(3) INCREASE IN CMS STAFFING DEVOTED TO PROTECTING MEDICAID PROGRAM INTEGRITY.—From the amounts appropriated under paragraph (1), the Secretary shall increase by 100 the number of full-time equivalent employees whose duties consist solely of protecting the integrity of the Medicaid program established under this section by providing effective support and assistance to States to combat provider fraud and abuse.

"(4) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Secretary shall submit a report to Congress which identifies—

"(A) the use of funds appropriated pursuant to paragraph (1); and

"(B) the effectiveness of the use of such funds.".

(b) STATE REQUIREMENT TO COOPERATE WITH INTEGRITY PROGRAM EFFORTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 6033(a), is amended—

(1) in paragraph (67), by striking "and" at the end;

(2) in paragraph (68), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (68), the following:

"(69) provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936.".

(c) INCREASED FUNDING FOR MEDICAID FRAUD AND ABUSE CONTROL ACTIVITIES.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of Health and Human Services, without further appropriation, $25,000,000 for each of fiscal years 2006 through 2010, for activities of such Office with respect to the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES.—Amounts appropriated pursuant to paragraph (1) shall—

(A) remain available until expended; and

(B) be in addition to any other amounts appropriated or made available to the Office of the Inspector General of the Department of Health and Human Services for activities of such Office with respect to the Medicaid program.

(3) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Inspector General of the Department of Health and Human Services shall submit a report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(d) NATIONAL EXPANSION OF THE MEDICARE-MEDICAID (MEDI-MEDI) DATA MATCH PILOT PROGRAM.—

(1) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(A) in subsection (b), by adding at the end the following:

"(6) The Medicare-Medicaid Data Match Program in accordance with subsection (g)."; and

(B) by adding at the end the following:

"(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.—

"(1) EXPANSION OF PROGRAM.—

"(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid Data Match Program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and State Medicaid programs under title XIX for the purpose of— Contracts.

"(i) identifying program vulnerabilities in the program established under this title and the Medicaid program established under title XIX through the use of computer algorithms to look for payment anomalies (including billing or billing patterns identified with respect to service, time, or patient that appear to be suspect or otherwise implausible);

"(ii) working with States, the Attorney General, and the Inspector General of the Department of Health

and Human Services to coordinate appropriate actions to protect the Federal and State share of expenditures under the Medicaid program under title XIX, as well as the program established under this title; and

"(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

"(B) REPORTING REQUIREMENTS.—The Secretary shall make available in a timely manner any data and statistical information collected by the Medi-Medi Program to the Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of the Department of Health and Human Services, and the States (including a Medicaid fraud and abuse control unit described in section 1903(q)). Such information shall be disseminated no less frequently than quarterly.

Deadline.

"(2) LIMITED WAIVER AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).".

(2) FUNDING.—Section 1817(k)(4) of such Act (42 U.S.C. 1395i(k)(4)), as amended by section 5204 of this Act, is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B), (C), and (D)"; and

(B) by adding at the end the following:

"(D) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—The amount appropriated under subparagraph (A) for a fiscal year is further increased as follows for purposes of carrying out section 1893(b)(6) for the respective fiscal year:

"(i) $12,000,000 for fiscal year 2006.

"(ii) $24,000,000 for fiscal year 2007.

"(iii) $36,000,000 for fiscal year 2008.

"(iv) $48,000,000 for fiscal year 2009.

"(v) $60,000,000 for fiscal year 2010 and each fiscal year thereafter.".

42 USC 1396a note.

(e) DELAYED EFFECTIVE DATE FOR CHAPTER.—Except as otherwise provided in this chapter, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this chapter, the State plan shall not be regarded as failing to comply with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

**SEC. 6035. ENHANCING THIRD PARTY IDENTIFICATION AND PAYMENT.**

(a) CLARIFICATION OF THIRD PARTIES LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE.—Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by inserting ", self-insured plans" after "health insurers"; and

(B) by striking "and health maintenance organizations" and inserting "managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service"; and

(2) in subparagraph (G)—

(A) by inserting "a self-insured plan," after "1974,"; and

(B) by striking "and a health maintenance organization" and inserting "a managed care organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service".

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) of such Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by adding "and" after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

"(I) that the State shall provide assurances satisfactory to the Secretary that the State has in effect laws requiring health insurers, including self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business in the State, to—

"(i) provide, with respect to individuals who are eligible for, or are provided, medical assistance under the State plan, upon the request of the State, information to determine during what period the individual or their spouses or their dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the name, address, and identifying number of the plan) in a manner prescribed by the Secretary;

"(ii) accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State plan;

"(iii) respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than 3 years after the date of the provision of such health care item or service; and

"(iv) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form,

or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if—

"(I) the claim is submitted by the State within the 3-year period beginning on the date on which the item or service was furnished; and

"(II) any action by the State to enforce its rights with respect to such claim is commenced within 6 years of the State's submission of such claim;".

42 USC 1396a note.

(c) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2006.

**SEC. 6036. IMPROVED ENFORCEMENT OF DOCUMENTATION REQUIREMENTS.**

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (i), as amended by section 104 of Public Law 109–91—

(A) by striking "or" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; or"; and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (x) is met."; and

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

"(x)(1) For purposes of subsection (i)(23), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, that, subject to paragraph (2), there is presented satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3)) of the individual.

"(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

"(A) and is entitled to or enrolled for benefits under any part of title XVIII;

"(B) on the basis of receiving supplemental security income benefits under title XVI; or

"(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality had been previously presented.

"(3)(A) For purposes of this subsection, the term 'satisfactory documentary evidence of citizenship or nationality' means—

"(i) any document described in subparagraph (B); or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

"(B) The following are documents described in this subparagraph:

"(i) A United States passport.

"(ii) Form N–550 or N–570 (Certificate of Naturalization).

"(iii) Form N–560 or N–561 (Certificate of United States Citizenship).

"(iv) A valid State-issued driver's license or other identity document described in section 274A(b)(1)(D) of the Immigration

and Nationality Act, but only if the State issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a social security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen.

"(v) Such other document as the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

"(C) The following are documents described in this subparagraph:

"(i) A certificate of birth in the United States.

"(ii) Form FS–545 or Form DS–1350 (Certification of Birth Abroad).

"(iii) Form I–97 (United States Citizen Identification Card).

"(iv) Form FS–240 (Report of Birth Abroad of a Citizen of the United States).

"(v) Such other document (not described in subparagraph (B)(iv)) as the Secretary may specify that provides proof of United States citizenship or nationality.

"(D) The following are documents described in this subparagraph:

"(i) Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

"(ii) Any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

"(E) A reference in this paragraph to a form includes a reference to any successor form.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date in the case of individuals for whom the requirement of section 1903(z) of the Social Security Act, as added by such amendments, was not previously met. 42 USC 1396b note.

(c) IMPLEMENTATION REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an outreach program that is designed to educate individuals who are likely to be affected by the requirements of subsections (i)(23) and (x) of section 1903 of the Social Security Act (as added by subsection (a)) about such requirements and how they may be satisfied. 42 USC 1396b note.

## CHAPTER 4—FLEXIBILITY IN COST SHARING AND BENEFITS

### SEC. 6041. STATE OPTION FOR ALTERNATIVE MEDICAID PREMIUMS AND COST SHARING.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1916 the following new section:

"STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING

"SEC. 1916A. (a) STATE FLEXIBILITY.— 42 USC 1396o–1.

"(1) IN GENERAL.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan

amendment, may impose premiums and cost sharing for any group of individuals (as specified by the State) and for any type of services (other than drugs for which cost sharing may be imposed under subsection (c)), and may vary such premiums and cost sharing among such groups or types, consistent with the limitations established under this section. Nothing in this section shall be construed as superseding (or preventing the application of) section 1916(g).

"(2) DEFINITIONS.—In this section:

"(A) PREMIUM.—The term 'premium' includes any enrollment fee or similar charge.

"(B) COST SHARING.—The term 'cost sharing' includes any deduction, copayment, or similar charge.

"(b) LIMITATIONS ON EXERCISE OF AUTHORITY.—

"(1) INDIVIDUALS WITH FAMILY INCOME BETWEEN 100 AND 150 PERCENT OF THE POVERTY LINE.—In the case of an individual whose family income exceeds 100 percent, but does not exceed 150 percent, of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) no premium may be imposed under the plan; and

"(B) with respect to cost sharing—

"(i) the cost sharing imposed under subsection (a) with respect to any item or service may not exceed 10 percent of the cost of such item or service; and

"(ii) the total aggregate amount of cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State).

"(2) INDIVIDUALS WITH FAMILY INCOME ABOVE 150 PERCENT OF THE POVERTY LINE.—In the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) the total aggregate amount of premiums and cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State); and

"(B) with respect to cost sharing, the cost sharing imposed with respect to any item or service under subsection (a) may not exceed 20 percent of the cost of such item or service.

"(3) ADDITIONAL LIMITATIONS.—

"(A) PREMIUMS.—No premiums shall be imposed under this section with respect to the following:

"(i) Individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Pregnant women.

"(iii) Any terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(iv) Any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(v) Women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(B) COST SHARING.—Subject to the succeeding provisions of this section, no cost sharing shall be imposed under subsection (a) with respect to the following:

"(i) Services furnished to individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including services furnished to individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Preventive services (such as well baby and well child care and immunizations) provided to children under 18 years of age regardless of family income.

"(iii) Services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy.

"(iv) Services furnished to a terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(v) Services furnished to any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) Emergency services (as defined by the Secretary for purposes of section 1916(a)(2)(D)).

"(vii) Family planning services and supplies described in section 1905(a)(4)(C).

"(viii) Services furnished to women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from exempting additional classes of individuals from premiums under this section or from exempting additional individuals or services from cost sharing under subsection (a).

"(4) DETERMINATIONS OF FAMILY INCOME.—In applying this subsection, family income shall be determined in a manner

specified by the State for purposes of this subsection, including the use of such disregards as the State may provide. Family income shall be determined for such period and at such periodicity as the State may provide under this title.

"(5) POVERTY LINE DEFINED.—For purposes of this section, the term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(6) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing a State from further limiting the premiums and cost sharing imposed under this section beyond the limitations provided under this section;

"(B) as affecting the authority of the Secretary through waiver to modify limitations on premiums and cost sharing under this section; or

"(C) as affecting any such waiver of requirements in effect under this title before the date of the enactment of this section with regard to the imposition of premiums and cost sharing.

"(d) ENFORCEABILITY OF PREMIUMS AND OTHER COST SHARING.—

"(1) PREMIUMS.—Notwithstanding section 1916(c)(3) and section 1902(a)(10)(B), a State may, at its option, condition the provision of medical assistance for an individual upon prepayment of a premium authorized to be imposed under this section, or may terminate eligibility for such medical assistance on the basis of failure to pay such a premium but shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. A State may apply the previous sentence for some or all groups of beneficiaries as specified by the State and may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(2) COST SHARING.—Notwithstanding section 1916(e) or any other provision of law, a State may permit a provider participating under the State plan to require, as a condition for the provision of care, items, or services to an individual entitled to medical assistance under this title for such care, items, or services, the payment of any cost sharing authorized to be imposed under this section with respect to such care, items, or services. Nothing in this paragraph shall be construed as preventing a provider from reducing or waiving the application of such cost sharing on a case-by-case basis.".

(b) INDEXING NOMINAL COST SHARING AND CONFORMING AMENDMENT.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (f), by inserting "and section 1916A" after "(b)(3)"; and

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

"(h) In applying this section and subsections (c) and (e) of section 1916A, with respect to cost sharing that is 'nominal' in amount, the Secretary shall increase such 'nominal' amounts for each year (beginning with 2006) by the annual percentage increase

in the medical care component of the consumer price index for all urban consumers (U.S. city average) as rounded up in an appropriate manner.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

42 USC 1396o note.

**SEC. 6042. SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.**

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6041(a), is amended by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—In order to encourage beneficiaries to use drugs (in this subsection referred to as 'preferred drugs') identified by the State as the least (or less) costly effective prescription drugs within a class of drugs (as defined by the State), with respect to one or more groups of beneficiaries specified by the State, subject to paragraph (2), the State may—

"(A) provide cost sharing (instead of the level of cost sharing otherwise permitted under section 1916, but subject to paragraphs (2) and (3)) with respect to drugs that are not preferred drugs within a class; and

"(B) waive or reduce the cost sharing otherwise applicable for preferred drugs within such class and shall not apply any such cost sharing for such preferred drugs for individuals for whom cost sharing may not otherwise be imposed under subsection (b)(3)(B).

"(2) LIMITATIONS.—

"(A) BY INCOME GROUP.—In no case may the cost sharing under paragraph (1)(A) with respect to a non-preferred drug exceed—

"(i) in the case of an individual whose family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, the amount of nominal cost sharing (as otherwise determined under section 1916); or

"(ii) in the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug.

"(B) LIMITATION TO NOMINAL FOR EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing due to the application of subsection (b)(3)(B), any cost sharing under paragraph (1)(A) with respect to a non-preferred drug may not exceed a nominal amount (as otherwise determined under section 1916).

"(C) CONTINUED APPLICATION OF AGGREGATE CAP.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1)(A) continues to be subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be.

"(3) WAIVER.—In carrying out paragraph (1), a State shall provide for the application of cost sharing levels applicable

to a preferred drug in the case of a drug that is not a preferred drug if the prescribing physician determines that the preferred drug for treatment of the same condition either would not be as effective for the individual or would have adverse effects for the individual or both.

"(4) EXCLUSION AUTHORITY.—Nothing in this subsection shall be construed as preventing a State from excluding specified drugs or classes of drugs from the application of paragraph (1).".

42 USC 1396o–1 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

**SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR NON-EMERGENCY CARE.**

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6041 and as amended by section 6042, is further amended by adding at the end the following new subsection:

"(e) STATE OPTION FOR PERMITTING HOSPITALS TO IMPOSE COST SHARING FOR NON-EMERGENCY CARE FURNISHED IN AN EMERGENCY DEPARTMENT.—

"(1) IN GENERAL.—Notwithstanding section 1916 and section 1902(a)(1) or the previous provisions of this section, but subject to the limitations of paragraph (2), a State may, by amendment to its State plan under this title, permit a hospital to impose cost sharing for non-emergency services furnished to an individual (within one or more groups of individuals specified by the State) in the hospital emergency department under this subsection if the following conditions are met:

"(A) ACCESS TO NON-EMERGENCY ROOM PROVIDER.—The individual has actually available and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider with respect to such services.

"(B) NOTICE.—The hospital must inform the beneficiary after receiving an appropriate medical screening examination under section 1867 and after a determination has been made that the individual does not have an emergency medical condition, but before providing the non-emergency services, of the following:

"(i) The hospital may require the payment of the State specified cost sharing before the service can be provided.

"(ii) The name and location of an alternate non-emergency services provider (described in subparagraph (A)) that is actually available and accessible (as described in such subparagraph).

"(iii) The fact that such alternate provider can provide the services without the imposition of cost sharing described in clause (i).

"(iv) The hospital provides a referral to coordinate scheduling of this treatment.

Nothing in this subsection shall be construed as preventing a State from applying (or waiving) cost sharing otherwise permissible under this section to services described in clause (iii).

"(2) LIMITATIONS.—

"(A) FOR POOREST BENEFICIARIES.—In the case of an individual described in subsection (b)(1), the cost sharing imposed under this subsection may not exceed twice the amount determined to be nominal under section 1916, subject to the percent of income limitation otherwise applicable under subsection (b)(1).

"(B) APPLICATION TO EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing under subsection (b)(3), a State may impose cost sharing under paragraph (1) for care in an amount that does not exceed a nominal amount (as otherwise determined under section 1916) so long as no cost sharing is imposed to receive such care through an outpatient department or other alternative health care provider in the geographic area of the hospital emergency department involved.

"(C) CONTINUED APPLICATION OF AGGREGATE CAP; RELATION TO OTHER COST SHARING.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1) is subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be. Cost sharing imposed for services under this subsection shall be instead of any cost sharing that may be imposed for such services under subsection (a).

"(3) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) to limit a hospital's obligations with respect to screening and stabilizing treatment of an emergency medical condition under section 1867; or

"(B) to modify any obligations under either State or Federal standards relating to the application of a prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) NON-EMERGENCY SERVICES.—The term 'non-emergency services' means any care or services furnished in an emergency department of a hospital that the physician determines do not constitute an appropriate medical screening examination or stabilizing examination and treatment required to be provided by the hospital under section 1867.

"(B) ALTERNATE NON-EMERGENCY SERVICES PROVIDER.—The term 'alternative non-emergency services provider' means, with respect to non-emergency services for the diagnosis or treatment of a condition, a health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider, that can provide clinically appropriate services for the diagnosis or treatment of a condition contemporaneously with the provision of the non-emergency services that would be provided in an emergency department of a hospital for the diagnosis or treatment of a condition, and that is participating in the program under this title.".

(b) GRANT FUNDS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by section 6037(a)(2), is amended by adding at the end the following new subsection:

"(y) PAYMENTS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—

"(1) PAYMENTS.—In addition to the payments otherwise provided under subsection (a), subject to paragraph (2), the Secretary shall provide for payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916A(e)(5)(B)), or networks of such providers.

"(2) LIMITATION.—The total amount of payments under this subsection shall not exceed $50,000,000 during the 4-year period beginning with 2006. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(3) PREFERENCE.—In providing for payments to States under this subsection, the Secretary shall provide preference to States that establish, or provide for, alternate non-emergency services providers or networks of such providers that—

"(A) serve rural or underserved areas where beneficiaries under this title may not have regular access to providers of primary care services; or

"(B) are in partnership with local community hospitals.

"(4) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made only upon the filing of such application in such form and in such manner as the Secretary shall specify. Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a).".

42 USC 1396b note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to non-emergency services furnished on or after January 1, 2007.

**SEC. 6044. USE OF BENCHMARK BENEFIT PACKAGES.**

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by section 6035, is amended by redesignating section 1937 as section 1938 and by inserting after section 1936 the following new section:

42 USC 1396v.

"STATE FLEXIBILITY IN BENEFIT PACKAGES

42 USC 1396u–7.

"SEC. 1937. (a) STATE OPTION OF PROVIDING BENCHMARK BENEFITS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, a State, at its option as a State plan amendment, may provide for medical assistance under this title to individuals within one or more groups of individuals specified by the State through enrollment in coverage that provides—

"(i) benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); and

"(ii) for any child under 19 years of age who is covered under the State plan under section

1902(a)(10)(A), wrap-around benefits to the benchmark coverage or benchmark equivalent coverage consisting of early and periodic screening, diagnostic, and treatment services defined in section 1905(r).

"(B) LIMITATION.—The State may only exercise the option under subparagraph (A) for an individual eligible under an eligibility category that had been established under the State plan on or before the date of the enactment of this section.

"(C) OPTION OF WRAP-AROUND BENEFITS.—In the case of coverage described in subparagraph (A), a State, at its option, may provide such wrap-around or additional benefits as the State may specify.

"(D) TREATMENT AS MEDICAL ASSISTANCE.—Payment of premiums for such coverage under this subsection shall be treated as payment of other insurance premiums described in the third sentence of section 1905(a).

"(2) APPLICATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State may require that a full-benefit eligible individual (as defined in subparagraph (C)) within a group obtain benefits under this title through enrollment in coverage described in paragraph (1)(A). A State may apply the previous sentence to individuals within 1 or more groups of such individuals.

"(B) LIMITATION ON APPLICATION.—A State may not require under subparagraph (A) an individual to obtain benefits through enrollment described in paragraph (1)(A) if the individual is within one of the following categories of individuals:

"(i) MANDATORY PREGNANT WOMEN.—The individual is a pregnant woman who is required to be covered under the State plan under section 1902(a)(10)(A)(i).

"(ii) BLIND OR DISABLED INDIVIDUALS.—The individual qualifies for medical assistance under the State plan on the basis of being blind or disabled (or being treated as being blind or disabled) without regard to whether the individual is eligible for supplemental security income benefits under title XVI on the basis of being blind or disabled and including an individual who is eligible for medical assistance on the basis of section 1902(e)(3).

"(iii) DUAL ELIGIBLES.—The individual is entitled to benefits under any part of title XVIII.

"(iv) TERMINALLY ILL HOSPICE PATIENTS.—The individual is terminally ill and is receiving benefits for hospice care under this title.

"(v) ELIGIBLE ON BASIS OF INSTITUTIONALIZATION.—The individual is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) MEDICALLY FRAIL AND SPECIAL MEDICAL NEEDS INDIVIDUALS.—The individual is medically frail or otherwise an individual with special medical needs (as identified in accordance with regulations of the Secretary).

"(vii) BENEFICIARIES QUALIFYING FOR LONG-TERM CARE SERVICES.—The individual qualifies based on medical condition for medical assistance for long-term care services described in section 1917(c)(1)(C).

"(viii) CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES AND CHILDREN RECEIVING FOSTER CARE OR ADOPTION ASSISTANCE.—The individual is an individual with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ix) TANF AND SECTION 1931 PARENTS.—The individual qualifies for medical assistance on the basis of eligibility to receive assistance under a State plan funded under part A of title IV (as in effect on or after the welfare reform effective date defined in section 1931(i)).

"(x) WOMEN IN THE BREAST OR CERVICAL CANCER PROGRAM.—The individual is a woman who is receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(xi) LIMITED SERVICES BENEFICIARIES.—The individual—

"(I) qualifies for medical assistance on the basis of section 1902(a)(10)(A)(ii)(XII); or

"(II) is not a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and receives care and services necessary for the treatment of an emergency medical condition in accordance with section 1903(v).

"(C) FULL-BENEFIT ELIGIBLE INDIVIDUALS.—

"(i) IN GENERAL.—For purposes of this paragraph, subject to clause (ii), the term 'full-benefit eligible individual' means for a State for a month an individual who is determined eligible by the State for medical assistance for all services defined in section 1905(a) which are covered under the State plan under this title for such month under section 1902(a)(10)(A) or under any other category of eligibility for medical assistance for all such services under this title, as determined by the Secretary.

"(ii) EXCLUSION OF MEDICALLY NEEDY AND SPEND-DOWN POPULATIONS.—Such term shall not include an individual determined to be eligible by the State for medical assistance under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise eligible based on a reduction of income based on costs incurred for medical or other remedial care.

"(b) BENCHMARK BENEFIT PACKAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), each of the following coverages shall be considered to be benchmark coverage:

"(A) FEHBP-EQUIVALENT HEALTH INSURANCE COVERAGE.—The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 8903(1) of title 5, United States Code.

"(B) STATE EMPLOYEE COVERAGE.—A health benefits coverage plan that is offered and generally available to State employees in the State involved.

"(C) COVERAGE OFFERED THROUGH HMO.—The health insurance coverage plan that—

"(i) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act), and

"(ii) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

"(D) SECRETARY-APPROVED COVERAGE.—Any other health benefits coverage that the Secretary determines, upon application by a State, provides appropriate coverage for the population proposed to be provided such coverage.

"(2) BENCHMARK-EQUIVALENT COVERAGE.—For purposes of subsection (a)(1), coverage that meets the following requirement shall be considered to be benchmark-equivalent coverage:

"(A) INCLUSION OF BASIC SERVICES.—The coverage includes benefits for items and services within each of the following categories of basic services:

"(i) Inpatient and outpatient hospital services.

"(ii) Physicians' surgical and medical services.

"(iii) Laboratory and x-ray services.

"(iv) Well-baby and well-child care, including age-appropriate immunizations.

"(v) Other appropriate preventive services, as designated by the Secretary.

"(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages described in paragraph (1).

"(C) SUBSTANTIAL ACTUARIAL VALUE FOR ADDITIONAL SERVICES INCLUDED IN BENCHMARK PACKAGE.—With respect to each of the following categories of additional services for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package:

"(i) Coverage of prescription drugs.

"(ii) Mental health services.

"(iii) Vision services.

"(iv) Hearing services.

"(3) DETERMINATION OF ACTUARIAL VALUE.—The actuarial value of coverage of benchmark benefit packages shall be set forth in an actuarial opinion in an actuarial report that has been prepared—

"(A) by an individual who is a member of the American Academy of Actuaries;

"(B) using generally accepted actuarial principles and methodologies;

"(C) using a standardized set of utilization and price factors;

"(D) using a standardized population that is representative of the population involved;

"(E) applying the same principles and factors in comparing the value of different coverage (or categories of services);

"(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

"(G) taking into account the ability of a State to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under this title that results from the limitations on cost sharing under such coverage.

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

"(4) COVERAGE OF RURAL HEALTH CLINIC AND FQHC SERVICES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark equivalent coverage under this section unless—

"(A) the individual has access, through such coverage or otherwise, to services described in subparagraphs (B) and (C) of section 1905(a)(2); and

"(B) payment for such services is made in accordance with the requirements of section 1902(bb).".

42 USC 1396u–7 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on March 31, 2006.

## CHAPTER 5—STATE FINANCING UNDER MEDICAID

### SEC. 6051. MANAGED CARE ORGANIZATION PROVIDER TAX REFORM.

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) of the Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of managed care organizations (including health maintenance organizations, preferred provider organizations, and such other similar organizations as the Secretary may specify by regulation).".

42 USC 1396b note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) shall be effective as of the date of the enactment of this Act.

(2) DELAY IN EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a State specified in subparagraph (B), the amendment made by subsection (a) shall be effective as of October 1, 2009.

(B) SPECIFIED STATES.—For purposes of subparagraph (A), the States specified in this subparagraph are States that have enacted a law providing for a tax on the services

of a Medicaid managed care organization with a contract under section 1903(m) of the Social Security Act as of December 8, 2005.

(c) CLARIFICATION REGARDING NON-REGULATION OF TRANSFERS.—

(1) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in paragraph (2), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(2) CENTER DESCRIBED.—A center described in this paragraph is a publicly-owned regional medical center that—

(A) provides level 1 trauma and burn care services;

(B) provides level 3 neonatal care services;

(C) is obligated to serve all patients, regardless of State of origin;

(D) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States, including the States described in paragraph (1);

(E) serves as a tertiary care provider for patients residing within a 125-mile radius; and

(F) meets the criteria for a disproportionate share hospital under section 1923 of such Act in at least one State other than the one in which the center is located.

(3) EFFECTIVE PERIOD.—This subsection shall apply through December 31, 2006.

**SEC. 6052. REFORMS OF CASE MANAGEMENT AND TARGETED CASE MANAGEMENT.**

(a) IN GENERAL.—Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection:

"(A)(i) The term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

"(ii) Such term includes the following:

"(I) Assessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services. Such assessment activities include the following:

"(aa) Taking client history.

"(bb) Identifying the needs of the individual, and completing related documentation.

"(cc) Gathering information from other sources such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible individual.

"(II) Development of a specific care plan based on the information collected through an assessment, that specifies

the goals and actions to address the medical, social, educational, and other services needed by the eligible individual, including activities such as ensuring the active participation of the eligible individual and working with the individual (or the individual's authorized health care decision maker) and others to develop such goals and identify a course of action to respond to the assessed needs of the eligible individual.

"(III) Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social, educational providers or other programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

"(IV) Monitoring and followup activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual, and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as—

"(aa) whether services are being furnished in accordance with an individual's care plan;

"(bb) whether the services in the care plan are adequate; and

"(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

"(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

"(I) Research gathering and completion of documentation required by the foster care program.

"(II) Assessing adoption placements.

"(III) Recruiting or interviewing potential foster care parents.

"(IV) Serving legal papers.

"(V) Home investigations.

"(VI) Providing transportation.

"(VII) Administering foster care subsidies.

"(VIII) Making placement arrangements.

"(B) The term 'targeted case management services' are case management services that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas.

"(3) With respect to contacts with individuals who are not eligible for medical assistance under the State plan or, in the case of targeted case management services, individuals who are eligible for such assistance but are not part of the target population specified in the State plan, such contacts—

"(A) are considered an allowable case management activity, when the purpose of the contact is directly related to the management of the eligible individual's care; and

"(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual's needs and care.

"(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

"(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with OMB Circular A–87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.

"(5) Nothing in this subsection shall be construed as affecting the application of rules with respect to third party liability under programs, or activities carried out under title XXVI of the Public Health Service Act or by the Indian Health Service.".

(b) REGULATIONS.—The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

42 USC 1396n note.

Public comment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

42 USC 1396n note.

**SEC. 6053. ADDITIONAL FMAP ADJUSTMENTS.**

(a) HOLD HARMLESS FOR CERTAIN DECREASE.—Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.), the Federal medical assistance percentage determined for the State specified in section 4725(a) of Public Law 105–33 for fiscal year 2006 or fiscal year 2007 is less than the Federal medical assistance percentage determined for such State for fiscal year 2005, the Federal medical assistance percentage determined for such State for fiscal year 2005 shall be substituted for the Federal medical assistance percentage otherwise determined for such State for fiscal year 2006 or fiscal year 2007, as the case may be.

(b) HOLD HARMLESS FOR KATRINA IMPACT.—Notwithstanding any other provision of law, for purposes of titles XIX and XXI of the Social Security Act, the Secretary of Health and Human Services, in computing the Federal medical assistance percentage under section 1905(b) of such Act (42 U.S.C. 1396d(b)) for any year after 2006 for a State that the Secretary determines has a significant number of evacuees who were evacuated to, and live in, the State as a result of Hurricane Katrina as of October 1, 2005, shall disregard such evacuees (and income attributable to such evacuees) from such computation.

**SEC. 6054. DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—For purposes of determining the DSH allotment for the District of Columbia under section 1923 of the Social Security Act (42 U.S.C. 1396r–4) for fiscal year 2006 and each subsequent fiscal year, the table in subsection (f)(2) of such section is amended under each of the columns for fiscal year 2000, fiscal year 2001, and fiscal year 2002, in the entry for the District of Columbia by striking "32" and inserting "49".

42 USC 1396r–4 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on October 1, 2005, and shall only apply to disproportionate share hospital adjustment expenditures applicable to fiscal year 2006 and subsequent fiscal years made on or after that date.

**SEC. 6055. INCREASE IN MEDICAID PAYMENTS TO INSULAR AREAS.**

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by inserting "and subject to paragraph (3)" after "subsection (f)"; and

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

"(3) FISCAL YEARS 2006 AND 2007 FOR CERTAIN INSULAR AREAS.—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for fiscal year 2006 and fiscal year 2007 shall be increased by the following amounts:

"(A) For Puerto Rico, $12,000,000 for fiscal year 2006 and $12,000,000 for fiscal year 2007.

"(B) For the Virgin Islands, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

"(C) For Guam, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

"(D) For the Northern Mariana Islands, $1,000,000 for fiscal year 2006 and $2,000,000 for fiscal year 2007.

"(E) For American Samoa, $2,000,000 for fiscal year 2006 and $4,000,000 for fiscal year 2007.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal year 2007 but shall be taken into account in applying such paragraph for fiscal year 2008 and subsequent fiscal years.".

## CHAPTER 6—OTHER PROVISIONS

### Subchapter A—Family Opportunity Act

Family Opportunity Act of 2005.
42 USC 1305 note.

**SEC. 6061. SHORT TITLE OF SUBCHAPTER.**

This subchapter may be cited as the "Family Opportunity Act of 2005" or the "Dylan Lee James Act".

**SEC. 6062. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.**

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking "or" at the end of subclause (XVII);

(ii) by adding "or" at the end of subclause (XVIII); and

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

"(XIX) who are disabled children described in subsection (cc)(1);"; and

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

"(cc)(1) Individuals described in this paragraph are individuals—

"(A) who are children who have not attained 19 years of age and are born—

"(i) on or after January 1, 2001 (or, at the option of a State, on or after an earlier date), in the case of the second, third, and fourth quarters of fiscal year 2007;

"(ii) on or after October 1, 1995 (or, at the option of a State, on or after an earlier date), in the case of each quarter of fiscal year 2008; and

"(iii) after October 1, 1989, in the case of each quarter of fiscal year 2009 and each quarter of any fiscal year thereafter;

"(B) who would be considered disabled under section 1614(a)(3)(C) (as determined under title XVI for children but without regard to any income or asset eligibility requirements that apply under such title with respect to children); and

"(C) whose family income does not exceed such income level as the State establishes and does not exceed—

"(i) 300 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved; or

"(ii) such higher percent of such poverty line as a State may establish, except that—

"(I) any medical assistance provided to an individual whose family income exceeds 300 percent of such poverty line may only be provided with State funds; and

"(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.".

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) of such Act (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

"(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

"(i) notwithstanding section 1906, require such parent to apply for, enroll in, and pay premiums for such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

"(ii) if such coverage is obtained—

"(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in

an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

"(II) treat such coverage as a third party liability under subsection (a)(25).

"(B) In the case of a parent to which subparagraph (A) applies, a State, notwithstanding section 1906 but subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "subsection (g)" and inserting "subsections (g) and (i)"; and

(2) by adding at the end, as amended by section 6041(b)(2), the following new subsection:

"(i)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

"(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

"(A) in the case of a disabled child described in that paragraph whose family income—

"(i) does not exceed 200 percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 5 percent of the family's income; and

"(ii) exceeds 200, but does not exceed 300, percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 7.5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of at least 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(2) Section 1905(u)(2)(B) of such Act (42 U.S.C. 1396d(u)(2)(B)) is amended by adding at the end the following sentence: "Such

term excludes any child eligible for medical assistance only by reason of section 1902(a)(10)(A)(ii)(XIX).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after January 1, 2007.

42 USC 1396a note.

**SEC. 6063. DEMONSTRATION PROJECTS REGARDING HOME AND COMMUNITY-BASED ALTERNATIVES TO PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN.**

42 USC 1396a note.

(a) IN GENERAL.—The Secretary is authorized to conduct, during each of fiscal years 2007 through 2011, demonstration projects (each in the section referred to as a "demonstration project") in accordance with this section under which up to 10 States (as defined for purposes of title XIX of the Social Security Act) are awarded grants, on a competitive basis, to test the effectiveness in improving or maintaining a child's functional level and cost-effectiveness of providing coverage of home and community-based alternatives to psychiatric residential treatment for children enrolled in the Medicaid program under title XIX of such Act.

(b) APPLICATION OF TERMS AND CONDITIONS.—

(1) IN GENERAL.—Subject to the provisions of this section, for the purposes of the demonstration projects, and only with respect to children enrolled under such demonstration projects, a psychiatric residential treatment facility (as defined in section 483.352 of title 42 of the Code of Federal Regulations) shall be deemed to be a facility specified in section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), and to be included in each reference in such section 1915(c) to hospitals, nursing facilities, and intermediate care facilities for the mentally retarded.

(2) STATE OPTION TO ASSURE CONTINUITY OF MEDICAID COVERAGE.—Upon the termination of a demonstration project under this section, the State that conducted the project may elect, only with respect to a child who is enrolled in such project on the termination date, to continue to provide medical assistance for coverage of home and community-based alternatives to psychiatric residential treatment for the child in accordance with section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as modified through the application of paragraph (1). Expenditures incurred for providing such medical assistance shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(c) TERMS OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this section, a demonstration project shall be subject to the same terms and conditions as apply to a waiver under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), including the waiver of certain requirements under the first sentence of paragraph (3) of such section but not applying the second sentence of such paragraph.

(2) BUDGET NEUTRALITY.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) do not exceed the amount which the Secretary estimates would

have been paid under that title if the demonstration projects under this section had not been implemented.

(3) EVALUATION.—The application for a demonstration project shall include an assurance to provide for such interim and final evaluations of the demonstration project by independent third parties, and for such interim and final reports to the Secretary, as the Secretary may require.

(d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE AND FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), a demonstration project approved by the Secretary under this section shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(2) LIMITATION.—In no case may the amount of payments made by the Secretary under this section for State demonstration projects for a fiscal year exceed the amount available under subsection (f)(2)(A) for such fiscal year.

(e) SECRETARY'S EVALUATION AND REPORT.—The Secretary shall conduct an interim and final evaluation of State demonstration projects under this section and shall report to the President and Congress the conclusions of such evaluations within 12 months of completing such evaluations.

(f) FUNDING.—

(1) IN GENERAL.—For the purpose of carrying out this section, there are appropriated, from amounts in the Treasury not otherwise appropriated, for fiscal years 2007 through 2011, a total of $218,000,000, of which—

(A) the amount specified in paragraph (2) shall be available for each of fiscal years 2007 through 2011; and

(B) a total of $1,000,000 shall be available to the Secretary for the evaluations and report under subsection (e).

(2) FISCAL YEAR LIMIT.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this paragraph for a fiscal year is the amount specified in subparagraph (B) for the fiscal year plus the difference, if any, between the total amount available under this paragraph for prior fiscal years and the total amount previously expended under paragraph (1)(A) for such prior fiscal years.

(B) FISCAL YEAR AMOUNTS.—The amount specified in this subparagraph for—

(i) fiscal year 2007 is $21,000,000;
(ii) fiscal year 2008 is $37,000,000;
(iii) fiscal year 2009 is $49,000,000;
(iv) fiscal year 2010 is $53,000,000; and
(v) fiscal year 2011 is $57,000,000.

**SEC. 6064. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.**

Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:

Grants.
Contracts.

"(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support

of family-to-family health information centers described in paragraph (2), there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

"(i) $3,000,000 for fiscal year 2007;

"(ii) $4,000,000 for fiscal year 2008; and

"(iii) $5,000,000 for fiscal year 2009.

"(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

"(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

"(ii) remain available until expended.

"(2) The family-to-family health information centers described in this paragraph are centers that—

"(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

"(B) provide information regarding the health care needs of, and resources available for, such children;

"(C) identify successful health delivery models for such children;

"(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies, a model for collaboration between families of such children and health professionals;

"(E) provide training and guidance regarding caring for such children;

"(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

"(G) are staffed—

"(i) by such families who have expertise in Federal and State public and private health care systems; and

"(ii) by health professionals.

"(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) in accordance with the following:

"(A) With respect to fiscal year 2007, such centers shall be developed in not less than 25 States.

"(B) With respect to fiscal year 2008, such centers shall be developed in not less than 40 States.

"(C) With respect to fiscal year 2009 and each fiscal year thereafter, such centers shall be developed in all States.

Applicability.

"(4) The provisions of this title that are applicable to the funds made available to the Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

"(5) For purposes of this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

**SEC. 6065. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.**

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking ") and" and inserting "and";

(3) by striking "section or who are" and inserting "section), (bb) who are"; and

(4) by inserting before the comma at the end the following: ", or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following'".

42 USC 1396a note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the date that is 1 year after the date of enactment of this Act.

## Subchapter B—Money Follows the Person Rebalancing Demonstration

Grants.
42 USC 1396a note.

**SEC. 6071. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.**

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary is authorized to award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as an "MFP demonstration project") designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State Medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State Medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.

(4) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

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

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term "home and community-based long-term care services" means, with respect to a State Medicaid program, home and community-based services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the Medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than 6 months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving Medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in an inpatient facility and, in any case in which the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, the individual must continue to require at least the level of care which had resulted in admission to the institution; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term "inpatient facility" means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State Medicaid plan for services provided by such institution.

(4) MEDICAID.—The term "Medicaid" means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration under such title or under section 1115 of such Act relating to such title).

(5) QUALIFIED HCB PROGRAM.—The term "qualified HCB program" means a program providing home and community-based long-term care services operating under Medicaid, whether or not operating under waiver authority.

(6) QUALIFIED RESIDENCE.—The term "qualified residence" means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(7) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(8) SELF-DIRECTED SERVICES.—The term "self-directed" means, with respect to home and community-based long-term

care services for an eligible individual, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative (as defined by the Secretary), including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(A) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(B) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that—

(i) specifies those services, if any, which the individual or the individual's authorized representative would be responsible for directing;

(ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(I) is directed by the individual or the individual's authorized representative;

(II) builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities; and

(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(i) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(9) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESS.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of Medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least 2 consecutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2007.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a statewide area or 1 or more geographic areas of the State.

(5) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to a qualified residence during each fiscal year of the MFP demonstration project;

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program consistent with applicable requirements, home and community-based

long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services, and, if the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, meeting the requirement for at least the level of care which had resulted in the individual's admission to the institution).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State Medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other barriers to flexibility in the availability of Medicaid funds to pay for long-term care services for eligible individuals participating in the project in the appropriate settings of their choice, including costs to transition from an institutional setting to a qualified residence.

(9) MAINTENANCE OF EFFORT AND COST-EFFECTIVENESS.—The application shall contain or be accompanied by such information and assurances as may be required to satisfy the Secretary that—

(A) total expenditures under the State Medicaid program for home and community-based long-term care services will not be less for any fiscal year during the MFP demonstration project than for the greater of such expenditures for—

(i) fiscal year 2005; or

(ii) any succeeding fiscal year before the first year of the MFP demonstration project; and

(B) in the case of a qualified HCB program operating under a waiver under subsection (c) or (d) of section 1915 of the Social Security Act (42 U.S.C. 1396n), but for the amount awarded under a grant under this section, the State program would continue to meet the cost-effectiveness

requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of Medicaid requirements described in subsection (d)(3), including adjustments to the maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement systems for home and community-based long-term care services.

(12) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(8)) under the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTION.—A description of how eligible individuals will be provided with the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will provide oversight of eligible individual's receipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which, and extent to which, the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(8); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order to permit a State to apply institutional eligibility rules to individuals transitioning to community-based care.

(D) PROVIDER AGREEMENTS.—Section 1902(a)(27), in order to permit a State to implement self-directed services in a cost-effective manner.

(4) CONDITIONAL APPROVAL OF OUTYEAR GRANT.—In awarding grants under this section, the Secretary shall condition the grant for the second and any subsequent fiscal years of the grant period on the following:

(A) NUMERICAL BENCHMARKS.—The State must demonstrate to the satisfaction of the Secretary that it is meeting numerical benchmarks specified in the grant agreement for—

(i) increasing State Medicaid support for home and community-based long-term care services under subsection (c)(5); and

(ii) numbers of eligible individuals assisted to transition to qualified residences.

(B) QUALITY OF CARE.—The State must demonstrate to the satisfaction of the Secretary that it is meeting the requirements under subsection (c)(11) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) the MFP-enhanced FMAP (as defined in paragraph (5)) of the amount of qualified expenditures made during such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next 4 fiscal years, subject to paragraph (3).

(3) REAWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under Medicaid, including under section 1903(a) of the Social Security Act. Nothing in the previous sentence shall be construed as preventing the payment under Medicaid for such expenditures in a grant year after amounts available to pay for such expenditures under the MFP demonstration project have been exhausted.

(5) MFP-ENHANCED FMAP.—For purposes of paragraph (1)(A), the "MFP-enhanced FMAP", for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 50 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent; but in no case shall the MFP-enhanced FMAP for a State exceed 90 percent.

(f) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

Contracts.

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to, and oversight of, States for purposes of upgrading quality assurance and quality improvement systems under Medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h)(1) for the portion of fiscal year 2007 that begins on January 1, 2007, and ends on September 30, 2007, and for fiscal year 2008, not more than $2,400,000 shall be available to the Secretary to carry out this subsection during the period that begins on January 1, 2007, and ends on September 30, 2011.

(g) RESEARCH AND EVALUATION.—

Contracts.

(1) IN GENERAL.—The Secretary, directly or through grant or contract, shall provide for research on, and a national evaluation of, the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of projected and actual savings related to the transition of individuals to qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and Congress, not later than September 30, 2011, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2008 through 2011, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for the portion of fiscal year 2007 beginning on January 1, 2007, and ending on September 30, 2007;

(B) $300,000,000 for fiscal year 2008;

(C) $350,000,000 for fiscal year 2009;

(D) $400,000,000 for fiscal year 2010; and

(E) $450,000,000 for fiscal year 2011.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2011.

## Subchapter C—Miscellaneous

**SEC. 6081. MEDICAID TRANSFORMATION GRANTS.**

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by sections 6037(a)(2) and 6043(b), is amended by adding at the end the following new subsection:

"(z) MEDICAID TRANSFORMATION PAYMENTS.—

"(1) IN GENERAL.—In addition to the payments provided under subsection (a), subject to paragraph (4), the Secretary shall provide for payments to States for the adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance under this title.

"(2) PERMISSIBLE USES OF FUNDS.—The following are examples of innovative methods for which funds provided under this subsection may be used:

"(A) Methods for reducing patient error rates through the implementation and use of electronic health records, electronic clinical decision support tools, or e-prescribing programs.

"(B) Methods for improving rates of collection from estates of amounts owed under this title.

"(C) Methods for reducing waste, fraud, and abuse under the program under this title, such as reducing improper payment rates as measured by annual payment error rate measurement (PERM) project rates.

"(D) Implementation of a medication risk management program as part of a drug use review program under section 1927(g).

"(E) Methods in reducing, in clinically appropriate ways, expenditures under this title for covered outpatient drugs, particularly in the categories of greatest drug utilization, by increasing the utilization of generic drugs through the use of education programs and other incentives to promote greater use of generic drugs.

"(F) Methods for improving access to primary and specialty physician care for the uninsured using integrated university-based hospital and clinic systems.

"(3) APPLICATION; TERMS AND CONDITIONS.—

"(A) IN GENERAL.—No payments shall be made to a State under this subsection unless the State applies to the Secretary for such payments in a form, manner, and time specified by the Secretary.

"(B) TERMS AND CONDITIONS.—Such payments are made under such terms and conditions consistent with this subsection as the Secretary prescribes.

"(C) ANNUAL REPORT.—Payment to a State under this subsection is conditioned on the State submitting to the Secretary an annual report on the programs supported by such payment. Such report shall include information on—

"(i) the specific uses of such payment;

"(ii) an assessment of quality improvements and clinical outcomes under such programs; and

"(iii) estimates of cost savings resulting from such programs.

"(4) FUNDING.—

"(A) LIMITATION ON FUNDS.—The total amount of payments under this subsection shall be equal to, and shall not exceed—

"(i) $75,000,000 for fiscal year 2007; and

"(ii) $75,000,000 for fiscal year 2008.

This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(B) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds made available under this subsection among States. Such method shall provide preference for States that design programs that target health providers that treat significant numbers of Medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

"(C) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

"(5) MEDICATION RISK MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'medication risk management program' means a program for targeted beneficiaries that ensures that covered outpatient drugs are appropriately used to optimize therapeutic outcomes through improved medication use and to reduce the risk of adverse events.

"(B) ELEMENTS.—Such program may include the following elements:

"(i) The use of established principles and standards for drug utilization review and best practices to analyze prescription drug claims of targeted beneficiaries and identify outlier physicians.

"(ii) On an ongoing basis provide outlier physicians—

"(I) a comprehensive pharmacy claims history for each targeted beneficiary under their care;

"(II) information regarding the frequency and cost of relapses and hospitalizations of targeted beneficiaries under the physician's care; and

"(III) applicable best practice guidelines and empirical references.

"(iii) Monitor outlier physician's prescribing, such as failure to refill, dosage strengths, and provide incentives and information to encourage the adoption of best clinical practices.

"(C) TARGETED BENEFICIARIES.—For purposes of this paragraph, the term 'targeted beneficiaries' means Medicaid eligible beneficiaries who are identified as having high prescription drug costs and medical costs, such as

individuals with behavioral disorders or multiple chronic diseases who are taking multiple medications.".

**SEC. 6082. HEALTH OPPORTUNITY ACCOUNTS.**

Title XIX of the Social Security Act, as amended by sections 6035 and 6044, is amended—

(1) by redesignating section 1938 as section 1939; and 42 USC 1396v.

(2) by inserting after section 1937 the following new section:

"HEALTH OPPORTUNITY ACCOUNTS

"SEC. 1938. (a) AUTHORITY.— 42 USC 1396u–8.

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall establish a demonstration program under which States may provide under their State plans under this title (including such a plan operating under a statewide waiver under section 1115) in accordance with this section for the provision of alternative benefits consistent with subsection (c) for eligible population groups in one or more geographic areas of the State specified by the State. An amendment under the previous sentence is referred to in this section as a 'State demonstration program'.

"(2) INITIAL DEMONSTRATION.—

"(A) IN GENERAL.—The demonstration program under this section shall begin on January 1, 2007. During the first 5 years of such program, the Secretary shall not approve more than 10 States to conduct demonstration programs under this section, with each State demonstration program covering 1 or more geographic areas specified by the State. After such 5-year period— Effective date.

"(i) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that a State demonstration program previously implemented has been unsuccessful, such a demonstration program may be extended or made permanent in the State; and

"(ii) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that all State demonstration programs previously implemented were unsuccessful, other States may implement State demonstration programs.

"(B) GAO REPORT.—

"(i) IN GENERAL.—Not later than 3 months after the end of the 5-year period described in subparagraph (A), the Comptroller General of the United States shall submit a report to Congress evaluating the demonstration programs conducted under this section during such period.

"(ii) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Comptroller General of the United States, $550,000 for the period of fiscal years 2007 through 2010 to carry out clause (i).

"(3) APPROVAL.—The Secretary shall not approve a State demonstration program under paragraph (1) unless the program includes the following:

"(A) Creating patient awareness of the high cost of medical care.

"(B) Providing incentives to patients to seek preventive care services.

"(C) Reducing inappropriate use of health care services.

"(D) Enabling patients to take responsibility for health outcomes.

"(E) Providing enrollment counselors and ongoing education activities.

"(F) Providing transactions involving health opportunity accounts to be conducted electronically and without cash.

"(G) Providing access to negotiated provider payment rates consistent with this section.

Nothing in this section shall be construed as preventing a State demonstration program from providing incentives for patients obtaining appropriate preventive care (as defined for purposes of section 223(c)(2)(C) of the Internal Revenue Code of 1986), such as additional account contributions for an individual demonstrating healthy prevention practices.

"(4) NO REQUIREMENT FOR STATEWIDENESS.—Nothing in this section or any other provision of law shall be construed to require that a State must provide for the implementation of a State demonstration program on a Statewide basis.

"(b) ELIGIBLE POPULATION GROUPS.—

"(1) IN GENERAL.—A State demonstration program under this section shall specify the eligible population groups consistent with paragraphs (2) and (3).

"(2) ELIGIBILITY LIMITATIONS DURING INITIAL DEMONSTRATION PERIOD.—During the initial 5 years of the demonstration program under this section, a State demonstration program shall not apply to any of the following individuals:

"(A) Individuals who are 65 years of age or older.

"(B) Individuals who are disabled, regardless of whether or not their eligibility for medical assistance under this title is based on such disability.

"(C) Individuals who are eligible for medical assistance under this title only because they are (or were within the previous 60 days) pregnant.

"(D) Individuals who have been eligible for medical assistance for a continuous period of less than 3 months.

"(3) ADDITIONAL LIMITATIONS.—A State demonstration program shall not apply to any individual within a category of individuals described in section 1937(a)(2)(B).

"(4) LIMITATIONS.—

"(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

"(B) ON ENROLLEES IN MEDICAID MANAGED CARE ORGANIZATIONS.—Insofar as the State provides for eligibility of individuals who are enrolled in Medicaid managed care organizations, such individuals may participate in the State demonstration program only if the State provides assurances satisfactory to the Secretary that the following conditions are met with respect to any such organization:

"(i) In no case may the number of such individuals enrolled in the organization who participate in the

program exceed 5 percent of the total number of individuals enrolled in such organization.

"(ii) The proportion of enrollees in the organization who so participate is not significantly disproportionate to the proportion of such enrollees in other such organizations who participate.

"(iii) The State has provided for an appropriate adjustment in the per capita payments to the organization to account for such participation, taking into account differences in the likely use of health services between enrollees who so participate and enrollees who do not so participate.

"(5) VOLUNTARY PARTICIPATION.—An eligible individual shall be enrolled in a State demonstration program only if the individual voluntarily enrolls. Except in such hardship cases as the Secretary shall specify, such an enrollment shall be effective for a period of 12 months, but may be extended for additional periods of 12 months each with the consent of the individual.

"(6) 1-YEAR MORATORIUM FOR REENROLLMENT.—An eligible individual who, for any reason, is disenrolled from a State demonstration program conducted under this section shall not be permitted to reenroll in such program before the end of the 1-year period that begins on the effective date of such disenrollment.

"(c) ALTERNATIVE BENEFITS.—

"(1) IN GENERAL.—The alternative benefits provided under this section shall consist, consistent with this subsection, of at least—

"(A) coverage for medical expenses in a year for items and services for which benefits are otherwise provided under this title after an annual deductible described in paragraph (2) has been met; and

"(B) contribution into a health opportunity account. Nothing in subparagraph (A) shall be construed as preventing a State from providing for coverage of preventive care (referred to in subsection (a)(3)) within the alternative benefits without regard to the annual deductible.

"(2) ANNUAL DEDUCTIBLE.—The amount of the annual deductible described in paragraph (1)(A) shall be at least 100 percent, but no more than 110 percent, of the annualized amount of contributions to the health opportunity account under subsection (d)(2)(A)(i), determined without regard to any limitation described in subsection (d)(2)(C)(i)(II).

"(3) ACCESS TO NEGOTIATED PROVIDER PAYMENT RATES.—

"(A) FEE-FOR-SERVICE ENROLLEES.—In the case of an individual who is participating in a State demonstration program and who is not enrolled with a Medicaid managed care organization, the State shall provide that the individual may obtain demonstration program Medicaid services from—

"(i) any participating provider under this title at the same payment rates that would be applicable to such services if the deductible described in paragraph (1)(A) was not applicable; or

"(ii) any other provider at payment rates that do not exceed 125 percent of the payment rate that would

be applicable to such services furnished by a participating provider under this title if the deductible described in paragraph (1)(A) was not applicable.

"(B) TREATMENT UNDER MEDICAID MANAGED CARE PLANS.—In the case of an individual who is participating in a State demonstration program and is enrolled with a Medicaid managed care organization, the State shall enter into an arrangement with the organization under which the individual may obtain demonstration program Medicaid services from any provider described in clause (ii) of subparagraph (A) at payment rates that do not exceed the payment rates that may be imposed under that clause.

"(C) COMPUTATION.—The payment rates described in subparagraphs (A) and (B) shall be computed without regard to any cost sharing that would be otherwise applicable under sections 1916 and 1916A.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'demonstration program Medicaid services' means, with respect to an individual participating in a State demonstration program, services for which the individual would be provided medical assistance under this title but for the application of the deductible described in paragraph (1)(A).

"(ii) The term 'participating provider' means—

"(I) with respect to an individual described in subparagraph (A), a health care provider that has entered into a participation agreement with the State for the provision of services to individuals entitled to benefits under the State plan; or

"(II) with respect to an individual described in subparagraph (B) who is enrolled in a Medicaid managed care organization, a health care provider that has entered into an arrangement for the provision of services to enrollees of the organization under this title.

"(4) NO EFFECT ON SUBSEQUENT BENEFITS.—Except as provided under paragraphs (1) and (2), alternative benefits for an eligible individual shall consist of the benefits otherwise provided to the individual, including cost sharing relating to such benefits.

"(5) OVERRIDING COST SHARING AND COMPARABILITY REQUIREMENTS FOR ALTERNATIVE BENEFITS.—The provisions of this title relating to cost sharing for benefits (including sections 1916 and 1916A) shall not apply with respect to benefits to which the annual deductible under paragraph (1)(A) applies. The provisions of section 1902(a)(10)(B) (relating to comparability) shall not apply with respect to the provision of alternative benefits (as described in this subsection).

"(6) TREATMENT AS MEDICAL ASSISTANCE.—Subject to subparagraphs (D) and (E) of subsection (d)(2), payments for alternative benefits under this section (including contributions into a health opportunity account) shall be treated as medical assistance for purposes of section 1903(a).

"(7) USE OF TIERED DEDUCTIBLE AND COST SHARING.—

"(A) IN GENERAL.—A State—

"(i) may vary the amount of the annual deductible applied under paragraph (1)(A) based on the income of the family involved so long as it does not favor families with higher income over those with lower income; and

"(ii) may vary the amount of the maximum out-of-pocket cost sharing (as defined in subparagraph (B)) based on the income of the family involved so long as it does not favor families with higher income over those with lower income.

"(B) MAXIMUM OUT-OF-POCKET COST SHARING.—For purposes of subparagraph (A)(ii), the term 'maximum out-of-pocket cost sharing' means, for an individual or family, the amount by which the annual deductible level applied under paragraph (1)(A) to the individual or family exceeds the balance in the health opportunity account for the individual or family.

"(8) CONTRIBUTIONS BY EMPLOYERS.—Nothing in this section shall be construed as preventing an employer from providing health benefits coverage consisting of the coverage described in paragraph (1)(A) to individuals who are provided alternative benefits under this section.

"(d) HEALTH OPPORTUNITY ACCOUNT.—

"(1) IN GENERAL.—For purposes of this section, the term 'health opportunity account' means an account that meets the requirements of this subsection.

"(2) CONTRIBUTIONS.—

"(A) IN GENERAL.—No contribution may be made into a health opportunity account except—

"(i) contributions by the State under this title; and

"(ii) contributions by other persons and entities, such as charitable organizations, as permitted under section 1903(w).

"(B) STATE CONTRIBUTION.—A State shall specify the contribution amount that shall be deposited under subparagraph (A)(i) into a health opportunity account.

"(C) LIMITATION ON ANNUAL STATE CONTRIBUTION PROVIDED AND PERMITTING IMPOSITION OF MAXIMUM ACCOUNT BALANCE.—

"(i) IN GENERAL.—A State—

"(I) may impose limitations on the maximum contributions that may be deposited under subparagraph (A)(i) into a health opportunity account in a year;

"(II) may limit contributions into such an account once the balance in the account reaches a level specified by the State; and

"(III) subject to clauses (ii) and (iii) and subparagraph (D)(i), may not provide contributions described in subparagraph (A)(i) to a health opportunity account on behalf of an individual or family to the extent the amount of such contributions (including both State and Federal shares) exceeds, on an annual basis, $2,500 for each individual (or family member) who is an adult and $1,000

for each individual (or family member) who is a child.

"(ii) INDEXING OF DOLLAR LIMITATIONS.—For each year after 2006, the dollar amounts specified in clause (i)(III) shall be annually increased by the Secretary by a percentage that reflects the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

"(iii) BUDGET NEUTRAL ADJUSTMENT.—A State may provide for dollar limitations in excess of those specified in clause (i)(III) (as increased under clause (ii)) for specified individuals if the State provides assurances satisfactory to the Secretary that contributions otherwise made to other individuals will be reduced in a manner so as to provide for aggregate contributions that do not exceed the aggregate contributions that would otherwise be permitted under this subparagraph.

"(D) LIMITATIONS ON FEDERAL MATCHING.—

"(i) STATE CONTRIBUTION.—A State may contribute under subparagraph (A)(i) amounts to a health opportunity account in excess of the limitations provided under subparagraph (C)(i)(III), but no Federal financial participation shall be provided under section 1903(a) with respect to contributions in excess of such limitations.

"(ii) NO FFP FOR PRIVATE CONTRIBUTIONS.—No Federal financial participation shall be provided under section 1903(a) with respect to any contributions described in subparagraph (A)(ii) to a health opportunity account.

"(E) APPLICATION OF DIFFERENT MATCHING RATES.—The Secretary shall provide a method under which, for expenditures made from a health opportunity account for medical care for which the Federal matching rate under section 1903(a) exceeds the Federal medical assistance percentage, a State may obtain payment under such section at such higher matching rate for such expenditures.

"(3) USE.—

"(A) GENERAL USES.—

"(i) IN GENERAL.—Subject to the succeeding provisions of this paragraph, amounts in a health opportunity account may be used for payment of such health care expenditures as the State specifies.

"(ii) GENERAL LIMITATION.—Subject to subparagraph (B)(ii), in no case shall such account be used for payment for health care expenditures that are not payment of medical care (as defined by section 213(d) of the Internal Revenue Code of 1986).

"(iii) STATE RESTRICTIONS.—In applying clause (i), a State may restrict payment for—

"(I) providers of items and services to providers that are licensed or otherwise authorized under State law to provide the item or service and may deny payment for such a provider on the basis that the provider has been found, whether with respect to this title or any other health benefit

program, to have failed to meet quality standards or to have committed 1 or more acts of fraud or abuse; and

"(II) items and services insofar as the State finds they are not medically appropriate or necessary.

"(iv) ELECTRONIC WITHDRAWALS.—The State demonstration program shall provide for a method whereby withdrawals may be made from the account for such purposes using an electronic system and shall not permit withdrawals from the account in cash.

"(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, if an account holder of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

"(I) no additional contribution shall be made into the account under paragraph (2)(A)(i);

"(II) subject to clause (iii), the balance in the account shall be reduced by 25 percent; and

"(III) subject to the succeeding provisions of this subparagraph, the account shall remain available to the account holder for 3 years after the date on which the individual becomes ineligible for such benefits for withdrawals under the same terms and conditions as if the account holder remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (c)(6).

"(ii) SPECIAL RULES.—Withdrawals under this subparagraph from an account—

"(I) shall be available for the purchase of health insurance coverage; and

"(II) may, subject to clause (iv), be made available (at the option of the State) for such additional expenditures (such as job training and tuition expenses) specified by the State (and approved by the Secretary) as the State may specify.

"(iii) EXCEPTION FROM 25 PERCENT SAVINGS TO GOVERNMENT FOR PRIVATE CONTRIBUTIONS.—Clause (i)(II) shall not apply to the portion of the account that is attributable to contributions described in paragraph (2)(A)(ii). For purposes of accounting for such contributions, withdrawals from a health opportunity account shall first be attributed to contributions described in paragraph (2)(A)(i).

"(iv) CONDITION FOR NON-HEALTH WITHDRAWALS.—No withdrawal may be made from an account under clause (ii)(II) unless the account holder has participated in the program under this section for at least 1 year.

"(v) NO REQUIREMENT FOR CONTINUATION OF COVERAGE.—An account holder of a health opportunity account, after becoming ineligible for medical assistance under this title, is not required to purchase high-

deductible or other insurance as a condition of maintaining or using the account.

"(4) ADMINISTRATION.—A State may coordinate administration of health opportunity accounts through the use of a third party administrator and reasonable expenditures for the use of such administrator shall be reimbursable to the State in the same manner as other administrative expenditures under section 1903(a)(7).

"(5) TREATMENT.—Amounts in, or contributed to, a health opportunity account shall not be counted as income or assets for purposes of determining eligibility for benefits under this title.

"(6) UNAUTHORIZED WITHDRAWALS.—A State may establish procedures—

"(A) to penalize or remove an individual from the health opportunity account based on nonqualified withdrawals by the individual from such an account; and

"(B) to recoup costs that derive from such nonqualified withdrawals.".

**SEC. 6083. STATE OPTION TO ESTABLISH NON-EMERGENCY MEDICAL TRANSPORTATION PROGRAM.**

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 6033(a) and 6035(b), is amended—

(1) in paragraph (68), by striking "and" at the end;

(2) in paragraph (69) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (69) the following:

"(70) at the option of the State and notwithstanding paragraphs (1), (10)(B), and (23), provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation which—

"(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, secured transportation, and such other transportation as the Secretary determines appropriate; and

"(B) may be conducted under contract with a broker who—

"(i) is selected through a competitive bidding process based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs;

"(ii) has oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous;

"(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

"(iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions

on physician referrals under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

42 USC 1396a note.

**SEC. 6084. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.**

Effective as if enacted on December 31, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2007 at the level provided for such activities through the first quarter of fiscal year 2006.

Effective date.

**SEC. 6085. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLEES.**

(a) IN GENERAL.—Section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u–2(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS.—Any provider of emergency services that does not have in effect a contract with a Medicaid managed care entity that establishes payment amounts for services furnished to a beneficiary enrolled in the entity's Medicaid managed care plan must accept as payment in full no more than the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that it could collect if the beneficiary received medical assistance under this title other than through enrollment in such an entity. In a State where rates paid to hospitals under the State plan are negotiated by contract and not publicly released, the payment amount applicable under this subparagraph shall be the average contract rate that would apply under the State plan for general acute care hospitals or the average contract rate that would apply under such plan for tertiary hospitals.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2007.

42 USC 1396u–2 note.

**SEC. 6086. EXPANDED ACCESS TO HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY AND DISABLED.**

(a) HOME AND COMMUNITY-BASED SERVICES AS AN OPTIONAL BENEFIT FOR ELDERLY AND DISABLED INDIVIDUALS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

"(i) STATE PLAN AMENDMENT OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State may provide through a State plan amendment for the provision of medical assistance for home and community-based services (within the scope of services

described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and not including room and board or such other services requested by the State as the Secretary may approve) for individuals eligible for medical assistance under the State plan whose income does not exceed 150 percent of the poverty line (as defined in section 2110(c)(5)), without determining that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, but only if the State meets the following requirements:

"(A) NEEDS-BASED CRITERIA FOR ELIGIBILITY FOR, AND RECEIPT OF, HOME AND COMMUNITY-BASED SERVICES.—The State establishes needs-based criteria for determining an individual's eligibility under the State plan for medical assistance for such home and community-based services, and if the individual is eligible for such services, the specific home and community-based services that the individual will receive.

"(B) ESTABLISHMENT OF MORE STRINGENT NEEDS-BASED ELIGIBILITY CRITERIA FOR INSTITUTIONALIZED CARE.—The State establishes needs-based criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan that are more stringent than the needs-based criteria established under subparagraph (A) for determining eligibility for home and community-based services.

"(C) PROJECTION OF NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.—

"(i) IN GENERAL.—The State submits to the Secretary, in such form and manner, and upon such frequency as the Secretary shall specify, the projected number of individuals to be provided home and community-based services.

"(ii) AUTHORITY TO LIMIT NUMBER OF ELIGIBLE INDIVIDUALS.—A State may limit the number of individuals who are eligible for such services and may establish waiting lists for the receipt of such services.

"(D) CRITERIA BASED ON INDIVIDUAL ASSESSMENT.—

"(i) IN GENERAL.—The criteria established by the State for purposes of subparagraphs (A) and (B) requires an assessment of an individual's support needs and capabilities, and may take into account the inability of the individual to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities, and such other risk factors as the State determines to be appropriate.

"(ii) ADJUSTMENT AUTHORITY.—The State plan amendment provides the State with the option to modify the criteria established under subparagraph (A) (without having to obtain prior approval from the Secretary) in the event that the enrollment of individuals eligible for home and community-based services

exceeds the projected enrollment submitted for purposes of subparagraph (C), but only if—

"(I) the State provides at least 60 days notice to the Secretary and the public of the proposed modification; Notice.

"(II) the State deems an individual receiving home and community-based services on the basis of the most recent version of the criteria in effect prior to the effective date of the modification to be eligible for such services for a period of at least 12 months beginning on the date the individual first received medical assistance for such services; and

"(III) after the effective date of such modification, the State, at a minimum, applies the criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan which applied prior to the application of the more stringent criteria developed under subparagraph (B).

"(E) INDEPENDENT EVALUATION AND ASSESSMENT.—

"(i) ELIGIBILITY DETERMINATION.—The State uses an independent evaluation for making the determinations described in subparagraphs (A) and (B).

"(ii) ASSESSMENT.—In the case of an individual who is determined to be eligible for home and community-based services, the State uses an independent assessment, based on the needs of the individual to—

"(I) determine a necessary level of services and supports to be provided, consistent with an individual's physical and mental capacity;

"(II) prevent the provision of unnecessary or inappropriate care; and

"(III) establish an individualized care plan for the individual in accordance with subparagraph (G).

"(F) ASSESSMENT.—The independent assessment required under subparagraph (E)(ii) shall include the following:

"(i) An objective evaluation of an individual's inability to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities.

"(ii) A face-to-face evaluation of the individual by an individual trained in the assessment and evaluation of individuals whose physical or mental conditions trigger a potential need for home and community-based services.

"(iii) Where appropriate, consultation with the individual's family, spouse, guardian, or other responsible individual.

"(iv) Consultation with appropriate treating and consulting health and support professionals caring for the individual.

"(v) An examination of the individual's relevant history, medical records, and care and support needs, guided by best practices and research on effective strategies that result in improved health and quality of life outcomes.

"(vi) If the State offers individuals the option to self-direct the purchase of, or control the receipt of, home and community-based service, an evaluation of the ability of the individual or the individual's representative to self-direct the purchase of, or control the receipt of, such services if the individual so elects.

"(G) INDIVIDUALIZED CARE PLAN.—

"(i) IN GENERAL.—In the case of an individual who is determined to be eligible for home and community-based services, the State uses the independent assessment required under subparagraph (E)(ii) to establish a written individualized care plan for the individual.

"(ii) PLAN REQUIREMENTS.—The State ensures that the individualized care plan for an individual—

"(I) is developed—

"(aa) in consultation with the individual, the individual's treating physician, health care or support professional, or other appropriate individuals, as defined by the State, and, where appropriate the individual's family, caregiver, or representative; and

"(bb) taking into account the extent of, and need for, any family or other supports for the individual;

"(II) identifies the necessary home and community-based services to be furnished to the individual (or, if the individual elects to self-direct the purchase of, or control the receipt of, such services, funded for the individual); and

"(III) is reviewed at least annually and as needed when there is a significant change in the individual's circumstances.

"(iii) STATE OPTION TO OFFER ELECTION FOR SELF-DIRECTED SERVICES.—

"(I) INDIVIDUAL CHOICE.—At the option of the State, the State may allow an individual or the individual's representative to elect to receive self-directed home and community-based services in a manner which gives them the most control over such services consistent with the individual's abilities and the requirements of subclauses (II) and (III).

"(II) SELF-DIRECTED SERVICES.—The term 'self-directed' means, with respect to the home and community-based services offered under the State plan amendment, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State plan consistent with the following requirements:

"(aa) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

"(bb) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that satisfies the requirements of subclause (III).

"(III) PLAN REQUIREMENTS.—For purposes of subclause (II)(bb), the requirements of this subclause are that the plan—

"(aa) specifies those services which the individual or the individual's authorized representative would be responsible for directing;

"(bb) identifies the methods by which the individual or the individual's authorized representative will select, manage, and dismiss providers of such services;

"(cc) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

"(dd) is developed through a person-centered process that is directed by the individual or the individual's authorized representative, builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities, and involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

"(ee) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

"(ff) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

"(IV) BUDGET PROCESS.—With respect to individualized budgets described in subclause (III)(ff), the State plan amendment—

"(aa) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

"(bb) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

Procedure.

"(cc) provides a procedure to evaluate expenditures under such budgets.

"(H) QUALITY ASSURANCE; CONFLICT OF INTEREST STANDARDS.—

"(i) QUALITY ASSURANCE.—The State ensures that the provision of home and community-based services meets Federal and State guidelines for quality assurance.

"(ii) CONFLICT OF INTEREST STANDARDS.—The State establishes standards for the conduct of the independent evaluation and the independent assessment to safeguard against conflicts of interest.

"(I) REDETERMINATIONS AND APPEALS.—The State allows for at least annual redeterminations of eligibility, and appeals in accordance with the frequency of, and manner in which, redeterminations and appeals of eligibility are made under the State plan.

"(J) PRESUMPTIVE ELIGIBILITY FOR ASSESSMENT.—The State, at its option, elects to provide for a period of presumptive eligibility (not to exceed a period of 60 days) only for those individuals that the State has reason to believe may be eligible for home and community-based services. Such presumptive eligibility shall be limited to medical assistance for carrying out the independent evaluation and assessment under subparagraph (E) to determine an individual's eligibility for such services and if the individual is so eligible, the specific home and community-based services that the individual will receive.

"(2) DEFINITION OF INDIVIDUAL'S REPRESENTATIVE.—In this section, the term 'individual's representative' means, with respect to an individual, a parent, a family member, or a guardian of the individual, an advocate for the individual, or any other individual who is authorized to represent the individual.

"(3) NONAPPLICATION.—A State may elect in the State plan amendment approved under this section to not comply with the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community), but only for purposes of provided home and community-based services in accordance with such amendment. Any such election shall not be construed to apply to the provision of services to an individual receiving medical assistance in an institutionalized setting as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded.

"(4) NO EFFECT ON OTHER WAIVER AUTHORITY.—Nothing in this subsection shall be construed as affecting the option of a State to offer home and community-based services under a waiver under subsections (c) or (d) of this section or under section 1115.

"(5) CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION FOR MEDICAL ASSISTANCE PROVIDED TO INDIVIDUALS AS OF EFFECTIVE DATE OF STATE PLAN AMENDMENT.—Notwithstanding paragraph (1)(B), Federal financial participation shall continue to be available for an individual who is receiving medical assistance in an institutionalized setting, or home and community-

based services provided under a waiver under this section or section 1115 that is in effect as of the effective date of the State plan amendment submitted under this subsection, as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, without regard to whether such individuals satisfy the more stringent eligibility criteria established under that paragraph, until such time as the individual is discharged from the institution or waiver program or no longer requires such level of care.".

(b) QUALITY OF CARE MEASURES.— 42 USC 1396n note.

(1) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall consult with consumers, health and social service providers and other professionals knowledgeable about long-term care services and supports to develop program performance indicators, client function indicators, and measures of client satisfaction with respect to home and community-based services offered under State Medicaid programs.

(2) BEST PRACTICES.—The Secretary shall—

(A) use the indicators and measures developed under paragraph (1) to assess such home and community-based services, the outcomes associated with the receipt of such services (particularly with respect to the health and welfare of the recipient of the services), and the overall system for providing home and community-based services under the Medicaid program under title XIX of the Social Security Act; and

(B) make publicly available the best practices identified through such assessment and a comparative analyses of the system features of each State. Public information.

(3) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out this subsection.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on January 1, 2007, and apply to expenditures for medical assistance for home and community-based services provided in accordance with section 1915(i) of the Social Security Act (as added by subsections (a) and (b)) on or after that date. 42 USC 1396n note.

**SEC. 6087. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL ASSISTANCE SERVICES (CASH AND COUNSELING).**

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n), as amended by section 6086(a), is amended by adding at the end the following new subsection:

"(j)(1) A State may provide, as 'medical assistance', payment for part or all of the cost of self-directed personal assistance services (other than room and board) under the plan which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under the plan, or home and community-based services provided pursuant to a waiver under subsection (c). Self-directed personal assistance services may not be provided under this subsection to individuals who reside in a home or property that is

owned, operated, or controlled by a provider of services, not related by blood or marriage.

"(2) The Secretary shall not grant approval for a State self-directed personal assistance services program under this section unless the State provides assurances satisfactory to the Secretary of the following:

"(A) Necessary safeguards have been taken to protect the health and welfare of individuals provided services under the program, and to assure financial accountability for funds expended with respect to such services.

"(B) The State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for personal care services under the plan, or receive home and community-based services under a waiver granted under subsection (c);

"(ii) may require self-directed personal assistance services; and

"(iii) may be eligible for self-directed personal assistance services,

an evaluation of the need for personal care under the plan, or personal services under a waiver granted under subsection (c).

"(C) Such individuals who are determined to be likely to require personal care under the plan, or home and community-based services under a waiver granted under subsection (c) are informed of the feasible alternatives, if available under the State's self-directed personal assistance services program, at the choice of such individuals, to the provision of personal care services under the plan, or personal assistance services under a waiver granted under subsection (c).

"(D) The State will provide for a support system that ensures participants in the self-directed personal assistance services program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

Reports.

Deadline.

"(E) The State will provide to the Secretary an annual report on the number of individuals served and total expenditures on their behalf in the aggregate. The State shall also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

"(3) A State may provide self-directed personal assistance services under the State plan without regard to the requirements of section 1902(a)(1) and may limit the population eligible to receive these services and limit the number of persons served without regard to section 1902(a)(10)(B).

"(4)(A) For purposes of this subsection, the term 'self-directed personal assistance services' means personal care and related services, or home and community-based services otherwise available under the plan under this title or subsection (c), that are provided to an eligible participant under a self-directed personal assistance services program under this section, under which individuals, within an approved self-directed services plan and budget, purchase personal assistance and related services, and permits participants to

hire, fire, supervise, and manage the individuals providing such services.

"(B) At the election of the State—

"(i) a participant may choose to use any individual capable of providing the assigned tasks including legally liable relatives as paid providers of the services; and

"(ii) the individual may use the individual's budget to acquire items that increase independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

"(5) For purpose of this section, the term 'approved self-directed services plan and budget' means, with respect to a participant, the establishment of a plan and budget for the provision of self-directed personal assistance services, consistent with the following requirements:

"(A) SELF-DIRECTION.—The participant (or in the case of a participant who is a minor child, the participant's parent or guardian, or in the case of an incapacitated adult, another individual recognized by State law to act on behalf of the participant) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider, and location of service provision.

"(B) ASSESSMENT OF NEEDS.—There is an assessment of the needs, strengths, and preferences of the participants for such services.

"(C) SERVICE PLAN.—A plan for such services (and supports for such services) for the participant has been developed and approved by the State based on such assessment through a person-centered process that—

"(i) builds upon the participant's capacity to engage in activities that promote community life and that respects the participant's preferences, choices, and abilities; and

"(ii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the participant.

"(D) SERVICE BUDGET.—A budget for such services and supports for the participant has been developed and approved by the State based on such assessment and plan and on a methodology that uses valid, reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

"(E) APPLICATION OF QUALITY ASSURANCE AND RISK MANAGEMENT.—There are appropriate quality assurance and risk management techniques used in establishing and implementing such plan and budget that recognize the roles and responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan and budget based upon the participant's resources and capabilities.

"(6) A State may employ a financial management entity to make payments to providers, track costs, and make reports under the program. Payment for the activities of the financial management

entity shall be at the administrative rate established in section 1903(a).".

42 USC 1396n note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2007.

# Subtitle B—SCHIP

**SEC. 6101. ADDITIONAL ALLOTMENTS TO ELIMINATE FISCAL YEAR 2006 FUNDING SHORTFALLS.**

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

"(d) ADDITIONAL ALLOTMENTS TO ELIMINATE FUNDING SHORTFALLS.—

"(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments to shortfall States described in paragraph (2), there is appropriated, out of any money in the Treasury not otherwise appropriated, $283,000,000 for fiscal year 2006.

"(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (1), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of December 16, 2005, that the projected expenditures under such plan for such State for fiscal year 2006 will exceed the sum of—

"(A) the amount of the State's allotments for each of fiscal years 2004 and 2005 that will not be expended by the end of fiscal year 2005;

"(B) the amount, if any, that is to be redistributed to the State during fiscal year 2006 in accordance with subsection (f); and

"(C) the amount of the State's allotment for fiscal year 2006.

"(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2006, the Secretary shall allot—

"(A) to each shortfall State described in paragraph (2) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

"(B) to each commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the amount appropriated under paragraph (1).

"(4) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children.

"(5) 1-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to

this subsection for fiscal year 2006 shall only remain available for expenditure by the State through September 30, 2006. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f) and shall revert to the Treasury on October 1, 2006.".

(b) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by inserting "subject to subsection (d)," after "under this section,";

(2) in subsection (b)(1), by inserting "and subsection (d)" after "Subject to paragraph (4)"; and

(3) in subsection (c)(1), by inserting "subject to subsection (d)," after "for a fiscal year,".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after October 1, 2005, without regard to whether or not regulations implementing such amendments have been issued.

42 USC 1397dd note.

**SEC. 6102. PROHIBITION AGAINST COVERING NONPREGNANT CHILDLESS ADULTS WITH SCHIP FUNDS.**

(a) PROHIBITION ON USE OF SCHIP FUNDS.—Section 2107 of the Social Security Act (42 U.S.C. 1397gg) is amended by adding at the end the following:

"(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) of such Act (42 U.S.C. 1397ee(c)(1)) is amended—

(1) by inserting "and may not include coverage of a nonpregnant childless adult" after "section 2101)"; and

(2) by adding at the end the following: "For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(c) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to—

42 USC 1397gg note.

(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act;

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et. seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or

(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is

approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment.

42 USC 1397gg note.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as if enacted on October 1, 2005, and shall apply to any waiver, experimental, pilot, or demonstration project that is approved on or after that date.

**SEC. 6103. CONTINUED AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.**

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking "or 2001" and inserting "2001, 2004, or 2005".

42 USC 1397ee note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after October 1, 2005.

# Subtitle C—Katrina Relief

**SEC. 6201. ADDITIONAL FEDERAL PAYMENTS UNDER HURRICANE-RELATED MULTI-STATE SECTION 1115 DEMONSTRATIONS.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall pay to each eligible State, from amounts appropriated pursuant to subsection (e), amounts for the following purposes:

(1) Under the authority of an approved Multi-State Section 1115 Demonstration Project (in this section referred to as a "section 1115 project")—

(A) with respect to evacuees receiving health care under such project, for the non-Federal share of expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act;

(B) with respect to evacuees who do not have other coverage for such assistance through insurance, including (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those evacuees receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved plan under title XIX or title XXI of the Social Security Act;

(C) with respect to affected individuals receiving health care under such project for the non-Federal share of the following expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act; and

(D) with respect to affected individuals who do not have other coverage for such assistance through insurance, including (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved plan under title XIX or title XXI of the Social Security Act.

(2) For reimbursement of the reasonable administrative costs related to subparagraphs (A) through (D) of paragraph (1) as determined by the Secretary.

(3) Only with respect to affected counties or parishes, for reimbursement with respect to individuals receiving medical assistance under existing State plans approved by the Secretary of Health and Human Services for the following non-Federal share of expenditures:

(A) For medical assistance furnished under title XIX of the Social Security Act.

(B) For child health assistance furnished under title XXI of such Act.

(4) For other purposes, if approved by the Secretary under the Secretary's authority, to restore access to health care in impacted communities.

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

(1) The term "affected individual" means an individual who resided in an individual assistance designation county or parish pursuant to section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as declared by the President as a result of Hurricane Katrina and continues to reside in the same State that such county or parish is located in.

(2) The term "affected counties or parishes" means a county or parish described in paragraph (1).

(3) The term "evacuee" means an affected individual who has been displaced to another State.

(4) The term "eligible State" means a State that has provided care to affected individuals or evacuees under a section 1115 project.

(c) APPLICATION TO MATCHING REQUIREMENTS.—The non-Federal share paid under this section shall not be regarded as Federal funds for purposes of Medicaid matching requirements, the effect of which is to provide fiscal relief to the State in which the Medicaid eligible individual originally resided.

(d) TIME LIMITS ON PAYMENTS.—

(1) No payments shall be made by the Secretary under subsection (a)(1)(A) or (a)(1)(C), for costs of health care provided to an eligible evacuee or affected individual for services for such individual incurred after June 30, 2006.

(2) No payments shall be made by the Secretary under subsection (a)(1)(B) or (a)(1)(D) for costs of health care incurred after January 31, 2006.

(3) No payments may be made under subsection (a)(1)(B) or (a)(1)(D) for an item or service that an evacuee or an affected individual has received from an individual or organization as part of a public or private hurricane relief effort.

(e) APPROPRIATIONS.—For the purpose of providing funds for payments under this section, in addition to any funds made available for the National Disaster Medical System under the Department of Homeland Security for health care costs related to Hurricane Katrina, including under a section 1115 project, there is appropriated out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available to the Secretary until expended. The total amount of payments made under subsection (a) may not exceed the total amount appropriated under this subsection.

**SEC. 6202. STATE HIGH RISK HEALTH INSURANCE POOL FUNDING.**

Appropriation authorization.

(a) IN GENERAL.—There are hereby authorized and appropriated for fiscal year 2006—

(1) $75,000,000 for grants under subsection (b)(1) of section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45); and

(2) $15,000,000 for grants under subsection (a) of such section.

(b) TREATMENT.—The amount appropriated under—

(1) paragraph (1) shall be treated as if it had been appropriated under subsection (c)(2) of such section; and

(2) paragraph (2) shall be treated as if it had been appropriated under subsection (c)(1) of such section.

Effective date. Applicability.

(c) REFERENCES.—Effective upon the enactment of the State High Risk Pool Funding Extension Act of 2005—

(1) subsection (a)(1) shall be applied by substituting "subsections (b)(2) and (c)(3)" for "subsection "(b)(1)";

(2) subsection (b)(1) shall be applied by substituting "(d)(1)(B)" for "(c)(2)"; and

(3) subsection (b)(2) shall be applied by substituting "(d)(1)(A)" for "(c)(1)".

**SEC. 6203. IMPLEMENTATION FUNDING.**

For purposes of implementing the provisions of, and amendments made by, title V of this Act and this title—

(1) the Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of $30,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2006; and

(2) out of any funds in the Treasury not otherwise appropriated, there are appropriated to such Secretary for the Centers for Medicare & Medicaid Services Program Management Account, $30,000,000 for fiscal year 2006.

# TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

**SEC. 7001. REFERENCES.**

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Social Security Act.

## Subtitle A—TANF

**SEC. 7101. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND RELATED PROGRAMS FUNDING THROUGH SEPTEMBER 30, 2010.**

(a) IN GENERAL.—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (adjusted, as applicable, by or under this subtitle, the amendments made by this subtitle, and the TANF Emergency Response and Recovery Act of 2005) shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such activities for the corresponding quarter of fiscal year 2004 (or, as applicable, at such greater level as may result from the application of this subtitle, the amendments made by this subtitle, and the TANF Emergency Response and Recovery Act of 2005), except that in the case of section 403(a)(3) of the Social Security Act, grants and payments may be made pursuant to this authority only through fiscal year 2008 and in the case of section 403(a)(4) of the Social Security Act, no grants shall be made for any fiscal year occurring after fiscal year 2005.

(b) CONFORMING AMENDMENTS.—Part A of title IV (42 U.S.C. 601 et seq.) is amended—

(1) in section 403(a)(3)(H)(ii), by striking "December, 31, 2005" and inserting "fiscal year 2008"; 42 USC 603.

(2) in section 403(b)(3)(C)(ii), by striking "2006" and inserting "2010"; and

(3) in section 409(a)(7)— 42 USC 609.

(A) in subparagraph (A), by striking "or 2007" and inserting "2007, 2008, 2009, 2010, or 2011"; and

(B) in subparagraph (B)(ii), by striking "2006" and inserting "2010".

(c) EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE THROUGH SEPTEMBER 30, 2010.—Activities authorized by section 429A of the Social Security Act shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such activities for the corresponding quarter of fiscal year 2004.

**SEC. 7102. IMPROVED CALCULATION OF WORK PARTICIPATION RATES AND PROGRAM INTEGRITY.**

(a) RECALIBRATION OF CASELOAD REDUCTION CREDIT.—

(1) IN GENERAL.—Section 407(b)(3)(A) (42 U.S.C. 607(b)(3)(A)) is amended—

(A) in clause (i), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part"; and

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

"(ii) the average monthly number of families that received assistance under any State program referred to in clause (i) during fiscal year 2005.".

(2) CONFORMING AMENDMENT.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking "and eligibility criteria" and all that follows through the close parenthesis and inserting "and the eligibility criteria in effect during fiscal year 2005".

(b) INCLUSION OF FAMILIES RECEIVING ASSISTANCE UNDER SEPARATE STATE PROGRAMS IN CALCULATION OF PARTICIPATION RATES.—

(1) Section 407 (42 U.S.C. 607) is amended in each of subsections (a)(1), (a)(2), (b)(1)(B)(i), (c)(2)(A)(i), (e)(1), and (e)(2), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(2) Section 411(a)(1) (42 U.S.C. 611(a)(1)) is amended—

(A) in subparagraph (A), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" before the colon; and

(B) in subparagraph (B)(ii), by inserting "and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(c) IMPROVED VERIFICATION AND OVERSIGHT OF WORK PARTICIPATION.—

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

"(i) VERIFICATION OF WORK AND WORK-ELIGIBLE INDIVIDUALS IN ORDER TO IMPLEMENT REFORMS.—

"(1) SECRETARIAL DIRECTION AND OVERSIGHT.—

"(A) REGULATIONS FOR DETERMINING WHETHER ACTIVITIES MAY BE COUNTED AS 'WORK ACTIVITIES', HOW TO COUNT AND VERIFY REPORTED HOURS OF WORK, AND DETERMINING WHO IS A WORK-ELIGIBLE INDIVIDUAL.—

Deadline.

"(i) IN GENERAL.—Not later than June 30, 2006, the Secretary shall promulgate regulations to ensure consistent measurement of work participation rates under State programs funded under this part and State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), which shall include information with respect to—

"(I) determining whether an activity of a recipient of assistance may be treated as a work activity under subsection (d);

"(II) uniform methods for reporting hours of work by a recipient of assistance;

"(III) the type of documentation needed to verify reported hours of work by a recipient of assistance; and

"(IV) the circumstances under which a parent who resides with a child who is a recipient of assistance should be included in the work participation rates.

"(ii) ISSUANCE OF REGULATIONS ON AN INTERIM FINAL BASIS.—The regulations referred to in clause (i) may be effective and final immediately on an interim basis as of the date of publication of the regulations. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comment on the regulation after the date of publication. The Secretary may change or revise the regulation after the public comment period.

Public comment.

"(B) OVERSIGHT OF STATE PROCEDURES.—The Secretary shall review the State procedures established in accordance with paragraph (2) to ensure that such procedures are consistent with the regulations promulgated under subparagraph (A) and are adequate to ensure an accurate measurement of work participation under the State programs funded under this part and any other State programs funded with qualified State expenditures (as so defined).

"(2) REQUIREMENT FOR STATES TO ESTABLISH AND MAINTAIN WORK PARTICIPATION VERIFICATION PROCEDURES.—Not later than September 30, 2006, a State to which a grant is made under section 403 shall establish procedures for determining, with respect to recipients of assistance under the State program funded under this part or under any State programs funded with qualified State expenditures (as so defined), whether activities may be counted as work activities, how to count and verify reported hours of work, and who is a work-eligible individual, in accordance with the regulations promulgated pursuant to paragraph (1)(A)(i) and shall establish internal controls to ensure compliance with the procedures.".

Deadline.

(2) STATE PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(15) PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(i)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2006.

42 USC 607 note.

**SEC. 7103. GRANTS FOR HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD.**

(a) HEALTHY MARRIAGE AND FAMILY FUNDS.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

"(2) HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.—

"(A) IN GENERAL.—

"(i) USE OF FUNDS.—Subject to subparagraphs (B) and (C), the Secretary may use the funds made available under subparagraph (D) for the purpose of conducting and supporting research and demonstration projects by public or private entities, and providing technical assistance to States, Indian tribes and tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under another provision of this part.

"(ii) LIMITATIONS.—The Secretary may not award funds made available under this paragraph on a non-competitive basis, and may not provide any such funds to an entity for the purpose of carrying out healthy marriage promotion activities or for the purpose of carrying out activities promoting responsible fatherhood unless the entity has submitted to the Secretary an application which—

"(I) describes—

"(aa) how the programs or activities proposed in the application will address, as appropriate, issues of domestic violence; and

"(bb) what the applicant will do, to the extent relevant, to ensure that participation in the programs or activities is voluntary, and to inform potential participants that their participation is voluntary; and

"(II) contains a commitment by the entity—

"(aa) to not use the funds for any other purpose; and

"(bb) to consult with experts in domestic violence or relevant community domestic violence coalitions in developing the programs and activities.

"(iii) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—In clause (ii), the term 'healthy marriage promotion activities' means the following:

"(I) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

"(II) Education in high schools on the value of marriage, relationship skills, and budgeting.

"(III) Marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women and non-married expectant fathers.

"(IV) Pre-marital education and marriage skills training for engaged couples and for couples or individuals interested in marriage.

"(V) Marriage enhancement and marriage skills training programs for married couples.

"(VI) Divorce reduction programs that teach relationship skills.

"(VII) Marriage mentoring programs which use married couples as role models and mentors in at-risk communities.

"(VIII) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

"(B) LIMITATION ON USE OF FUNDS FOR DEMONSTRATION PROJECTS FOR COORDINATION OF PROVISION OF CHILD WELFARE AND TANF SERVICES TO TRIBAL FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $2,000,000 on a competitive basis to fund demonstration projects designed to test the effectiveness of tribal governments or tribal consortia in coordinating the provision to tribal families at risk of child abuse or neglect of child welfare services and services under tribal programs funded under this part.

"(ii) LIMITATION ON USE OF FUNDS.—A grant made pursuant to clause (i) to such a project shall not be used for any purpose other than—

"(I) to improve case management for families eligible for assistance from such a tribal program;

"(II) for supportive services and assistance to tribal children in out-of-home placements and the tribal families caring for such children, including families who adopt such children; and

"(III) for prevention services and assistance to tribal families at risk of child abuse and neglect.

"(iii) REPORTS.—The Secretary may require a recipient of funds awarded under this subparagraph to provide the Secretary with such information as the Secretary deems relevant to enable the Secretary to facilitate and oversee the administration of any project for which funds are provided under this subparagraph.

"(C) LIMITATION ON USE OF FUNDS FOR ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $50,000,000 on a competitive basis to States, territories, Indian tribes and tribal organizations, and public and nonprofit community entities, including religious organizations, for activities promoting responsible fatherhood.

"(ii) ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—In this paragraph, the term 'activities promoting responsible fatherhood' means the following:

"(I) Activities to promote marriage or sustain marriage through activities such as counseling, mentoring, disseminating information about the benefits of marriage and 2-parent involvement for

children, enhancing relationship skills, education regarding how to control aggressive behavior, disseminating information on the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, marital inventories, skills-based marriage education, financial planning seminars, including improving a family's ability to effectively manage family business affairs by means such as education, counseling, or mentoring on matters related to family finances, including household management, budgeting, banking, and handling of financial transactions and home maintenance, and divorce education and reduction programs, including mediation and counseling.

"(II) Activities to promote responsible parenting through activities such as counseling, mentoring, and mediation, disseminating information about good parenting practices, skills-based parenting education, encouraging child support payments, and other methods.

"(III) Activities to foster economic stability by helping fathers improve their economic status by providing activities such as work first services, job search, job training, subsidized employment, job retention, job enhancement, and encouraging education, including career-advancing education, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods.

"(IV) Activities to promote responsible fatherhood that are conducted through a contract with a nationally recognized, nonprofit fatherhood promotion organization, such as the development, promotion, and distribution of a media campaign to encourage the appropriate involvement of parents in the life of any child and specifically the issue of responsible fatherhood, and the development of a national clearinghouse to assist States and communities in efforts to promote and support marriage and responsible fatherhood.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $150,000,000 for each of fiscal years 2006 through 2010, for expenditure in accordance with this paragraph.".

(b) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

"(V) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term 'qualified State expenditures' includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).".

# Subtitle B—Child Care

**SEC. 7201. ENTITLEMENT FUNDING.**

Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

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

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $2,917,000,000 for each of fiscal years 2006 through 2010.".

# Subtitle C—Child Support

**SEC. 7301. ASSIGNMENT AND DISTRIBUTION OF CHILD SUPPORT.**

(a) MODIFICATION OF RULE REQUIRING ASSIGNMENT OF SUPPORT RIGHTS AS A CONDITION OF RECEIVING TANF.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended to read as follows:

"(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—A State to which a grant is made under section 403 shall require, as a condition of paying assistance to a family under the State program funded under this part, that a member of the family assign to the State any right the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so paid to the family, which accrues during the period that the family receives assistance under the program.".

(b) INCREASING CHILD SUPPORT PAYMENTS TO FAMILIES AND SIMPLIFYING CHILD SUPPORT DISTRIBUTION RULES.—

(1) DISTRIBUTION RULES.—

(A) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended to read as follows:

"(a) IN GENERAL.—Subject to subsections (d) and (e), the amounts collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) pay to the Federal Government the Federal share of the amount collected, subject to paragraph (3)(A);

"(B) retain, or pay to the family, the State share of the amount collected, subject to paragraph (3)(B); and

"(C) pay to the family any remaining amount.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT.—To the extent that the amount collected does not exceed the current support amount, the State shall pay the amount to the family.

"(B) ARREARAGES.—Except as otherwise provided in an election made under section 454(34), to the extent that the amount collected exceeds the current support amount, the State—

"(i) shall first pay to the family the excess amount, to the extent necessary to satisfy support arrearages not assigned pursuant to section 408(a)(3);

"(ii) if the amount collected exceeds the amount required to be paid to the family under clause (i), shall—

"(I) pay to the Federal Government the Federal share of the excess amount described in this clause, subject to paragraph (3)(A); and

"(II) retain, or pay to the family, the State share of the excess amount described in this clause, subject to paragraph (3)(B); and

"(iii) shall pay to the family any remaining amount.

"(3) LIMITATIONS.—

"(A) FEDERAL REIMBURSEMENTS.—The total of the amounts paid by the State to the Federal Government under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the Federal share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(B) STATE REIMBURSEMENTS.—The total of the amounts retained by the State under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the State share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(4) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).

"(5) FAMILIES UNDER CERTAIN AGREEMENTS.—Notwithstanding paragraphs (1) through (3), in the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), the State shall distribute the amount collected pursuant to the terms of the agreement.".

(B) STATE OPTION TO PASS THROUGH ADDITIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICIPATION BEGINNING WITH FISCAL YEAR 2009.—

(i) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

"(7) STATE OPTION TO PASS THROUGH ADDITIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICIPATION.—

"(A) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—Notwithstanding paragraph (2), a State shall not be required to pay to the Federal Government the Federal share of an amount collected on behalf of a family that formerly received assistance from the State to the extent that the State pays the amount to the family.

"(B) FAMILIES THAT CURRENTLY RECEIVE ASSISTANCE.—

"(i) IN GENERAL.—Notwithstanding paragraph (1), in the case of a family that receives assistance from the State, a State shall not be required to pay to the Federal Government the Federal share of the excepted portion (as defined in clause (ii)) of any amount collected on behalf of such family during a month to the extent that—

"(I) the State pays the excepted portion to the family; and

"(II) the excepted portion is disregarded in determining the amount and type of assistance provided to the family under such program.

"(ii) EXCEPTED PORTION DEFINED.—For purposes of this subparagraph, the term "excepted portion" means that portion of the amount collected on behalf of a family during a month that does not exceed $100 per month, or in the case of a family that includes 2 or more children, that does not exceed an amount established by the State that is not more than $200 per month.".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect on October 1, 2008. 42 USC 657 note.

(iii) REDESIGNATION.—Effective October 1, 2009, paragraph (7) of section 457(a) of the Social Security Act (as added by clause (i)) is redesignated as paragraph (6).

(C) STATE PLAN TO INCLUDE ELECTION AS TO WHICH RULES TO APPLY IN DISTRIBUTING CHILD SUPPORT ARREARAGES COLLECTED ON BEHALF OF FAMILIES FORMERLY RECEIVING ASSISTANCE.—Section 454 (42 U.S.C. 654) is amended—

(i) by striking "and" at the end of paragraph (32);

(ii) by striking the period at the end of paragraph (33) and inserting "; and"; and

(iii) by inserting after paragraph (33) the following:

"(34) include an election by the State to apply section 457(a)(2)(B) of this Act or former section 457(a)(2)(B) of this Act (as in effect for the State immediately before the date this paragraph first applies to the State) to the distribution of the amounts which are the subject of such sections and, for so long as the State elects to so apply such former section, the amendments made by subsection (b)(1) of section 7301 of the Deficit Reduction Act of 2005 shall not apply with respect to the State, notwithstanding subsection (e) of such section 7301.".

(2) CURRENT SUPPORT AMOUNT DEFINED.—Section 457(c) (42 U.S.C. 657(c)) is amended by adding at the end the following:

"(5) CURRENT SUPPORT AMOUNT.—The term 'current support amount' means, with respect to amounts collected as support on behalf of a family, the amount designated as the monthly support obligation of the noncustodial parent in the order requiring the support or calculated by the State based on the order.".

(c) STATE OPTION TO DISCONTINUE OLDER SUPPORT ASSIGNMENTS.—Section 457(b) (42 U.S.C. 657(b)) is amended to read as follows:

"(b) CONTINUATION OF ASSIGNMENTS.—

"(1) STATE OPTION TO DISCONTINUE PRE-1997 SUPPORT ASSIGNMENTS.—

"(A) IN GENERAL.—Any rights to support obligations assigned to a State as a condition of receiving assistance from the State under part A and in effect on September 30, 1997 (or such earlier date on or after August 22, 1996, as the State may choose), may remain assigned after such date.

"(B) DISTRIBUTION OF AMOUNTS AFTER ASSIGNMENT DISCONTINUATION.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).

"(2) STATE OPTION TO DISCONTINUE POST-1997 ASSIGNMENTS.—

"(A) IN GENERAL.—Any rights to support obligations accruing before the date on which a family first receives assistance under part A that are assigned to a State under that part and in effect before the implementation date of this section may remain assigned after such date.

"(B) DISTRIBUTION OF AMOUNTS AFTER ASSIGNMENT DISCONTINUATION.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).".

(d) CONFORMING AMENDMENTS.—Section 6402(c) of the Internal Revenue Code of 1986 (relating to offset of past-due support against overpayments) is amended—

26 USC 6402.

(1) in the first sentence, by striking "the Social Security Act." and inserting "of such Act."; and

(2) by striking the third sentence and inserting the following: "The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law.".

42 USC 608 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by the preceding provisions of this section shall take effect on October 1, 2009, and shall apply to payments under parts A and D of title IV of the Social Security Act for calendar quarters beginning on or after such date, and without regard to whether regulations to implement the amendments (in the case of State programs operated under such part D) are promulgated by such date.

(2) STATE OPTION TO ACCELERATE EFFECTIVE DATE.—Notwithstanding paragraph (1), a State may elect to have the amendments made by the preceding provisions of this section apply to the State and to amounts collected by the State (and the payments under parts A and D), on and after such date as the State may select that is not earlier than October 1, 2008, and not later than September 30, 2009.

(f) USE OF TAX REFUND INTERCEPT PROGRAM TO COLLECT PAST-DUE CHILD SUPPORT ON BEHALF OF CHILDREN WHO ARE NOT MINORS.—

(1) IN GENERAL.—Section 464 (42 U.S.C. 664) is amended—

(A) in subsection (a)(2)(A), by striking "(as that term is defined for purposes of this paragraph under subsection (c))"; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "(1) Except as provided in paragraph (2), as used in" and inserting "In"; and

(II) by inserting "(whether or not a minor)" after "a child" each place it appears; and

(ii) by striking paragraphs (2) and (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 2007. 42 USC 664 note.

(g) STATE OPTION TO USE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM FOR INTERSTATE CASES.—Section 466(a)(14)(A)(iii) (42 U.S.C. 666(a)(14)(A)(iii)) is amended by inserting before the semicolon the following: "(but the assisting State may establish a corresponding case based on such other State's request for assistance)".

**SEC. 7302. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR FAMILIES RECEIVING TANF.**

(a) IN GENERAL.—Section 466(a)(10)(A)(i) (42 U.S.C. 666(a)(10)(A)(i)) is amended—

(1) by striking "parent, or," and inserting "parent or"; and

(2) by striking "upon the request of the State agency under the State plan or of either parent,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007. 42 USC 666 note.

**SEC. 7303. DECREASE IN AMOUNT OF CHILD SUPPORT ARREARAGE TRIGGERING PASSPORT DENIAL.**

(a) IN GENERAL.—Section 452(k)(1) (42 U.S.C. 652(k)(1)) is amended by striking "$5,000" and inserting "$2,500".

(b) CONFORMING AMENDMENT.—Section 454(31) (42 U.S.C. 654(31)) is amended by striking "$5,000" and inserting "$2,500".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006. 42 USC 652 note.

**SEC. 7304. MAINTENANCE OF TECHNICAL ASSISTANCE FUNDING.**

Section 452(j) (42 U.S.C. 652(j)) is amended by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available".

**SEC. 7305. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.**

Section 453(o) (42 U.S.C. 653(o)) is amended—

(1) in the first sentence, by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available"; and

(2) in the second sentence, by striking "for each of fiscal years 1997 through 2001".

**SEC. 7306. INFORMATION COMPARISONS WITH INSURANCE DATA.**

(a) DUTIES OF THE SECRETARY.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(l) COMPARISONS WITH INSURANCE INFORMATION.—

"(1) IN GENERAL.—The Secretary, through the Federal Parent Locator Service, may—

"(A) compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments; and

"(B) furnish information resulting from the data matches to the State agencies responsible for collecting child support from the individuals.

"(2) LIABILITY.—An insurer (including any agent of an insurer) shall not be liable under any Federal or State law to any person for any disclosure provided for under this subsection, or for any other action taken in good faith in accordance with this subsection.".

(b) STATE REIMBURSEMENT OF FEDERAL COSTS.—Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by inserting "or section 452(l)" after "pursuant to this section".

**SEC. 7307. REQUIREMENT THAT STATE CHILD SUPPORT ENFORCEMENT AGENCIES SEEK MEDICAL SUPPORT FOR CHILDREN FROM EITHER PARENT.**

(a) STATE AGENCIES REQUIRED TO SEEK MEDICAL SUPPORT FROM EITHER PARENT.—

(1) IN GENERAL.—Section 466(a)(19)(A) (42 U.S.C. 666(a)(19)(A)) is amended by striking "which include a provision for the health care coverage of the child are enforced" and inserting "shall include a provision for medical support for the child to be provided by either or both parents, and shall be enforced".

(2) CONFORMING AMENDMENTS.—

(A) TITLE IV–D.—

(i) Section 452(f) (42 U.S.C. 652(f)) is amended by striking "include medical support as part of any child support order and enforce medical support" and inserting "enforce medical support included as part of a child support order".

(ii) Section 466(a)(19) (42 U.S.C. 666(a)(19)), as amended by paragraph (1) of this subsection, is amended—

(I) in subparagraph (A)—

(aa) by striking "section 401(e)(3)(C)" and inserting "section 401(e)"; and

(bb) by striking "section 401(f)(5)(C)" and inserting "section 401(f)";

(II) in subparagraph (B)—

(aa) by striking "noncustodial" each place it appears; and

(bb) in clause (iii), by striking "section 466(b)" and inserting "subsection (b)"; and

(III) in subparagraph (C), by striking "noncustodial" each place it appears and inserting "obligated".

(B) STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLANS.—Section 401(e)(2) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended, in the matter preceding subparagraph (A), by striking "who is a noncustodial parent of the child".

(C) CHURCH PLANS.—Section 401(f)(5)(C) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended by striking "noncustodial" each place it appears.

(b) ENFORCEMENT OF MEDICAL SUPPORT REQUIREMENTS.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsection (a)(2)(A)(i),

is amended by inserting after the first sentence the following: "A State agency administering the program under this part may enforce medical support against a custodial parent if health care coverage is available to the custodial parent at a reasonable cost, notwithstanding any other provision of this part.".

(c) DEFINITION OF MEDICAL SUPPORT.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsections (a)(2)(A)(i) and (b) of this section, is amended by adding at the end the following: "For purposes of this part, the term 'medical support' may include health care coverage, such as coverage under a health insurance plan (including payment of costs of premiums, co-payments, and deductibles) and payment for medical expenses incurred on behalf of a child.".

**SEC. 7308. REDUCTION OF FEDERAL MATCHING RATE FOR LABORATORY COSTS INCURRED IN DETERMINING PATERNITY.**

(a) IN GENERAL.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended by striking "90 percent (rather than the percentage specified in subparagraph (A))" and inserting "66 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to costs incurred on or after that date. 42 USC 655 note.

**SEC. 7309. ENDING FEDERAL MATCHING OF STATE SPENDING OF FEDERAL INCENTIVE PAYMENTS.**

(a) IN GENERAL.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended by inserting "from amounts paid to the State under section 458 or" before "to carry out an agreement".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2007. 42 USC 655 note.

**SEC. 7310. MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILY THAT HAS NEVER RECEIVED TANF.**

(a) IN GENERAL.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended—

(1) by inserting "(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(3) by adding "and" after the semicolon; and

(4) by adding after and below the end the following new clause:

"(ii) in the case of an individual who has never received assistance under a State program funded under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, which shall be retained by the State from support collected on behalf of the individual (but not from the first $500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and the fees shall be considered income to the program);".

(b) CONFORMING AMENDMENTS.—Section 457(a)(3) (42 U.S.C. 657(a)(3)) is amended to read as follows:

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the

family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).".

42 USC 654 note.

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

42 USC 654 note.

**SEC. 7311. EXCEPTION TO GENERAL EFFECTIVE DATE FOR STATE PLANS REQUIRING STATE LAW AMENDMENTS.**

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

# Subtitle D—Child Welfare

**SEC. 7401. STRENGTHENING COURTS.**

(a) COURT IMPROVEMENT GRANTS.—

(1) IN GENERAL.—Section 438(a) (42 U.S.C. 629h(a)) is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

"(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.".

(2) APPLICATIONS.—Section 438(b) (42 U.S.C. 629h(b)) is amended to read as follows:

"(b) APPLICATIONS.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

"(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

"(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or

any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

"(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

"(2) SEPARATE APPLICATIONS.—A highest State court desiring grants under this section for 2 or more purposes shall submit separate applications for the following grants: Grants.

"(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a).

"(B) A grant for the purpose described in subsection (a)(3).

"(C) A grant for the purpose described in subsection (a)(4).".

(3) ALLOTMENTS.—Section 438(c) (42 U.S.C. 429h(c)) is amended— 42 USC 629h.

(A) in paragraph (1)—

(i) by inserting "of this section for a grant described in subsection (b)(2)(A) of this section" after "subsection (b)"; and

(ii) by striking "paragraph (2) of this subsection" and inserting "subparagraph (B) of this paragraph";

(B) in paragraph (2)—

(i) by striking "this paragraph" and inserting "this subparagraph";

(ii) by striking "paragraph (1) of this subsection" and inserting "subparagraph (A) of this paragraph"; and

(iii) by inserting "for such a grant" after "subsection (b)";

(C) by redesignating and indenting paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by inserting before and above such subparagraph (A) the following:

"(1) GRANTS TO ASSESS AND IMPROVE HANDLING OF COURT PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.—"; and

(E) by adding at the end the following:

"(2) GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—

"(A) IN GENERAL.—Each highest State court which has an application approved under subsection (b) of this section for a grant referred to in subparagraph (B) or (C) of subsection (b)(2) shall be entitled to payment, for each of fiscal years 2006 through 2010, from the amount made available under whichever of paragraph (1) or (2) of subsection (e) applies with respect to the grant, of an amount equal to the sum of $85,000 plus the amount described in subparagraph (B) of this paragraph for the fiscal year with respect to the grant.

"(B) FORMULA.—The amount described in this subparagraph for any fiscal year with respect to a grant referred

to in subparagraph (B) or (C) of subsection (b)(2) is the amount that bears the same ratio to the amount made available under subsection (e) for such a grant (reduced by the dollar amount specified in subparagraph (A) of this paragraph) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (b) for such a grant.".

(4) FUNDING.—Section 438 (42 U.S.C. 629h) is amended by adding at the end the following:

"(e) FUNDING FOR GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

"(1) $10,000,000 for grants referred to in subsection (b)(2)(B); and

"(2) $10,000,000 for grants referred to in subsection (b)(2)(C).".

(b) REQUIREMENT TO DEMONSTRATE MEANINGFUL COLLABORATION BETWEEN COURTS AND AGENCIES IN CHILD WELFARE SERVICES PROGRAMS.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following:

"(15) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A.".

(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS.—Section 471 (42 U.S.C. 671) is amended—

(1) in subsection (a)(8), by inserting "subject to subsection (c)," after "(8)"; and

(2) by adding at the end the following:

"(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS.—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.".

**SEC. 7402. FUNDING OF SAFE AND STABLE FAMILIES PROGRAMS.**

Section 436(a) (42 U.S.C. 629f(a)) is amended to read as follows:

"(a) AUTHORIZATION.—In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart $345,000,000 for fiscal year 2006. Notwithstanding the preceding sentence, the total amount authorized to be so appropriated for fiscal year 2006 under this subsection and under this subsection (as in effect before the date of the enactment of the Deficit Reduction Act of 2005) is $345,000,000.".

**SEC. 7403. CLARIFICATION REGARDING FEDERAL MATCHING OF CERTAIN ADMINISTRATIVE COSTS UNDER THE FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.**

(a) ADMINISTRATIVE COSTS RELATING TO UNLICENSED CARE.—Section 472 (42 U.S.C. 672) is amended by inserting after subsection (h) the following:

"(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

"(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

"(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

"(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

"(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

"(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

"(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.".

(b) CONFORMING AMENDMENT.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended by inserting "subject to section 472(i)" before "an amount equal to".

**SEC. 7404. CLARIFICATION OF ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS AND ADOPTION ASSISTANCE.**

(a) FOSTER CARE MAINTENANCE PAYMENTS.—Section 472(a) (42 U.S.C. 672(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

"(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

"(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

"(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

"(A) the removal and foster care placement are in accordance with—

"(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

"(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

"(B) the child's placement and care are the responsibility of—

"(i) the State agency administering the State plan approved under section 471; or

"(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and

"(C) the child has been placed in a foster family home or child-care institution.

"(3) AFDC ELIGIBILITY REQUIREMENT.—

"(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

"(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

"(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

"(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

"(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than $10,000 shall be considered a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

"(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.".

(b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

"(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

"(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause;

"(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

"(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section. Applicability.

"(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

"(i) meets the requirements of subparagraph (A)(ii);

"(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

"(iii) is available for adoption because—

"(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

"(II) the child's adoptive parents have died; and

"(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if—

"(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

"(II) the prior adoption were treated as never having occurred.".

# Subtitle E—Supplemental Security Income

**SEC. 7501. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.**

Section 1633 (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;

"(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

"(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.

"(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.".

**SEC. 7502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.**

(a) IN GENERAL.—Section 1631(a)(10)(A)(i) (42 U.S.C. 1383(a)(10)(A)(i)) is amended by striking "12" and inserting "3".

42 USC 1383 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

# Subtitle F—Repeal of Continued Dumping and Subsidy Offset

**SEC. 7601. REPEAL OF CONTINUED DUMPING AND SUBSIDY OFFSET.**

Effective date.

(a) REPEAL.—Effective upon the date of enactment of this Act, section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c), and the item relating to section 754 in the table of contents of title VII of that Act, are repealed.

19 USC 1675c note.

(b) DISTRIBUTIONS ON CERTAIN ENTRIES.—All duties on entries of goods made and filed before October 1, 2007, that would, but for subsection (a) of this section, be distributed under section 754 of the Tariff Act of 1930, shall be distributed as if section 754 of the Tariff Act of 1930 had not been repealed by subsection (a).

## Subtitle G—Effective Date

**SEC. 7701. EFFECTIVE DATE.** 42 USC 603 note.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect as if enacted on October 1, 2005.

# TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

## Subtitle A—Higher Education Provisions

Higher Education Reconciliation Act of 2005.

**SEC. 8001. SHORT TITLE; REFERENCE; EFFECTIVE DATE.**

(a) SHORT TITLE.—This subtitle may be cited as the "Higher Education Reconciliation Act of 2005". 20 USC 1001 note.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) EFFECTIVE DATE.—Except as otherwise provided in this subtitle or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006. 20 USC 1002 note.

**SEC. 8002. MODIFICATION OF 50/50 RULE.**

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

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

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

**SEC. 8003. ACADEMIC COMPETITIVENESS GRANTS.**

Subpart 1 of part A of title IV (20 U.S.C. 1070a) is amended by adding after section 401 the following new section:

**"SEC. 401A. ACADEMIC COMPETITIVENESS GRANTS.** 20 USC 1070a–1.

"(a) ACADEMIC COMPETITIVENESS GRANT PROGRAM.—

"(1) ACADEMIC COMPETITIVENESS GRANTS AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.

"(2) ACADEMIC COMPETITIVENESS COUNCIL.—

"(A) ESTABLISHMENT.—There is established an Academic Competitiveness Council (referred to in this paragraph as the 'Council'). From the funds made available under subsection (e) for fiscal year 2006, $50,000 shall be available to the Council to carry out the duties described in subparagraph (B). The Council shall be chaired by the Secretary of Education, and the membership of the Council

shall consist of officials from Federal agencies with responsibilities for managing existing Federal programs that promote mathematics and science (or designees of such officials with significant decision-making authority).

"(B) DUTIES.—The Council shall—

"(i) identify all Federal programs with a mathematics or science focus;

"(ii) identify the target populations being served by such programs;

"(iii) determine the effectiveness of such programs;

"(iv) identify areas of overlap or duplication in such programs; and

"(v) recommend ways to efficiently integrate and coordinate such programs.

"(C) REPORT.—Not later than one year after the date of enactment of the Higher Education Reconciliation Act of 2005, the Council shall transmit a report to each committee of Congress with jurisdiction over a Federal program identified under subparagraph (B)(i), detailing the findings and recommendations under subparagraph (B), including recommendations for legislative or administrative action.

"(b) DESIGNATION.—A grant under this section—

"(1) for the first or second academic year of a program of undergraduate education shall be known as an 'Academic Competitiveness Grant'; and

"(2) for the third or fourth academic year of a program of undergraduate education shall be known as a 'National Science and Mathematics Access to Retain Talent Grant' or a 'National SMART Grant'.

"(c) DEFINITION OF ELIGIBLE STUDENT.—In this section the term 'eligible student' means a full-time student who, for the academic year for which the determination of eligibility is made—

"(1) is a citizen of the United States;

"(2) is eligible for a Federal Pell Grant; and

"(3) in the case of a student enrolled or accepted for enrollment in—

"(A) the first academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—

"(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and

"(ii) has not been previously enrolled in a program of undergraduate education;

"(B) the second academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—

"(i) has successfully completed, after January 1, 2005, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and

Regulations.

"(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first academic year of such program of undergraduate education; or

"(C) the third or fourth academic year of a program of undergraduate education at a four-year degree-granting institution of higher education—

"(i) is pursuing a major in—

"(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(II) a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and

"(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i). Regulations.

"(d) GRANT AWARD.—

"(1) AMOUNTS.—

"(A) The Secretary shall award a grant under this section in the amount of—

"(i) $750 for an eligible student under subsection (c)(3)(A);

"(ii) $1,300 for an eligible student under subsection (c)(3)(B); or

"(iii) $4,000 for an eligible student under subsection (c)(3)(C).

"(B) Notwithstanding subparagraph (A)—

"(i) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student's cost of attendance;

"(ii) if the amount made available under subsection (e) for any fiscal year is less than the amount required to be provided grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and

"(iii) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) LIMITATIONS.—The Secretary shall not award a grant under this section—

"(A) to any student for an academic year of a program of undergraduate education described in subparagraph (A), (B), or (C) of subsection (c)(3) for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(B) to any student for more than—

"(i) one academic year under subsection (c)(3)(A);

"(ii) one academic year under subsection (c)(3)(B); or

"(iii) two academic years under subsection (c)(3)(C).

"(e) FUNDING.—

"(1) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated,

out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section—

"(A) $790,000,000 for fiscal year 2006;

"(B) $850,000,000 for fiscal year 2007;

"(C) $920,000,000 for fiscal year 2008;

"(D) $960,000,000 for fiscal year 2009; and

"(E) $1,010,000,000 for fiscal year 2010.

"(2) USE OF EXCESS FUNDS.—If, at the end of a fiscal year, the funds available for awarding grants under this section exceed the amount necessary to make such grants in the amounts authorized by subsection (d), then all of the excess funds shall remain available for awarding grants under this section during the subsequent fiscal year.

"(f) RECOGNITION OF PROGRAMS OF STUDY.—The Secretary shall recognize at least one rigorous secondary school program of study in each State under subsection (c)(3)(A) and (B) for the purpose of determining student eligibility under such subsection.

"(g) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of academic year 2010–2011.".

**SEC. 8004. REAUTHORIZATION OF FEDERAL FAMILY EDUCATION LOAN PROGRAM.**

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

(b) EXTENSION OF AUTHORITY.—

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

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

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

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

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

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

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

**SEC. 8005. LOAN LIMITS.**

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

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

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

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

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

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

(c) FEDERAL PLUS LOANS.—Section 428B (20 U.S.C. 1078–2) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "Parents" and inserting "A graduate or professional student or the parents";

(B) in subparagraph (A), by striking "the parents" and inserting "the graduate or professional student or the parents"; and

(C) in subparagraph (B), by striking "the parents" and inserting "the graduate or professional student or the parents";

(2) in subsection (b), by striking "any parent" and inserting "any graduate or professional student or any parent";

(3) in subsection (c)(2), by striking "parent" and inserting "graduate or professional student or parent"; and

(4) in subsection (d)(1), by striking "the parent" and inserting "the graduate or professional student or the parent".

(d) UNSUBSIDIZED STAFFORD LOANS FOR GRADUATE OR PROFESSIONAL STUDENTS.—Section 428H(d)(2) (20 U.S.C. 1078–8(d)(2)) is amended—

(1) in subparagraph (C), by striking "$10,000" and inserting "$12,000"; and

(2) in subparagraph (D)—

(A) in clause (i), by striking "$5,000" and inserting "$7,000"; and

(B) in clause (ii), by striking "$5,000" and inserting "$7,000".

(e) EFFECTIVE DATE OF INCREASES.—The amendments made by subsections (a), (b), and (d) shall be effective July 1, 2007. 20 USC 1075 note.

**SEC. 8006. PLUS LOAN INTEREST RATES AND ZERO SPECIAL ALLOWANCE PAYMENT.**

(a) PLUS LOANS.—Section 427A(l)(2) (20 U.S.C. 1077a(l)(2)) is amended by striking "7.9 percent" and inserting "8.5 percent".

(b) CONFORMING AMENDMENTS FOR SPECIAL ALLOWANCES.—

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

(A) in clause (iii), by striking ", subject to clause (v) of this subparagraph";

(B) in clause (iv), by striking ", subject to clause (vi) of this subparagraph"; and

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

"(v) RECAPTURE OF EXCESS INTEREST.—

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

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

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

"(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

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

20 USC 1087–1 note.

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

**SEC. 8007. DEFERMENT OF STUDENT LOANS FOR MILITARY SERVICE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

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

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

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize any refunding of any repayment of a loan. 20 USC 1078 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 2001. 20 USC 1078 note.

**SEC. 8008. ADDITIONAL LOAN TERMS AND CONDITIONS.**

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

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

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

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

"(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).".

(b) REPAYMENT PLANS: DIRECT LOANS.—Section 455(d)(1) (20 U.S.C. 1087e(d)(1)) is amended by striking subparagraphs (A), (B), and (C) and inserting the following:

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

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

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

(c) ORIGINATION FEES.—

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

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

"(2) AMOUNT OF ORIGINATION FEES.—

"(A) IN GENERAL.—"; and

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

Applicability.

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

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

"(ii) by substituting '1.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(iii) by substituting '1.0 percent' for '3.0 percent' with respect to loans for which the first disbursement

of principal is made on or after July 1, 2008, and before July 1, 2009;

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

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

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

(A) by striking "(c) LOAN FEE.—" and inserting the following:

"(c) LOAN FEE.—

"(1) IN GENERAL.—"; and

(B) by adding at the end the following:

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

"(A) by substituting '3.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after the date of enactment of the Higher Education Reconciliation Act of 2005, and before July 1, 2007;

"(B) by substituting '2.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(C) by substituting '2.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(D) by substituting '1.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(E) by substituting '1.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

(3) CONFORMING AMENDMENT.—Section 455(b)(8)(A) (20 U.S.C. 1087e(b)(8)(A)) is amended by inserting "or origination fee" after "reductions in the interest rate".

**SEC. 8009. CONSOLIDATION LOAN CHANGES.**

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

(1) in subsection (a)(3)(B)(i)—

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

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

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

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

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

"(V) an individual may obtain a subsequent consolidation loan under section 455(g) only for the purposes of

obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion."; and

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

(b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

(1) DEFINITION OF REPAYMENT PERIOD.—Section 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is amended by striking "shall begin—" and all that follows through "earlier date." and inserting the following: "shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).".

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

(c) ADDITIONAL AMENDMENTS.—Section 428C (20 U.S.C. 1078–3) is amended in subsection (a)(3), by striking subparagraph (C).

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

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

(2) in subsection (a)(2)—

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

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

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

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

(3) in subsection (g)—

(A) by striking the second sentence; and

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

**SEC. 8010. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.**

Section 428G (20 U.S.C. 1078–7) is amended—

(1) in subsection (a)(3), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.";

(2) in subsection (b)(1), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph

shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005."; and

(3) in subsection (e), by striking ", made to a student to cover the cost of attendance at an eligible institution outside the United States".

**SEC. 8011. SCHOOL AS LENDER.**

Paragraph (2) of section 435(d) (20 U.S.C. 1085(d)(2)) is amended to read as follows:

"(2) REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

"(A) IN GENERAL.—To be an eligible lender under this part, an eligible institution—

"(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

"(ii) shall not be a home study school;

"(iii) shall not—

"(I) make a loan to any undergraduate student;

"(II) make a loan other than a loan under section 428 or 428H to a graduate or professional student; or

"(III) make a loan to a borrower who is not enrolled at that institution;

"(iv) shall award any contract for financing, servicing, or administration of loans under this title on a competitive basis;

"(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this title;

"(vi) shall not have a cohort default rate (as defined in section 435(m)) greater than 10 percent;

"(vii) shall, for any year for which the institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 428(b)(1)(U)(iii)(I), and the regulations thereunder, and submit the results of such audit to the Secretary;

"(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs; and

"(ix) shall have met the requirements of subparagraphs (A) through (F) of this paragraph as in effect on the day before the date of enactment of the Higher Education Reconciliation Act of 2005, and made loans under this part, on or before April 1, 2006.

"(B) ADMINISTRATIVE EXPENSES.—An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

"(C) SUPPLEMENT, NOT SUPPLANT.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement,

and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.".

**SEC. 8012. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.**

Section 437 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking "**CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**" and inserting "**SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**"; and

(2) in the first sentence of subsection (c)(1), by inserting "or was falsely certified as a result of a crime of identity theft" after "falsely certified by the eligible institution".

**SEC. 8013. ELIMINATION OF TERMINATION DATES FROM TAXPAYER-TEACHER PROTECTION ACT OF 2004.**

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

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

(2) in clause (v)(II)—

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

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

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

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

"(I) that were made or purchased on or after the date of enactment of the Higher Education Reconciliation Act of 2005; or

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

Applicability.

"(vii) Clause (vi) shall be applied by substituting 'December 31, 2010' for 'the date of enactment of the Higher Education Reconciliation Act of 2005' in the case of a holder of loans that—

"(I) was, as of the date of enactment of the Higher Education Reconciliation Act of 2005, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

"(II) was, as of such date of enactment, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

"(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.".

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

(1) TECHNICAL CLARIFICATION.—The matter preceding paragraph (1) of section 2 of the Taxpayer-Teacher Protection Act of 2004 (Public Law 108–409; 118 Stat. 2299) is amended by inserting "of the Higher Education Act of 1965" after "Section 438(b)(2)(B)". 20 USC 1087–1.

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

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall be effective as if enacted on October 30, 2004, and the amendment made by paragraph (2) shall be effective as if enacted on October 1, 2005. 20 USC 1087–1 note.

(d) COORDINATION WITH SECOND HIGHER EDUCATION EXTENSION ACT OF 2005.—

(1) REPEAL.—Section 2 of the Second Higher Education Extension Act of 2005 is amended by striking subsections (b) and (c). 20 USC 1087–1, 1078 note.

(2) EFFECT ON AMENDMENTS.—The amendments made by subsections (a) and (c) of this section shall be effective as if the amendments made in subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 had not been enacted. Effective date. 20 USC 1087–1 note.

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

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

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

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

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.".

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

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

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

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(A)(ii), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.".

**SEC. 8014. ADDITIONAL ADMINISTRATIVE PROVISIONS.**

(a) INSURANCE PERCENTAGE.—

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

"(G) insures 98 percent of the unpaid principal of loans insured under the program, except that—

"(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j) or 439(q);

"(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, the preceding provisions of this subparagraph shall be applied by substituting '97 percent' for '98 percent'; and

"(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);".

20 USC 1078 note.

(2) EFFECTIVE DATE OF AMENDMENT.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(b) FEDERAL DEFAULT FEES.—

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

"(H) provides—

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

"(ii) for loans for which the date of guarantee of principal is on or after July 1, 2006, for the collection,

and the deposit into the Federal Student Loan Reserve Fund under section 422A of a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;".

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

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

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

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

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

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

(c) TREATMENT OF EXEMPT CLAIMS.—

(1) AMENDMENT.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(A) by redesignating subparagraph (G) as subparagraph (H), and moving such subparagraph 2 em spaces to the left; and

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

"(G)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

"(I) the fourth sentence of subparagraph (A) by substituting '100 percent' for '95 percent';

"(II) subparagraph (B)(i) by substituting '100 percent' for '85 percent'; and

"(III) subparagraph (B)(ii) by substituting '100 percent' for '75 percent'.

"(ii) For purposes of clause (i) of this subparagraph, the term 'exempt claims' means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.".

20 USC 1078 note.

(2) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(d) CONSOLIDATION OF DEFAULTED LOANS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part";

(2) in paragraph (2)(D), by striking "paragraph (6)" and inserting "paragraph (6)(A)"; and

(3) in paragraph (6)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" before "For the purpose of paragraph (2)(D),"; and

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

"(B) A guaranty agency shall—

"(i) on or after October 1, 2006—

"(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

"(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

"(C) For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.".

(e) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (3)(A)(i)—

(A) by striking "in writing"; and

(B) by inserting "and documented in accordance with paragraph (10)" after "approval of the insurer"; and

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

"(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.".

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

(1) in paragraph (1)(B), by striking "unless the Secretary" and all that follows through "designated guarantor";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by striking paragraph (4).

(g) FRAUD; REPAYMENT REQUIRED.—Section 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is further amended—

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

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

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such graduate or professional student or parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and".

(h) DEFAULT REDUCTION PROGRAM.—Section 428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—

(1) in subparagraph (A), by striking "consecutive payments for 12 months" and inserting "9 payments made within 20 days of the due date during 10 consecutive months";

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

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

"(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).".

(i) EXCEPTIONAL PERFORMANCE INSURANCE RATE.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the heading, by striking "100 PERCENT" and inserting "99 PERCENT"; and

(2) by striking "100 percent of the unpaid" and inserting "99 percent of the unpaid".

(j) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is amended by inserting "and anticipated graduation date" after "status change".

(1) Section 428(a)(3)(A)(v) (20 U.S.C. 1078(a)(3)(A)(v)) is amended—

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

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

(C) by adding after subclause (II) the following new subclause:

"(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.".

(2) Section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "45 days" in the last sentence and inserting "30 days".

(3) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is amended by striking "21 days" in the third sentence and inserting "10 days".

**SEC. 8015. FUNDS FOR ADMINISTRATIVE EXPENSES.**

20 USC 1087h.

Section 458 is amended to read as follows:

**"SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.**

"(a) ADMINISTRATIVE EXPENSES.—

"(1) MANDATORY FUNDS FOR FISCAL YEAR 2006.—For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

"(2) AUTHORIZATION FOR ADMINISTRATIVE COSTS BEGINNING IN FISCAL YEARS 2007 THROUGH 2011.—For each of the fiscal years 2007 through 2011, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and part B, including the costs of the direct student loan programs under this part.

"(3) CONTINUING MANDATORY FUNDS FOR ACCOUNT MAINTENANCE FEES.—For each of the fiscal years 2007 through 2011, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

"(4) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (3) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(5) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

"(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(3) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

"(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.".

**SEC. 8016. COST OF ATTENDANCE.**

Section 472 (20 U.S.C. 1087ll) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

"(A) books, supplies, and transportation (as determined by the institution);

"(B) dependent care expenses (determined in accordance with paragraph (8)); and

"(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;";

(2) in paragraph (11), by striking "and" after the semicolon;

(3) in paragraph (12), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one-time cost of obtaining the first professional credentials (as determined by the institution).".

**SEC. 8017. FAMILY CONTRIBUTION.**

(a) FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.—

(1) AMENDMENTS.—Section 475 (20 U.S.C. 1087oo) is amended—

(A) in subsection (g)(2)(D), by striking "$2,200" and inserting "$3,000"; and

(B) in subsection (h), by striking "35" and inserting "20".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007. 20 USC 1087oo note.

(b) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—

(1) AMENDMENTS.—Section 476 (20 U.S.C. 1087pp) is amended—

(A) in subsection (b)(1)(A)(iv)—

(i) in subclause (I), by striking "$5,000" and inserting "$6,050";

(ii) in subclause (II), by striking "$5,000" and inserting "$6,050"; and

(iii) in subclause (III), by striking "$8,000" and inserting "$9,700"; and

(B) in subsection (c)(4), by striking "35" and inserting "20".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007. 20 USC 1087pp note.

(c) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—

(1) AMENDMENT.—Section 477(c)(4) (20 U.S.C. 1087qq(c)(4)) is amended by striking "12" and inserting "7".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007. 20 USC 1087gg note.

(d) REGULATIONS; UPDATED TABLES.—Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For the 2007–2008 academic year, the Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall increase the amounts contained in the table in section 477(b)(4) by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index

(as determined under the preceding sentence) or 5 percent."; and

(2) in paragraph (2)—

(A) by striking "2000–2001" and inserting "2007–2008"; and

(B) by striking "1999" and inserting "2006".

(e) EMPLOYMENT EXPENSE ALLOWANCE.—Section 478(h) (20 U.S.C. 1087rr(h)) is amended—

(1) by striking "476(b)(4)(B),"; and

(2) by striking "meals away from home, apparel and upkeep, transportation, and housekeeping services" and inserting "food away from home, apparel, transportation, and household furnishings and operations".

**SEC. 8018. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO IMPROVEMENTS.**

(a) AMENDMENTS.—Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) the student's parents—

"(I) file, or are eligible to file, a form described in paragraph (3);

"(II) certify that the parents are not required to file a Federal income tax return; or

"(III) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) the student (and the student's spouse, if any)—

"(I) files, or is eligible to file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(III) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case maybe, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that the parents are not required to file a Federal income tax return; or

"(iii) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $20,000; or"; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(iii) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $20,000."; and

(3) by adding at the end the following:

"(d) DEFINITION OF MEANS-TESTED FEDERAL BENEFIT PROGRAM.—In this section, the term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government, other than a program under this title, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

"(1) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(2) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(3) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

"(4) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(5) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(6) other programs identified by the Secretary.".

(b) EVALUATION OF SIMPLIFIED NEEDS TEST.— 20 USC 1087ss note.

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)

of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

**SEC. 8019. ADDITIONAL NEED ANALYSIS AMENDMENTS.**

(a) TREATING ACTIVE DUTY MEMBERS OF THE ARMED FORCES AS INDEPENDENT STUDENTS.—Section 480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting before the semicolon at the end the following: "or is currently serving on active duty in the Armed Forces for other than training purposes".

(b) DEFINITION OF ASSETS.—Section 480(f)(1) (20 U.S.C. 1087vv(f)(1)) is amended by inserting "qualified education benefits (except as provided in paragraph (3)),' after "tax shelters,".

(c) TREATMENT OF FAMILY OWNERSHIP OF SMALL BUSINESSES.—Section 480(f)(2) (20 U.S.C. 1087vv(f)(2)) is amended—

(1) in subparagraph (A), by striking "or";

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

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

"(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.".

(d) ADDITIONAL DEFINITIONS.—Section 480(f) is further amended by adding at the end the following new paragraphs:

"(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

"(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

"(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

"(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

"(5) In this subsection:

"(A) The term 'qualified education benefit' means—

"(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

"(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

"(B) The term 'qualified higher education expenses' has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986.".

(e) DESIGNATED ASSISTANCE.—Section 480(j) (20 U.S.C. 1087vv(j)) is amended—

(1) in the subsection heading, by striking "; TUITION PREPAYMENT PLANS";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

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

"(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.".

**SEC. 8020. GENERAL PROVISIONS.**

(a) ACADEMIC YEAR.—Paragraph (2) of section 481(a) (20 U.S.C. 1088(a)) is amended to read as follows:

"(2)(A) For the purpose of any program under this title, the term 'academic year' shall—

"(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

"(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

"(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

"(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

"(II) 900 clock hours in a course of study that measures its program length in clock hours.

"(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.".

(b) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—Section 481(b) (20 U.S.C. 1088(b)) is amended by adding at the end the following new paragraphs:

"(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this title if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

"(A) is recognized by the Secretary under subpart 2 of part H; and

"(B) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3).

"(4) For purposes of this title, the term 'eligible program' includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the

results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.".

(c) CORRESPONDENCE COURSES.—Section 484(l)(1) (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "for a program of study of 1 year or longer"; and

(B) by striking "unless the total" and all that follows through "courses at the institution"; and

(2) by amending subparagraph (B) to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.".

**SEC. 8021. STUDENT ELIGIBILITY.**

(a) FRAUD: REPAYMENT REQUIRED.—Section 484(a) (20 U.S.C. 1091(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; and"; and

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

"(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud.".

(b) VERIFICATION OF INCOME DATE.—Paragraph (1) of section 484(q) (20 U.S.C. 1091(q)) is amended to read as follows:

"(1) CONFIRMATION WITH IRS.—The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the information specified in section 6103(l)(13) of the Internal Revenue Code of 1986 reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.".

(c) SUSPENSION OF ELIGIBILITY FOR DRUG OFFENSES.—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is amended by striking everything preceding the table and inserting the following:

"(1) IN GENERAL.—A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:".

**SEC. 8022. INSTITUTIONAL REFUNDS.**

Section 484B (20 U.S.C. 1091b) is amended—

(1) in the matter preceding clause (i) of subsection (a)(2)(A), by striking "a leave of" and inserting "1 or more leaves of";

(2) in subsection (a)(3)(B)(ii), by inserting "(as determined in accordance with subsection (d))" after "student has completed";

(3) in subsection (a)(3)(C)(i), by striking "grant or loan assistance under this title" and inserting "grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,";

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.";

(5) in subsection (b)(1), by inserting "not later than 45 days from the determination of withdrawal" after "return";

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

"(C) GRANT OVERPAYMENT REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

"(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

"(II) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

"(ii) MINIMUM.—A student shall not be required to return amounts of $50 or less.";

(7) in subsection (d), by striking "(a)(3)(B)(i)" and inserting "(a)(3)(B)"; and

(8) in subsection (d)(2), by striking "clock hours—" and all that follows through the period and inserting "clock hours scheduled to be completed by the student in that period as of the day the student withdrew.".

**SEC. 8023. COLLEGE ACCESS INITIATIVE.**

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

**"SEC. 485D. COLLEGE ACCESS INITIATIVE.** 20 USC 1092e.

"(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

"(b) GUARANTY AGENCY ACTIVITIES.—

"(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and Public information.

to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

"(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

"(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and, to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on the date of enactment of the Higher Education Reconciliation Act of 2005 that meet the requirements of this section.

"(c) ACCESS TO INFORMATION.—

"(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

"(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

Deadline.

"(3) PUBLICITY.—Not later than 270 days after the date of enactment of the Higher Education Reconciliation Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.".

**SEC. 8024. WAGE GARNISHMENT REQUIREMENT.**

Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amended by striking "10 percent" and inserting "15 percent".

# Subtitle B—Pensions

**SEC. 8101. INCREASES IN PBGC PREMIUMS.**

(a) FLAT-RATE PREMIUMS.—

(1) SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "$19" and inserting "$30".

(B) ADJUSTMENT FOR INFLATION.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

"(F) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified

in clause (i) of subparagraph (A) an amount equal to the greater of—

"(i) the product derived by multiplying the premium rate specified in clause (i) of subparagraph (A) by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

"(II) the national average wage index (as so defined) for 2004; and

"(ii) the premium rate in effect under clause (i) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(2) MULTIEMPLOYER PLANS.—

(A) IN GENERAL.—Section 4006(a)(3)(A) of such Act (29 U.S.C. 1306(a)(3)(A)) is amended—

(i) in clause (iii)—

(I) by inserting "and before January 1, 2006," after "Act of 1980,"; and

(II) by striking the period at the end and inserting ", or"; and

(ii) by adding at the end the following:

"(iv) in the case of a multiemployer plan, for plan years beginning after December 31, 2005, $8.00 for each individual who is a participant in such plan during the applicable plan year.".

(B) ADJUSTMENT FOR INFLATION.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by this subsection, is amended by adding at the end the following new subparagraph:

"(G) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (iv) of subparagraph (A) an amount equal to the greater of—

"(i) the product derived by multiplying the premium rate specified in clause (iv) of subparagraph (A) by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

"(II) the national average wage index (as so defined) for 2004; and

"(ii) the premium rate in effect under clause (iv) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(b) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

"(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

"(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In the case of a single-employer plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 during pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought), subparagraph (A) shall not apply to such plan until the date of the discharge or dismissal of such person in such case.

"(C) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'applicable 12-month period' means—

"(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

"(II) each of the first two 12-month periods immediately following the period described in subclause (I).

"(ii) PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In any case in which the requirements of subparagraph (B)(i)(I) are met in connection with the termination of the plan with respect to 1 or more persons described in such subparagraph, the 12-month period described in clause (i)(I) shall be the 12-month period beginning with the first month following the month which includes the earliest date as of which each such person is discharged or dismissed in the case described in such clause in connection with such person.

"(D) COORDINATION WITH SECTION 4007.—

"(i) Notwithstanding section 4007—

Deadline.

"(I) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period, and

"(II) the designated payor shall be the person who is the contributing sponsor as of immediately before the termination date.

"(ii) The fifth sentence of section 4007(a) shall not apply in connection with premiums determined under this paragraph.

"(E) TERMINATION.—Subparagraph (A) shall not apply with respect to any plan terminated after December 31, 2010.".

(c) CONFORMING AMENDMENT.—Section 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is amended by striking "subparagraph (A)(iii)" and inserting "clause (iii) or (iv) of subparagraph (A)".

29 USC 1306 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (b) shall apply to plans terminated after December 31, 2005.

(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY.—The amendment made by subsection (b) shall not apply to a termination of a single-employer plan that is terminated during the pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), if the proceeding is pursuant to a bankruptcy filing occurring before October 18, 2005.

# TITLE IX—LIHEAP PROVISIONS

**SEC. 9001. FUNDING AVAILABILITY.**

(a) IN GENERAL.—In addition to amounts otherwise made available, there are appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary of Health and Human Services for a 1-time only obligation and expenditure—

(1) $250,000,000 for fiscal year 2007 for allocation under section 2604(a) through (d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a) through (d)); and

(2) $750,000,000 for fiscal year 2007 for allocation under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)).

(b) SUNSET.—The provisions of this section shall terminate, be null and void, and have no force and effect whatsoever after September 30, 2007. No monies provided for under this section shall be available after such date.

# TITLE X—JUDICIARY RELATED PROVISIONS

## Subtitle A—Civil Filing Adjustments

**SEC. 10001. CIVIL CASE FILING FEE INCREASES.**

(a) CIVIL ACTIONS FILED IN DISTRICT COURTS.—Section 1914(a) of title 28, United States Code, is amended by striking "$250" and inserting "$350".

(b) APPEALS FILED IN COURTS OF APPEALS.—The $250 fee for docketing a case on appeal or review, or docketing any other proceeding, in a court of appeals, as prescribed by the Judicial Conference, effective as of January 1, 2005, under section 1913 of title 28, United States Code, shall be increased to $450. 28 USC 1913 note.

(c) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the enactment of this section shall be deposited in a special fund in the Treasury to be established after the enactment 28 USC 1913 note.

of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

28 USC 1914 note.

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 60 days after the date of the enactment of this Act.

## Subtitle B—Bankruptcy Fees

**SEC. 10101. BANKRUPTCY FEES.**

(a) BANKRUPTCY FILING FEES.—Section 1930(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking "$220" and inserting "$245"; and

(B) in subparagraph (B) by striking "$150" and inserting "$235"; and

(2) in paragraph (2) by striking "$1,000" and inserting "$2,750".

28 USC 1931 note.

(b) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the amendments made by subsection (a) shall be deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

28 USC 1930 note.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

Approved February 8, 2006.

---

LEGISLATIVE HISTORY—S. 1932 (H.R. 4241):

HOUSE REPORTS: Nos. 109–276 accompanying H.R. 4241 (Comm. on the Budget) and 109–362 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 151 (2005): Oct. 31, Nov. 1–3, considered and passed Senate.
Nov. 17, considered and passed House, amended, in lieu of H.R. 4241.
Dec. 18, House agreed to conference report.
Dec. 19–21, Senate considered and disagreed to conference report. Senate concurred in House amendment with an amendment.

Vol. 152 (2006): Feb. 1, House concurred in Senate amendment pursuant to H. Res. 653.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Feb. 8, Presidential statement and remarks.

# Public Law 109–172
# 109th Congress

## An Act

To amend the Public Health Service Act to extend funding for the operation of State high risk health insurance pools.

Feb. 10, 2006
[H.R. 4519]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

State High Risk Pool Funding Extension Act of 2006.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "State High Risk Pool Funding Extension Act of 2006".

**SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.**

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

**"SEC. 2745. RELIEF FOR HIGH RISK POOLS.**

"(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of the State High Risk Pool Funding Extension Act of 2006 for the State's costs of creation and initial operation of such a pool.

"(b) GRANTS FOR OPERATIONAL LOSSES.—

"(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

"(A) restricts premiums charged under the pool to no more than 200 percent of the premium for applicable standard risk rates;

"(B) offers a choice of two or more coverage options through the pool; and

"(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State in connection with operation of the pool after the end of the last fiscal year for which a grant is provided under this paragraph;

the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

"(2) ALLOTMENT.—Subject to paragraph (4), the amounts appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) for a fiscal year shall be allotted and made available to the States (or the entities that operate the high risk pool under applicable State law) that qualify for a grant under paragraph (1) as follows:

"(A) An amount equal to 40 percent of such appropriated amount for the fiscal year shall be allotted in equal amounts to each qualifying State that is one of the 50 States or the District of Columbia and that applies for a grant under this subsection.

"(B) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to such a State bears the same ratio to such appropriated amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals (as determined by the Secretary) in all qualifying States that so apply.

"(C) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to a State bears the same ratio to such appropriated amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools (as determined by the Secretary) in all qualifying States that so apply.

"(3) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to the State to carry out this subsection to reduce premiums for enrollees.

"(4) LIMITATION FOR TERRITORIES.—In no case shall the aggregate amount allotted and made available under paragraph (2) for a fiscal year to States that are not the 50 States or the District of Columbia exceed $1,000,000.

"(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

"(1) IN GENERAL.—In the case of a State that is one of the 50 States or the District of Columbia, that has established a qualified high risk pool, and that is receiving a grant under subsection (b)(1), the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

"(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

"(A) Low-income premium subsidies.

"(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

"(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

"(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

"(E) Increased benefits.

"(F) The establishment of disease management programs.

"(3) ALLOTMENT; LIMITATION.—The Secretary shall allot funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) among States qualifying for a grant under paragraph (1) in a manner specified by the Secretary, but in no case shall the amount so allotted to a State for a fiscal year exceed 10 percent of the funds so appropriated for the fiscal year.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of the enactment of the State High Risk Pool Funding Extension Act of 2006, is in the process of implementing a program to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

"(d) FUNDING.—

"(1) APPROPRIATION FOR FISCAL YEAR 2006.—There are authorized to be appropriated for fiscal year 2006—

"(A) $15,000,000 to carry out subsection (a); and

"(B) $75,000,000, of which, subject to paragraph (4)—

"(i) two-thirds of the amount appropriated shall be made available for allotments under subsection (b)(2); and

"(ii) one-third of the amount appropriated shall be made available for allotments under subsection (c)(3).

"(2) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2007 THROUGH 2010.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2007 through 2010, of which, subject to paragraph (4)—

"(A) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

"(B) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(3).

"(3) AVAILABILITY.—Funds appropriated for purposes of carrying out this section for a fiscal year shall remain available for obligation through the end of the following fiscal year.

"(4) REALLOTMENT.—If, on June 30 of each fiscal year for which funds are appropriated under paragraph (1)(B) or (2), the Secretary determines that all the amounts so appropriated are not allotted or otherwise made available to States, such remaining amounts shall be allotted and made available under subsection (b) among States receiving grants under subsection (b) for the fiscal year based upon the allotment formula specified in such subsection.

"(5) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

"(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(f) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such

report shall include information on the distribution of such grants among States and the use of grant funds by States.

"(g) DEFINITIONS.—In this section:

"(1) QUALIFIED HIGH RISK POOL.—

"(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

"(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

"(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

"(B) that is established using reasonable actuarial techniques; and

"(C) that reflects anticipated claims experience and expenses for the coverage involved.

"(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.".

Approved February 10, 2006.

---

LEGISLATIVE HISTORY—H.R. 4519:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 17, considered and passed House.
Vol. 152 (2006): Feb. 1, considered and passed Senate.

# Public Law 109–174
# 109th Congress

## An Act

Making supplemental appropriations for fiscal year 2006 for the Small Business Administration's disaster loans program, and for other purposes.

Feb. 18, 2006
[H.R. 4745]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2006:

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans authorized by section 7(b) of the Small Business Act, $712,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That the amount provided under this heading is hereby derived by transfer from the amount provided for "Disaster Relief" in Public Law 109–62: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Approved February 18, 2006.

LEGISLATIVE HISTORY—H.R. 4745:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 15, considered and passed House.
Feb. 17, considered and passed Senate.

# Public Law 109–175
# 109th Congress

## An Act

Feb. 27, 2006
[S. 1989]

To designate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HOLLY A. CHARETTE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Holly A. Charette Post Office".

Approved February 27, 2006.

LEGISLATIVE HISTORY—S. 1989:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 18, considered and passed Senate.
Vol. 152 (2006): Feb. 14, considered and passed House.

# Public Law 109–176
# 109th Congress

## An Act

To provide relief for the victims of Hurricane Katrina.

Mar. 6, 2006
[S. 1777]

Katrina Emergency Assistance Act of 2006.

President.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Katrina Emergency Assistance Act of 2006".

**SEC. 2. EXTENSION OF UNEMPLOYMENT ASSISTANCE.**

Notwithstanding any other provision of law, in the case of an individual eligible to receive unemployment assistance under section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177(a)) as a result of a disaster declaration made for Hurricane Katrina or Hurricane Rita on or after August 29, 2005, the President shall make such assistance available for 39 weeks after the date of the disaster declaration.

Approved March 6, 2006.

---

LEGISLATIVE HISTORY—S. 1777:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 15, considered and passed Senate.
Mar. 2, considered and passed House, amended.
Mar. 3, Senate concurred in House amendment.

# Public Law 109–177
# 109th Congress

## An Act

Mar. 9, 2006
[H.R. 3199]

To extend and modify authorities needed to combat terrorism, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

USA PATRIOT Improvement and Reauthorization Act of 2005.
18 USC 1801 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "USA PATRIOT Improvement and Reauthorization Act of 2005".

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

Sec. 1. Short title; table of contents.

TITLE I—USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT

Sec. 101. References to, and modification of short title for, USA PATRIOT Act.
Sec. 102. USA PATRIOT Act sunset provisions.
Sec. 103. Extension of sunset relating to individual terrorists as agents of foreign powers.
Sec. 104. Section 2332b and the material support sections of title 18, United States Code.
Sec. 105. Duration of FISA surveillance of non-United States persons under section 207 of the USA PATRIOT Act.
Sec. 106. Access to certain business records under section 215 of the USA PATRIOT Act.
Sec. 106A. Audit on access to certain business records for foreign intelligence purposes.
Sec. 107. Enhanced oversight of good-faith emergency disclosures under section 212 of the USA PATRIOT Act.
Sec. 108. Multipoint electronic surveillance under section 206 of the USA PATRIOT Act.
Sec. 109. Enhanced congressional oversight.
Sec. 110. Attacks against railroad carriers and mass transportation systems.
Sec. 111. Forfeiture.
Sec. 112. Section 2332b(g)(5)(B) amendments relating to the definition of Federal crime of terrorism.
Sec. 113. Amendments to section 2516(1) of title 18, United States Code.
Sec. 114. Delayed notice search warrants.
Sec. 115. Judicial review of national security letters.
Sec. 116. Confidentiality of national security letters.
Sec. 117. Violations of nondisclosure provisions of national security letters.
Sec. 118. Reports on national security letters.
Sec. 119. Audit of use of national security letters.
Sec. 120. Definition for forfeiture provisions under section 806 of the USA PATRIOT Act.
Sec. 121. Penal provisions regarding trafficking in contraband cigarettes or smokeless tobacco.
Sec. 122. Prohibition of narco-terrorism.
Sec. 123. Interfering with the operation of an aircraft.
Sec. 124. Sense of Congress relating to lawful political activity.
Sec. 125. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.
Sec. 126. Report on data-mining activities.
Sec. 127. Sense of Congress.
Sec. 128. USA PATRIOT Act section 214; authority for disclosure of additional information in connection with orders for pen register and trap and trace authority under FISA.

TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

Sec. 201. Short title.

Subtitle A—Terrorist penalties enhancement Act

Sec. 211. Death penalty procedures for certain air piracy cases occurring before enactment of the Federal Death Penalty Act of 1994.
Sec. 212. Postrelease supervision of terrorists.

Subtitle B—Federal Death Penalty Procedures

Sec. 221. Elimination of procedures applicable only to certain Controlled Substances Act cases.
Sec. 222. Counsel for financially unable defendants.

TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

Sec. 301. Short title.
Sec. 302. Entry by false pretenses to any seaport.
Sec. 303. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.
Sec. 304. Criminal sanctions for violence against maritime navigation, placement of destructive devices.
Sec. 305. Transportation of dangerous materials and terrorists.
Sec. 306. Destruction of, or interference with, vessels or maritime facilities.
Sec. 307. Theft of interstate or foreign shipments or vessels.
Sec. 308. Stowaways on vessels or aircraft.
Sec. 309. Bribery affecting port security.
Sec. 310. Penalties for smuggling goods into the United States.
Sec. 311. Smuggling goods from the United States.

TITLE IV—COMBATING TERRORISM FINANCING

Sec. 401. Short title.
Sec. 402. Increased penalties for terrorism financing.
Sec. 403. Terrorism-related specified activities for money laundering.
Sec. 404. Assets of persons committing terrorist acts against foreign countries or international organizations.
Sec. 405. Money laundering through hawalas.
Sec. 406. Technical and conforming amendments relating to the USA PATRIOT Act.
Sec. 407. Cross reference correction.
Sec. 408. Amendment to amendatory language.
Sec. 409. Designation of additional money laundering predicate.
Sec. 410. Uniform procedures for criminal forfeiture.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Residence of United States attorneys and assistant United States attorneys.
Sec. 502. Interim appointment of United States Attorneys.
Sec. 503. Secretary of Homeland Security in Presidential line of succession.
Sec. 504. Bureau of Alcohol, Tobacco and Firearms to the Department of Justice.
Sec. 505. Qualifications of United States Marshals.
Sec. 506. Department of Justice intelligence matters.
Sec. 507. Review by Attorney General.

TITLE VI—SECRET SERVICE

Sec. 601. Short title.
Sec. 602. Interference with national special security events.
Sec. 603. False credentials to national special security events.
Sec. 604. Forensic and investigative support of missing and exploited children cases.
Sec. 605. The Uniformed Division, United States Secret Service.
Sec. 606. Savings provisions.
Sec. 607. Maintenance as distinct entity.
Sec. 608. Exemptions from the Federal Advisory Committee Act.

TITLE VII—COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

Sec. 701. Short title.

Subtitle A—Domestic regulation of precursor chemicals

Sec. 711. Scheduled listed chemical products; restrictions on sales quantity, behind-the-counter access, and other safeguards.

Sec. 712. Regulated transactions.
Sec. 713. Authority to establish production quotas.
Sec. 714. Penalties; authority for manufacturing; quota.
Sec. 715. Restrictions on importation; authority to permit imports for medical, scientific, or other legitimate purposes.
Sec. 716. Notice of importation or exportation; approval of sale or transfer by importer or exporter.
Sec. 717. Enforcement of restrictions on importation and of requirement of notice of transfer.
Sec. 718. Coordination with United States Trade Representative.

Subtitle B—International regulation of precursor chemicals

Sec. 721. Information on foreign chain of distribution; import restrictions regarding failure of distributors to cooperate.
Sec. 722. Requirements relating to the largest exporting and importing countries of certain precursor chemicals.
Sec. 723. Prevention of smuggling of methamphetamine into the United States from Mexico.

Subtitle C—Enhanced criminal penalties for methamphetamine production and trafficking

Sec. 731. Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs.
Sec. 732. Manufacturing controlled substances on Federal property.
Sec. 733. Increased punishment for methamphetamine kingpins.
Sec. 734. New child-protection criminal enhancement.
Sec. 735. Amendments to certain sentencing court reporting requirements.
Sec. 736. Semiannual reports to Congress.

Subtitle D—Enhanced environmental regulation of methamphetamine byproducts

Sec. 741. Biennial report to Congress on agency designations of by-products of methamphetamine laboratories as hazardous materials.
Sec. 742. Methamphetamine production report.
Sec. 743. Cleanup costs.

Subtitle E—Additional programs and activities

Sec. 751. Improvements to Department of Justice drug court grant program.
Sec. 752. Drug courts funding.
Sec. 753. Feasibility study on Federal drug courts.
Sec. 754. Grants to hot spot areas to reduce availability of methamphetamine.
Sec. 755. Grants for programs for drug-endangered children.
Sec. 756. Authority to award competitive grants to address methamphetamine use by pregnant and parenting women offenders.

# TITLE I—USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT

### SEC. 101. REFERENCES TO, AND MODIFICATION OF SHORT TITLE FOR, USA PATRIOT ACT.

(a) REFERENCES TO USA PATRIOT ACT.—A reference in this Act to the USA PATRIOT Act shall be deemed a reference to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001.

18 USC 1 note.

(b) MODIFICATION OF SHORT TITLE OF USA PATRIOT ACT.—Section 1(a) of the USA PATRIOT Act is amended to read as follows:

"(a) SHORT TITLE.—This Act may be cited as the 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001' or the 'USA PATRIOT Act'.".

### SEC. 102. USA PATRIOT ACT SUNSET PROVISIONS.

18 USC 2510 note.

(a) IN GENERAL.—Section 224 of the USA PATRIOT Act is repealed.

(b) SECTIONS 206 AND 215 SUNSET.—

(1) IN GENERAL.—Effective December 31, 2009, the Foreign Intelligence Surveillance Act of 1978 is amended so that sections 501, 502, and 105(c)(2) read as they read on October 25, 2001.

Effective date. 50 USC 1805 and note, 1861, 1862.

(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.

**SEC. 103. EXTENSION OF SUNSET RELATING TO INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.**

Section 6001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742) is amended to read as follows:

50 USC 1801 note.

"(b) SUNSET.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall cease to have effect on December 31, 2009.

"(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which the provisions cease to have effect, such provisions shall continue in effect.".

**SEC. 104. SECTION 2332b AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.**

Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3762) is amended by striking subsection (g).

18 USC 2332b note.

**SEC. 105. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS UNDER SECTION 207 OF THE USA PATRIOT ACT.**

(a) ELECTRONIC SURVEILLANCE.—Section 105(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)) is amended—

(1) in paragraph (1)(B), by striking ", as defined in section 101(b)(1)(A)" and inserting "who is not a United States person"; and

(2) in subsection (2)(B), by striking "as defined in section 101(b)(1)(A)" and inserting "who is not a United States person".

(b) PHYSICAL SEARCH.—Section 304(d) of such Act (50 U.S.C. 1824(d)) is amended—

(1) in paragraph (1)(B), by striking "as defined in section 101(b)(1)(A)" and inserting "who is not a United States person"; and

(2) in paragraph (2), by striking "as defined in section 101(b)(1)(A)" and inserting "who is not a United States person".

(c) PEN REGISTERS, TRAP AND TRACE DEVICES.—Section 402(e) of such Act (50 U.S.C. 1842(e)) is amended—

(1) by striking "(e) An" and inserting "(e)(1) Except as provided in paragraph (2), an"; and

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

"(2) In the case of an application under subsection (c) where the applicant has certified that the information likely to be obtained

is foreign intelligence information not concerning a United States person, an order, or an extension of an order, under this section may be for a period not to exceed one year.".

**SEC. 106. ACCESS TO CERTAIN BUSINESS RECORDS UNDER SECTION 215 OF THE USA PATRIOT ACT.**

(a) DIRECTOR APPROVAL FOR CERTAIN APPLICATIONS.—Subsection (a) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

(1) in paragraph (1), by striking "The Director" and inserting "Subject to paragraph (3), the Director"; and

(2) by adding at the end the following:

"(3) In the case of an application for an order requiring the production of library circulation records, library patron lists, book sales records, book customer lists, firearms sales records, tax return records, educational records, or medical records containing information that would identify a person, the Director of the Federal Bureau of Investigation may delegate the authority to make such application to either the Deputy Director of the Federal Bureau of Investigation or the Executive Assistant Director for National Security (or any successor position). The Deputy Director or the Executive Assistant Director may not further delegate such authority.".

(b) FACTUAL BASIS FOR REQUESTED ORDER.—Subsection (b)(2) of such section is amended to read as follows:

"(2) shall include—

"(A) a statement of facts showing that there are reasonable grounds to believe that the tangible things sought are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, such things being presumptively relevant to an authorized investigation if the applicant shows in the statement of the facts that they pertain to—

"(i) a foreign power or an agent of a foreign power;

"(ii) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

"(iii) an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of such authorized investigation; and

"(B) an enumeration of the minimization procedures adopted by the Attorney General under subsection (g) that are applicable to the retention and dissemination by the Federal Bureau of Investigation of any tangible things to be made available to the Federal Bureau of Investigation based on the order requested in such application.".

(c) CLARIFICATION OF JUDICIAL DISCRETION.—Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) Upon an application made pursuant to this section, if the judge finds that the application meets the requirements of subsections (a) and (b), the judge shall enter an ex parte order as requested, or as modified, approving the release of tangible things. Such order shall direct that minimization procedures adopted pursuant to subsection (g) be followed.".

(d) ADDITIONAL PROTECTIONS.—Subsection (c)(2) of such section is amended to read as follows:

"(2) An order under this subsection—

"(A) shall describe the tangible things that are ordered to be produced with sufficient particularity to permit them to be fairly identified;

"(B) shall include the date on which the tangible things must be provided, which shall allow a reasonable period of time within which the tangible things can be assembled and made available;

"(C) shall provide clear and conspicuous notice of the principles and procedures described in subsection (d);

"(D) may only require the production of a tangible thing if such thing can be obtained with a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation or with any other order issued by a court of the United States directing the production of records or tangible things; and

"(E) shall not disclose that such order is issued for purposes of an investigation described in subsection (a).".

(e) PROHIBITION ON DISCLOSURE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) No person shall disclose to any other person that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section, other than to—

"(A) those persons to whom disclosure is necessary to comply with such order;

"(B) an attorney to obtain legal advice or assistance with respect to the production of things in response to the order; or

"(C) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

"(2)(A) A person to whom disclosure is made pursuant to paragraph (1) shall be subject to the nondisclosure requirements applicable to a person to whom an order is directed under this section in the same manner as such person.

Notification.

"(B) Any person who discloses to a person described in subparagraph (A), (B), or (C) of paragraph (1) that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section shall notify such person of the nondisclosure requirements of this subsection.

"(C) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.".

(f) JUDICIAL REVIEW.—

(1) PETITION REVIEW POOL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

"(e)(1) Three judges designated under subsection (a) who reside within 20 miles of the District of Columbia, or, if all of such judges are unavailable, other judges of the court established under subsection (a) as may be designated by the presiding judge of

such court, shall comprise a petition review pool which shall have jurisdiction to review petitions filed pursuant to section 501(f)(1).

Deadline. Publication. Procedures.

"(2) Not later than 60 days after the date of the enactment of the USA PATRIOT Improvement and Reauthorization Act of 2005, the court established under subsection (a) shall adopt and, consistent with the protection of national security, publish procedures for the review of petitions filed pursuant to section 501(f)(1) by the panel established under paragraph (1). Such procedures shall provide that review of a petition shall be conducted in camera and shall also provide for the designation of an acting presiding judge.".

(2) PROCEEDINGS.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is further amended by adding at the end the following new subsection:

"(f)(1) A person receiving an order to produce any tangible thing under this section may challenge the legality of that order by filing a petition with the pool established by section 103(e)(1). The presiding judge shall immediately assign the petition to one of the judges serving in such pool. Not later than 72 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the petition. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the order. If the assigned judge determines the petition is not frivolous, the assigned judge shall promptly consider the petition in accordance with the procedures established pursuant to section 103(e)(2). The judge considering the petition may modify or set aside the order only if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the order, the judge shall immediately affirm the order and order the recipient to comply therewith. The assigned judge shall promptly provide a written statement for the record of the reasons for any determination under this paragraph.

Deadline.

Records.

"(2) A petition for review of a decision to affirm, modify, or set aside an order by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

Records.

"(3) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.

"(4) All petitions under this subsection shall be filed under seal. In any proceedings under this subsection, the court shall, upon request of the government, review ex parte and in camera any government submission, or portions thereof, which may include classified information.".

(g) MINIMIZATION PROCEDURES AND USE OF INFORMATION.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is further amended by adding at the end the following new subsections:

"(g) MINIMIZATION PROCEDURES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the USA PATRIOT Improvement and Reauthorization Act of 2005, the Attorney General shall adopt specific minimization procedures governing the retention and dissemination by the Federal Bureau of Investigation of any tangible things, or information therein, received by the Federal Bureau of Investigation in response to an order under this title. Deadline.

"(2) DEFINED.—In this section, the term 'minimization procedures' means—

"(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the production of tangible things, to minimize the retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

"(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1), shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance; and

"(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.

"(h) USE OF INFORMATION.—Information acquired from tangible things received by the Federal Bureau of Investigation in response to an order under this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures adopted pursuant to subsection (g). No otherwise privileged information acquired from tangible things received by the Federal Bureau of Investigation in accordance with the provisions of this title shall lose its privileged character. No information acquired from tangible things received by the Federal Bureau of Investigation in response to an order under this title may be used or disclosed by Federal officers or employees except for lawful purposes.".

(h) ENHANCED OVERSIGHT.—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended—

(1) in subsection (a)—

(A) by striking "semiannual basis" and inserting "annual basis"; and

(B) by inserting "and the Committee on the Judiciary" after "and the Select Committee on Intelligence";

(2) in subsection (b)—

(A) by striking "On a semiannual basis" and all that follows through "the preceding 6-month period" and inserting "In April of each year, the Attorney General shall submit to the House and Senate Committees on the Judiciary and the House Permanent Select Committee on Reports.

Intelligence and the Senate Select Committee on Intelligence a report setting forth with respect to the preceding calendar year";

(B) in paragraph (1), by striking "and" at the end;

(C) in paragraph (2), by striking the period at the end and inserting "; and"; and

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

"(3) the number of such orders either granted, modified, or denied for the production of each of the following:

"(A) Library circulation records, library patron lists, book sales records, or book customer lists.

"(B) Firearms sales records.

"(C) Tax return records.

"(D) Educational records.

"(E) Medical records containing information that would identify a person."; and

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

Reports.

"(c)(1) In April of each year, the Attorney General shall submit to Congress a report setting forth with respect to the preceding year—

"(A) the total number of applications made for orders approving requests for the production of tangible things under section 501; and

"(B) the total number of such orders either granted, modified, or denied.

"(2) Each report under this subsection shall be submitted in unclassified form.".

**SEC. 106A. AUDIT ON ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES.**

(a) AUDIT.—The Inspector General of the Department of Justice shall perform a comprehensive audit of the effectiveness and use, including any improper or illegal use, of the investigative authority provided to the Federal Bureau of Investigation under title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.).

(b) REQUIREMENTS.—The audit required under subsection (a) shall include—

(1) an examination of each instance in which the Attorney General, any other officer, employee, or agent of the Department of Justice, the Director of the Federal Bureau of Investigation, or a designee of the Director, submitted an application to the Foreign Intelligence Surveillance Court (as such term is defined in section 301(3) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1821(3))) for an order under section 501 of such Act during the calendar years of 2002 through 2006, including—

(A) whether the Federal Bureau of Investigation requested that the Department of Justice submit an application and the request was not submitted to the court (including an examination of the basis for not submitting the application);

(B) whether the court granted, modified, or denied the application (including an examination of the basis for any modification or denial);

(2) the justification for the failure of the Attorney General to issue implementing procedures governing requests for the

production of tangible things under such section in a timely fashion, including whether such delay harmed national security;

(3) whether bureaucratic or procedural impediments to the use of such requests for production prevent the Federal Bureau of Investigation from taking full advantage of the authorities provided under section 501 of such Act;

(4) any noteworthy facts or circumstances relating to orders under such section, including any improper or illegal use of the authority provided under such section; and

(5) an examination of the effectiveness of such section as an investigative tool, including—

(A) the categories of records obtained and the importance of the information acquired to the intelligence activities of the Federal Bureau of Investigation or any other Department or agency of the Federal Government;

(B) the manner in which such information is collected, retained, analyzed, and disseminated by the Federal Bureau of Investigation, including any direct access to such information (such as access to "raw data") provided to any other Department, agency, or instrumentality of Federal, State, local, or tribal governments or any private sector entity;

(C) with respect to calendar year 2006, an examination of the minimization procedures adopted by the Attorney General under section 501(g) of such Act and whether such minimization procedures protect the constitutional rights of United States persons;

(D) whether, and how often, the Federal Bureau of Investigation utilized information acquired pursuant to an order under section 501 of such Act to produce an analytical intelligence product for distribution within the Federal Bureau of Investigation, to the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))), or to other Federal, State, local, or tribal government Departments, agencies, or instrumentalities; and

(E) whether, and how often, the Federal Bureau of Investigation provided such information to law enforcement authorities for use in criminal proceedings.

(c) SUBMISSION DATES.—

Reports.

(1) PRIOR YEARS.—Not later than one year after the date of the enactment of this Act, or upon completion of the audit under this section for calendar years 2002, 2003, and 2004, whichever is earlier, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this section for calendar years 2002, 2003, and 2004.

(2) CALENDAR YEARS 2005 AND 2006.—Not later than December 31, 2007, or upon completion of the audit under this section for calendar years 2005 and 2006, whichever is earlier, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select

Committee on Intelligence of the Senate a report containing the results of the audit conducted under this section for calendar years 2005 and 2006.

(d) PRIOR NOTICE TO ATTORNEY GENERAL AND DIRECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

Deadline.
Reports.

(1) NOTICE.—Not less than 30 days before the submission of a report under subsection (c)(1) or (c)(2), the Inspector General of the Department of Justice shall provide such report to the Attorney General and the Director of National Intelligence.

(2) COMMENTS.—The Attorney General or the Director of National Intelligence may provide comments to be included in the reports submitted under subsections (c)(1) and (c)(2) as the Attorney General or the Director of National Intelligence may consider necessary.

(e) UNCLASSIFIED FORM.—The reports submitted under subsections (c)(1) and (c)(2) and any comments included under subsection (d)(2) shall be in unclassified form, but may include a classified annex.

**SEC. 107. ENHANCED OVERSIGHT OF GOOD-FAITH EMERGENCY DISCLOSURES UNDER SECTION 212 OF THE USA PATRIOT ACT.**

(a) ENHANCED OVERSIGHT.—Section 2702 of title 18, United States Code, is amended by adding at the end the following:

"(d) REPORTING OF EMERGENCY DISCLOSURES.—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

"(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

"(2) a summary of the basis for disclosure in those instances where—

"(A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and

"(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.".

(b) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTIONS.—

(1) VOLUNTARY DISCLOSURES.—Section 2702 of title 18, United States Code, is amended—

(A) in subsection (b)(8), by striking "Federal, State, or local"; and

(B) by striking paragraph (4) of subsection (c) and inserting the following:

"(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency;".

(2) DEFINITIONS.—Section 2711 of title 18, United States Code, is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) the term 'governmental entity' means a department or agency of the United States or any State or political subdivision thereof.".

(c) ADDITIONAL EXCEPTION.—Section 2702(a) of title 18, United States Code, is amended by inserting "or (c)" after "Except as provided in subsection (b)".

**SEC. 108. MULTIPOINT ELECTRONIC SURVEILLANCE UNDER SECTION 206 OF THE USA PATRIOT ACT.**

(a) INCLUSION OF SPECIFIC FACTS IN APPLICATION.—

(1) APPLICATION.—Section 104(a)(3) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804(a)(3)) is amended by inserting "specific" after "description of the".

(2) ORDER.—Subsection (c) of section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(A) in paragraph (1)(A) by striking "target of the electronic surveillance" and inserting "specific target of the electronic surveillance identified or described in the application pursuant to section 104(a)(3)"; and

(B) in paragraph (2)(B), by striking "where the Court finds" and inserting "where the Court finds, based upon specific facts provided in the application,".

(b) ADDITIONAL DIRECTIONS.—Such subsection is further amended—

(1) by striking "An order approving" and all that follows through "specify" and inserting "(1) SPECIFICATIONS.—An order approving an electronic surveillance under this section shall specify";

(2) in paragraph (1)(F), by striking "; and" and inserting a period;

(3) in paragraph (2), by striking "direct" and inserting "DIRECTIONS.—An order approving an electronic surveillance under this section shall direct"; and

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

"(3) SPECIAL DIRECTIONS FOR CERTAIN ORDERS.—An order approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court within ten days after the date on which surveillance begins to be directed at any new facility or place, unless the court finds good cause to justify a longer period of up to 60 days, of— Notice. Deadline.

"(A) the nature and location of each new facility or place at which the electronic surveillance is directed;

"(B) the facts and circumstances relied upon by the applicant to justify the applicant's belief that each new facility or place at which the electronic surveillance is directed is or was being used, or is about to be used, by the target of the surveillance;

"(C) a statement of any proposed minimization procedures that differ from those contained in the original application or order, that may be necessitated by a change in the facility or place at which the electronic surveillance is directed; and

"(D) the total number of electronic surveillances that have been or are being conducted under the authority of the order.".

(c) ENHANCED OVERSIGHT.—

(1) REPORT TO CONGRESS.—Section 108(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(1)) is amended by inserting ", and the Committee on the Judiciary of the Senate," after "Senate Select Committee on Intelligence".

(2) MODIFICATION OF SEMIANNUAL REPORT REQUIREMENT ON ACTIVITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Paragraph (2) of section 108(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is amended to read as follows:

"(2) Each report under the first sentence of paragraph (1) shall include a description of—

"(A) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title where the nature and location of each facility or place at which the electronic surveillance will be directed is unknown;

"(B) each criminal case in which information acquired under this Act has been authorized for use at trial during the period covered by such report; and

"(C) the total number of emergency employments of electronic surveillance under section 105(f) and the total number of subsequent orders approving or denying such electronic surveillance.".

**SEC. 109. ENHANCED CONGRESSIONAL OVERSIGHT.**

(a) EMERGENCY PHYSICAL SEARCHES.—Section 306 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1826) is amended—

(1) in the first sentence, by inserting ", and the Committee on the Judiciary of the Senate," after "the Senate";

(2) in the second sentence, by striking "and the Committees on the Judiciary of the House of Representatives and the Senate" and inserting "and the Committee on the Judiciary of the House of Representatives";

(3) in paragraph (2), by striking "and" at the end;

(4) in paragraph (3), by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(4) the total number of emergency physical searches authorized by the Attorney General under section 304(e) and the total number of subsequent orders approving or denying such physical searches.".

(b) EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846(b)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 403, and the total number of subsequent orders approving or denying

the installation and use of such pen registers and trap and trace devices.".

(c) ADDITIONAL REPORT.—At the beginning and midpoint of each fiscal year, the Secretary of Homeland Security shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, a written report providing a description of internal affairs operations at U.S. Citizenship and Immigration Services, including the general state of such operations and a detailed description of investigations that are being conducted (or that were conducted during the previous six months) and the resources devoted to such investigations. The first such report shall be submitted not later than April 1, 2006. 8 USC 1107.

(d) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following:

"(f)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

"(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

"(A) All of the judges on the court established pursuant to subsection (a).

"(B) All of the judges on the court of review established pursuant to subsection (b).

"(C) The Chief Justice of the United States.

"(D) The Committee on the Judiciary of the Senate.

"(E) The Select Committee on Intelligence of the Senate.

"(F) The Committee on the Judiciary of the House of Representatives.

"(G) The Permanent Select Committee on Intelligence of the House of Representatives.

"(3) The transmissions required by paragraph (2) shall be submitted in unclassified form, but may include a classified annex.".

**SEC. 110. ATTACKS AGAINST RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS.**

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

### "§ 1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

"(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly and without lawful authority or permission—

"(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

"(2) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

"(3) places or releases a hazardous material or a biological agent or toxin on or near any property described in subparagraph (A) or (B) of paragraph (4), with intent to endanger the safety of any person, or with reckless disregard for the safety of human life;

"(4) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

"(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck railroad on-track equipment; or

"(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

"(5) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal;

"(6) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, controlling, or maintaining railroad on-track equipment or a mass transportation vehicle;

"(7) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (4);

"(8) surveils, photographs, videotapes, diagrams, or otherwise collects information with the intent to plan or assist in planning any of the acts described in paragraphs (1) through (6);

"(9) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt to engage in a violation of this subsection; or

"(10) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (9),

shall be fined under this title or imprisoned not more than 20 years, or both, and if the offense results in the death of any person, shall be imprisoned for any term of years or for life, or subject to death, except in the case of a violation of paragraph (8), (9), or (10).

"(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

"(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

"(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense; or

"(3) the offense was committed with the intent to endanger the safety of any person, or with a reckless disregard for the safety of any person, and the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

"(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

"(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations,

shall be fined under this title or imprisoned for any term of years or life, or both, and if the offense resulted in the death of any person, the person may be sentenced to death.

"(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

"(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, or a railroad carrier engaged in interstate or foreign commerce.

"(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

"(d) DEFINITIONS.—In this section—

"(1) the term 'biological agent' has the meaning given to that term in section 178(1);

"(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

"(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

"(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

"(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

"(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

"(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the

term includes school bus, charter, and sightseeing transportation and passenger vessel as that term is defined in section 2101(22) of title 46, United States Code;

"(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

"(9) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

"(10) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

"(11) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

"(12) the term 'serious bodily injury' has the meaning given to that term in section 1365;

"(13) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

"(14) the term 'State' has the meaning given to that term in section 2266;

"(15) the term 'toxin' has the meaning given to that term in section 178(2); and

"(16) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

**"97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991".**

(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains),".

**SEC. 111. FORFEITURE.**

Section 981(a)(1)(B)(i) of title 18, United States Code, is amended by inserting "trafficking in nuclear, chemical, biological, or radiological weapons technology or material, or" after "involves".

**SEC. 112. SECTION 2332b(g)(5)(B) AMENDMENTS RELATING TO THE DEFINITION OF FEDERAL CRIME OF TERRORISM.**

(a) ADDITIONAL OFFENSES.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i), by inserting ", 2339D (relating to military-type training from a foreign terrorist organization)" before ", or 2340A";

(2) in clause (ii), by striking "or" after the semicolon;

(3) in clause (iii), by striking the period and inserting "; or"; and

(4) by inserting after clause (iii) the following:

"(iv) section 1010A of the Controlled Substances Import and Export Act (relating to narco-terrorism).".

(b) CLERICAL CORRECTION.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ")" after "2339C (relating to financing of terrorism".

**SEC. 113. AMENDMENTS TO SECTION 2516(1) OF TITLE 18, UNITED STATES CODE.**

(a) PARAGRAPH (a) AMENDMENT.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 10 (relating to biological weapons)" after "under the following chapters of this title:".

(b) PARAGRAPH (c) AMENDMENT.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting "section 37 (relating to violence at international airports), section 43 (relating to animal enterprise terrorism)," after "the following sections of this title:";

(2) by inserting "section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities)," after "section 751 (relating to escape),";

(3) by inserting "section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials)," after "section 1014 (relating to loans and credit applications generally; renewals and discounts),";

(4) by inserting "section 1992 (relating to terrorist attacks against mass transportation)," after "section 1344 (relating to bank fraud),";

(5) by inserting "section 2340A (relating to torture)," after "section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),";

(6) by inserting "section 81 (arson within special maritime and territorial jurisdiction)," before "section 201 (bribery of public officials and witnesses)"; and

(7) by inserting "section 956 (conspiracy to harm persons or property overseas)," after "section 175c (relating to variola virus)".

(c) PARAGRAPH (g) AMENDMENT.—Section 2516(1)(g) of title 18, United States Code, is amended by inserting before the semicolon

", or section 5324 of title 31, United States Code (relating to structuring transactions to evade reporting requirement prohibited)".

(d) PARAGRAPH (j) AMENDMENT.—Section 2516(1)(j) of title 18, United States Code, is amended—

(1) by striking "or" before "section 46502 (relating to aircraft piracy)" and inserting a comma after "section 60123(b) (relating to the destruction of a natural gas pipeline"; and

(2) by inserting ", the second sentence of section 46504 (relating to assault on a flight crew with dangerous weapon), or section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft)" before "of title 49".

(e) PARAGRAPH (p) AMENDMENT.—Section 2516(1)(p) of title 18, United States Code, is amended by inserting ", section 1028A (relating to aggravated identity theft)" after "other documents".

(f) PARAGRAPH (q) AMENDMENT.—Section 2516(1)(q) of title 18, United States Code, is amended—

(1) by inserting "2339" after "2232h";

(2) by striking "or" before "2339C"; and

(3) by inserting ", or 2339D" after "2339C".

(g) AMENDMENT OF PREDICATE CRIMES FOR AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.—Section 2516(1) of title 18, United State Code, is amended—

(1) in subparagraph (q), by striking "or" after the semicolon;

(2) by redesignating subparagraph (r) as subparagraph (s); and

(3) by adding after subparagraph (q) the following:

"(r) any criminal violation of section 1 (relating to illegal restraints of trade or commerce), 2 (relating to illegal monopolizing of trade or commerce), or 3 (relating to illegal restraints of trade or commerce in territories or the District of Columbia) of the Sherman Act (15 U.S.C. 1, 2, 3); or".

**SEC. 114. DELAYED NOTICE SEARCH WARRANTS.**

(a) LIMITATION ON REASONABLE PERIOD FOR DELAY.—Section 3103a of title 18, United States Code, is amended—

(1) by striking subsection (b)(3) and inserting the following:

"(3) the warrant provides for the giving of such notice within a reasonable period not to exceed 30 days after the date of its execution, or on a later date certain if the facts of the case justify a longer period of delay.".

(2) by adding at the end the following:

"(c) EXTENSIONS OF DELAY.—Any period of delay authorized by this section may be extended by the court for good cause shown, subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the facts of the case justify a longer period of delay.".

(b) LIMITATION ON AUTHORITY TO DELAY NOTICE.—Section 3103a(b)(1) of title 18, United States Code, is amended by inserting ", except if the adverse results consist only of unduly delaying a trial" after "2705".

(c) ENHANCED OVERSIGHT.—Section 3103a of title 18, United States Code, is further amended by adding at the end the following:

"(d) REPORTS.—

"(1) REPORT BY JUDGE.—Not later than 30 days after the expiration of a warrant authorizing delayed notice (including

any extension thereof) entered under this section, or the denial of such warrant (or request for extension), the issuing or denying judge shall report to the Administrative Office of the United States Courts—

"(A) the fact that a warrant was applied for;

"(B) the fact that the warrant or any extension thereof was granted as applied for, was modified, or was denied;

"(C) the period of delay in the giving of notice authorized by the warrant, and the number and duration of any extensions; and

"(D) the offense specified in the warrant or application.

"(2) REPORT BY ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Beginning with the fiscal year ending September 30, 2007, the Director of the Administrative Office of the United States Courts shall transmit to Congress annually a full and complete report summarizing the data required to be filed with the Administrative Office by paragraph (1), including the number of applications for warrants and extensions of warrants authorizing delayed notice, and the number of such warrants and extensions granted or denied during the preceding fiscal year.

"(3) REGULATIONS.—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, is authorized to issue binding regulations dealing with the content and form of the reports required to be filed under paragraph (1).".

**SEC. 115. JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.**

Chapter 223 of title 18, United States Code, is amended—

(1) by inserting at the end of the table of sections the following new item:

"3511. Judicial review of requests for information.";

and

(2) by inserting after section 3510 the following:

**"§ 3511. Judicial review of requests for information**

"(a) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947 may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the request. The court may modify or set aside the request if compliance would be unreasonable, oppressive, or otherwise unlawful.

"(b)(1) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, may petition any court described in subsection (a) for an order modifying or setting aside a nondisclosure requirement imposed in connection with such a request.

"(2) If the petition is filed within one year of the request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947,

the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. If, at the time of the petition, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or in the case of a request by a department, agency, or instrumentality of the Federal Government other than the Department of Justice, the head or deputy head of such department, agency, or instrumentality, certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive unless the court finds that the certification was made in bad faith.

"(3) If the petition is filed one year or more after the request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, or in the case of a request by a department, agency, or instrumentality of the Federal Government other than the Federal Bureau of Investigation, the head or deputy head of such department, agency, or instrumentality, within ninety days of the filing of the petition, shall either terminate the nondisclosure requirement or re-certify that disclosure may result in a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person. In the event of re-certification, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. If the recertification that disclosure may endanger the national security of the United States or interfere with diplomatic relations is made by the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, such certification shall be treated as conclusive unless the court finds that the recertification was made in bad faith. If the court denies a petition for an order modifying or setting aside a nondisclosure requirement under this paragraph, the recipient shall be precluded for a period of one year from filing another petition to modify or set aside such nondisclosure requirement.

"(c) In the case of a failure to comply with a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the Attorney General may invoke

the aid of any district court of the United States within the jurisdiction in which the investigation is carried on or the person or entity resides, carries on business, or may be found, to compel compliance with the request. The court may issue an order requiring the person or entity to comply with the request. Any failure to obey the order of the court may be punished by the court as contempt thereof. Any process under this section may be served in any judicial district in which the person or entity may be found.

"(d) In all proceedings under this section, subject to any right to an open hearing in a contempt proceeding, the court must close any hearing to the extent necessary to prevent an unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947. Petitions, filings, records, orders, and subpoenas must also be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947.

"(e) In all proceedings under this section, the court shall, upon request of the government, review ex parte and in camera any government submission or portions thereof, which may include classified information.".

**SEC. 116. CONFIDENTIALITY OF NATIONAL SECURITY LETTERS.**

(a) Section 2709(c) of title 18, United States Code, is amended to read:

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—

"(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no wire or electronic communications service provider, or officer, employee, or agent thereof, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

Notification.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such person of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.".

(b) Section 626(d) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)) is amended to read:

"(d) CONFIDENTIALITY.—

"(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information on a consumer report.

Notification.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.".

(c) Section 627(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)) is amended to read:

"(c) CONFIDENTIALITY.—

"(1) If the head of a government agency authorized to conduct investigations of intelligence or counterintelligence

activities or analysis related to international terrorism, or his designee, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no consumer reporting agency or officer, employee, or agent of such consumer reporting agency, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request), or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

Notification.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to any attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(4) At the request of the authorized Government agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized Government agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such requesting official that the person intends to consult an attorney to obtain legal advice or legal assistance.".

(d) Section 1114(a)(3) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)) is amended to read as follows:

"(3)(A) If the Government authority described in paragraph (1) or the Secret Service, as the case may be, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such institution, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that the Government authority or the Secret Service has sought or obtained access to a customer's financial records.

Notification.

"(B) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under subparagraph (A).

"(C) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under subparagraph (A).

"(D) At the request of the authorized Government agency or the Secret Service, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized Government agency or the Secret Service the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such requesting official that the person intends to consult an attorney to obtain legal advice or legal assistance.".

(e) Section 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(D)) is amended to read:

"(D) PROHIBITION OF CERTAIN DISCLOSURE.—

"(i) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such institution, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under subparagraph (A).

Notification.

"(ii) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under clause (i).

"(iii) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under clause (i).

"(iv) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.".

(f) Section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) is amended to read as follows:

"(b) PROHIBITION OF CERTAIN DISCLOSURE.—

"(1) If an authorized investigative agency described in subsection (a) certifies that otherwise there may result a danger to the national security of the United States, interference with

a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that such entity has received or satisfied a request made by an authorized investigative agency under this section.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1). Notification.

"(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(4) At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such official that the person intends to consult an attorney to obtain legal advice or legal assistance.".

**SEC. 117. VIOLATIONS OF NONDISCLOSURE PROVISIONS OF NATIONAL SECURITY LETTERS.**

Section 1510 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever, having been notified of the applicable disclosure prohibitions or confidentiality requirements of section 2709(c)(1) of this title, section 626(d)(1) or 627(c)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)(1) or 1681v(c)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)), or section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 436(b)(1)), knowingly and with the intent to obstruct an investigation or judicial proceeding violates such prohibitions or requirements applicable by law to such person shall be imprisoned for not more than five years, fined under this title, or both.".

**SEC. 118. REPORTS ON NATIONAL SECURITY LETTERS.** 18 USC 3511 note.

(a) EXISTING REPORTS.—Any report made to a committee of Congress regarding national security letters under section 2709(c)(1) of title 18, United States Code, section 626(d) or 627(c) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) shall also be made to the Committees on the Judiciary of the House of Representatives and the Senate.

(b) ENHANCED OVERSIGHT OF FAIR CREDIT REPORTING ACT COUNTERTERRORISM NATIONAL SECURITY LETTER.—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681(v)) is amended by inserting at the end the following new subsection: 15 USC 1681v.

"(f) REPORTS TO CONGRESS.—(1) On a semi-annual basis, the Attorney General shall fully inform the Committee on the Judiciary, the Committee on Financial Services, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to subsection (a).

"(2) In the case of the semiannual reports required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947 (50 U.S.C. 415b).".

(c) REPORT ON REQUESTS FOR NATIONAL SECURITY LETTERS.—

(1) IN GENERAL.—In April of each year, the Attorney General shall submit to Congress an aggregate report setting forth with respect to the preceding year the total number of requests made by the Department of Justice for information concerning different United States persons under—

(A) section 2709 of title 18, United States Code (to access certain communication service provider records), excluding the number of requests for subscriber information;

(B) section 1114 of the Right to Financial Privacy Act (12 U.S.C. 3414) (to obtain financial institution customer records);

(C) section 802 of the National Security Act of 1947 (50 U.S.C. 436) (to obtain financial information, records, and consumer reports);

(D) section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports); and

(E) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations).

(2) UNCLASSIFIED FORM.—The report under this section shall be submitted in unclassified form.

(d) NATIONAL SECURITY LETTER DEFINED.—In this section, the term "national security letter" means a request for information under one of the following provisions of law:

(1) Section 2709(a) of title 18, United States Code (to access certain communication service provider records).

(2) Section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution customer records).

(3) Section 802 of the National Security Act of 1947 (50 U.S.C. 436) (to obtain financial information, records, and consumer reports).

(4) Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports).

(5) Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations).

**SEC. 119. AUDIT OF USE OF NATIONAL SECURITY LETTERS.**

(a) AUDIT.—The Inspector General of the Department of Justice shall perform an audit of the effectiveness and use, including any improper or illegal use, of national security letters issued by the Department of Justice.

(b) REQUIREMENTS.—The audit required under subsection (a) shall include—

(1) an examination of the use of national security letters by the Department of Justice during calendar years 2003 through 2006;

(2) a description of any noteworthy facts or circumstances relating to such use, including any improper or illegal use of such authority; and

(3) an examination of the effectiveness of national security letters as an investigative tool, including—

(A) the importance of the information acquired by the Department of Justice to the intelligence activities of the Department of Justice or to any other department or agency of the Federal Government;

(B) the manner in which such information is collected, retained, analyzed, and disseminated by the Department of Justice, including any direct access to such information (such as access to "raw data") provided to any other department, agency, or instrumentality of Federal, State, local, or tribal governments or any private sector entity;

(C) whether, and how often, the Department of Justice utilized such information to produce an analytical intelligence product for distribution within the Department of Justice, to the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))), or to other Federal, State, local, or tribal government departments, agencies, or instrumentalities;

(D) whether, and how often, the Department of Justice provided such information to law enforcement authorities for use in criminal proceedings;

(E) with respect to national security letters issued following the date of the enactment of this Act, an examination of the number of occasions in which the Department of Justice, or an officer or employee of the Department of Justice, issued a national security letter without the certification necessary to require the recipient of such letter to comply with the nondisclosure and confidentiality requirements potentially applicable under law; and

(F) the types of electronic communications and transactional information obtained through requests for information under section 2709 of title 18, United States Code, including the types of dialing, routing, addressing, or signaling information obtained, and the procedures the Department of Justice uses if content information is obtained through the use of such authority.

(c) SUBMISSION DATES.— Reports.

(1) PRIOR YEARS.—Not later than one year after the date of the enactment of this Act, or upon completion of the audit under this section for calendar years 2003 and 2004, whichever is earlier, the Inspector General of the Department of Justice

shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this subsection for calendar years 2003 and 2004.

(2) CALENDAR YEARS 2005 AND 2006.—Not later than December 31, 2007, or upon completion of the audit under this subsection for calendar years 2005 and 2006, whichever is earlier, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this subsection for calendar years 2005 and 2006.

(d) PRIOR NOTICE TO ATTORNEY GENERAL AND DIRECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

Deadline.

(1) NOTICE.—Not less than 30 days before the submission of a report under subsection (c)(1) or (c)(2), the Inspector General of the Department of Justice shall provide such report to the Attorney General and the Director of National Intelligence.

(2) COMMENTS.—The Attorney General or the Director of National Intelligence may provide comments to be included in the reports submitted under subsection (c)(1) or (c)(2) as the Attorney General or the Director of National Intelligence may consider necessary.

(e) UNCLASSIFIED FORM.—The reports submitted under subsection (c)(1) or (c)(2) and any comments included under subsection (d)(2) shall be in unclassified form, but may include a classified annex.

Deadline.

(f) MINIMIZATION PROCEDURES FEASIBILITY.—Not later than February 1, 2007, or upon completion of review of the report submitted under subsection (c)(1), whichever is earlier, the Attorney General and the Director of National Intelligence shall jointly submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report on the feasibility of applying minimization procedures in the context of national security letters to ensure the protection of the constitutional rights of United States persons.

(g) NATIONAL SECURITY LETTER DEFINED.—In this section, the term "national security letter" means a request for information under one of the following provisions of law:

(1) Section 2709(a) of title 18, United States Code (to access certain communication service provider records).

(2) Section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution customer records).

(3) Section 802 of the National Security Act of 1947 (50 U.S.C. 436) (to obtain financial information, records, and consumer reports).

(4) Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports).

(5) Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations).

**SEC. 120. DEFINITION FOR FORFEITURE PROVISIONS UNDER SECTION 806 OF THE USA PATRIOT ACT.**

Section 981(a)(1)(G) of title 18, United States Code, is amended—

(1) in clause (i), by striking "act of international or domestic terrorism (as defined in section 2331)" and inserting "any Federal crime of terrorism (as defined in section 2332b(g)(5))";

(2) in clause (ii), by striking "an act of international or domestic terrorism (as defined in section 2331)" with "any Federal crime of terrorism (as defined in section 2332b(g)(5)"; and

(3) in clause (iii), by striking "act of international or domestic terrorism (as defined in section 2331)" and inserting "Federal crime of terrorism (as defined in section 2332b(g)(5))".

**SEC. 121. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.**

(a) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND CIGARETTES.—(1) Section 2341(2) of title 18, United States Code, is amended by striking "60,000 cigarettes" and inserting "10,000 cigarettes".

(2) Section 2342(b) of that title is amended by striking "60,000" and inserting "10,000".

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking "60,000" and inserting "10,000"; and

(B) in subsection (b), by striking "60,000" and inserting "10,000".

(b) CONTRABAND SMOKELESS TOBACCO.—(1) Section 2341 of that title is amended—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

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

"(6) the term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted;

"(7) the term 'contraband smokeless tobacco' means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—

"(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

"(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

"(C) a person who—

"(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products; and

"(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

"(D) an officer, employee, or agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State), having possession of such smokeless tobacco in connection with the performance of official duties;".

(2) Section 2342(a) of that title is amended by inserting "or contraband smokeless tobacco" after "contraband cigarettes".

(3) Section 2343(a) of that title is amended by inserting ", or any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages," before "in a single transaction".

(4) Section 2344(c) of that title is amended by inserting "or contraband smokeless tobacco" after "contraband cigarettes".

(5) Section 2345 of that title is amended by inserting "or smokeless tobacco" after "cigarettes" each place it appears.

(6) Section 2341 of that title is further amended in paragraph (2), as amended by subsection (a)(1) of this section, in the matter preceding subparagraph (A), by striking "State cigarette taxes in the State where such cigarettes are found, if the State" and inserting "State or local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government".

(c) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "only—" and inserting "such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—"; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Any person, except for a tribal government, who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

"(1) The person's beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

"(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).

"(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such

month to each person (itemized by name and address) other than a retail purchaser."; and

(4) by adding at the end the following new subsections:

"(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded.

"(e) In this section, the term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

"(1) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

"(2) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.

"(f) In this section, the term 'interstate commerce' means commerce between a State and any place outside the State, or commerce between points in the same State but through any place outside the State.".

(d) DISPOSAL OR USE OF FORFEITED CIGARETTES AND SMOKELESS TOBACCO.—Section 2344(c) of that title, as amended by this section, is further amended by striking "seizure and forfeiture," and all that follows and inserting "seizure and forfeiture. The provisions of chapter 46 of title 18 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. Any cigarettes or smokeless tobacco so seized and forfeited shall be either—

"(1) destroyed and not resold; or

"(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.".

(e) EFFECT ON STATE AND LOCAL LAW.—Section 2345 of that title is amended—

(1) in subsection (a), by striking "a State to enact and enforce" and inserting "a State or local government to enact and enforce its own"; and

(2) in subsection (b), by striking "of States, through interstate compact or otherwise, to provide for the administration of State" and inserting "of State or local governments, through interstate compact or otherwise, to provide for the administration of State or local".

(f) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting "(a)" before "The Attorney General"; and

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

"(b)(1) A State, through its attorney general, a local government, through its chief law enforcement officer (or a designee thereof), or any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person), except that any person who holds a permit under chapter 52 of the Internal

Revenue Code of 1986 may not bring such an action against a State or local government. No civil action may be commenced under this paragraph against an Indian tribe or an Indian in Indian country (as defined in section 1151).

"(2) A State, through its attorney general, or a local government, through its chief law enforcement officer (or a designee thereof), may in a civil action under paragraph (1) also obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief. Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government, or an Indian tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government, or an Indian tribe.

"(3) The remedies under paragraphs (1) and (2) are in addition to any other remedies under Federal, State, local, or other law.

"(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

"(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.".

(g) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

**"§ 2343. Recordkeeping, reporting, and inspection".**

(2) The section heading for section 2345 of such title is amended to read as follows:

**"§ 2345. Effect on State and local law".**

(3) The table of sections at the beginning of chapter 114 of that title is amended—

(A) by striking the item relating to section 2343 and inserting the following new item:

"2343. Recordkeeping, reporting, and inspection.";

and

(B) by striking the item relating to section 2345 and inserting the following new item:

"2345. Effect on State and local law.".

(4)(A) The heading for chapter 114 of that title is amended to read as follows:

**"CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES AND SMOKELESS TOBACCO".**

(B) The table of chapters at the beginning of part I of that title is amended by striking the item relating to section 114 and inserting the following new item:

**"114. Trafficking in contraband cigarettes and smokeless tobacco .....2341.".**

**SEC. 122. PROHIBITION OF NARCO-TERRORISM.**

Part A of the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) is amended by inserting after section 1010 the following:

"FOREIGN TERRORIST ORGANIZATIONS, TERRORIST PERSONS AND GROUPS

"Prohibited Acts

"SEC. 1010A. (a) Whoever engages in conduct that would be punishable under section 841(a) of this title if committed within the jurisdiction of the United States, or attempts or conspires to do so, knowing or intending to provide, directly or indirectly, anything of pecuniary value to any person or organization that has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), shall be sentenced to a term of imprisonment of not less than twice the minimum punishment under section 841(b)(1), and not more than life, a fine in accordance with the provisions of title 18, United States Code, or both. Notwithstanding section 3583 of title 18, United States Code, any sentence imposed under this subsection shall include a term of supervised release of at least 5 years in addition to such term of imprisonment. 21 USC 960a.

"Jurisdiction

"(b) There is jurisdiction over an offense under this section if—

"(1) the prohibited drug activity or the terrorist offense is in violation of the criminal laws of the United States;

"(2) the offense, the prohibited drug activity, or the terrorist offense occurs in or affects interstate or foreign commerce;

"(3) an offender provides anything of pecuniary value for a terrorist offense that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

"(4) the offense or the prohibited drug activity occurs in whole or in part outside of the United States (including on the high seas), and a perpetrator of the offense or the prohibited drug activity is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); or

"(5) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States.

"Proof Requirements

"(c) To violate subsection (a), a person must have knowledge that the person or organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

"Definition

"(d) As used in this section, the term 'anything of pecuniary value' has the meaning given the term in section 1958(b)(1) of title 18, United States Code.".

**SEC. 123. INTERFERING WITH THE OPERATION OF AN AIRCRAFT.**

Section 32 of title 18, United States Code, is amended—

(1) in subsection (a), by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8) respectively;

(2) by inserting after paragraph (4) of subsection (a), the following:

"(5) interferes with or disables, with intent to endanger the safety of any person or with a reckless disregard for the safety of human life, anyone engaged in the authorized operation of such aircraft or any air navigation facility aiding in the navigation of any such aircraft;";

(3) in subsection (a)(8), by striking "paragraphs (1) through (6)" and inserting "paragraphs (1) through (7)"; and

(4) in subsection (c), by striking "paragraphs (1) through (5)" and inserting "paragraphs (1) through (6)".

**SEC. 124. SENSE OF CONGRESS RELATING TO LAWFUL POLITICAL ACTIVITY.**

It is the sense of Congress that government should not investigate an American citizen solely on the basis of the citizen's membership in a non-violent political organization or the fact that the citizen was engaging in other lawful political activity.

15 USC 2233.

**SEC. 125. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.**

(a) LIABILITY PROTECTION.—A person who donates qualified fire control or rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct;

(2) the person is the manufacturer of the qualified fire control or rescue equipment; or

(3) the person or agency modified or altered the equipment after it had been recertified by an authorized technician as meeting the manufacturer's specifications.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section,

except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term "fire control or fire rescue equipment" includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) QUALIFIED FIRE CONTROL OR RESCUE EQUIPMENT.—The term "qualified fire control or rescue equipment" means fire control or fire rescue equipment that has been recertified by an authorized technician as meeting the manufacturer's specifications.

(4) STATE.—The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(5) VOLUNTEER FIRE COMPANY.—The term "volunteer fire company" means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(6) AUTHORIZED TECHNICIAN.—The term "authorized technician" means a technician who has been certified by the manufacturer of fire control or fire rescue equipment to inspect such equipment. The technician need not be employed by the State or local agency administering the distribution of the fire control or fire rescue equipment.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this section.

**SEC. 126. REPORT ON DATA-MINING ACTIVITIES.**

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on any initiative of the Department of Justice that uses or is intended to develop pattern-based data-mining technology, including, for each such initiative, the following information:

(1) A thorough description of the pattern-based data-mining technology consistent with the protection of existing patents, proprietary business processes, trade secrets, and intelligence sources and methods.

(2) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the pattern-based data-mining technology.

(3) An assessment of the likely efficacy of the pattern-based data-mining technology quality assurance controls to be used in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(4) An assessment of the likely impact of the implementation of the pattern-based data-mining technology on privacy and civil liberties.

(5) A list and analysis of the laws and regulations applicable to the Department of Justice that govern the application of the pattern-based data-mining technology to the information to be collected, reviewed, gathered, and analyzed with the pattern-based data-mining technology.

(6) A thorough discussion of the policies, procedures, and guidelines of the Department of Justice that are to be developed and applied in the use of such technology for pattern-based data-mining in order to—

(A) protect the privacy and due process rights of individuals; and

(B) ensure that only accurate information is collected and used or account for the possibility of inaccuracy in that information and guard against harmful consequences of potential inaccuracies.

(7) Any necessary classified information in an annex that shall be available consistent with national security to the Committee on the Judiciary of both the Senate and the House of Representatives.

(b) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term "data-mining" means a query or search or other analysis of one or more electronic databases, where—

(A) at least one of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use personal identifiers of a specific individual or does not utilize inputs that appear on their face to identify or be associated with a specified individual to acquire information; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term "database" does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public, any databases maintained, operated, or controlled by a State, local, or tribal government (such as a State motor vehicle database), or databases of judicial and administrative opinions.

**SEC. 127. SENSE OF CONGRESS.**

It is the sense of Congress that under section 981 of title 18, United States Code, victims of terrorists attacks should have access to the assets forfeited.

**SEC. 128. USA PATRIOT ACT SECTION 214; AUTHORITY FOR DISCLOSURE OF ADDITIONAL INFORMATION IN CONNECTION WITH ORDERS FOR PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.**

(a) RECORDS.—Section 402(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by adding "and" at the end; and

(B) in clause (iii), by striking the period at the end and inserting a semicolon;

(2) in subparagraph (B)(iii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) shall direct that, upon the request of the applicant, the provider of a wire or electronic communication service shall disclose to the Federal officer using the pen register or trap and trace device covered by the order—

"(i) in the case of the customer or subscriber using the service covered by the order (for the period specified by the order)—

"(I) the name of the customer or subscriber;

"(II) the address of the customer or subscriber;

"(III) the telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

"(IV) the length of the provision of service by such provider to the customer or subscriber and the types of services utilized by the customer or subscriber;

"(V) in the case of a provider of local or long distance telephone service, any local or long distance telephone records of the customer or subscriber;

"(VI) if applicable, any records reflecting period of usage (or sessions) by the customer or subscriber; and

"(VII) any mechanisms and sources of payment for such service, including the number of any credit card or bank account utilized for payment for such service; and

"(ii) if available, with respect to any customer or subscriber of incoming or outgoing communications to or from the service covered by the order—

"(I) the name of such customer or subscriber;

"(II) the address of such customer or subscriber;

"(III) the telephone or instrument number, or other subscriber number or identifier, of such customer or subscriber, including any temporarily assigned network address or associated routing or transmission information; and

"(IV) the length of the provision of service by such provider to such customer or subscriber and the types of services utilized by such customer or subscriber.".

(b) ENHANCED OVERSIGHT.—Section 406(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846(a)) is amended by inserting ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate," after "of the Senate".

Terrorist Death Penalty Enhancement Act of 2005.

# TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

18 USC 1 note.

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Terrorist Death Penalty Enhancement Act of 2005".

## Subtitle A—Terrorist Penalties Enhancement Act

49 USC 46502 note.

**SEC. 211. DEATH PENALTY PROCEDURES FOR CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994.**

49 USC 46502 note.

(a) IN GENERAL.—Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

"(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.".

(b) SEVERABILITY CLAUSE.—If any provision of section 60003(b)(2) of the Violent Crime and Law Enforcement Act of 1994 (Public Law 103–322), or the application thereof to any person or any circumstance is held invalid, the remainder of such section and the application of such section to other persons or circumstances shall not be affected thereby.

**SEC. 212. POSTRELEASE SUPERVISION OF TERRORISTS.**

Section 3583(j) of title 18, United States Code, is amended in subsection (j), by striking ", the commission" and all that follows through "person,".

# Subtitle B—Federal Death Penalty Procedures

**SEC. 221. ELIMINATION OF PROCEDURES APPLICABLE ONLY TO CERTAIN CONTROLLED SUBSTANCES ACT CASES.**

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) in subsection (e)(2), by striking "(1)(b)" and inserting "(1)(B)";

(2) by striking subsection (g) and all that follows through subsection (p);

(3) by striking subsection (r); and

(4) in subsection (q), by striking paragraphs (1) through (3).

**SEC. 222. COUNSEL FOR FINANCIALLY UNABLE DEFENDANTS.**

(a) IN GENERAL.—Chapter 228 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 3599. Counsel for financially unable defendants**

"(a)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services at any time either—

"(A) before judgment; or

"(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with subsections (b) through (f).

"(2) In any post conviction proceeding under section 2254 or 2255 of title 28, United States Code, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with subsections (b) through (f).

"(b) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(c) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

"(d) With respect to subsections (b) and (c), the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

"(e) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(f) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under subsection (g). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.

Records.

Compensation.

"(g)(1) Compensation shall be paid to attorneys appointed under this subsection at a rate of not more than $125 per hour for in-court and out-of-court time. The Judicial Conference is authorized to raise the maximum for hourly payment specified in the paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay for the General Schedule made pursuant to section 5305 of title 5 on or after such date. After the rates are raised under the preceding sentence, such hourly range may be raised at intervals of not less than one year, up to the aggregate of the overall average percentages of such adjustments made since the last raise under this paragraph.

"(2) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under subsection (f) shall not exceed $7,500 in any case, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge, if the services were rendered in connection with the case disposed of entirely before such magistrate judge, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

"(3) The amounts paid under this paragraph for services in any case shall be disclosed to the public, after the disposition of the petition.".

(b) CONFORMING AMENDMENT.—The table of sections of the bill is amended by inserting after the item relating to section 3598 the following new item:

"3599. Counsel for financially unable defendants.".

21 USC 848.

(c) REPEAL.—Subsection (q) of section 408 of the Controlled Substances Act is amended by striking paragraphs (4) through (10).

# TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

Reducing Crime and Terrorism at America's Seaports Act of 2005.
18 USC 1 note.

**SEC. 301. SHORT TITLE.**

This title may be cited as the "Reducing Crime and Terrorism at America's Seaports Act of 2005".

**SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

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

"(3) any secure or restricted area of any seaport, designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section; or";

(2) in subsection (b)(1), by striking "5 years" and inserting "10 years";

(3) in subsection (c)(1), by inserting ", captain of the seaport," after "airport authority"; and

(4) by striking the section heading and inserting the following:

**"§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport".**

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

"1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.".

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

**"§ 26. Definition of seaport**

"As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures, adjacent to any waters subject to the jurisdiction of the United States, to which a vessel may be secured, including areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.".

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

"26. Definition of seaport.".

**SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.**

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

**"§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information**

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

"(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest; or

"(B) provide materially false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(b) Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

"(c) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(e) In this section—

"(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

"(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and

"(4) the term 'vessel of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.".

**SEC. 304. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES.**

(a) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, as amended by subsection (a), is further amended by adding at the end the following:

**"§ 2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce**

"(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or dangerous substance which is likely to destroy or cause damage to a vessel or its cargo, cause interference with the safe navigation of vessels, or interference with maritime commerce (such as by damaging or destroying marine terminals, facilities, or any other marine structure or entity used in maritime commerce) with the intent of causing such destruction or damage, interference with the safe navigation of vessels, or interference with maritime commerce shall be fined under this title or imprisoned for any term of years, or for life; or both.

"(b) A person who causes the death of any person by engaging in conduct prohibited under subsection (a) may be punished by death.

"(c) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.

"(d) In this section:

"(1) The term 'dangerous substance' means any solid, liquid, or gaseous material that has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.

"(2) The term 'device' means any object that, because of its physical, mechanical, structural, or chemical properties, has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsection (b), is further amended by adding after the item related to section 2282 the following:

"2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.".

(b) VIOLENCE AGAINST MARITIME NAVIGATION.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code as amended by subsections (a) and (c), is further amended by adding at the end the following:

**"§ 2282B. Violence against aids to maritime navigation**

"Whoever intentionally destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship, shall be fined under this title or imprisoned for not more than 20 years, or both.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by

subsections (b) and (d) is further amended by adding after the item related to section 2282A the following:

"2282B. Violence against aids to maritime navigation.".

**SEC. 305. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.**

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 305, is further amended by adding at the end the following:

**"§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials**

"(a) IN GENERAL.—Whoever knowingly transports aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title or imprisoned for any term of years or for life, or both.

"(b) CAUSING DEATH.—Any person who causes the death of a person by engaging in conduct prohibited by subsection (a) may be punished by death.

"(c) DEFINITIONS.—In this section:

"(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

"(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F(1).

"(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5) and includes explosive materials, as that term is defined in section 841(c) and explosive as defined in section 844(j).

"(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

"(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

"(A) source material and special nuclear material, but does not include natural or depleted uranium;

"(B) nuclear by-product material;

"(C) material made radioactive by bombardment in an accelerator; or

"(D) all refined isotopes of radium.

"(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

"(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

### "§ 2284. Transportation of terrorists

"(a) IN GENERAL.—Whoever knowingly and intentionally transports any terrorist aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title or imprisoned for any term of years or for life, or both.

"(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by section 305, is further amended by adding at the end the following:

"2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.
"2284. Transportation of terrorists.".

### SEC. 306. DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

## "CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

"Sec.
"2290. Jurisdiction and scope.
"2291. Destruction of vessel or maritime facility.
"2292. Imparting or conveying false information.

### "§ 2290. Jurisdiction and scope

"(a) JURISDICTION.—There is jurisdiction, including extraterritorial jurisdiction, over an offense under this chapter if the prohibited activity takes place—

"(1) within the United States and within waters subject to the jurisdiction of the United States; or

"(2) outside United States and—

"(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(B) the activity involves a vessel in which a national of the United States was on board; or

"(C) the activity involves a vessel of the United States (as that term is defined under section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

"(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

### "§ 2291. Destruction of vessel or maritime facility

"(a) OFFENSE.—Whoever knowingly—

"(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

"(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), destructive substance, as defined

in section 31(a)(3), or an explosive, as defined in section 844(j) in, upon, or near, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

"(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment;

"(4) interferes by force or violence with the operation of any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment, if such action is likely to endanger the safety of any vessel in navigation;

"(5) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(6) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

"(7) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365(h)(3), in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(8) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

"(9) attempts or conspires to do anything prohibited under paragraphs (1) through (8),

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the transportation of hazardous materials regulated and allowed to be transported under chapter 51 of title 49.

"(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under this title, imprisoned for a term up to life, or both.

"(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a) and intended to cause death by the prohibited conduct, if the conduct resulted in the

death of any person, shall be subject also to the death penalty or to a term of imprisonment for a period up to life.

"(e) THREATS.—Whoever knowingly and intentionally imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title or imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

**"§ 2292. Imparting or conveying false information**

"(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

"(b) MALICIOUS CONDUCT.—Whoever knowingly, intentionally, maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title or imprisoned not more than 5 years.

"(c) JURISDICTION.—

"(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

"(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 111 of this title, to which the imparted or conveyed false information relates, as applicable.

**"§ 2293. Bar to prosecution**

"(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

"(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

"(2) such conduct is prohibited as a misdemeanor, and not as a felony, under the law of the State in which it was committed.

"(b) DEFINITIONS.—In this section:

"(1) LABOR DISPUTE.—The term 'labor dispute' has the same meaning given that term in section 13(c) of the Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes (29 U.S.C. 113(c), commonly known as the Norris-LaGuardia Act).

"(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

**"111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290".**

**SEC. 307. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.**

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting ", or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(2) in the fifth undesignated paragraph, by striking "in each case" and all that follows through "or both" the second place it appears and inserting "be fined under this title or imprisoned not more than 10 years, or both, but if the amount or value of such money, baggage, goods, or chattels is less than $1,000, shall be fined under this title or imprisoned for not more than 3 years, or both"; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.".

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following, as a new undesignated paragraph: "'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—

(A) TRANSPORTATION.—Section 2312 of title 18, United States Code, is amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

(B) SALE.—Section 2313(a) of title 18, United States Code, is amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

28 USC 994 note.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this title.

28 USC 659 note.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2006.

**SEC. 308. STOWAWAYS ON VESSELS OR AIRCRAFT.**

Section 2199 of title 18, United States Code, is amended by striking "Shall be fined under this title or imprisoned not more than one year, or both." and inserting the following:

"(1) shall be fined under this title, imprisoned not more than 5 years, or both;

"(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title or imprisoned not more than 20 years, or both; and

"(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.".

**SEC. 309. BRIBERY AFFECTING PORT SECURITY.**

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

### "§ 226. Bribery affecting port security

"(a) IN GENERAL.—Whoever knowingly—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent to commit international terrorism or domestic terrorism (as those terms are defined under section 2331), to—

"(A) influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

"(B) induce any official or person to do or omit to do any act in violation of the lawful duty of such official or person that affects any secure or restricted area or seaport; or

"(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

"(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

"(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism,

shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) DEFINITION.—In this section, the term 'secure or restricted area' means an area of a vessel or facility designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery affecting port security.".

**SEC. 310. PENALTIES FOR SMUGGLING GOODS INTO THE UNITED STATES.**

The third undesignated paragraph of section 545 of title 18, United States Code, is amended by striking "5 years" and inserting "20 years".

**SEC. 311. SMUGGLING GOODS FROM THE UNITED STATES.**

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

**"§ 554. Smuggling goods from the United States**

"(a) IN GENERAL.—Whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article, or object contrary to any law or regulation of the United States, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'United States' has the meaning given that term in section 545.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"554. Smuggling goods from the United States.".

(c) SPECIFIED UNLAWFUL ACTIVITY.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 554 (relating to smuggling goods from the United States)," before "section 641 (relating to public money, property, or records),".

(d) TARIFF ACT OF 1990.—Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended by adding at the end the following:

"(d) Merchandise exported or sent from the United States or attempted to be exported or sent from the United States contrary to law, or the proceeds or value thereof, and property used to facilitate the exporting or sending of such merchandise, the attempted exporting or sending of such merchandise, or the receipt, purchase, transportation, concealment, or sale of such merchandise prior to exportation shall be seized and forfeited to the United States.".

(e) REMOVING GOODS FROM CUSTOMS CUSTODY.—Section 549 of title 18, United States Code, is amended in the 5th paragraph by striking "two years" and inserting "10 years".

# TITLE IV—COMBATING TERRORISM FINANCING

Combating Terrorism Financing Act of 2005.

**SEC. 401. SHORT TITLE.**

18 USC 1 note.

This title may be cited as the "Combating Terrorism Financing Act of 2005".

**SEC. 402. INCREASED PENALTIES FOR TERRORISM FINANCING.**

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a), by deleting "$10,000" and inserting "$50,000"; and

(2) in subsection (b), by deleting "ten years" and inserting "twenty years".

**SEC. 403. TERRORISM-RELATED SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.**

(a) AMENDMENTS TO RICO.—Section 1961(1) of title 18, United States Code, is amended in subparagraph (B), by inserting "section 1960 (relating to illegal money transmitters)," before "sections 2251".

(b) AMENDMENT TO SECTION 1956(c)(7).—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or any felony violation of the Foreign Corrupt Practices Act" and inserting "any felony violation of the Foreign Corrupt Practices Act".

(c) CONFORMING AMENDMENTS TO SECTIONS 1956(e) AND 1957(e).—

(1) Section 1956(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.".

Agreement.

(2) Section 1957(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland

Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General.".

Agreement

**SEC. 404. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.**

Section 981(a)(1)(G) of title 18, United States Code, is amended—

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

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting the following after clause (iii):

"(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b)) or against any foreign Government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.".

**SEC. 405. MONEY LAUNDERING THROUGH HAWALAS.**

Section 1956(a)(1) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this paragraph, a financial transaction shall be considered to be one involving the proceeds of specified unlawful activity if it is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity, and all of which are part of a single plan or arrangement.".

**SEC. 406. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE USA PATRIOT ACT.**

(a) TECHNICAL CORRECTIONS.—

28 USC 2466.

(1) Section 322 of Public Law 107–56 is amended by striking "title 18" and inserting "title 28".

(2) Section 1956(b)(3) and (4) of title 18, United States Code, are amended by striking "described in paragraph (2)" each time it appears; and

(3) Section 981(k) of title 18, United States Code, is amended by striking "foreign bank" each time it appears and inserting "foreign financial institution (as defined in section 984(c)(2)(A) of this title)".

(b) CODIFICATION OF SECTION 316 OF THE USA PATRIOT ACT.—

(1) Chapter 46 of title 18, United States Code, is amended—

(A) in the chapter analysis, by inserting at the end the following:

"987. Anti-terrorist forfeiture protection.";

and

(B) by inserting at the end the following:

**"§ 987. Anti-terrorist forfeiture protection**

"(a) RIGHT TO CONTEST.—An owner of property that is confiscated under any provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that—

"(1) the property is not subject to confiscation under such provision of law; or

"(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

"(b) EVIDENCE.—In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

"(c) CLARIFICATIONS.—

"(1) PROTECTION OF RIGHTS.—The exclusion of certain provisions of Federal law from the definition of the term 'civil forfeiture statute' in section 983(i) of title 18, United States Code, shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under—

"(A) subsection (a) of this section;

"(B) the Constitution; or

"(C) subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

"(2) SAVINGS CLAUSE.—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 of title 18, United States Code, or any other provision of law.".

(2) Subsections (a), (b), and (c) of section 316 of Public Law 107–56 are repealed. 18 USC 983 note.

(c) CONFORMING AMENDMENTS CONCERNING CONSPIRACIES.—

(1) Section 33(a) of title 18, United States Code is amended by inserting "or conspires" before "to do any of the aforesaid acts".

(2) Section 1366(a) of title 18, United States Code, is amended—

(A) by striking "attempts" each time it appears and inserting "attempts or conspires"; and

(B) by inserting ", or if the object of the conspiracy had been achieved," after "the attempted offense had been completed".

**SEC. 407. CROSS REFERENCE CORRECTION.**

Section 5318(n)(4)(A) of title 31, United States Code, is amended by striking "National Intelligence Reform Act of 2004" and inserting "Intelligence Reform and Terrorism Prevention Act of 2004".

**SEC. 408. AMENDMENT TO AMENDATORY LANGUAGE.**

Section 6604 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended (effective on the date of the enactment of that Act)— Effective date. 18 USC 2339C note.

(1) by striking "Section 2339c(c)(2)" and inserting "Section 2339C(c)(2)"; and

(2) by striking "Section 2339c(e)" and inserting "Section 2339C(e)".

**SEC. 409. DESIGNATION OF ADDITIONAL MONEY LAUNDERING PREDICATE.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ", section 2339C (relating to financing of terrorism), or section 2339D (relating to receiving military-type training from a foreign terrorist organization)" after "section 2339A or 2339B (relating to providing material support to terrorists)"; and

(2) by striking "or" before "section 2339A or 2339B".

**SEC. 410. UNIFORM PROCEDURES FOR CRIMINAL FORFEITURE.**

Section 2461(c) of title 28, United States Code, is amended to read as follows:

"(c) If a person is charged in a criminal case with a violation of an Act of Congress for which the civil or criminal forfeiture of property is authorized, the Government may include notice of the forfeiture in the indictment or information pursuant to the Federal Rules of Criminal Procedure. If the defendant is convicted of the offense giving rise to the forfeiture, the court shall order the forfeiture of the property as part of the sentence in the criminal case pursuant to to the Federal Rules of Criminal Procedure and section 3554 of title 18, United States Code. The procedures in section 413 of the Controlled Substances Act (21 U.S.C. 853) apply to all stages of a criminal forfeiture proceeding, except that subsection (d) of such section applies only in cases in which the defendant is convicted of a violation of such Act.".

Applicability.

# TITLE V—MISCELLANEOUS PROVISIONS

**SEC. 501. RESIDENCE OF UNITED STATES ATTORNEYS AND ASSISTANT UNITED STATES ATTORNEYS.**

(a) IN GENERAL.—Subsection (a) of section 545 of title 28, United States Code, is amended by adding at the end the following new sentence: "Pursuant to an order from the Attorney General or his designee, a United States attorney or an assistant United States attorney may be assigned dual or additional responsibilities that exempt such officer from the residency requirement in this subsection for a specific period as established by the order and subject to renewal.".

28 USC 545 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of February 1, 2005.

**SEC. 502. INTERIM APPOINTMENT OF UNITED STATES ATTORNEYS.**

Section 546 of title 28, United States Code, is amended by striking subsections (c) and (d) and inserting the following new subsection:

"(c) A person appointed as United States attorney under this section may serve until the qualification of a United States Attorney for such district appointed by the President under section 541 of this title.".

**SEC. 503. SECRETARY OF HOMELAND SECURITY IN PRESIDENTIAL LINE OF SUCCESSION.**

Section 19(d)(1) of title 3, United States Code, is amended by inserting ", Secretary of Homeland Security" after "Secretary of Veterans Affairs".

**SEC. 504. BUREAU OF ALCOHOL, TOBACCO AND FIREARMS TO THE DEPARTMENT OF JUSTICE.**

The second sentence of section 1111(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 531(a)(2)) is amended by striking "Attorney General" the first place it appears and inserting "President, by and with the advice and consent of the Senate".

**SEC. 505. QUALIFICATIONS OF UNITED STATES MARSHALS.**

Section 561 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(i) Each marshal appointed under this section should have—

"(1) a minimum of 4 years of command-level law enforcement management duties, including personnel, budget, and accountable property issues, in a police department, sheriff's office or Federal law enforcement agency;

"(2) experience in coordinating with other law enforcement agencies, particularly at the State and local level;

"(3) college-level academic experience; and

"(4) experience in or with county, State, and Federal court systems or experience with protection of court personnel, jurors, and witnesses.".

**SEC. 506. DEPARTMENT OF JUSTICE INTELLIGENCE MATTERS.**

(a) ASSISTANT ATTORNEY GENERAL FOR NATIONAL SECURITY.—

(1) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by inserting after section 507 the following new section:

**"§ 507A. Assistant Attorney General for National Security**

"(a) Of the Assistant Attorneys General appointed under section 506, one shall serve, upon the designation of the President, as the Assistant Attorney General for National Security. President.

"(b) The Assistant Attorney General for National Security shall—

"(1) serve as the head of the National Security Division of the Department of Justice under section 509A of this title;

"(2) serve as primary liaison to the Director of National Intelligence for the Department of Justice; and

"(3) perform such other duties as the Attorney General may prescribe.".

(2) ADDITIONAL ASSISTANT ATTORNEY GENERAL.—Section 506 of title 28, United States Code, is amended by striking "ten" and inserting "11".

(3) EXECUTIVE SCHEDULE MATTERS.—Section 5315 of title 5, United States Code, is amended by striking the matter relating to Assistant Attorneys General and inserting the following:

"Assistant Attorneys General (11).".

(4) CONSULTATION OF DIRECTOR OF NATIONAL INTELLIGENCE IN APPOINTMENT.—Section 106(c)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28, United States Code.".

(5) AUTHORITY TO ACT FOR ATTORNEY GENERAL UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Section 101(g) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(g)) is amended by striking "or the Deputy Attorney General" and inserting ", the Deputy Attorney General, or, upon the designation of the Attorney General, the Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28, United States Code".

(6) AUTHORIZATION FOR INTERCEPTION OF COMMUNICATIONS.—Section 2516(1) of title 18, United States Code, is amended by inserting "or National Security Division" after "the Criminal Division".

(7) AUTHORITY TO ACT FOR ATTORNEY GENERAL IN MATTERS INVOLVING WITNESS RELOCATION OR PROTECTION.—Section 3521(d)(3) of title 18, United States Code, is amended by striking "to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice" and inserting "to any Assistant Attorney General in charge of the Criminal Division or National Security Division of the Department of Justice".

(8) PROSECUTION OF CASES INVOLVING CLASSIFIED INFORMATION.—Section 9A(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended by inserting "or the Assistant Attorney General for National Security, as appropriate," after "Assistant Attorney General for the Criminal Division".

(9) INTELLIGENCE AND NATIONAL SECURITY ASPECTS OF ESPIONAGE PROSECUTION.—Section 341(b) of the Intelligence Authorization Act for Fiscal Year 2004 (28 U.S.C. 519 note) is amended by striking "acting through the Office of Intelligence Policy and Review of the Department of Justice" and inserting "acting through the Assistant Attorney General for National Security".

(10) CERTIFICATIONS FOR CERTAIN UNDERCOVER FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE INVESTIGATIVE OPERATIONS.—Section 102(b)(1) of Public Law 102–395 (28 U.S.C. 533 note) is amended by striking "Counsel for Intelligence Policy" and inserting "Assistant Attorney General for National Security".

(11) INCLUSION IN FEDERAL LAW ENFORCEMENT COMMUNITY FOR EMERGENCY FEDERAL LAW ENFORCEMENTS ASSISTANCE PURPOSES.—Section 609N(2) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)) is amended—

(A) by redesignating subparagraphs (L) and (M) as subparagraphs (M) and (N), respectively; and

(B) by inserting after subparagraph (K) the following new subparagraph (L):

"(L) the National Security Division of the Department of Justice,".

(b) NATIONAL SECURITY DIVISION OF DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Chapter 31 of title 28, United States Code, is further amended by inserting after section 509 the following new section:

**"§ 509A. National Security Division**

"(a) There is a National Security Division of the Department of Justice.

"(b) The National Security Division shall consist of the elements of the Department of Justice (other than the Federal Bureau of Investigation) engaged primarily in support of the intelligence and intelligence-related activities of the United States Government, including the following:

"(1) The Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of this title.

"(2) The Office of Intelligence Policy and Review (or any successor organization).

"(3) The counterterrorism section (or any successor organization).

"(4) The counterespionage section (or any successor organization).

"(5) Any other element, component, or office designated by the Attorney General.".

(2) PROHIBITION ON POLITICAL ACTIVITY.—Section 7323(b)(3) of title 5, United States Code, is amended by inserting "or National Security Division" after "Criminal Division".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 31 of title 28, United States Code, is amended—

(1) by inserting after the item relating to section 507 the following new item:

"507A. Assistant Attorney General for National Security.";

and

(2) by inserting after the item relating to section 509 the following new item:

"509A. National Security Division.".

(d) PROCEDURES FOR CONFIRMATION OF THE ASSISTANT ATTORNEY GENERAL FOR NATIONAL SECURITY.—(1) Section 17 of Senate Resolution 400 (94th Congress) is amended—

(A) in subsection (a), by striking "(a) The" and inserting "(a)(1) Except as otherwise provided in subsection (b), the";

(B) in subsection (b), by striking "(b)" and inserting "(2)"; and

(C) by inserting after subsection (a) the following new subsection:

"(b)(1) With respect to the confirmation of the Assistant Attorney General for National Security, or any successor position, the nomination of any individual by the President to serve in such position shall be referred to the Committee on the Judiciary and, if and when reported, to the select Committee for not to exceed 20 calendar days, except that in cases when the 20-day period expires while the Senate is in recess, the select Committee shall have 5 additional calendar days after the Senate reconvenes to report the nomination.

"(2) If, upon the expiration of the period described in paragraph (1), the select Committee has not reported the nomination, such nomination shall be automatically discharged from the select Committee and placed on the Executive Calendar.".

(2) Paragraph (1) is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules of the Senate at any time and to the same extent as in the case of any other rule of the Senate.

**SEC. 507. REVIEW BY ATTORNEY GENERAL.**

(a) APPLICABILITY.—Section 2261 of title 28, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) COUNSEL.—This chapter is applicable if—

"(1) the Attorney General of the United States certifies that a State has established a mechanism for providing counsel in postconviction proceedings as provided in section 2265; and

"(2) counsel was appointed pursuant to that mechanism, petitioner validly waived counsel, petitioner retained counsel, or petitioner was found not to be indigent.".

(b) SCOPE OF PRIOR REPRESENTATION.—Section 2261(d) of title 28, United States Code is amended by striking "or on direct appeal".

(c) CERTIFICATION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Chapter 154 of title 28, United States Code, is amended by striking section 2265 and inserting the following:

**"§ 2265. Certification and judicial review**

"(a) CERTIFICATION.—

"(1) IN GENERAL.—If requested by an appropriate State official, the Attorney General of the United States shall determine—

"(A) whether the State has established a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners who have been sentenced to death;

"(B) the date on which the mechanism described in subparagraph (A) was established; and

"(C) whether the State provides standards of competency for the appointment of counsel in proceedings described in subparagraph (A).

"(2) EFFECTIVE DATE.—The date the mechanism described in paragraph (1)(A) was established shall be the effective date of the certification under this subsection.

"(3) ONLY EXPRESS REQUIREMENTS.—There are no requirements for certification or for application of this chapter other than those expressly stated in this chapter.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

"(c) REVIEW OF CERTIFICATION.—

"(1) IN GENERAL.—The determination by the Attorney General regarding whether to certify a State under this section is subject to review exclusively as provided under chapter 158 of this title.

"(2) VENUE.—The Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over matters

under paragraph (1), subject to review by the Supreme Court under section 2350 of this title.

"(3) STANDARD OF REVIEW.—The determination by the Attorney General regarding whether to certify a State under this section shall be subject to de novo review.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 154 of title 28, United States Code, is amended by striking the item related to section 2265 and inserting the following:

"2265. Certification and judicial review.".

(d) APPLICATION TO PENDING CASES.— 28 USC 2251 note.

(1) IN GENERAL.—This section and the amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this section establish a time limit for taking certain action, the period of which began on the date of an event that occurred prior to the date of enactment of this Act, the period of such time limit shall instead begin on the date of enactment of this Act.

(e) TIME LIMITS.—Section 2266(b)(1)(A) of title 28, United States Code, is amended by striking "180 days after the date on which the application is filed" and inserting "450 days after the date on which the application is filed, or 60 days after the date on which the case is submitted for decision, whichever is earlier".

(f) STAY OF STATE COURT PROCEEDINGS.—Section 2251 of title 28, United States Code, is amended—

(1) in the first undesignated paragraph, by striking "A justice" and inserting the following:

"(a) IN GENERAL.—

"(1) PENDING MATTERS.—A justice";

(2) in the second undesignated paragraph, by striking "After the" and inserting the following:

"(b) NO FURTHER PROCEEDINGS.—After the"; and

(3) in subsection (a), as so designated by paragraph (1), by adding at the end the following:

"(2) MATTER NOT PENDING.—For purposes of this section, a habeas corpus proceeding is not pending until the application is filed.

"(3) APPLICATION FOR APPOINTMENT OF COUNSEL.—If a State prisoner sentenced to death applies for appointment of counsel pursuant to section 3599(a)(2) of title 18 in a court that would have jurisdiction to entertain a habeas corpus application regarding that sentence, that court may stay execution of the sentence of death, but such stay shall terminate not later than 90 days after counsel is appointed or the application for appointment of counsel is withdrawn or denied.". Termination date.

# TITLE VI—SECRET SERVICE

Secret Service Authorization and Technical Modification Act of 2005. 18 USC 1 note.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Secret Service Authorization and Technical Modification Act of 2005".

**SEC. 602. INTERFERENCE WITH NATIONAL SPECIAL SECURITY EVENTS.**

(a) IN GENERAL.—Section 1752 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) willfully and knowingly to enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting;";

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

"(2) willfully and knowingly to enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds so restricted in conjunction with an event designated as a special event of national significance;";

(D) in paragraph (3), as redesignated by subparagraph (B)—

(i) by inserting "willfully, knowingly, and" before "with intent to impede or disrupt";

(ii) by striking "designated" and inserting "described"; and

(iii) by inserting "or (2)" after "paragraph (1)";

(E) in paragraph (4), as redesignated by subparagraph (B)—

(i) by striking "designated or enumerated" and inserting "described"; and

(ii) by inserting "or (2)" after "paragraph (1)"; and

(F) in paragraph (5), as redesignated by subparagraph (B)—

(i) by striking "designated or enumerated" and inserting "described"; and

(ii) by inserting "or (2)" after "paragraph (1)";

(2) by amending subsection (b) to read as follows:

"(b) Violation of this section, and attempts or conspiracies to commit such violations, shall be punishable by—

"(1) a fine under this title or imprisonment for not more than 10 years, or both, if—

"(A) the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

"(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

"(2) a fine under this title or imprisonment for not more than one year, or both, in any other case."; and

(3) by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) CLERICAL AMENDMENT.—(1) The heading of such section is amended to read as follows:

**"§ 1752. Restricted building or grounds".**

(2) The item relating to such section in the table of sections at the beginning of chapter 84 of such title is amended to read as follows:

"1752. Restricted building or grounds.".

**SEC. 603. FALSE CREDENTIALS TO NATIONAL SPECIAL SECURITY EVENTS.**

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(6), by inserting "or a sponsoring entity of an event designated as a special event of national significance" after "States";

(2) in subsection (c)(1), by inserting "or a sponsoring entity of an event designated as a special event of national significance" after "States";

(3) in subsection (d)(3), by inserting "a sponsoring entity of an event designated as a special event of national significance," after "political subdivision of a State,"; and

(4) in each of subsections (d)(4)(B) and (d)(6)(B), by inserting "a sponsoring entity of an event designated by the President as a special event of national significance," after "political subdivision of a State,".

**SEC. 604. FORENSIC AND INVESTIGATIVE SUPPORT OF MISSING AND EXPLOITED CHILDREN CASES.**

Section 3056(f) of title 18, United States Code, is amended by striking "officers and agents of the Secret Service are" and inserting "the Secret Service is".

**SEC. 605. THE UNIFORMED DIVISION, UNITED STATES SECRET SERVICE.**

(a) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

### "§ 3056A. Powers, authorities, and duties of United States Secret Service Uniformed Division

"(a) There is hereby created and established a permanent police force, to be known as the 'United States Secret Service Uniformed Division'. Subject to the supervision of the Secretary of Homeland Security, the United States Secret Service Uniformed Division shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following:

"(1) The White House in the District of Columbia.

"(2) Any building in which Presidential offices are located.

"(3) The Treasury Building and grounds.

"(4) The President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, the Vice President-elect, and their immediate families.

"(5) Foreign diplomatic missions located in the metropolitan area of the District of Columbia.

"(6) The temporary official residence of the Vice President and grounds in the District of Columbia.

"(7) Foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only—

"(A) on the basis of extraordinary protective need;

"(B) upon request of an affected metropolitan area; and

"(C) when the extraordinary protective need arises at or in association with a visit to—

"(i) a permanent mission to, or an observer mission invited to participate in the work of, an international organization of which the United States is a member; or

"(ii) an international organization of which the United States is a member;

except that such protection may also be provided for motorcades and at other places associated with any such visit and may be extended at places of temporary domicile in connection with any such visit.

"(8) Foreign consular and diplomatic missions located in such areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct.

"(9) Visits of foreign government officials to metropolitan areas (other than the District of Columbia) where there are located twenty or more consular or diplomatic missions staffed by accredited personnel, including protection for motorcades and at other places associated with such visits when such officials are in the United States to conduct official business with the United States Government.

"(10) Former Presidents and their spouses, as provided in section 3056(a)(3) of title 18.

"(11) An event designated under section 3056(e) of title 18 as a special event of national significance.

"(12) Major Presidential and Vice Presidential candidates and, within 120 days of the general Presidential election, the spouses of such candidates, as provided in section 3056(a)(7) of title 18.

"(13) Visiting heads of foreign states or foreign governments.

"(b)(1) Under the direction of the Director of the Secret Service, members of the United States Secret Service Uniformed Division are authorized to—

"(A) carry firearms;

"(B) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) perform such other functions and duties as are authorized by law.

"(2) Members of the United States Secret Service Uniformed Division shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

"(c) Members of the United States Secret Service Uniformed Division shall be furnished with uniforms and other necessary equipment.

"(d) In carrying out the functions pursuant to paragraphs (7) and (9) of subsection (a), the Secretary of Homeland Security may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments, and is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. The Secretary of Homeland Security may carry out the functions pursuant to paragraphs (7) and (9) of subsection (a) by contract. The authority of this subsection may be transferred by the President to the Secretary of State. In carrying out any duty under

paragraphs (7) and (9) of subsection (a), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3056 the following new item:

"3056A. Powers, authorities, and duties of United States Secret Service Uniformed Division.".

(c) CONFORMING REPEAL TO EFFECTUATE TRANSFER.—Chapter 3 of title 3, United States Code, is repealed.

(d) CONFORMING AMENDMENTS TO LAWS AFFECTING DISTRICT OF COLUMBIA.—(1) Section 1537(d) of title 31, United States Code, is amended—

(A) by striking "and the Executive Protective Service" and inserting "and the Secret Service Uniformed Division"; and

(B) by striking "their protective duties" and all that follows and inserting "their protective duties under sections 3056 and 3056A of title 18.".

(2) Section 204(e) of the State Department Basic Authorities Act (sec. 6–1304(e), D.C. Official Code) is amended by striking "section 202 of title 3, United States Code, or section 3056" and inserting "sections 3056 or 3056A". 22 USC 4304.

(3) Section 214(a) of the State Department Basic Authorities Act (sec. 6–1313(a), D.C. Official Code) is amended by striking "sections 202(8) and 208 of title 3" and inserting "section 3056A(a)(7) and (d) of title 18". 22 USC 4314.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Title 12, United States Code, section 3414, "Special procedures", is amended by striking "3 U.S.C. 202" in subsection (a)(1)(B) and inserting "18 U.S.C. 3056A".

(2) The State Department Basic Authorities Act of 1956 is amended—

(A) in the first sentence of section 37(c) (22 U.S.C. 2709(c)), by striking "section 202 of title 3, United States Code, or section 3056 of title 18, United States Code" and inserting "section 3056 or 3056A of title 18, United States Code";

(B) in section 204(e) (22 U.S.C. 4304(e)), by striking "section 202 of title 3, United States Code, or section 3056 of title 18, United States Code" and inserting "section 3056 or 3056A of title 18, United States Code"; and

(C) in section 214(a) (22 U.S.C. 4314(a)), by striking "sections 202(7) and 208 of title 3, United States Code" and inserting "subsections (a)(7) and (d) of section 3056A of title 18, United States Code".

(3) Section 8D(a)(1)(F) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "section 202 of title 3" and inserting "section 3056A of title 18".

(4) Section 8I(a)(1)(E) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "section 202 of title 3" and inserting "section 3056A of title 18".

18 USC 3056A note.

**SEC. 606. SAVINGS PROVISIONS.**

(a) This title does not affect the retirement benefits of current employees or annuitants that existed on the day before the effective date of this Act.

(b) This title does not affect any Executive order transferring to the Secretary of State the authority of section 208 of title 3 (now section 3056A(d) of title 18) in effect on the day before the effective date of this Act.

**SEC. 607. MAINTENANCE AS DISTINCT ENTITY.**

Section 3056 of title 18 is amended by adding the following at the end of the section:

"(g) The United States Secret Service shall be maintained as a distinct entity within the Department of Homeland Security and shall not be merged with any other Department function. No personnel and operational elements of the United States Secret Service shall report to an individual other than the Director of the United States Secret Service, who shall report directly to the Secretary of Homeland Security without being required to report through any other official of the Department.".

**SEC. 608. EXEMPTIONS FROM THE FEDERAL ADVISORY COMMITTEE ACT.**

(a) ADVISORY COMMITTEE REGARDING PROTECTION OF MAJOR PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES.—Section 3056(a)(7) of title 18, United States Code, is amended by inserting "The Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2)." after "other members of the Committee.".

(b) ELECTRONIC CRIMES TASK FORCES.—Section 105 of Public Law 107–56 (18 U.S.C. 3056 note) is amended by inserting "The electronic crimes task forces shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2)." after "financial payment systems.".

Combat Methamphetamine Epidemic Act of 2005.

# TITLE VII—COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

21 USC 801 note.

**SEC. 701. SHORT TITLE.**

This title may be cited as the "Combat Methamphetamine Epidemic Act of 2005".

## Subtitle A—Domestic Regulation of Precursor Chemicals

**SEC. 711. SCHEDULED LISTED CHEMICAL PRODUCTS; RESTRICTIONS ON SALES QUANTITY, BEHIND-THE-COUNTER ACCESS, AND OTHER SAFEGUARDS.**

(a) SCHEDULED LISTED CHEMICAL PRODUCTS.—

(1) IN GENERAL.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(A) by redesignating paragraph (46) as paragraph (49); and

(B) by inserting after paragraph (44) the following paragraphs:

"(45)(A) The term 'scheduled listed chemical product' means, subject to subparagraph (B), a product that—

"(i) contains ephedrine, pseudoephedrine, or phenylpropanolamine; and

"(ii) may be marketed or distributed lawfully in the United States under the Federal, Food, Drug, and Cosmetic Act as a nonprescription drug.

Each reference in clause (i) to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

"(B) Such term does not include a product described in subparagraph (A) if the product contains a chemical specified in such subparagraph that the Attorney General has under section 201(a) added to any of the schedules under section 202(c). In the absence of such scheduling by the Attorney General, a chemical specified in such subparagraph may not be considered to be a controlled substance.

"(46) The term 'regulated seller' means a retail distributor (including a pharmacy or a mobile retail vendor), except that such term does not include an employee or agent of such distributor.

"(47) The term 'mobile retail vendor' means a person or entity that makes sales at retail from a stand that is intended to be temporary, or is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility (such as a kiosk at a shopping center or an airport) or whether the stand is located on unimproved real estate (such as a lot or field leased for retail purposes).

"(48) The term 'at retail', with respect to the sale or purchase of a scheduled listed chemical product, means a sale or purchase for personal use, respectively.".

(2) CONFORMING AMENDMENTS.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

(A) in section 102, in paragraph (49) (as redesignated by paragraph (1)(A) of this subsection)—

(i) in subparagraph (A), by striking "pseudoephedrine or" and inserting "ephedrine, pseudoephedrine, or"; and

(ii) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(B) in section 310(b)(3)(D)(ii), by striking "102(46)" and inserting "102(49)". 21 USC 830.

(b) RESTRICTIONS ON SALES QUANTITY; BEHIND-THE-COUNTER ACCESS; LOGBOOK REQUIREMENT; TRAINING OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

(1) IN GENERAL.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end the following subsections:

"(d) SCHEDULED LISTED CHEMICALS; RESTRICTIONS ON SALES QUANTITY; REQUIREMENTS REGARDING NONLIQUID FORMS.—With respect to ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product—

"(1) the quantity of such base sold at retail in such a product by a regulated seller, or a distributor required to submit reports by subsection (b)(3) may not, for any purchaser, exceed

a daily amount of 3.6 grams, without regard to the number of transactions; and

"(2) such a seller or distributor may not sell such a product in nonliquid form (including gel caps) at retail unless the product is packaged in blister packs, each blister containing not more than 2 dosage units, or where the use of blister packs is technically infeasible, the product is packaged in unit dose packets or pouches.

"(e) SCHEDULED LISTED CHEMICALS; BEHIND-THE-COUNTER ACCESS; LOGBOOK REQUIREMENT; TRAINING OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

"(1) REQUIREMENTS REGARDING RETAIL TRANSACTIONS.—

"(A) IN GENERAL.—Each regulated seller shall ensure that, subject to subparagraph (F), sales by such seller of a scheduled listed chemical product at retail are made in accordance with the following:

"(i) In offering the product for sale, the seller places the product such that customers do not have direct access to the product before the sale is made (in this paragraph referred to as 'behind-the-counter' placement). For purposes of this paragraph, a behind-the-counter placement of a product includes circumstances in which the product is stored in a locked cabinet that is located in an area of the facility involved to which customers do have direct access.

"(ii) The seller delivers the product directly into the custody of the purchaser.

"(iii) The seller maintains, in accordance with criteria issued by the Attorney General, a written or electronic list of such sales that identifies the products by name, the quantity sold, the names and addresses of purchasers, and the dates and times of the sales (which list is referred to in this subsection as the 'logbook'), except that such requirement does not apply to any purchase by an individual of a single sales package if that package contains not more than 60 milligrams of pseudoephedrine.

"(iv) In the case of a sale to which the requirement of clause (iii) applies, the seller does not sell such a product unless—

"(I) the prospective purchaser—

"(aa) presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after the date of the enactment of the Combat Methamphetamine Epidemic Act of 2005); and

"(bb) signs the logbook and enters in the logbook his or her name, address, and the date and time of the sale; and

"(II) the seller—

"(aa) determines that the name entered in the logbook corresponds to the name provided on such identification and that the date and time entered are correct; and

"(bb) enters in the logbook the name of the product and the quantity sold.

Notification.

"(v) The logbook includes, in accordance with criteria of the Attorney General, a notice to purchasers that entering false statements or misrepresentations in the logbook may subject the purchasers to criminal penalties under section 1001 of title 18, United States Code, which notice specifies the maximum fine and term of imprisonment under such section.

"(vi) The seller maintains each entry in the logbook for not fewer than two years after the date on which the entry is made.

"(vii) In the case of individuals who are responsible for delivering such products into the custody of purchasers or who deal directly with purchasers by obtaining payments for the products, the seller has submitted to the Attorney General a self-certification that all such individuals have, in accordance with criteria under subparagraph (B)(ii), undergone training provided by the seller to ensure that the individuals understand the requirements that apply under this subsection and subsection (d).

"(viii) The seller maintains a copy of such certification and records demonstrating that individuals referred to in clause (vii) have undergone the training.

"(ix) If the seller is a mobile retail vendor:

"(I) The seller complies with clause (i) by placing the product in a locked cabinet.

"(II) The seller does not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period.

"(B) ADDITIONAL PROVISIONS REGARDING CERTIFICATIONS AND TRAINING.—

"(i) IN GENERAL.—A regulated seller may not sell any scheduled listed chemical product at retail unless the seller has submitted to the Attorney General the self-certification referred to in subparagraph (A)(vii). The certification is not effective for purposes of the preceding sentence unless, in addition to provisions regarding the training of individuals referred to in such subparagraph, the certification includes a statement that the seller understands each of the requirements that apply under this paragraph and under subsection (d) and agrees to comply with the requirements.

"(ii) ISSUANCE OF CRITERIA; SELF-CERTIFICATION.—The Attorney General shall by regulation establish criteria for certifications under this paragraph. The criteria shall—

"(I) provide that the certifications are self-certifications provided through the program under clause (iii);

"(II) provide that a separate certification is required for each place of business at which a regulated seller sells scheduled listed chemical products at retail; and

"(III) include criteria for training under subparagraph (A)(vii).

"(iii) PROGRAM FOR REGULATED SELLERS.—The Attorney General shall establish a program regarding such certifications and training in accordance with the following:

"(I) The program shall be carried out through an Internet site of the Department of Justice and such other means as the Attorney General determines to be appropriate.

"(II) The program shall inform regulated sellers that section 1001 of title 18, United States Code, applies to such certifications.

"(III) The program shall make available to such sellers an explanation of the criteria under clause (ii).

"(IV) The program shall be designed to permit the submission of the certifications through such Internet site.

"(V) The program shall be designed to automatically provide the explanation referred to in subclause (III), and an acknowledgement that the Department has received a certification, without requiring direct interactions of regulated sellers with staff of the Department (other than the provision of technical assistance, as appropriate).

"(iv) AVAILABILITY OF CERTIFICATION TO STATE AND LOCAL OFFICIALS.—Promptly after receiving a certification under subparagraph (A)(vii), the Attorney General shall make available a copy of the certification to the appropriate State and local officials.

"(C) PRIVACY PROTECTIONS.—In order to protect the privacy of individuals who purchase scheduled listed chemical products, the Attorney General shall by regulation establish restrictions on disclosure of information in logbooks under subparagraph (A)(iii). Such regulations shall—

"(i) provide for the disclosure of the information as appropriate to the Attorney General and to State and local law enforcement agencies; and

"(ii) prohibit accessing, using, or sharing information in the logbooks for any purpose other than to ensure compliance with this title or to facilitate a product recall to protect public health and safety.

"(D) FALSE STATEMENTS OR MISREPRESENTATIONS BY PURCHASERS.—For purposes of section 1001 of title 18, United States Code, entering information in the logbook under subparagraph (A)(iii) shall be considered a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States.

"(E) GOOD FAITH PROTECTION.—A regulated seller who in good faith releases information in a logbook under

subparagraph (A)(iii) to Federal, State, or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

"(F) INAPPLICABILITY OF REQUIREMENTS TO CERTAIN SALES.—Subparagraph (A) does not apply to the sale at retail of a scheduled listed chemical product if a report on the sales transaction is required to be submitted to the Attorney General under subsection (b)(3).

"(G) CERTAIN MEASURES REGARDING THEFT AND DIVERSION.—A regulated seller may take reasonable measures to guard against employing individuals who may present a risk with respect to the theft and diversion of scheduled listed chemical products, which may include, notwithstanding State law, asking applicants for employment whether they have been convicted of any crime involving or related to such products or controlled substances.".

(2) EFFECTIVE DATES.—With respect to subsections (d) and (e)(1) of section 310 of the Controlled Substances Act, as added by paragraph (1) of this subsection: 21 USC 830 note.

(A) Such subsection (d) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(B) Such subsection (e)(1) applies on and after September 30, 2006.

(c) MAIL-ORDER REPORTING.—

(1) IN GENERAL.—Section 310(e) of the Controlled Substances Act, as added by subsection (b)(1) of this section, is amended by adding at the end the following:

"(2) MAIL-ORDER REPORTING; VERIFICATION OF IDENTITY OF PURCHASER; 30-DAY RESTRICTION ON QUANTITIES FOR INDIVIDUAL PURCHASERS.—Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required under subsection (b)(3) to submit a report of the sales transaction to the Attorney General is subject to the following:

"(A) The person shall, prior to shipping the product, confirm the identity of the purchaser in accordance with procedures established by the Attorney General. The Attorney General shall by regulation establish such procedures.

"(B) The person may not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period.".

(2) INAPPLICABILITY OF REPORTING EXEMPTION FOR RETAIL DISTRIBUTORS.—Section 310(b)(3)(D)(ii) of the Controlled Substances Act (21 U.S.C. 830(b)(3)(D)(ii)) is amended by inserting before the period the following: ", except that this clause does not apply to sales of scheduled listed chemical products at retail".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) apply on and after the expiration of the 30-day period beginning on the date of the enactment of this Act. 21 USC 830 note.

(d) EXEMPTIONS FOR CERTAIN PRODUCTS.—Section 310(e) of the Controlled Substances Act, as added and amended by subsections

(b) and (c) of this section, respectively, is amended by adding at the end the following paragraph:

"(3) EXEMPTIONS FOR CERTAIN PRODUCTS.—Upon the application of a manufacturer of a scheduled listed chemical product, the Attorney General may by regulation provide that the product is exempt from the provisions of subsection (d) and paragraphs (1) and (2) of this subsection if the Attorney General determines that the product cannot be used in the illicit manufacture of methamphetamine.".

(e) RESTRICTIONS ON QUANTITY PURCHASED DURING 30-DAY PERIOD.—

(1) IN GENERAL.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the second sentence the following: "It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or the Postal Service.".

21 USC 844 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(f) ENFORCEMENT OF REQUIREMENTS FOR RETAIL SALES.—

(1) CIVIL AND CRIMINAL PENALTIES.—

(A) IN GENERAL.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(i) in paragraph (10), by striking "or" after the semicolon;

(ii) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(iii) by inserting after paragraph (11) the following paragraphs:

"(12) who is a regulated seller, or a distributor required to submit reports under subsection (b)(3) of section 310—

"(A) to sell at retail a scheduled listed chemical product in violation of paragraph (1) of subsection (d) of such section, knowing at the time of the transaction involved (independent of consulting the logbook under subsection (e)(1)(A)(iii) of such section) that the transaction is a violation; or

"(B) to knowingly or recklessly sell at retail such a product in violation of paragraph (2) of such subsection (d);

"(13) who is a regulated seller to knowingly or recklessly sell at retail a scheduled listed chemical product in violation of subsection (e) of such section; or

"(14) who is a regulated seller or an employee or agent of such seller to disclose, in violation of regulations under subparagraph (C) of section 310(e)(1), information in logbooks under subparagraph (A)(iii) of such section, or to refuse to provide such a logbook to Federal, State, or local law enforcement authorities.".

(B) CONFORMING AMENDMENT.—Section 401(f)(1) of the Controlled Substances Act (21 U.S.C. 841(f)(1)) is amended by inserting after "shall" the following: ", except to the

extent that paragraph (12), (13), or (14) of section 402(a) applies,".

(2) AUTHORITY TO PROHIBIT SALES BY VIOLATORS.—Section 402(c) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended by adding at the end the following paragraph:

"(4)(A) If a regulated seller, or a distributor required to submit reports under section 310(b)(3), violates paragraph (12) of subsection (a) of this section, or if a regulated seller violates paragraph (13) of such subsection, the Attorney General may by order prohibit such seller or distributor (as the case may be) from selling any scheduled listed chemical product. Any sale of such a product in violation of such an order is subject to the same penalties as apply under paragraph (2).

"(B) An order under subparagraph (A) may be imposed only through the same procedures as apply under section 304(c) for an order to show cause.".

(g) PRESERVATION OF STATE AUTHORITY TO REGULATE SCHEDULED LISTED CHEMICALS.—This section and the amendments made by this section may not be construed as having any legal effect on section 708 of the Controlled Substances Act as applied to the regulation of scheduled listed chemicals (as defined in section 102(45) of such Act). 21 USC 802 note.

**SEC. 712. REGULATED TRANSACTIONS.**

(a) CONFORMING AMENDMENTS REGARDING SCHEDULED LISTED CHEMICALS.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

(1) in section 102— 21 USC 802.

(A) in paragraph (39)(A)—

(i) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act, subject to clause (v), unless—

"(I) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General;";

(ii) by redesignating clause (v) as clause (vi); and

(iii) by inserting after clause (iv) the following clause:

"(v) any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under section 310(b)(3); or"; and

(B) by striking the paragraph (45) that relates to the term "ordinary over-the-counter pseudoephedrine or phenylpropanolamine product";

(2) in section 204, by striking subsection (e); and 21 USC 814.

(3) in section 303(h), in the second sentence, by striking "section 102(39)(A)(iv)" and inserting "clause (iv) or (v) of section 102(39)(A)". 21 USC 823.

(b) PUBLIC LAW 104–237.—Section 401 of the Comprehensive Methamphetamine Control Act of 1996 (21 U.S.C. 802 note) (Public Law 104–237) is amended by striking subsections (d), (e), and (f).

**SEC. 713. AUTHORITY TO ESTABLISH PRODUCTION QUOTAS.**

Section 306 of the Controlled Substances Act (21 U.S.C. 826) is amended—

(1) in subsection (a), by inserting "and for ephedrine, pseudoephedrine, and phenylpropanolamine" after "for each basic class of controlled substance in schedules I and II";

(2) in subsection (b), by inserting "or for ephedrine, pseudoephedrine, or phenylpropanolamine" after "for each basic class of controlled substance in schedule I or II";

(3) in subsection (c), in the first sentence, by inserting "and for ephedrine, pseudoephedrine, and phenylpropanolamine" after "for the basic classes of controlled substances in schedules I and II";

(4) in subsection (d), by inserting "or ephedrine, pseudoephedrine, or phenylpropanolamine" after "that basic class of controlled substance";

(5) in subsection (e), by inserting "or for ephedrine, pseudoephedrine, or phenylpropanolamine" after "for a basic class of controlled substance in schedule I or II";

(6) in subsection (f)—

(A) by inserting "or ephedrine, pseudoephedrine, or phenylpropanolamine" after "controlled substances in schedules I and II";

(B) by inserting "or of ephedrine, pseudoephedrine, or phenylpropanolamine" after "the manufacture of a controlled substance"; and

(C) by inserting "or chemicals" after "such incidentally produced substances"; and

(7) by adding at the end the following subsection:

"(g) Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.".

**SEC. 714. PENALTIES; AUTHORITY FOR MANUFACTURING; QUOTA.**

Section 402(b) of the Controlled Substances Act (21 U.S.C. 842(b)) is amended by inserting after "manufacture a controlled substance in schedule I or II" the following: ", or ephedrine, pseudoephedrine, or phenylpropanolamine or any of the salts, optical isomers, or salts of optical isomers of such chemical,".

**SEC. 715. RESTRICTIONS ON IMPORTATION; AUTHORITY TO PERMIT IMPORTS FOR MEDICAL, SCIENTIFIC, OR OTHER LEGITIMATE PURPOSES.**

Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "or ephedrine, pseudoephedrine, or phenylpropanolamine," after "schedule III, IV, or V of title II,"; and

(B) in paragraph (1), by inserting ", and of ephedrine, pseudoephedrine, and phenylpropanolamine, " after "coca leaves"; and

(2) by adding at the end the following subsections:

"(d)(1) With respect to a registrant under section 1008 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

"(2) With respect to the application under paragraph (1):

"(A) Not later than 60 days after receiving the application, the Attorney General shall approve or deny the application. Deadline.

"(B) In approving the application, the Attorney General shall specify the period of time for which the approval is in effect, or shall provide that the approval is effective until the registrant involved is notified in writing by the Attorney General that the approval is terminated.

"(C) If the Attorney General does not approve or deny the application before the expiration of the 60-day period under subparagraph (A), the application is deemed to be approved, and such approval remains in effect until the Attorney General notifies the registrant in writing that the approval is terminated.

"(e) Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.".

**SEC. 716. NOTICE OF IMPORTATION OR EXPORTATION; APPROVAL OF SALE OR TRANSFER BY IMPORTER OR EXPORTER.**

(a) IN GENERAL.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "or to an importation by a regular importer" and inserting "or to a transaction that is an importation by a regular importer";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(3) by inserting after subsection (c) the following subsection:

"(d)(1)(A) Information provided in a notice under subsection (a) or (b) shall include the name of the person to whom the importer or exporter involved intends to transfer the listed chemical involved, and the quantity of such chemical to be transferred.

"(B) In the case of a notice under subsection (b) submitted by a regular importer, if the transferee identified in the notice is not a regular customer, such importer may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date on which the notice is submitted to the Attorney General.

"(C) After a notice under subsection (a) or (b) is submitted to the Attorney General, if circumstances change and the importer or exporter will not be transferring the listed chemical to the transferee identified in the notice, or will be transferring a greater quantity of the chemical than specified in the notice, the importer or exporter shall update the notice to identify the most recent prospective transferee or the most recent quantity or both (as the case may be) and may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date

on which the update is submitted to the Attorney General, except that such 15-day restriction does not apply if the prospective transferee identified in the update is a regular customer. The preceding sentence applies with respect to changing circumstances regarding a transferee or quantity identified in an update to the same extent and in the same manner as such sentence applies with respect to changing circumstances regarding a transferee or quantity identified in the original notice under subsection (a) or (b).

Applicability.

Deadline.

"(D) In the case of a transfer of a listed chemical that is subject to a 15-day restriction under subparagraph (B) or (C), the transferee involved shall, upon the expiration of the 15-day period, be considered to qualify as a regular customer, unless the Attorney General otherwise notifies the importer or exporter involved in writing.

"(2) With respect to a transfer of a listed chemical with which a notice or update referred to in paragraph (1) is concerned:

"(A) The Attorney General, in accordance with the same procedures as apply under subsection (c)(2)—

"(i) may order the suspension of the transfer of the listed chemical by the importer or exporter involved, except for a transfer to a regular customer, on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance (without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred), subject to the Attorney General ordering such suspension before the expiration of the 15-day period referred to in paragraph (1) with respect to the importation or exportation (in any case in which such a period applies); and

"(ii) may, for purposes of clause (i) and paragraph (1), disqualify a regular customer on such ground.

Notification.

"(B) From and after the time when the Attorney General provides written notice of the order under subparagraph (A) (including a statement of the legal and factual basis for the order) to the importer or exporter, the importer or exporter may not carry out the transfer.

"(3) For purposes of this subsection:

"(A) The terms 'importer' and 'exporter' mean a regulated person who imports or exports a listed chemical, respectively.

"(B) The term 'transfer', with respect to a listed chemical, includes the sale of the chemical.

"(C) The term 'transferee' means a person to whom an importer or exporter transfers a listed chemical."; and

(4) by adding at the end the following subsection:

Deadlines.

"(g) Within 30 days after a transaction covered by this section is completed, the importer or exporter shall send the Attorney General a return declaration containing particulars of the transaction, including the date, quantity, chemical, container, name of transferees, and such other information as the Attorney General may specify in regulations. For importers, a single return declaration may include the particulars of both the importation and distribution. If the importer has not distributed all chemicals imported by the end of the initial 30-day period, the importer shall file supplemental return declarations no later than 30 days from the date of any further distribution, until the distribution or other

disposition of all chemicals imported pursuant to the import notification or any update are accounted for.".

(b) CONFORMING AMENDMENTS.—

(1) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended—

(A) in section 1010(d)(5), by striking "section 1018(e)(2) or (3)" and inserting "paragraph (2) or (3) of section 1018(f)"; and 21 USC 960.

(B) in section 1018(c)(1), in the first sentence, by inserting before the period the following: "(without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred)". 21 USC 971.

(2) CONTROLLED SUBSTANCES ACT.—Section 310(b)(3)(D)(v) of the Controlled Substances Act (21 U.S.C. 830(b)(3)(D)(v)) is amended by striking "section 1018(e)(2)" and inserting "section 1018(f)(2)".

**SEC. 717. ENFORCEMENT OF RESTRICTIONS ON IMPORTATION AND OF REQUIREMENT OF NOTICE OF TRANSFER.**

Section 1010(d)(6) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)(6)) is amended to read as follows:

"(6) imports a listed chemical in violation of section 1002, imports or exports such a chemical in violation of section 1007 or 1018, or transfers such a chemical in violation of section 1018(d); or".

**SEC. 718. COORDINATION WITH UNITED STATES TRADE REPRESENTATIVE.** 21 USC 826 note.

In implementing sections 713 through 717 and section 721 of this title, the Attorney General shall consult with the United States Trade Representative to ensure implementation complies with all applicable international treaties and obligations of the United States.

# Subtitle B—International Regulation of Precursor Chemicals

**SEC. 721. INFORMATION ON FOREIGN CHAIN OF DISTRIBUTION; IMPORT RESTRICTIONS REGARDING FAILURE OF DISTRIBUTORS TO COOPERATE.**

Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 716(a)(4) of this title, is further amended by adding at the end the following subsection:

"(h)(1) With respect to a regulated person importing ephedrine, pseudoephedrine, or phenylpropanolamine (referred to in this section as an 'importer'), a notice of importation under subsection (a) or (b) shall include all information known to the importer on the chain of distribution of such chemical from the manufacturer to the importer.

"(2) For the purpose of preventing or responding to the diversion of ephedrine, pseudoephedrine, or phenylpropanolamine for use in the illicit production of methamphetamine, the Attorney General may, in the case of any person who is a manufacturer or distributor of such chemical in the chain of distribution referred to in paragraph

(1) (which person is referred to in this subsection as a 'foreign-chain distributor'), request that such distributor provide to the Attorney General information known to the distributor on the distribution of the chemical, including sales.

"(3) If the Attorney General determines that a foreign-chain distributor is refusing to cooperate with the Attorney General in obtaining the information referred to in paragraph (2), the Attorney General may, in accordance with procedures that apply under subsection (c), issue an order prohibiting the importation of ephedrine, pseudoephedrine, or phenylpropanolamine in any case in which such distributor is part of the chain of distribution for such chemical. Not later than 60 days prior to issuing the order, the Attorney General shall publish in the Federal Register a notice of intent to issue the order. During such 60-day period, imports of the chemical with respect to such distributor may not be restricted under this paragraph.".

Deadline. Federal Register, publication. Notice.

**SEC. 722. REQUIREMENTS RELATING TO THE LARGEST EXPORTING AND IMPORTING COUNTRIES OF CERTAIN PRECURSOR CHEMICALS.**

(a) REPORTING REQUIREMENTS.—Section 489(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a)) is amended by adding at the end the following new paragraph:

"(8)(A) A separate section that contains the following:

"(i) An identification of the five countries that exported the largest amount of pseudoephedrine, ephedrine, and phenylpropanolamine (including the salts, optical isomers, or salts of optical isomers of such chemicals, and also including any products or substances containing such chemicals) during the preceding calendar year.

"(ii) An identification of the five countries that imported the largest amount of the chemicals described in clause (i) during the preceding calendar year and have the highest rate of diversion of such chemicals for use in the illicit production of methamphetamine (either in that country or in another country).

"(iii) An economic analysis of the total worldwide production of the chemicals described in clause (i) as compared to the legitimate demand for such chemicals worldwide.

"(B) The identification of countries that imported the largest amount of chemicals under subparagraph (A)(ii) shall be based on the following:

"(i) An economic analysis that estimates the legitimate demand for such chemicals in such countries as compared to the actual or estimated amount of such chemicals that is imported into such countries.

"(ii) The best available data and other information regarding the production of methamphetamine in such countries and the diversion of such chemicals for use in the production of methamphetamine.".

(b) ANNUAL CERTIFICATION PROCEDURES.—Section 490(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)) is amended—

(1) in paragraph (1), by striking "major illicit drug producing country or major drug-transit country" and inserting "major illicit drug producing country, major drug-transit

country, or country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of this Act"; and

(2) in paragraph (2), by inserting after "(as determined under subsection (h))" the following: "or country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of this Act".

(c) CONFORMING AMENDMENT.—Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j–1) is amended in paragraph (5) by adding at the end the following:

"(C) Nothing in this section shall affect the requirements of section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) with respect to countries identified pursuant to section clause (i) or (ii) of 489(a)(8)(A) of the Foreign Assistance Act of 1961.".

(d) PLAN TO ADDRESS DIVERSION OF PRECURSOR CHEMICALS.—In the case of each country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of the Foreign Assistance Act of 1961 (as added by subsection (a)) with respect to which the President has not transmitted to Congress a certification under section 490(b) of such Act (22 U.S.C. 2291j(b)), the Secretary of State, in consultation with the Attorney General, shall, not later than 180 days after the date on which the President transmits the report required by section 489(a) of such Act (22 U.S.C. 2291h(a)), submit to Congress a comprehensive plan to address the diversion of the chemicals described in section 489(a)(8)(A)(i) of such Act to the illicit production of methamphetamine in such country or in another country, including the establishment, expansion, and enhancement of regulatory, law enforcement, and other investigative efforts to prevent such diversion.

Deadline. 22 USC 2291h note.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State to carry out this section $1,000,000 for each of the fiscal years 2006 and 2007.

**SEC. 723. PREVENTION OF SMUGGLING OF METHAMPHETAMINE INTO THE UNITED STATES FROM MEXICO.**

22 USC 2291 note.

(a) IN GENERAL.—The Secretary of State, acting through the Assistant Secretary of the Bureau for International Narcotics and Law Enforcement Affairs, shall take such actions as are necessary to prevent the smuggling of methamphetamine into the United States from Mexico.

(b) SPECIFIC ACTIONS.—In carrying out subsection (a), the Secretary shall—

(1) improve bilateral efforts at the United States-Mexico border to prevent the smuggling of methamphetamine into the United States from Mexico;

(2) seek to work with Mexican law enforcement authorities to improve the ability of such authorities to combat the production and trafficking of methamphetamine, including by providing equipment and technical assistance, as appropriate; and

(3) encourage the Government of Mexico to take immediate action to reduce the diversion of pseudoephedrine by drug trafficking organizations for the production and trafficking of methamphetamine.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this section for the prior year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $4,000,000 for each of the fiscal years 2006 and 2007.

# Subtitle C—Enhanced Criminal Penalties for Methamphetamine Production and Trafficking

21 USC 865.

**SEC. 731. SMUGGLING METHAMPHETAMINE OR METHAMPHETAMINE PRECURSOR CHEMICALS INTO THE UNITED STATES WHILE USING FACILITATED ENTRY PROGRAMS.**

(a) ENHANCED PRISON SENTENCE.—The sentence of imprisonment imposed on a person convicted of an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), involving methamphetamine or any listed chemical that is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33), shall, if the offense is committed under the circumstance described in subsection (b), be increased by a consecutive term of imprisonment of not more than 15 years.

(b) CIRCUMSTANCES.—For purposes of subsection (a), the circumstance described in this subsection is that the offense described in subsection (a) was committed by a person who—

(1) was enrolled in, or who was acting on behalf of any person or entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered or approved by the Federal Government for use in entering the United States; and

(2) committed the offense while entering the United States, using such lane, system, or program.

(c) PERMANENT INELIGIBILITY.—Any person whose term of imprisonment is increased under subsection (a) shall be permanently and irrevocably barred from being eligible for or using any lane, system, or program described in subsection (b)(1).

**SEC. 732. MANUFACTURING CONTROLLED SUBSTANCES ON FEDERAL PROPERTY.**

Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended in paragraph (5) by inserting "or manufacturing" after "cultivating".

**SEC. 733. INCREASED PUNISHMENT FOR METHAMPHETAMINE KINGPINS.**

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by adding at the end the following:

Applicability.

"(s) SPECIAL PROVISION FOR METHAMPHETAMINE.—For the purposes of subsection (b), in the case of continuing criminal enterprise involving methamphetamine or its salts, isomers, or salts of isomers, paragraph (2)(A) shall be applied by substituting '200' for '300', and paragraph (2)(B) shall be applied by substituting '$5,000,000' for '$10 million dollars'.".

**SEC. 734. NEW CHILD-PROTECTION CRIMINAL ENHANCEMENT.**

(a) IN GENERAL.—The Controlled Substances Act is amended by inserting after section 419 (21 U.S.C. 860) the following:

"CONSECUTIVE SENTENCE FOR MANUFACTURING OR DISTRIBUTING, OR POSSESSING WITH INTENT TO MANUFACTURE OR DISTRIBUTE, METHAMPHETAMINE ON PREMISES WHERE CHILDREN ARE PRESENT OR RESIDE

"SEC. 419a. Whoever violates section 401(a)(1) by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both.". 21 USC 860a.

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 419 the following new item:

"Sec. 419a. Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside.".

**SEC. 735. AMENDMENTS TO CERTAIN SENTENCING COURT REPORTING REQUIREMENTS.**

Section 994(w) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting ", in a format approved and required by the Commission," after "submits to the Commission";

(B) in subparagraph (B)—

(i) by inserting "written" before "statement of reasons"; and

(ii) by inserting "and which shall be stated on the written statement of reasons form issued by the Judicial Conference and approved by the United States Sentencing Commission" after "applicable guideline range"; and

(C) by adding at the end the following:

"The information referred to in subparagraphs (A) through (F) shall be submitted by the sentencing court in a format approved and required by the Commission."; and

(2) in paragraph (4), by striking "may assemble or maintain in electronic form that include any" and inserting "itself may assemble or maintain in electronic form as a result of the".

**SEC. 736. SEMIANNUAL REPORTS TO CONGRESS.** 21 USC 871a.

(a) IN GENERAL.—The Attorney General shall, on a semiannual basis, submit to the congressional committees and organizations specified in subsection (b) reports that—

(1) describe the allocation of the resources of the Drug Enforcement Administration and the Federal Bureau of Investigation for the investigation and prosecution of alleged violations of the Controlled Substances Act involving methamphetamine; and

(2) the measures being taken to give priority in the allocation of such resources to such violations involving—

(A) persons alleged to have imported into the United States substantial quantities of methamphetamine or scheduled listed chemicals (as defined pursuant to the amendment made by section 711(a)(1));

(B) persons alleged to have manufactured methamphetamine; and

(C) circumstances in which the violations have endangered children.

(b) CONGRESSIONAL COMMITTEES.—The congressional committees and organizations referred to in subsection (a) are—

(1) in the House of Representatives, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Government Reform; and

(2) in the Senate, the Committee on the Judiciary, the Committee on Commerce, Science, and Transportation, and the Caucus on International Narcotics Control.

# Subtitle D—Enhanced Environmental Regulation of Methamphetamine Byproducts

**SEC. 741. BIENNIAL REPORT TO CONGRESS ON AGENCY DESIGNATIONS OF BY-PRODUCTS OF METHAMPHETAMINE LABORATORIES AS HAZARDOUS MATERIALS.**

Section 5103 of title 49, Unites States Code, is amended by adding at the end the following:

"(d) BIENNIAL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.".

**SEC. 742. METHAMPHETAMINE PRODUCTION REPORT.**

Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended at the end by adding the following:

"(j) METHAMPHETAMINE PRODUCTION.—Not later than every 24 months, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report setting forth information collected by the Administrator from law enforcement agencies, States, and other relevant stakeholders that identifies the byproducts of the methamphetamine production process and whether the Administrator considers each of the byproducts to be a hazardous waste pursuant to this section and relevant regulations.".

**SEC. 743. CLEANUP COSTS.**

(a) IN GENERAL.—Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended—

(1) in the matter preceding paragraph (1), by inserting ", the possession, or the possession with intent to distribute," after "manufacture"; and

(2) in paragraph (2), by inserting ", or on premises or in property that the defendant owns, resides, or does business in" after "by the defendant".

(b) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed to amend, alter, or otherwise affect the obligations, liabilities and other responsibilities of any person under any Federal or State environmental laws. 21 USC 853 note.

# Subtitle E—Additional Programs and Activities

**SEC. 751. IMPROVEMENTS TO DEPARTMENT OF JUSTICE DRUG COURT GRANT PROGRAM.**

Section 2951 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u) is amended by adding at the end the following new subsection:

"(c) MANDATORY DRUG TESTING AND MANDATORY SANCTIONS.—

"(1) MANDATORY TESTING.—Grant amounts under this part may be used for a drug court only if the drug court has mandatory periodic testing as described in subsection (a)(3)(A). The Attorney General shall, by prescribing guidelines or regulations, specify standards for the timing and manner of complying with such requirements. The standards—

"(A) shall ensure that—

"(i) each participant is tested for every controlled substance that the participant has been known to abuse, and for any other controlled substance the Attorney General or the court may require; and

"(ii) the testing is accurate and practicable; and

"(B) may require approval of the drug testing regime to ensure that adequate testing occurs.

"(2) MANDATORY SANCTIONS.—The Attorney General shall, by prescribing guidelines or regulations, specify that grant amounts under this part may be used for a drug court only if the drug court imposes graduated sanctions that increase punitive measures, therapeutic measures, or both whenever a participant fails a drug test. Such sanctions and measures may include, but are not limited to, one or more of the following: Regulations.

"(A) Incarceration.
"(B) Detoxification treatment.
"(C) Residential treatment.
"(D) Increased time in program.
"(E) Termination from the program.
"(F) Increased drug screening requirements.
"(G) Increased court appearances.
"(H) Increased counseling.
"(I) Increased supervision.
"(J) Electronic monitoring.
"(K) In-home restriction.
"(L) Community service.
"(M) Family counseling.
"(N) Anger management classes.".

**SEC. 752. DRUG COURTS FUNDING.**

Section 1001(25)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 2591(25)(A)) is amended by adding at the end the following: 42 USC 3793.

"(v) $70,000,000 for fiscal year 2006.".

**SEC. 753. FEASIBILITY STUDY ON FEDERAL DRUG COURTS.**

Deadline.

The Attorney General shall, conduct a feasibility study on the desirability of a drug court program for Federal offenders who are addicted to controlled substances. The Attorney General lower-level, non-violate report the results of that study to Congress not later than June 30, 2006.

**SEC. 754. GRANTS TO HOT SPOT AREAS TO REDUCE AVAILABILITY OF METHAMPHETAMINE.**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

Inter-governmental relations.

## "PART II—CONFRONTING USE OF METHAMPHETAMINE

42 USC 3797cc.

**"SEC. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS PUBLIC SAFETY AND METHAMPHETAMINE MANUFACTURING, SALE, AND USE IN HOT SPOTS.**

"(a) PURPOSE AND PROGRAM AUTHORITY.—

"(1) PURPOSE.—It is the purpose of this part to assist States—

"(A) to carry out programs to address the manufacture, sale, and use of methamphetamine drugs; and

"(B) to improve the ability of State and local government institutions of to carry out such programs.

"(2) GRANT AUTHORIZATION.—The Attorney General, through the Bureau of Justice Assistance in the Office of Justice Programs may make grants to States to address the manufacture, sale, and use of methamphetamine to enhance public safety.

"(3) GRANT PROJECTS TO ADDRESS METHAMPHETAMINE MANUFACTURE SALE AND USE.—Grants made under subsection (a) may be used for programs, projects, and other activities to—

"(A) investigate, arrest and prosecute individuals violating laws related to the use, manufacture, or sale of methamphetamine;

"(B) reimburse the Drug Enforcement Administration for expenses related to the clean up of methamphetamine clandestine labs;

"(C) support State and local health department and environmental agency services deployed to address methamphetamine; and

"(D) procure equipment, technology, or support systems, or pay for resources, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in the reduction in the use, sale, and manufacture of methamphetamine.

42 USC 3797cc–1.

**"SEC. 2997. FUNDING.**

"There are authorized to be appropriated to carry out this part $99,000,000 for each fiscal year 2006, 2007, 2008, 2009, and 2010.".

**SEC. 755. GRANTS FOR PROGRAMS FOR DRUG-ENDANGERED CHILDREN.** 42 USC 3797cc–2.

(a) IN GENERAL.—The Attorney General shall make grants to States for the purpose of carrying out programs to provide comprehensive services to aid children who are living in a home in which methamphetamine or other controlled substances are unlawfully manufactured, distributed, dispensed, or used.

(b) CERTAIN REQUIREMENTS.—The Attorney General shall ensure that the services carried out with grants under subsection (a) include the following:

(1) Coordination among law enforcement agencies, prosecutors, child protective services, social services, health care services, and any other services determined to be appropriate by the Attorney General to provide assistance regarding the problems of children described in subsection (a).

(2) Transition of children from toxic or drug-endangering environments to appropriate residential environments.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for each of the fiscal years 2006 and 2007. Amounts appropriated under the preceding sentence shall remain available until expended.

**SEC. 756. AUTHORITY TO AWARD COMPETITIVE GRANTS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.** 42 USC 3797cc–3.

(a) PURPOSE AND PROGRAM AUTHORITY.—

(1) GRANT AUTHORIZATION.—The Attorney General may award competitive grants to address the use of methamphetamine among pregnant and parenting women offenders to promote public safety, public health, family permanence and well being.

(2) PURPOSES AND PROGRAM AUTHORITY.—Grants awarded under this section shall be used to facilitate or enhance and collaboration between the criminal justice, child welfare, and State substance abuse systems in order to carry out programs to address the use of methamphetamine drugs by pregnant and parenting women offenders.

(b) DEFINITIONS.—In this section, the following definitions shall apply:

(1) CHILD WELFARE AGENCY.—The term "child welfare agency" means the State agency responsible for child and/or family services and welfare.

(2) CRIMINAL JUSTICE AGENCY.—The term "criminal justice agency" means an agency of the State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

(c) APPLICATIONS.—

(1) IN GENERAL.—No grant may be awarded under this section unless an application has been submitted to, and approved by, the Attorney General.

(2) APPLICATION.—An application for a grant under this section shall be submitted in such form, and contain such information, as the Attorney General, may prescribe by regulation or guidelines.

(3) ELIGIBLE ENTITIES.—The Attorney General shall make grants to States, territories, and Indian Tribes. Applicants must demonstrate extensive collaboration with the State criminal justice agency and child welfare agency in the planning and implementation of the program.

Regulations.

(4) CONTENTS.—In accordance with the regulations or guidelines established by the Attorney General in consultation with the Secretary of Health and Human Services, each application for a grant under this section shall contain a plan to expand the State's services for pregnant and parenting women offenders who are pregnant women and/or women with dependent children for the use of methamphetamine or methamphetamine and other drugs and include the following in the plan:

(A) A description of how the applicant will work jointly with the State criminal justice and child welfare agencies needs associated with the use of methamphetamine or methamphetamine and other drugs by pregnant and parenting women offenders to promote family stability and permanence.

(B) A description of the nature and the extent of the problem of methamphetamine use by pregnant and parenting women offenders.

(C) A certification that the State has involved counties and other units of local government, when appropriate, in the development, expansion, modification, operation or improvement of proposed programs to address the use, manufacture, or sale of methamphetamine.

(D) A certification that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds.

(E) A description of clinically appropriate practices and procedures to—

(i) screen and assess pregnant and parenting women offenders for addiction to methamphetamine and other drugs;

(ii) when clinically appropriate for both the women and children, provide family treatment for pregnant and parenting women offenders, with clinically appropriate services in the same location to promote family permanence and self sufficiency; and

(iii) provide for a process to enhance or ensure the abilities of the child welfare agency, criminal justice agency and State substance agency to work together to re-unite families when appropriate in the case where family treatment is not provided.

(d) PERIOD OF GRANT.—The grant shall be a three-year grant. Successful applicants may reapply for only one additional three-year funding cycle and the Attorney General may approve such applications.

(e) PERFORMANCE ACCOUNTABILITY; REPORTS AND EVALUATIONS.—

(1) REPORTS.—Successful applicants shall submit to the Attorney General a report on the activities carried out under the grant at the end of each fiscal year.

(2) EVALUATIONS.—Not later than 12 months at the end of the 3 year funding cycle under this section, the Attorney

General shall submit a report to the appropriate committees of jurisdiction that summarizes the results of the evaluations conducted by recipients and recommendations for further legislative action.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

Approved March 9, 2006.

---

LEGISLATIVE HISTORY—H.R. 3199 (S. 1266) (S. 1389):

HOUSE REPORTS: No. 109–174, Pt. 1 (Comm. on the Judiciary), Pt. 2 (Permanent Select Comm. on Intelligence), and 109–333 (Comm. of Conference).

SENATE REPORTS: No. 109–85 accompanying S. 1266 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD:

Vol. 151 (2005): July 21, considered and passed House.
July 29, considered and passed Senate, amended.
Dec. 14, House agreed to conference report. Senate considered conference report.
Dec. 15, 16, Senate considered conference report.

Vol. 152 (2006): Mar. 1, 2, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Mar. 9, Presidential statement and remarks.

# Public Law 109–178
# 109th Congress

## An Act

Mar. 9, 2006
[S. 2271]

To clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006.
Terrorism.
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006".

**SEC. 2. DEFINITION.**

As used in this Act, the term "applicable Act" means the Act entitled "An Act to extend and modify authorities needed to combat terrorism, and for other purposes." (109th Congress, 2d Session).

**SEC. 3. JUDICIAL REVIEW OF FISA ORDERS.**

Subsection (f) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861), as amended by the applicable Act, is amended to read as follows:

"(f)(1) In this subsection—

"(A) the term 'production order' means an order to produce any tangible thing under this section; and

"(B) the term 'nondisclosure order' means an order imposed under subsection (d).

"(2)(A)(i) A person receiving a production order may challenge the legality of that order by filing a petition with the pool established by section 103(e)(1). Not less than 1 year after the date of the issuance of the production order, the recipient of a production order may challenge the nondisclosure order imposed in connection with such production order by filing a petition to modify or set aside such nondisclosure order, consistent with the requirements of subparagraph (C), with the pool established by section 103(e)(1).

Deadline.

"(ii) The presiding judge shall immediately assign a petition under clause (i) to 1 of the judges serving in the pool established by section 103(e)(1). Not later than 72 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the petition. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the production order or nondisclosure order. If the assigned judge determines the petition is not frivolous, the assigned judge shall promptly consider the petition in accordance with the procedures established under section 103(e)(2).

Deadline.

"(iii) The assigned judge shall promptly provide a written statement for the record of the reasons for any determination under this subsection. Upon the request of the Government, any order setting aside a nondisclosure order shall be stayed pending review pursuant to paragraph (3). Records.

"(B) A judge considering a petition to modify or set aside a production order may grant such petition only if the judge finds that such order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the production order, the judge shall immediately affirm such order, and order the recipient to comply therewith.

"(C)(i) A judge considering a petition to modify or set aside a nondisclosure order may grant such petition only if the judge finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person.

"(ii) If, upon filing of such a petition, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive, unless the judge finds that the certification was made in bad faith. Certification.

"(iii) If the judge denies a petition to modify or set aside a nondisclosure order, the recipient of such order shall be precluded for a period of 1 year from filing another such petition with respect to such nondisclosure order.

"(D) Any production or nondisclosure order not explicitly modified or set aside consistent with this subsection shall remain in full effect.

"(3) A petition for review of a decision under paragraph (2) to affirm, modify, or set aside an order by the Government or any person receiving such order shall be made to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall provide for the record a written statement of the reasons for its decision and, on petition by the Government or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Records.

"(4) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence. Records.

"(5) All petitions under this subsection shall be filed under seal. In any proceedings under this subsection, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions thereof, which may include classified information.".

**SEC. 4. DISCLOSURES.**

(a) FISA.—Subparagraph (C) of section 501(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(d)(2)), as amended by the applicable Act, is amended to read as follows:

"(C) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under subparagraph (A) or (C) of paragraph (1) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.".

(b) TITLE 18.—Paragraph (4) of section 2709(c) of title 18, United States Code, as amended by the applicable Act, is amended to read as follows:

"(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).".

(c) FAIR CREDIT REPORTING ACT.—

(1) IN GENERAL.—Paragraph (4) of section 626(d) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)), as amended by the applicable Act, is amended to read as follows:

"(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for the identity of financial institutions or a consumer report respecting any consumer under this section.".

(2) OTHER AGENCIES.—Paragraph (4) of section 627(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)), as amended by the applicable Act, is amended to read as follows:

"(4) At the request of the authorized government agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized government agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for information under subsection (a).".

(d) RIGHT TO FINANCIAL PRIVACY ACT.—

(1) IN GENERAL.—Subparagraph (D) of section 1114(a)(3) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)), as amended by the applicable Act, is amended to read as follows:

"(D) At the request of the authorized Government authority or the Secret Service, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized Government authority or the Secret Service the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the authorized Government authority or the Secret Service of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for financial records under this subsection.".

(2) FEDERAL BUREAU OF INVESTIGATION.—Clause (iv) of section 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(D)), as amended by the applicable Act, is amended to read as follows:

"(iv) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request for financial records under subparagraph (A).".

(e) NATIONAL SECURITY ACT OF 1947.—Paragraph (4) of section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)), as amended by the applicable Act, is amended to read as follows:

"(4) At the request of the authorized investigative agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized investigative agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section shall require a person to inform the requesting official of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).".

**SEC. 5. PRIVACY PROTECTIONS FOR LIBRARY PATRONS.**

Section 2709 of title 18, United States Code, as amended by the applicable Act, is amended by adding at the end the following:

"(f) LIBRARIES.—A library (as that term is defined in section 213(1) of the Library Services and Technology Act (20 U.S.C. 9122(1)), the services of which include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally by patrons for their use, review, examination, or circulation, is not a wire or electronic communication service provider for purposes of this section, unless the library is providing the services defined in section 2510(15) ('electronic communication service') of this title.".

Effective date.
12 USC 3414
note.

This Act shall become effective immediately upon enactment.

Approved March 9, 2006.

---

LEGISLATIVE HISTORY—S. 2271:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 16, 27, 28, Mar. 1, considered and passed Senate.
Mar. 7, considered and passed House.

# Public Law 109–179
# 109th Congress

## An Act

To facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes.

Mar. 13, 2006
[S. 449]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL AMENDMENT TO ALASKA NATIVE CLAIMS SETTLEMENT ACT.**

Section 36(d)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) is amended—

(1) by striking "(d)(3)" and inserting "(3)";

(2) in the matter preceding subparagraph (A), by striking "of this section" and inserting "or an amendment to articles of incorporation under section 7(g)(1)(B)";

(3) in subparagraph (A)—

(A) by striking ", or" and inserting "; or"; and

(B) by striking "such resolution" and inserting "the resolution or amendment to articles of incorporation"; and

(4) in subparagraph (B), by striking "such resolution" and inserting "the resolution or amendment to articles of incorporation".

Approved March 13, 2006.

LEGISLATIVE HISTORY—S. 449:

SENATE REPORTS: No. 109–112 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 14, considered and passed Senate.
Vol. 152 (2006): Feb. 28, considered and passed House.

# Public Law 109–180
# 109th Congress

## An Act

Mar. 14, 2006
[H.R. 4515]

To designate the facility of the United States Postal Service located at 4422 West Sciota Street in Scio, New York, as the "Corporal Jason L. Dunham Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 4422 West Sciota Street in Scio, New York, shall be known and designated as the "Corporal Jason L. Dunham Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Corporal Jason L. Dunham Post Office".

Approved March 14, 2006.

LEGISLATIVE HISTORY—H.R. 4515:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 18, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–181
109th Congress

# An Act

To amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

Mar. 16, 2006
[H.R. 32]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. TRAFFICKING IN COUNTERFEIT MARKS.**

Stop Counterfeiting in Manufactured Goods Act.
18 USC 1 note.

18 USC 2320 note.

(a) SHORT TITLE; FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the "Stop Counterfeiting in Manufactured Goods Act".

(2) FINDINGS.—The Congress finds that—

(A) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(B) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States $200 billion annually;

(C) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(D) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(E) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(F) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(G) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

(b) TRAFFICKING IN COUNTERFEIT MARKS.—Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after "such goods or services" the following: ", or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,".

(2) Subsection (b) is amended to read as follows:

Courts.

"(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

"(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

"(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

"(2) The provisions of chapter 46 of this title relating to civil forfeitures, including section 983 of this title, shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

"(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

"(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

"(ii) any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

"(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

"(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

"(5) The term 'victim', as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).".

(3) Subsection (e)(1) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) a spurious mark—

"(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

"(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

"(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

"(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or"; and

(B) by amending the matter following subparagraph (B) to read as follows:

"but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.".

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.".

(c) SENTENCING GUIDELINES.— 28 USC 994 note.

(1) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code. Deadline.

(2) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(3) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this subsection, the United States Sentencing Commission shall determine whether the definition of "infringement amount" set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in paragraph (1) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as

an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as U.S. v. Sung, 87 F.3d 194 (7th Cir. 1996).

Protecting American Goods and Services Act of 2005.
18 USC 1 note.

**SEC. 2. TRAFFICKING DEFINED.**

(a) SHORT TITLE.—This section may be cited as the "Protecting American Goods and Services Act of 2005".

(b) COUNTERFEIT GOODS OR SERVICES.—Section 2320(e) of title 18, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' means to transport, transfer, or otherwise dispose of, to another, for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of;";

(2) by redesignating paragraph (3) as paragraph (4); and

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

"(3) the term 'financial gain' includes the receipt, or expected receipt, of anything of value; and".

(c) CONFORMING AMENDMENTS.—

(1) SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.—Section 2319A(e) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' has the same meaning as in section 2320(e) of this title.".

(2) COUNTERFEIT LABELS FOR PHONORECORDS, COMPUTER PROGRAMS, ETC.—Section 2318(b) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' has the same meaning as in section 2320(e) of this title;".

(3) ANTI-BOOTLEGGING.—Section 1101 of title 17, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) DEFINITION.—In this section, the term 'traffic' has the same meaning as in section 2320(e) of title 18.".

Approved March 16, 2006.

LEGISLATIVE HISTORY—H.R. 32 (S. 1699):

HOUSE REPORTS: No. 109–68 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 151 (2005): May 23, considered and passed House.
Vol. 152 (2006): Feb. 15, considered and passed Senate, amended.
Mar. 7, House concurred in Senate amendment.

Public Law 109–182
109th Congress

# Joint Resolution

Mar. 20, 2006
[H.J. Res. 47]

Increasing the statutory limit on the public debt.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof $8,965,000,000,000.

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.J. Res. 47:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Apr. 28, considered and passed House pursuant to H. Con. Res. 95.
Vol. 152 (2006): Mar. 16, considered and passed Senate.

# Public Law 109–183
# 109th Congress

## An Act

Mar. 20, 2006
[S. 1578]

To reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005".

**SEC. 2. UPPER COLORADO AND SAN JUAN RIVER BASIN ENDANGERED FISH RECOVERY IMPLEMENTATION PROGRAMS.**

Section 3 of Public Law 106–392 (114 Stat. 1602; 116 Stat. 3113) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "$46,000,000" and inserting "$61,000,000";

(B) in paragraph (2), by striking "2008" and inserting "2010"; and

(C) in paragraph (3), by striking "2008" and inserting "2010";

(2) in subsection (b)—

(A) by striking "$100,000,000" and inserting "$126,000,000";

(B) in paragraph (1)—

(i) by striking "$82,000,000" and inserting "$108,000,000"; and

(ii) by striking "2008" and inserting "2010"; and

(C) in paragraph (2), by striking "2008" and inserting "2010"; and

(3) in subsection (c)(4)—

(A) in the first sentence, by inserting "and the Elkhead Reservoir enlargement" after "Wolford Mountain Reservoir"; and

(B) in the second sentence, by striking "$20,000,000" and inserting "$31,000,000".

Approved March 20, 2006.

LEGISLATIVE HISTORY—S. 1578 (H.R. 3153):

HOUSE REPORTS: No. 109–340 accompanying H.R. 3153 (Comm. on Resources).
SENATE REPORTS: No. 109–196 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): Mar. 8, considered and passed House.

# Public Law 109–184
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 1287]

To designate the facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, as the "Robert T. Ferguson Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, shall be known and designated as the "Robert T. Ferguson Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Robert T. Ferguson Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 1287:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 18, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–185
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 2000 McDonough Street in Joliet, Illinois, as the "John F. Whiteside Joliet Post Office Building".

Mar. 20, 2006
[H.R. 2113]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 2000 McDonough Street in Joliet, Illinois, shall be known and designated as the "John F. Whiteside Joliet Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "John F. Whiteside Joliet Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 2113:

CONGRESSIONAL RECORD:
Vol. 151 (2005): July 13, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–186
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 2346]

To designate the facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, as the "John J. Hainkel, Jr. Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, shall be known and designated as the "John J. Hainkel, Jr. Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "John J. Hainkel, Jr. Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 2346:

CONGRESSIONAL RECORD:
Vol. 151 (2005): June 27, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–187
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the "Lillian McKay Post Office Building".

Mar. 20, 2006
[H.R. 2413]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, shall be known and designated as the "Lillian McKay Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Lillian McKay Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 2413:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 1, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–188
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 2630]

To redesignate the facility of the United States Postal Service located at 1927 Sangamon Avenue in Springfield, Illinois, as the "J.M. Dietrich Northeast Annex".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. REDESIGNATION.**

The facility of the United States Postal Service located at 1927 Sangamon Avenue in Springfield, Illinois, and known as the Northeast Annex, shall be known and designated as the "J.M. Dietrich Northeast Annex".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "J.M. Dietrich Northeast Annex".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 2630:

CONGRESSIONAL RECORD:
Vol. 151 (2005): July 13, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–189
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building".

Mar. 20, 2006
[H.R. 2894]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, shall be known and designated as the "Abraham Lincoln Birthplace Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Abraham Lincoln Birthplace Post Office Building".

Approved March 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 2894:

CONGRESSIONAL RECORD:
Vol. 151 (2005): July 25, 26, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–190
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 3256]

To designate the facility of the United States Postal Service located at 3038 West Liberty Avenue in Pittsburgh, Pennsylvania, as the "Congressman James Grove Fulton Memorial Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 3038 West Liberty in Pittsburgh, Pennsylvania, shall be known and designated as the "Congressman James Grove Fulton Memorial Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Congressman James Grove Fulton Memorial Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3256:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 25, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–191
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 6483 Lincoln Street in Gagetown, Michigan, as the "Gagetown Veterans Memorial Post Office".

Mar. 20, 2006
[H.R. 3368]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 6483 Lincoln Street in Gagetown, Michigan, shall be known and designated as the "Gagetown Veterans Memorial Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Gagetown Veterans Memorial Post Office".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3368:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 25, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–192
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 3439]

To designate the facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, as the "Ava Gardner Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, shall be known and designated as the "Ava Gardner Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Ava Gardner Post Office".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3439:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 6, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–193
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the "Heinz Ahlmeyer, Jr. Post Office Building".

Mar. 20, 2006
[H.R. 3548]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, shall be known and designated as the "Heinz Ahlmeyer, Jr. Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Heinz Ahlmeyer, Jr. Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3548:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 1, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–194
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 3703]

To designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, shall be known and designated as the "Staff Sergeant Michael Schafer Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Staff Sergeant Michael Schafer Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3703:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Sept. 27, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–195
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building".

Mar. 20, 2006
[H.R. 3770]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, shall be known and designated as the "Grant W. Green Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Grant W. Green Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3770 (S. 1792):

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 8, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–196
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 3825]

To designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, shall be known and designated as the "Clayton J. Smith Memorial Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Clayton J. Smith Memorial Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3825:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 8, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–197
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the "U.S. Cleveland Post Office Building".

Mar. 20, 2006
[H.R. 3830]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, shall be known and designated as the "U.S. Cleveland Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "U.S. Cleveland Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3830:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 18, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–198
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 3989]

To designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the "Albert H. Quie Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, shall be known and designated as the "Albert H. Quie Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Albert H. Quie Post Office".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 3989:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 1, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–199
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office".

Mar. 20, 2006
[H.R. 4053]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, shall be known and designated as the "Lillian Kinkella Keil Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Lillian Kinkella Keil Post Office".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 4053:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 8, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

# Public Law 109–200
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 4107]

To designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the "Maryland State Delegate Lena K. Lee Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, shall be known and designated as the "Maryland State Delegate Lena K. Lee Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Maryland State Delegate Lena K. Lee Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 4107:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 13, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–201
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 320 High Street in Clinton, Massachusetts, as the "Raymond J. Salmon Post Office".

Mar. 20, 2006
[H.R. 4152]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 320 High Street in Clinton, Massachusetts, shall be known and designated as the "Raymond J. Salmon Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Raymond J. Salmon Post Office".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 4152 (S. 2036):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 14, considered and passed House.
Mar. 3, considered and passed Senate.

# Public Law 109–202
# 109th Congress

## An Act

Mar. 20, 2006
[H.R. 4295]

To designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the "Mont and Mark Stephensen Veterans Memorial Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, shall be known and designated as the "Mont and Mark Stephensen Veterans Memorial Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Mont and Mark Stephensen Veterans Memorial Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—H.R. 4295:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 13, considered and passed House.
Vol. 152 (2006): Mar. 3, considered and passed Senate.

Public Law 109–203
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the "Hiram L. Fong Post Office Building".

Mar. 20, 2006
[S. 2089]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HIRAM L. FONG POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, shall be known and designated as the "Hiram L. Fong Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Hiram L. Fong Post Office Building".

Approved March 20, 2006.

LEGISLATIVE HISTORY—S. 2089:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 3, considered and passed Senate.
Mar. 7, considered and passed House.

# Public Law 109–204
# 109th Congress

## An Act

Mar. 20, 2006
[S. 2320]

To make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FUNDS FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.**

*Ante*, p. 183.

Section 9001 of the Deficit Reduction Act of 2005 is amended—

(1) in subsection (a)—

(A) by striking "for a 1-time only obligation and expenditure";

(B) in paragraph (1), by striking "$250,000,000 for fiscal year 2007" and inserting "$500,000,000 for fiscal year 2006"; and

(C) in paragraph (2), by striking "$750,000,000 for fiscal year 2007" and inserting "$500,000,000 for fiscal year 2006";

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following:

"(b) LIMITATION.—None of the funds made available under this section may be used for the planning and administering described in section 2605(b)(9) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(9)).."; and

(4) in subsection (c) (as redesignated by paragraph (2)), by striking "September 30, 2007" and inserting "September 30, 2006".

Approved March 20, 2006.

---

LEGISLATIVE HISTORY—S. 2320:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 2, 3, 6, 7, considered and passed Senate.
Mar. 15, 16, considered and passed House.

Public Law 109–205
109th Congress

# An Act

To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine.

Mar. 23, 2006
[H.R. 1053]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. FINDINGS.**

19 USC 2434 note.

Congress finds as follows:

(1) Ukraine allows its citizens the right and opportunity to emigrate, free of any heavy tax on emigration or on the visas or other documents required for emigration and free of any tax, levy, fine, fee, or other charge on any citizens as a consequence of the desire of such citizens to emigrate to the country of their choice.

(2) Ukraine has received normal trade relations treatment since 1992 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1997.

(3) Since the establishment of an independent Ukraine in 1991, Ukraine has made substantial progress toward the creation of democratic institutions and a free-market economy.

(4) Ukraine has committed itself to ensuring freedom of religion, respect for rights of minorities, and eliminating intolerance and has been a paragon of inter-ethnic cooperation and harmony, as evidenced by the annual human rights reports of the Organization for Security and Cooperation in Europe (OSCE) and the United States Department of State.

(5) Ukraine has taken major steps toward global security by ratifying the Treaty on the Reduction and Limitation of Strategic Offensive Weapons (START I) and the Treaty on the Non-Proliferation of Nuclear Weapons, subsequently turning over the last of its Soviet-era nuclear warheads on June 1, 1996, and agreeing, in 1998, not to assist Iran with the completion of a program to develop and build nuclear breeding reactors, and has fully supported the United States in nullifying the Anti-Ballistic Missile (ABM) Treaty.

(6) At the Madrid Summit in 1997, Ukraine became a member of the North Atlantic Cooperation Council of the North Atlantic Treaty Organization (NATO), and has been a participant in the Partnership for Peace (PfP) program since 1994.

(7) Ukraine is a peaceful state which established exemplary relations with all neighboring countries, and consistently pursues a course of European integration with a commitment to ensuring democracy and prosperity for its citizens.

(8) Ukraine has built a broad and durable relationship with the United States and has been an unwavering ally in the struggle against international terrorism that has taken place since the attacks against the United States that occurred on September 11, 2001.

(9) Ukraine has concluded a bilateral trade agreement with the United States that entered into force on June 23, 1992, and is in the process of acceding to the World Trade Organization (WTO). On March 6, 2006, the United States and Ukraine signed a bilateral market access agreement as a part of the WTO accession process.

19 USC 2434 note.

**SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE PRODUCTS OF UKRAINE.**

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Ukraine; and

(2) after making a determination under paragraph (1) with respect to Ukraine, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) TERMINATION OF APPLICABILITY OF TITLE IV.—On and after the effective date under subsection (a) of the extension of nondiscriminatory treatment to the products of Ukraine, title IV of the Trade Act of 1974 shall cease to apply to that country.

Approved March 23, 2006.

LEGISLATIVE HISTORY—H.R. 1053 (S. 632):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 8, considered and passed House.
Mar. 9, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Mar. 23, Presidential remarks.

# Public Law 109–206
# 109th Congress

## An Act

To designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the "John H. Bradley Department of Veterans Affairs Outpatient Clinic".

Mar. 23, 2006
[H.R. 1691]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, shall after the date of the enactment of this Act be known and designated as the "John H. Bradley Department of Veterans Affairs Outpatient Clinic".

**SEC. 2. REFERENCES.**

Any reference in any law, regulation, map, document, record, or other paper of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "John H. Bradley Department of Veterans Affairs Outpatient Clinic".

Approved March 23, 2006.

LEGISLATIVE HISTORY—H.R. 1691:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 2, considered and passed House.
Vol. 152 (2006): Mar. 13, considered and passed Senate.

# Public Law 109–207
# 109th Congress

## An Act

Mar. 23, 2006
[S. 2064]

To designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the Malcolm Melville "Mac" Lawrence Post Office.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MALCOLM MELVILLE "MAC" LAWRENCE POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, shall be known and designated as the "Malcolm Melville 'Mac' Lawrence Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Malcolm Melville 'Mac' Lawrence Post Office".

Approved March 23, 2006.

LEGISLATIVE HISTORY—S. 2064:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 3, considered and passed Senate.
Mar. 14, considered and passed House.

# Public Law 109–208
# 109th Congress

## An Act

An Act to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

Mar. 23, 2006
[S. 2275]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Flood Insurance Program Enhanced Borrowing Authority Act of 2006.
42 USC 4001 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Flood Insurance Program Enhanced Borrowing Authority Act of 2006".

**SEC. 2. INCREASE IN BORROWING AUTHORITY.**

The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005 (Public Law 109–106; 119 Stat. 2288), is amended by striking "$18,500,000,000" and inserting "$20,775,000,000".

**SEC. 3. EMERGENCY SPENDING.**

Amendments made pursuant to this Act are designated as emergency spending, as provided under section 402 of H. Con. Res. 95 (109th Congress).

Approved March 23, 2006.

---

LEGISLATIVE HISTORY—S. 2275:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 10, considered and passed Senate.
Feb. 15, considered and passed House, amended.
Mar. 16, Senate concurred in House amendment.

# Public Law 109–209
# 109th Congress

## An Act

Mar. 24, 2006
[H.R. 4826]

To extend through December 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. FUNDING TO PROCESS PERMITS.**

Section 214(c) of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note; 114 Stat. 2594; 117 Stat. 1836; 119 Stat. 2169) is amended by striking "March 31, 2006" and inserting "December 31, 2006".

Approved March 24, 2006.

---

LEGISLATIVE HISTORY—H.R. 4826:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 14, considered and passed House.
Mar. 16, considered and passed Senate.

# Public Law 109–210
# 109th Congress

## An Act

To waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member.

Mar. 24, 2006
[S. 1184]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PASSPORT FEES.**

Section 1 of the Act of June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended in the third sentence by striking "or from a widow, child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member" and inserting "or from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member".

Approved March 24, 2006.

LEGISLATIVE HISTORY—S. 1184:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 22, considered and passed Senate.
Vol. 152 (2006): Mar. 14, considered and passed House.

# Public Law 109–211
# 109th Congress

## An Act

Mar. 24, 2006
[S. 2363]

To extend the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

20 USC 5891b note.

**SECTION 1. EDUCATIONAL FLEXIBILITY PROGRAM EXTENSION.**

(a) EXTENSION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Education is authorized to carry out the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999 (20 U.S.C. 5891b), until the date of enactment of an Act that reauthorizes programs under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), for any State that was an Ed-Flex Partnership State on September 30, 2004.

(b) DESIGNATION.—

(1) IN GENERAL.—Any designation of a State as an Ed-Flex Partnership State that was in effect on September 30, 2004, shall be extended until the date of enactment of an Act that reauthorizes programs under part A of title I of the Elementary and Secondary Education Act of 1965, if the Secretary of Education makes the determination described in paragraph (2).

(2) DETERMINATION.—The determination referred to in paragraph (1) is a determination that the performance of the State educational agency, in carrying out the programs for which the State has received a waiver under the educational flexibility program, justifies the extension of the designation.

Approved March 24, 2006.

LEGISLATIVE HISTORY—S. 2363:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 2, considered and passed Senate.
Mar. 14, considered and passed House.

# Public Law 109–212
# 109th Congress

## An Act

To temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

Apr. 1, 2006
[H.R. 4911]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Higher Education Extension Act of 2006.
20 USC 1001 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Higher Education Extension Act of 2006".

**SEC. 2. EXTENSION OF PROGRAMS.**

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "March 31, 2006" and inserting "June 30, 2006".

**SEC. 3. RULE OF CONSTRUCTION.**

20 USC 1001 note.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

Approved April 1, 2006.

---

LEGISLATIVE HISTORY—H.R. 4911:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 14, considered and passed House.
Mar. 28, considered and passed Senate.

# Public Law 109–213
# 109th Congress

## An Act

Apr. 11, 2006
[H.R. 1259]

To award a congressional gold medal on behalf of the Tuskegee Airmen, collectively, in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

31 USC 5111 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. FINDINGS.**

The Congress finds the following:

Yancy Williams.

(1) In 1941, President Franklin D. Roosevelt overruled his top generals and ordered the creation of an all Black flight training program. President Roosevelt took this action one day after the NAACP filed suit on behalf of Howard University student Yancy Williams and others in Federal court to force the Department of War to accept Black pilot trainees. Yancy Williams had a civilian pilot's license and had earned an engineering degree. Years later, Major Yancy Williams participated in an air surveillance project created by President Dwight D. Eisenhower.

(2) Due to the rigid system of racial segregation that prevailed in the United States during World War II, Black military pilots were trained at a separate airfield built near Tuskegee, Alabama. They became known as the "Tuskegee Airmen".

(3) The Tuskegee Airmen inspired revolutionary reform in the Armed Forces, paving the way for full racial integration in the Armed Forces. They overcame the enormous challenges of prejudice and discrimination, succeeding, despite obstacles that threatened failure.

(4) From all accounts, the training of the Tuskegee Airmen was an experiment established to prove that so-called "coloreds" were incapable of operating expensive and complex combat aircraft. Studies commissioned by the Army War College between 1924 and 1939 concluded that Blacks were unfit for leadership roles and incapable of aviation. Instead, the Tuskegee Airmen excelled.

Benjamin O. Davis, Jr.

(5) Overall, some 992 Black pilots graduated from the pilot training program of the Tuskegee Army Air Field, with the last class finishing in June 1946, 450 of whom served in combat. The first class of cadets began in July 1941 with 13 airmen, all of whom had college degrees, some with Ph.D. degrees, and all of whom had pilot's licenses. One of the graduates was Captain Benjamin O. Davis Jr., a United States Military Academy graduate. Four aviation cadets were commissioned as second lieutenants, and 5 received Army Air Corps silver pilot wings.

Daniel James.
Lucius Theus.

(6) That the experiment achieved success rather than the expected failure is further evidenced by the eventual promotion of 3 of these pioneers through the commissioned officer ranks to flag rank, including the late General Benjamin O. Davis, Jr., United States Air Force, the late General Daniel "Chappie" James, United States Air Force, our Nation's first Black 4-star general, and Major General Lucius Theus, United States Air Force (retired).

(7) 450 Black fighter pilots under the command of then Colonel Benjamin O. Davis, Jr., fought in World War II aerial battles over North Africa, Sicily, and Europe, flying, in succession, P–40, P–39, P–47, and P–51 aircraft. These gallant men flew 15,553 sorties and 1,578 missions with the 12th Tactical Air Force and the 15th Strategic Air Force.

(8) Colonel Davis later became the first Black flag officer of the United States Air Force, retired as a 3-star general, and was honored with a 4th star in retirement by President William J. Clinton.

(9) German pilots, who both feared and respected the Tuskegee Airmen, called them the "Schwartze Vogelmenschen" (or "Black Birdmen"). White American bomber crews reverently referred to them as the "Black Redtail Angels", because of the bright red painted on the tail assemblies of their fighter aircraft and because of their reputation for not losing bombers to enemy fighters as they provided close escort for bombing missions over strategic targets in Europe.

(10) The 99th Fighter Squadron, after having distinguished itself over North Africa, Sicily, and Italy, joined 3 other Black squadrons, the 100th, the 301st, and the 302nd, designated as the 332nd Fighter Group. They then comprised the largest fighter unit in the 15th Air Force. From Italian bases, they destroyed many enemy targets on the ground and at sea, including a German destroyer in strafing attacks, and they destroyed numerous enemy aircraft in the air and on the ground.

(11) 66 of these pilots were killed in combat, while another 32 were either forced down or shot down and captured to become prisoners of war. These Black airmen came home with 150 Distinguished Flying Crosses, Bronze Stars, Silver Stars, and Legions of Merit, one Presidential Unit Citation, and the Red Star of Yugoslavia.

(12) Other Black pilots, navigators, bombardiers and crewman who were trained for medium bombardment duty as the 477th Bomber Group (Medium) were joined by veterans of the 332nd Fighter Group to form the 477th Composite Group, flying the B–25 and P–47 aircraft. The demands of the members of the 477th Composite Group for parity in treatment and for recognition as competent military professionals, combined with the magnificent wartime records of the 99th Fighter Squadron and the 332nd Fighter Group, led to a review of the racial policies of the Department of War.

(13) In September 1947, the United States Air Force, as a separate service, reactivated the 332d Fighter Group under the Tactical Air command. Members of the 332d Fighter Group were "Top Guns" in the 1st annual Air Force Gunnery Meet in 1949.

(14) For every Black pilot, there were 12 other civilian or military Black men and women performing ground support duties. Many of these men and women remained in the military service during the post-World War II era and spearheaded the integration of the Armed Forces of the United States.

(15) Major achievements are attributed to many of those who returned to civilian life and earned leadership positions and respect as businessmen, corporate executives, religious leaders, lawyers, doctors, educators, bankers, and political leaders.

Tuskegee Airmen, Inc.

(16) A period of nearly 30 years of anonymity for the Tuskegee Airmen was ended in 1972 with the founding of Tuskegee Airmen, Inc., in Detroit, Michigan. Organized as a non-military and nonprofit entity, Tuskegee Airmen, Inc., exists primarily to motivate and inspire young Americans to become participants in our Nation's society and its democratic process, and to preserve the history of their legacy.

(17) The Tuskegee Airmen have several memorials in place to perpetuate the memory of who they were and what they accomplished, including—

(A) the Tuskegee Airmen, Inc., National Scholarship Fund for high school seniors who excel in mathematics, but need financial assistance to begin a college program;

(B) a museum in historic Fort Wayne in Detroit, Michigan;

(C) Memorial Park at the Air Force Museum at Wright-Patterson Air Force Base in Dayton, Ohio;

(D) a statue of a Tuskegee Airman in the Honor Park at the United States Air Force Academy in Colorado Springs, Colorado; and

(E) a National Historic Site at Moton Field, where primary flight training was performed under contract with the Tuskegee Institute.

**SEC. 2. CONGRESSIONAL GOLD MEDAL.**

(a) AWARD AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the award, on behalf of the Congress, of a single gold medal of appropriate design in honor of the Tuskegee Airmen, collectively, in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

(b) DESIGN AND STRIKING.—For the purposes of the award referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike the gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) SMITHSONIAN INSTITUTION.—

(1) IN GENERAL.—Following the award of the gold medal in honor of the Tuskegee Airmen under subsection (a), the gold medal shall be given to the Smithsonian Institution, where it will be displayed as appropriate and made available for research.

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Smithsonian Institution should make the gold

medal received under paragraph (1) available for display elsewhere, particularly at other appropriate locations associated with the Tuskegee Airmen.

**SEC. 3. DUPLICATE MEDALS.**

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under section 2, at a price sufficient to cover the costs of the medals, including labor, materials, dies, use of machinery, and overhead expenses.

**SEC. 4. NATIONAL MEDALS.**

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, an amount not to exceed $30,000 to pay for the cost of the medals authorized under section 2.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

Approved April 11, 2006.

LEGISLATIVE HISTORY—H.R. 1259 (S. 392):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 28, considered and passed House.
Mar. 27, considered and passed Senate.

# Public Law 109–214
# 109th Congress

## An Act

Apr. 11, 2006
[S. 2116]

To transfer jurisdiction of certain real property to the Supreme Court.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Supreme Court Grounds Transfer Act of 2005.
40 USC 6101 note.

**SECTION 1. TRANSFER OF JURISDICTION OVER CERTAIN REAL PROPERTY TO THE SUPREME COURT.**

(a) SHORT TITLE.—This section may be cited as the "Supreme Court Grounds Transfer Act of 2005".

(b) TRANSFER OF JURISDICTION.—

(1) IN GENERAL.—Jurisdiction over the parcel of Federal real property described under paragraph (2) (over which jurisdiction was transferred to the Architect of the Capitol under section 514(b)(2)(B)(i) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 5102 note; Public Law 104–333; 110 Stat. 4165)) is transferred to the Supreme Court of the United States, without consideration.

(2) PARCEL.—The parcel of Federal real property referred to under paragraph (1) is that portion of the triangle of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Architect of the Capitol, including any contiguous sidewalks, bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running in a northeast direction on the west, the major portion of Maryland Avenue, N.E., on the south, and 2nd Street, N.E., on the east, including the contiguous sidewalks.

(c) MISCELLANEOUS.—

(1) COMPLIANCE WITH OTHER LAWS.—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) INCLUSION IN SUPREME COURT GROUNDS.—Section 6101(b)(2) of title 40, United States Code, is amended by inserting before the period "and that parcel transferred under the Supreme Court Grounds Transfer Act of 2005".

(3) UNITED STATES CAPITOL GROUNDS.—

(A) DEFINITION.—Section 5102 of title 40, United States Code, is amended to exclude within the definition of the United States Capitol Grounds the parcel of Federal real property described in subsection (b)(2).

(B) JURISDICTION OF CAPITOL POLICE.—The United States Capitol Police shall not have jurisdiction over the parcel of Federal real property described in subsection (b)(2) by reason of such parcel formerly being part of the United States Capitol Grounds.

(4) RECORDING OF MAP OF SUPREME COURT GROUNDS.—The Architect of the Capitol shall record with the Office of the Surveyor of the District of Columbia a map showing areas comprising the grounds of the Supreme Court of the United States that reflects—

(A) the legal boundaries described under section 6101(b)(1) of title 40, United States Code; and

(B) any portion of the United States Capitol Grounds as described under section 5102 of title 40, United States Code, which is contiguous to the boundaries or property described under subparagraph (A) of this paragraph.

(d) EFFECTIVE DATE.—This Act shall apply to fiscal year 2006 and each fiscal year thereafter.

Approved April 11, 2006.

LEGISLATIVE HISTORY—S. 2116:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 15, considered and passed Senate.
Vol. 152 (2006): Mar. 28, considered and passed House.

# Public Law 109–215
# 109th Congress

## An Act

Apr. 11, 2006
[S. 2120]

To ensure regulatory equity between and among all dairy farmers and handlers for sales of packaged fluid milk in federally regulated milk marketing areas and into certain non-federally regulated milk marketing areas from federally regulated areas, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Milk Regulatory Equity Act of 2005.
7 USC 601 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Milk Regulatory Equity Act of 2005".

**SEC. 2. MILK REGULATORY EQUITY.**

(a) MINIMUM MILK PRICES FOR HANDLERS; EXEMPTION.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new subparagraphs:

"(M) MINIMUM MILK PRICES FOR HANDLERS.—

"(i) APPLICATION OF MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this section, a milk handler described in clause (ii) shall be subject to all of the minimum and uniform price requirements of a Federal milk marketing order issued pursuant to this section applicable to the county in which the plant of the handler is located, at Federal order class prices, if the handler has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases.

Applicability.

"(ii) COVERED MILK HANDLERS.—Except as provided in clause (iv), clause (i) applies to a handler of Class I milk products (including a producer-handler or producer operating as a handler) that—

"(I) operates a plant that is located within the boundaries of a Federal order milk marketing area (as those boundaries are in effect as of the date of the enactment of this subparagraph);

"(II) has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a milk marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases; and

"(III) is not otherwise obligated by a Federal milk marketing order, or a regulated milk pricing plan operated

by a State, to pay minimum class prices for the raw milk that is used for such dispositions or sales.

"(iii) OBLIGATION TO PAY MINIMUM CLASS PRICES.—For purposes of clause (ii)(III), the Secretary may not consider a handler of Class I milk products to be obligated by a Federal milk marketing order to pay minimum class prices for raw milk unless the handler operates the plant as a fully regulated fluid milk distributing plant under a Federal milk marketing order.

"(iv) CERTAIN HANDLERS EXEMPTED.—Clause (i) does not apply to—

"(I) a handler (otherwise described in clause (ii)) that operates a nonpool plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations, as in effect on the date of the enactment of this subparagraph);

"(II) a producer-handler (otherwise described in clause (ii)) for any month during which the producer-handler has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 3,000,000 pounds of milk; or

"(III) a handler (otherwise described in clause (ii)) for any month during which—

"(aa) less than 25 percent of the total quantity of fluid milk products physically received at the plant of the handler (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition or is transferred in the form of packaged fluid milk products to other plants; or

"(bb) less than 25 percent in aggregate of the route disposition or transfers are in a marketing area or areas located in one or more States that require handlers to pay minimum prices for raw milk purchases.

"(N) EXEMPTION FOR CERTAIN MILK HANDLERS.—Notwithstanding any other provision of this section, no handler with distribution of Class I milk products in the marketing area described in Order No. 131 shall be exempt during any month from any minimum price requirement established by the Secretary under this subsection if the total distribution of Class I products during the preceding month of any such handler's own farm production exceeds 3,000,000 pounds.

"(O) RULE OF CONSTRUCTION REGARDING PRODUCER-HANDLERS.—Subparagraphs (M) and (N) shall not be construed as affecting, expanding, or contracting the treatment of producer-handlers under this subsection except as provided in such subparagraphs.".

(b) EXCLUSION OF NEVADA FROM FEDERAL MILK MARKETING ORDERS.—Section 8c(11) of the Agriculture Adjustment Act (7 U.S.C. 608c(11)), reenacted with amendments by the Agriculture Marketing Agreement Act of 1937, is amended—

(1) in subparagraph (C), by striking the last sentence; and

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

"(D) In the case of milk and its products, no county or other political subdivision of the State of Nevada shall be within the marketing area definition of any order issued under this section.".

7 USC 608c note.

(c) RECORDS AND FACILITY REQUIREMENTS.—Notwithstanding any other provision of this section, or the amendments made by this section, a milk handler (including a producer-handler or a producer operating as a handler) that is subject to regulation under this section or an amendment made by this section shall comply with the requirements of section 1000.27 of title 7, Code of Federal Regulations, or a successor regulation, relating to handler responsibility for records or facilities.

7 USC 608c note.

(d) EFFECTIVE DATE AND IMPLEMENTATION.—The amendments made by this section take effect on the first day of the first month beginning more than 15 days after the date of the enactment of this Act. To accomplish the expedited implementation of these amendments, effective on the date of the enactment of this Act, the Secretary of Agriculture shall include in the pool distributing plant provisions of each Federal milk marketing order issued under subparagraph (B) of section 8c(5) of the Agriculture Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agriculture Marketing Agreement Act of 1937, a provision that a handler described in subparagraph (M) of such section, as added by subsection (a) of this section, will be fully regulated by the order in which the handler's distributing plant is located. These amendments shall not be subject to a referendum under section 8c(19) of such Act (7 U.S.C. 608c(19)).

Approved April 11, 2006.

LEGISLATIVE HISTORY—S. 2120:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): Mar. 28, considered and passed House.

Public Law 109–216
109th Congress

# Joint Resolution

Providing for the appointment of Phillip Frost as a citizen regent of the Board of Regents of the Smithsonian Institution.

Apr. 13, 2006
[H.J. Res. 81]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Manuel L. Ibanez of Texas on May 4, 2006, is filled by the appointment of Phillip Frost of Florida. The appointment is for a term of 6 years, beginning on the later of May 5, 2006, or the date of the enactment of this joint resolution.

Effective date.

Approved April 13, 2006.

LEGISLATIVE HISTORY—H.J. Res. 81 (S.J. Res. 30):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 4, considered and passed House.
Apr. 5, considered and passed Senate.

# Public Law 109–217
# 109th Congress

## Joint Resolution

Apr. 13, 2006
[H.J. Res. 82]

Providing for the reappointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Alan G. Spoon of Massachusetts on May 4, 2006, is filled by the reappointment of the incumbent for a term of 6 years. The reappointment shall take effect on May 5, 2006.

Effective date.

Approved April 13, 2006.

LEGISLATIVE HISTORY—H.J. Res. 82 (S.J. Res. 29):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 4, considered and passed House.
Apr. 5, considered and passed Senate.

# Public Law 109–218
# 109th Congress

## An Act

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify the preference for local firms in the award of certain contracts for disaster relief activities.

Apr. 20, 2006
[H.R. 4979]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Local Community Recovery Act of 2006.
42 USC 5121 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Local Community Recovery Act of 2006".

**SEC. 2. USE OF LOCAL FIRMS AND INDIVIDUALS FOR DISASTER RELIEF ACTIVITIES.**

Section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150) is amended by adding at the end the following: "In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.".

**SEC. 3. SENSE OF CONGRESS.**

It is the sense of Congress that the Corps of Engineers should promptly implement the decision of the Government Accountability Office in solicitation W912EE-06–R-0005, dated March 20, 2006.

Approved April 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 4979:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 28, considered and passed House.
Apr. 6, considered and passed Senate.

# Public Law 109–219
# 109th Congress

## An Act

May 5, 2006
[S. 592]

To amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005".

**SEC. 2. GLENDO UNIT OF THE MISSOURI RIVER BASIN CONTRACT EXTENSION.**

Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 117 Stat. 1854) is amended—

(1) in subsection (a), by striking "December 31, 2005" and inserting "December 31, 2007"; and

(2) in subsection (b)—

(A) by striking "beyond December 31, 2005" and inserting "beyond December 31, 2007"; and

(B) by striking "before December 31, 2005" and inserting "before December 31, 2007".

Approved May 5, 2006.

LEGISLATIVE HISTORY—S. 592 (H.R. 4080):

HOUSE REPORTS: No. 109–432 accompanying H.R. 4080 (Comm. on Resources).
SENATE REPORTS: No. 109–167 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed Senate.
Vol. 152 (2006): Apr. 25, considered and passed House.

# Public Law 109–220
# 109th Congress

## Joint Resolution

Approving the location of the commemorative work in the District of Columbia honoring former President Dwight D. Eisenhower.

May 5, 2006
[S.J. Res. 28]

40 USC 8903 note.

Whereas section 8908(b)(1) of title 40, United States Code provides that the location of a commemorative work in the area described as Area I shall be deemed authorized only if approved by law not later than 150 days after notification to Congress and others that the commemorative work may be located in Area I;

Whereas section 8162 of the Department of Defense Appropriations Act, 2000 (40 U.S.C. 8903 note) authorizes the Dwight D. Eisenhower Memorial Commission to establish a memorial on Federal land in the District of Columbia to honor Dwight D. Eisenhower; and

Whereas the Secretary of the Interior has notified Congress of her determination that the memorial should be located in Area I: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the location of the commemorative work to honor Dwight D. Eisenhower, authorized by section 8162 of the Department of Defense Appropriations Act, 2000 (40 U.S.C. 8903 note), within Area I as depicted on the map referred to in section 8908(a) of title 40, United States Code, is approved.

Approved May 5, 2006.

---

LEGISLATIVE HISTORY—S.J. Res. 28 (H.J. Res. 78):

HOUSE REPORTS: No. 109–425 accompanying H.J. Res. 78 (Comm. on Resources).
SENATE REPORTS: No. 109–227 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 4, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 109–221
109th Congress

# An Act

May 12, 2006
[H.R. 3351]

To make technical corrections to laws relating to Native Americans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Native American Technical Corrections Act of 2006.
25 USC 1451 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Sec. 101. Alaska Native Claims Settlement Act technical amendment.
Sec. 102. ANCSA amendment.
Sec. 103. Mississippi Band of Choctaw transportation reimbursement.
Sec. 104. Fallon Paiute Shoshone tribes settlement.

TITLE II—INDIAN LAND LEASING

Sec. 201. Prairie Island land conveyance.
Sec. 202. Authorization of 99-year leases.
Sec. 203. Certification of rental proceeds.

TITLE III—NATIONAL INDIAN GAMING COMMISSION FUNDING AMENDMENT

Sec. 301. National Indian Gaming Commission funding amendment.

TITLE IV—INDIAN FINANCING

Sec. 401. Indian Financing Act Amendments.

TITLE V—NATIVE AMERICAN PROBATE REFORM TECHNICAL AMENDMENT

Sec. 501. Clarification of provisions and amendments relating to inheritance of Indian lands.

# TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

**SEC. 101. ALASKA NATIVE CLAIMS SETTLEMENT ACT TECHNICAL AMENDMENT.**

43 USC 1629b.

(a)(1) Section 337(a) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended—

(A) in the matter preceding paragraph (1), by striking "Section 1629b of title 43, United States Code," and inserting

"Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b)";

(B) in paragraph (2), by striking "by creating the following new subsection:" and inserting "in subsection (d), by adding at the end the following:"; and

(C) in paragraph (3), by striking "by creating the following new subsection:" and inserting "by adding at the end the following:".

(2) Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) is amended in subsection (f), by striking "section 1629e of this title" and inserting "section 39".

(b)(1) Section 337(b) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended by striking "Section 1629e(a)(3) of title 43, United States Code," and inserting "Section 39(a)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3))". 43 USC 1629e.

(2) Section 39(a)(3)(B)(ii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3)(B)(ii)) is amended by striking "(a)(4) of section 1629b of this title" and inserting "section 36(a)(4)".

(c) The amendments made by this section take effect on February 20, 2003. Effective date. 43 USC 1629b note.

**SEC. 102. ANCSA AMENDMENT.** Alaska. 43 USC 1613a.

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)), to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

**SEC. 103. MISSISSIPPI BAND OF CHOCTAW TRANSPORTATION REIMBURSEMENT.**

The Secretary of the Interior is authorized and directed, within the 3-year period beginning on the date of enactment of this Act, to accept funds from the State of Mississippi pursuant to the contract signed by the Mississippi Department of Transportation on June 7, 2005, and by the Mississippi Band of Choctaw Indians on June 2, 2005. The amount shall not exceed $776,965.30 and such funds shall be deposited in the trust account numbered PL7489708 at the Office of Trust Funds Management for the benefit of the Mississippi Band of Choctaw Indians. Thereafter, the tribe may draw down these moneys from this trust account by resolution of the Tribal Council, pursuant to Federal law and regulations applicable to such accounts. Effective date.

**SEC. 104. FALLON PAIUTE SHOSHONE TRIBES SETTLEMENT.**

(a) SETTLEMENT FUND.—Section 102 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101–618; 104 Stat. 3289) is amended—

(1) in subsection (C)—

(A) in paragraph (1)—

(i) by striking the matter preceding subparagraph (a) and inserting the following: "Notwithstanding any

conflicting provision in the original Fund plan during Fund fiscal year 2006 or any subsequent Fund fiscal year, 6 percent of the average quarterly market value of the Fund during the immediately preceding 3 Fund fiscal years (referred to in this title as the 'Annual 6 percent Amount'), plus any unexpended and unobligated portion of the Annual 6 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2005, less any negative income that may accrue on that portion, may be expended or obligated only for the following purposes:"; and

(ii) by adding at the end the following:

"(g) Fees and expenses incurred in connection with the investment of the Fund, for investment management, investment consulting, custodianship, and other transactional services or matters."; and

(B) by striking paragraph (4) and inserting the following:

"(4) No monies from the Fund other than the amounts authorized under paragraphs (1) and (3) may be expended or obligated for any purpose.

"(5) Notwithstanding any conflicting provision in the original Fund plan, during Fund fiscal year 2006 and during each subsequent Fund fiscal year, not more than 20 percent of the Annual 6 percent Amount for the Fund fiscal year (referred to in this title as the 'Annual 1.2 percent Amount') may be expended or obligated under paragraph (1)(c) for per capita distributions to tribal members, except that during each Fund fiscal year subsequent to Fund fiscal year 2006, any unexpended and unobligated portion of the Annual 1.2 percent Amount from any of the 3 immediately preceding Fund fiscal years that are subsequent to Fund fiscal year 2005, less any negative income that may accrue on that portion, may also be expended or obligated for such per capita payments."; and

(2) in subsection (D), by adding at the end the following: "Notwithstanding any conflicting provision in the original Fund plan, the Fallon Business Council, in consultation with the Secretary, shall promptly amend the original Fund plan for purposes of conforming the Fund plan to this title and making nonsubstantive updates, improvements, or corrections to the original Fund plan.".

(b) DEFINITIONS.—Section 107 of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990 (Public Law 101–618; 104 Stat. 3293) is amended—

(1) by redesignating subsections (D), (E), (F), and (G) as subsections (F), (G), (H), and (I), respectively; and

(2) by striking subsections (B) and (C) and inserting the following:

"(B) the term 'Fund fiscal year' means a fiscal year of the Fund (as defined in the Fund plan);

"(C) the term 'Fund plan' means the plan established under section 102(F), including the original Fund plan (the 'Plan for Investment, Management, Administration and Expenditure dated December 20, 1991') and all amendments of the Fund plan under subsection (D) or (F)(1) of section 102;

"(D) the term 'income' means the total net return from the investment of the Fund, consisting of all interest, dividends, realized and unrealized gains and losses, and other earnings, less all related fees and expenses incurred for investment management, investment consulting, custodianship and transactional services or matters;

"(E) the term 'principal' means the total amount appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund under section 102(B);".

# TITLE II—INDIAN LAND LEASING

**SEC. 201. PRAIRIE ISLAND LAND CONVEYANCE.** Minnesota.

(a) IN GENERAL.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary of the Interior, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) LAND DESCRIPTION.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO–251, GO–252, GO–271, GO–277, GO–278, GO–284, GO–301 through GO–313, GO–314A, GO–314B, GO–329, GO–330A, GO–330B, GO–331A, GO–331B, GO–331C, GO–332, GO–333, GO–334, GO–335A, GO–335B, GO–336 through GO–338, GO–339A, GO–339B, GO–339C, GO–339D, GO–339E, GO–340A, GO–340B, GO–358, GO–359A, GO–359B, GO–359C, GO–359D, and GO–360, as depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

(c) BOUNDARY SURVEY.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176). Deadline.

(d) EASEMENT.—

(1) IN GENERAL.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) INCLUSIONS.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) OWNERSHIP OF STURGEON LAKE BED UNAFFECTED.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) CONDITIONS.—The conveyance under subsection (a) is subject to the conditions that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) NO EFFECT ON ELIGIBILITY FOR CERTAIN PROJECTS.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) EFFECT OF SECTION.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary of the Interior to the Secretary of War and the letters of the Secretary of War in response to the Secretary of the Interior dated August 18, 1937, and November 27, 1937, under which the Secretary of the Interior granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

**SEC. 202. AUTHORIZATION OF 99-YEAR LEASES.**

(a) IN GENERAL.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence—

(1) by striking "Moapa Indian reservation" and inserting "Moapa Indian Reservation";

(2) by inserting "the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation";

(3) by inserting "the" before "Yavapai-Prescott";

(4) by inserting "the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe," after "the Cabazon Indian Reservation,";

(5) by striking "lands comprising the Moses Allotment Numbered 10, Chelan County, Washington,," and inserting "the lands comprising the Moses Allotment Numbered 8 and the Moses Allotment Numbered 10, Chelan County, Washington,";

(6) by inserting "land held in trust for the Prairie Band Potawatomi Nation," before "lands held in trust for the Cherokee Nation of Oklahoma";

(7) by inserting "land held in trust for the Fallon Paiute Shoshone Tribes," before "lands held in trust for the Pueblo of Santa Clara"; and

(8) by inserting "land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any lease entered into or renewed after the date of enactment of this Act. 25 USC 415 note.

**SEC. 203. CERTIFICATION OF RENTAL PROCEEDS.** 25 USC 494a.

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under the first section of the Act entitled "An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes" (25 U.S.C. 488) certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

# TITLE III—NATIONAL INDIAN GAMING COMMISSION FUNDING AMENDMENT

**SEC. 301. NATIONAL INDIAN GAMING COMMISSION FUNDING AMENDMENT.**

(a) POWERS OF THE COMMISSION.—Section 7 of the Indian Gaming Regulatory Act (25 U.S.C. 2706) is amended by adding at the end the following:

"(d) APPLICATION OF GOVERNMENT PERFORMANCE AND RESULTS ACT.—

"(1) IN GENERAL.—In carrying out any action under this Act, the Commission shall be subject to the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

"(2) PLANS.—In addition to any plan required under the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), the Commission shall submit a plan to provide technical assistance to tribal gaming operations in accordance with that Act.".

(b) COMMISSION FUNDING.—Section 18(a)(2) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)(2)) is amended by striking subparagraph (B) and inserting the following:

"(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed 0.080 percent of the gross gaming revenues of all gaming operations subject to regulation under this Act.".

# TITLE IV—INDIAN FINANCING

**SEC. 401. INDIAN FINANCING ACT AMENDMENTS.**

(a) IN GENERAL.—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking "SEC. 201. In order" and inserting the following:

**"SEC. 201. LOAN GUARANTIES AND INSURANCE.**

"(a) IN GENERAL.—In order";

(2) by striking "the Secretary is authorized (a) to guarantee" and inserting "the Secretary may—

"(1) guarantee";

(3) by striking "members; and (b) in lieu of such guaranty, to insure" and inserting "members; or

"(2) insure"; and

(4) by adding at the end the following:

"(b) ELIGIBLE BORROWERS.—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.".

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking "SEC. 205." and all that follows through subsection (b) and inserting the following:

**"SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.**

"(a) IN GENERAL.—All or any portion of a loan guaranteed or insured under this title, including the security given for the loan—

"(1) may be transferred by the lender by sale or assignment to any person; and

"(2) may be retransferred by the transferee.

"(b) TRANSFERS OF LOANS.—With respect to a transfer described in subsection (a)—

"(1) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (h); and

"(2) the transferee shall give notice of the transfer to the Secretary.";

(2) by striking subsection (c);

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(4) in subsection (c) (as redesignated by paragraph (3)), by striking paragraph (2) and inserting the following:

"(2) VALIDITY.—Except as provided in regulations in effect on the date on which a loan is made, the validity of a guarantee or insurance of a loan under this title shall be incontestable.";

(5) in subsection (e) (as redesignated by paragraph (3))—

(A) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(B) by adding at the end the following:

"(2) COMPENSATION OF FISCAL TRANSFER AGENT.—A fiscal transfer agent designated under subsection (f) may be compensated through any of the fees assessed under this section and any interest earned on any funds or fees collected by the fiscal transfer agent while the funds or fees are in the control of the fiscal transfer agent and before the time at which the fiscal transfer agent is contractually required to transfer such funds to the Secretary or to transferees or other holders."; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking "subsection (i)" and inserting "subsection (h)"; and

(B) in paragraph (2)(B), by striking ", and issuance of acknowledgments,".

(c) LOANS INELIGIBLE FOR GUARANTY OR INSURANCE.—Section 206 of the Indian Financing Act of 1974 (25 U.S.C. 1486) is amended

by inserting "(not including an eligible Community Development Finance Institution)" after "Government".

(d) AGGREGATE LOANS OR SURETY BONDS LIMITATION.—Section 217(b) of the Indian Financing Act of 1974 (25 U.S.C. 1497(b)) is amended by striking "$500,000,000" and inserting "$1,500,000,000".

# TITLE V—NATIVE AMERICAN PROBATE REFORM TECHNICAL AMENDMENT

**SEC. 501. CLARIFICATION OF PROVISIONS AND AMENDMENTS RELATING TO INHERITANCE OF INDIAN LANDS.**

(a) CLARIFICATIONS RELATING TO APPLICABLE LAWS.—

(1) IN GENERAL.—Section 207(g)(2) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking "described in paragraph (1)" and inserting "specified in paragraph (1)"; and

(B) in subparagraph (B), by striking "identified in Federal law" and inserting "identified in such law".

(2) LIMITATION ON EFFECT OF PARAGRAPH.—Section 207(g) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)) is amended by striking paragraph (3) and inserting the following:

"(3) LIMITATION ON EFFECT OF PARAGRAPH.—Except to the extent that this Act would amend or otherwise affect the application of a Federal law specified or described in paragraph (1) or (2), nothing in paragraph (2) limits the application of this Act to trust or restricted land, interests in such land, or any other trust or restricted interests or assets.".

(b) TRANSFER AND EXCHANGE; LAND FOR WHICH PATENTS HAVE BEEN EXECUTED AND DELIVERED.—

(1) TRANSFER AND EXCHANGE OF LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended to read as follows:

**"SEC. 4. TRANSFER AND EXCHANGE OF RESTRICTED INDIAN LANDS AND SHARES OF INDIAN TRIBES AND CORPORATIONS.**

"Except as provided in this Act, no sale, devise, gift, exchange, or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized under this Act shall be made or approved: *Provided,* That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived, or to a successor corporation: *Provided further,* That, subject to section 8(b) of the American Indian Probate Reform Act of 2004 (Public Law 108–374; 25 U.S.C. 2201 note), lands and shares described in the preceding proviso shall descend or be devised to any member of an Indian tribe or corporation described in that proviso or to an heir or lineal descendant of such a member in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved, or regulations promulgated under, that Act: *Provided further,* That the Secretary of the Interior may authorize any voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in the judgment of the Secretary,

is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.".

(2) LAND FOR WHICH PATENTS HAVE BEEN EXECUTED AND DELIVERED.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348) is amended in the second proviso by striking "That" and inserting "That, subject to section 8(b) of the American Indian Probate Reform Act of 2004 (Public Law 108–374; 118 Stat. 1810),".

(3) EFFECTIVE DATES.—Section 8 of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; 118 Stat. 1809) is amended by striking subsection (b) and inserting the following:

"(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act apply on and after the date that is 1 year after the date on which the Secretary makes the certification required under subsection (a)(4).

"(2) EXCEPTIONS.—The following provisions of law apply as of the date of enactment of this Act:

"(A) Subsections (e) and (f) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) (as amended by this Act).

"(B) Subsection (g) of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) (as in effect on March 1, 2006).

"(C) The amendments made by section 4, section 5, paragraphs (1), (3), (4), (5), (6), (7), (8), (9), (10), and (11) of section 6(a), section 6(b)(3), and section 7 of this Act.".

25 USC 348 note.

(c) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by subsection (b) shall take effect as if included in the enactment of the American Indian Probate Reform Act of 2004 (Public Law 108–374; 118 Stat. 1773).

Approved May 12, 2006.

---

LEGISLATIVE HISTORY—H.R. 3351:

HOUSE REPORTS: No. 109–228, Pt. 1 (Comm. on Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed House.
Vol. 152 (2006): Apr. 7, considered and passed Senate, amended.
May 2, House concurred in Senate amendment.

# Public Law 109–222
# 109th Congress

## An Act

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

May 17, 2006
[H.R. 4297]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Tax Increase Prevention and Reconciliation Act of 2005.
26 USC 1 note.

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Tax Increase Prevention and Reconciliation Act of 2005".

26 USC 1 *et. seq.*

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

Sec. 101. Increased expensing for small business.
Sec. 102. Capital gains and dividends rates.
Sec. 103. Controlled foreign corporations.

TITLE II—OTHER PROVISIONS

Sec. 201. Clarification of taxation of certain settlement funds.
Sec. 202. Modification of active business definition under section 355.
Sec. 203. Veterans' mortgage bonds.
Sec. 204. Capital gains treatment for certain self-created musical works.
Sec. 205. Vessel tonnage limit.
Sec. 206. Modification of special arbitrage rule for certain funds.
Sec. 207. Amortization of expenses incurred in creating or acquiring music or music copyrights.
Sec. 208. Modification of effective date of disregard of certain capital expenditures for purposes of qualified small issue bonds.
Sec. 209. Modification of treatment of loans to qualified continuing care facilities.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 301. Increase in alternative minimum tax exemption amount for 2006.
Sec. 302. Allowance of nonrefundable personal credits against regular and alternative minimum tax liability.

TITLE IV—CORPORATE ESTIMATED TAX PROVISIONS

Sec. 401. Time for payment of corporate estimated taxes.

TITLE V—REVENUE OFFSET PROVISIONS

Sec. 501. Application of earnings stripping rules to partners which are corporations.
Sec. 502. Reporting of interest on tax-exempt bonds.
Sec. 503. 5-year amortization of geological and geophysical expenditures for certain major integrated oil companies.
Sec. 504. Application of FIRPTA to regulated investment companies.

Sec. 505. Treatment of distributions attributable to FIRPTA gains.
Sec. 506. Prevention of avoidance of tax on investments of foreign persons in United States real property through wash sale transactions.
Sec. 507. Section 355 not to apply to distributions involving disqualified investment companies.
Sec. 508. Loan and redemption requirements on pooled financing requirements.
Sec. 509. Partial payments required with submission of offers-in-compromise.
Sec. 510. Increase in age of minor children whose unearned income is taxed as if parent's income.
Sec. 511. Imposition of withholding on certain payments made by government entities.
Sec. 512. Conversions to Roth IRAs.
Sec. 513. Repeal of FSC/ETI binding contract relief.
Sec. 514. Only wages attributable to domestic production taken into account in determining deduction for domestic production.
Sec. 515. Modification of exclusion for citizens living abroad.
Sec. 516. Tax involvement of accommodation parties in tax shelter transactions.

# TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

**SEC. 101. INCREASED EXPENSING FOR SMALL BUSINESS.**

26 USC 179.

Subsections (b)(1), (b)(2), (b)(5), (c)(2), and (d)(1)(A)(ii) of section 179 (relating to election to expense certain depreciable business assets) are each amended by striking "2008" and inserting "2010".

**SEC. 102. CAPITAL GAINS AND DIVIDENDS RATES.**

26 USC 1 note.

Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking "December 31, 2008" and inserting "December 31, 2010".

**SEC. 103. CONTROLLED FOREIGN CORPORATIONS.**

(a) SUBPART F EXCEPTION FOR ACTIVE FINANCING.—

(1) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(A) by striking "January 1, 2007" and inserting "January 1, 2009", and

(B) by striking "December 31, 2006" and inserting "December 31, 2008".

(2) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking "January 1, 2007" and inserting "January 1, 2009".

(b) LOOK-THROUGH TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—Subsection (c) of section 954 (relating to foreign personal holding company income) is amended by adding at the end the following new paragraph:

"(6) LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income. For

purposes of this subparagraph, interest shall include factoring income which is treated as income equivalent to interest for purposes of paragraph (1)(E). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.

"(B) APPLICATION.—Subparagraph (A) shall apply to taxable years of foreign corporations beginning after December 31, 2005, and before January 1, 2009, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end. 26 USC 954 note.

# TITLE II—OTHER PROVISIONS

## SEC. 201. CLARIFICATION OF TAXATION OF CERTAIN SETTLEMENT FUNDS.

(a) IN GENERAL.—Subsection (g) of section 468B (relating to clarification of taxation of certain funds) is amended to read as follows: 26 USC 468B.

"(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise. Regulations.

"(2) EXEMPTION FROM TAX FOR CERTAIN SETTLEMENT FUNDS.—An escrow account, settlement fund, or similar fund shall be treated as beneficially owned by the United States and shall be exempt from taxation under this subtitle if—

"(A) it is established pursuant to a consent decree entered by a judge of a United States District Court,

"(B) it is created for the receipt of settlement payments as directed by a government entity for the sole purpose of resolving or satisfying one or more claims asserting liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

"(C) the authority and control over the expenditure of funds therein (including the expenditure of contributions thereto and any net earnings thereon) is with such government entity, and

"(D) upon termination, any remaining funds will be disbursed to such government entity for use in accordance with applicable law.

For purposes of this paragraph, the term 'government entity' means the United States, any State or political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.

"(3) TERMINATION.—Paragraph (2) shall not apply to accounts and funds established after December 31, 2010.".

26 USC 468B note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to accounts and funds established after the date of the enactment of this Act.

**SEC. 202. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.**

26 USC 355.

Subsection (b) of section 355 (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE RELATING TO ACTIVE BUSINESS REQUIREMENT.—

"(A) IN GENERAL.—In the case of any distribution made after the date of the enactment of this paragraph and on or before December 31, 2010, a corporation shall be treated as meeting the requirement of paragraph (2)(A) if and only if such corporation is engaged in the active conduct of a trade or business.

"(B) AFFILIATED GROUP RULE.—For purposes of subparagraph (A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

"(C) TRANSITION RULE.—Subparagraph (A) shall not apply to any distribution pursuant to a transaction which is—

"(i) made pursuant to an agreement which was binding on the date of the enactment of this paragraph and at all times thereafter,

"(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

"(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

The preceding sentence shall not apply if the distributing corporation elects not to have such sentence apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

"(D) SPECIAL RULE FOR CERTAIN PRE-ENACTMENT DISTRIBUTIONS.—For purposes of determining the continued qualification under paragraph (2)(A) of distributions made on or before the date of the enactment of this paragraph as a result of an acquisition, disposition, or other restructuring after such date and on or before December 31, 2010, such distribution shall be treated as made on the date of such acquisition, disposition, or restructuring for purposes of applying subparagraphs (A) through (C) of this paragraph.".

**SEC. 203. VETERANS' MORTGAGE BONDS.**

(a) EXPANSION OF DEFINITION OF VETERANS ELIGIBLE FOR STATE HOME LOAN PROGRAMS FUNDED BY QUALIFIED VETERANS' MORTGAGE BONDS.—

(1) IN GENERAL.—Paragraph (4) of section 143(l) (defining qualified veteran) is amended to read as follows:

"(4) QUALIFIED VETERAN.—For purposes of this subsection, the term 'qualified veteran' means—

"(A) in the case of the States of Alaska, Oregon, and Wisconsin, any veteran—

"(i) who served on active duty, and

"(ii) who applied for the financing before the date 25 years after the last date on which such veteran left active service, and

"(B) in the case of any other State, any veteran—

"(i) who served on active duty at some time before January 1, 1977, and

"(ii) who applied for the financing before the later of—

"(I) the date 30 years after the last date on which such veteran left active service, or

"(II) January 31, 1985.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds issued on or after the date of the enactment of this Act. 26 USC 143 note.

(b) REVISION OF STATE VETERANS LIMIT.—

(1) IN GENERAL.—Subparagraph (B) of section 143(l)(3) (relating to volume limitation) is amended— 26 USC 143.

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving such clauses 2 ems to the right,

(B) by amending the matter preceding subclause (I), as designated by subparagraph (A), to read as follows:

"(B) STATE VETERANS LIMIT.—

"(i) IN GENERAL.—In the case of any State to which clause (ii) does not apply, the State veterans limit for any calendar year is the amount equal to—", and

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

"(ii) ALASKA, OREGON, AND WISCONSIN.—In the case of the following States, the State veterans limit for any calendar year is the amount equal to—

"(I) $25,000,000 for the State of Alaska,

"(II) $25,000,000 for the State of Oregon, and

"(III) $25,000,000 for the State of Wisconsin.

"(iii) PHASEIN.—In the case of calendar years beginning before 2010, clause (ii) shall be applied by substituting for each of the dollar amounts therein an amount equal to the applicable percentage of such dollar amount. For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table: Applicability.

| "For Calendar Year: | Applicable percentage is: |
|---|---|
| 2006 | 20 percent |
| 2007 | 40 percent |
| 2008 | 60 percent |
| 2009 | 80 percent. |

"(iv) TERMINATION.—The State veterans limit for the States specified in clause (ii) for any calendar year after 2010 is zero.".

26 USC 143 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to allocations of State volume limit after April 5, 2006.

**SEC. 204. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS.**

26 USC 1221.

(a) IN GENERAL.—Subsection (b) of section 1221 (relating to capital asset defined) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SALE OR EXCHANGE OF SELF-CREATED MUSICAL WORKS.—At the election of the taxpayer, paragraphs (1) and (3) of subsection (a) shall not apply to musical compositions or copyrights in musical works sold or exchanged before January 1, 2011, by a taxpayer described in subsection (a)(3).".

(b) LIMITATION ON CHARITABLE CONTRIBUTIONS.—Subparagraph (A) of section 170(e)(1) is amended by inserting "(determined without regard to section 1221(b)(3))" after "long-term capital gain".

26 USC 170 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges in taxable years beginning after the date of the enactment of this Act.

**SEC. 205. VESSEL TONNAGE LIMIT.**

(a) IN GENERAL.—Paragraph (4) of section 1355(a) (relating to qualifying vessel) is amended by inserting "(6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)" after "10,000".

26 USC 1355 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

**SEC. 206. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS.**

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue, and

Applicability.

(2) paragraph (3) of such section shall be applied by substituting "distributions from" for "the investment earnings of" both places it appears.

**SEC. 207. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.**

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

"(A) IN GENERAL.—If an election is in effect under this paragraph for any taxable year, then, notwithstanding paragraph (1), any expense which—

"(i) is paid or incurred by the taxpayer in creating or acquiring any applicable musical property placed in service during the taxable year, and

"(ii) is otherwise properly chargeable to capital account,

shall be amortized ratably over the 5-year period beginning with the month in which the property was placed in service. The preceding sentence shall not apply to any expense which, without regard to this paragraph, would not be allowable as a deduction.

"(B) EXCLUSIVE METHOD.—Except as provided in this paragraph, no depreciation or amortization deduction shall be allowed with respect to any expense to which subparagraph (A) applies.

"(C) APPLICABLE MUSICAL PROPERTY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable musical property' means any musical composition (including any accompanying words), or any copyright with respect to a musical composition, which is property to which this subsection applies without regard to this paragraph.

"(ii) EXCEPTIONS.—Such term shall not include any property—

"(I) with respect to which expenses are treated as qualified creative expenses to which section 263A(h) applies,

"(II) to which a simplified procedure established under section 263A(j)(2) applies, or

"(III) which is an amortizable section 197 intangible (as defined in section 197(c)).

"(D) ELECTION.—An election under this paragraph shall be made at such time and in such form as the Secretary may prescribe and shall apply to all applicable musical property placed in service during the taxable year for which the election applies. Applicability.

"(E) TERMINATION.—An election may not be made under this paragraph for any taxable year beginning after December 31, 2010.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred with respect to property placed in service in taxable years beginning after December 31, 2005. 26 USC 167 note.

**SEC. 208. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.**

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking "September 30, 2009" and inserting "December 31, 2006".

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking "September 30, 2009" and inserting "December 31, 2006".

**SEC. 209. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.**

(a) IN GENERAL.—Section 7872 is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection:

"(h) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

"(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

"(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

"(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

"(B) the individual or individual's spouse will be provided with housing, as appropriate for the health of such individual or individual's spouse—

"(i) in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), and

"(ii) in an assisted living facility or a nursing facility, as is available in the continuing care facility, and

"(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

Guidelines.

The Secretary shall issue guidance which limits such term to contracts which provide only facilities, care, and services described in this paragraph.

"(3) QUALIFIED CONTINUING CARE FACILITY.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

"(i) which are designed to provide services under continuing care contracts,

"(ii) which include an independent living unit, plus an assisted living or nursing facility, or both, and

"(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

"(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.

"(4) TERMINATION.—This subsection shall not apply to any calendar year after 2010.".

(b) CONFORMING AMENDMENTS.—

26 USC 7872.

(1) Section 7872(g) is amended by adding at the end the following new paragraph:

"(6) SUSPENSION OF APPLICATION.—Paragraph (1) shall not apply for any calendar year to which subsection (h) applies.".

(2) Section 142(d)(2)(B) is amended by striking "Section 7872(g)" and inserting "Subsections (g) and (h) of section 7872".

26 USC 142 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after December 31, 2005, with respect to loans made before, on, or after such date.

# TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

**SEC. 301. INCREASE IN ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT FOR 2006.**

(a) IN GENERAL.—Section 55(d)(1) (relating to exemption amount for taxpayers other than corporations) is amended— 26 USC 55.

(1) by striking "$58,000" and all that follows through "2005" in subparagraph (A) and inserting "$62,550 in the case of taxable years beginning in 2006", and

(2) by striking "$40,250" and all that follows through "2005" in subparagraph (B) and inserting "$42,500 in the case of taxable years beginning in 2006".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005. 26 USC 55 note.

**SEC. 302. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking "2005" in the heading thereof and inserting "2006", and

(2) by striking "or 2005" and inserting "2005, or 2006".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005. 26 USC 26 note.

# TITLE IV—CORPORATE ESTIMATED TAX PROVISIONS

**SEC. 401. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.** 26 USC 6655 note.

Notwithstanding section 6655 of the Internal Revenue Code of 1986—

(1) in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year)—

(A) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2006 shall be 105 percent of such amount,

(B) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 shall be 106.25 percent of such amount,

(C) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2013 shall be 100.75 percent of such amount, and

(D) the amount of the next required installment after an installment referred to in subparagraph (A), (B), or (C) shall be appropriately reduced to reflect the amount of the increase by reason of such subparagraph,

(2) 20.5 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2010 shall not be due until October 1, 2010, and

(3) 27.5 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2011 shall not be due until October 1, 2011.

# TITLE V—REVENUE OFFSET PROVISIONS

**SEC. 501. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.**

26 USC 163.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

"(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

"(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

"(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.".

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense.".

26 USC 163 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

**SEC. 502. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.**

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking "subparagraph (C)" and inserting "subparagraph (B)".

26 USC 6049 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid after December 31, 2005.

**SEC. 503. 5-YEAR AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR CERTAIN MAJOR INTEGRATED OIL COMPANIES.**

(a) IN GENERAL.—Section 167(h) (relating to amortization of geological and geophysical expenditures) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR MAJOR INTEGRATED OIL COMPANIES.—

"(A) IN GENERAL.—In the case of a major integrated oil company, paragraphs (1) and (4) shall be applied by substituting '5-year' for '24 month'. Applicability.

"(B) MAJOR INTEGRATED OIL COMPANY.—For purposes of this paragraph, the term 'major integrated oil company' means, with respect to any taxable year, a producer of crude oil—

"(i) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year,

"(ii) which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

"(iii) to which subsection (c) of section 613A does not apply by reason of paragraph (4) of section 613A(d), determined—

"(I) by substituting '15 percent' for '5 percent' each place it occurs in paragraph (3) of section 613A(d), and

"(II) without regard to whether subsection (c) of section 613A does not apply by reason of paragraph (2) of section 613A(d).

For purposes of clauses (i) and (ii), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person and, in case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.". Applicability.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act. 26 USC 167 note.

**SEC. 504. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting "which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company" after "regulated investment company". 26 USC 897.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 411 of the American Jobs Creation Act of 2004 to which it relates. 26 USC 897 note.

**SEC. 505. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.**

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking "a nonresident alien individual or a foreign corporation" in the first sentence and inserting "a nonresident alien individual, a foreign corporation, or other qualified investment entity",

(B) by striking "such nonresident alien individual or foreign corporation" in the first sentence and inserting "such nonresident alien individual, foreign corporation, or other qualified investment entity", and

(C) by striking the second sentence and inserting the following new sentence: "Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien individual or a foreign corporation with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if such individual or corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of such distribution.".

(2) EXCEPTION TO TERMINATION OF APPLICATION OF SECTION 897 RULES TO REGULATED INVESTMENT COMPANIES.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraphs (1) and (5) and section 1445 with respect to any distribution by the entity to a nonresident alien individual or a foreign corporation which is attributable directly or indirectly to a distribution to the entity from a real estate investment trust.".

26 USC 897.

(b) WITHHOLDING ON DISTRIBUTIONS TREATED AS GAIN FROM UNITED STATES REAL PROPERTY INTERESTS.—Section 1445(e) (relating to special rules for distributions, etc. by corporations, partnerships, trusts, or estates) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) DISTRIBUTIONS BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any portion of a distribution from a qualified investment entity (as defined in section 897(h)(4)) to a nonresident alien individual or a foreign corporation is treated under section 897(h)(1) as gain realized by such individual or corporation from the sale or exchange of a United States real property interest, the qualified investment entity shall deduct and withhold under subsection (a) a tax equal to 35 percent (or, to the extent provided in regulations, 15 percent (20 percent in the case of taxable years beginning after December 31, 2010)) of the amount so treated.".

(c) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

"(i) shall not be included in computing such shareholder's long-term capital gains, and

"(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.".

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

"(i) shall not be treated as a short-term capital gain dividend, and

"(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years of qualified investment entities beginning after December 31, 2005, except that no amount shall be required to be withheld under section 1441, 1442, or 1445 of the Internal Revenue Code of 1986 with respect to any distribution before the date of the enactment of this Act if such amount was not otherwise required to be withheld under any such section as in effect before such amendments. 26 USC 852 note.

**SEC. 506. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.**

(a) IN GENERAL.—Section 897(h) (relating to special rules for certain investment entities) is amended by adding at the end the following new paragraph: 26 USC 897.

"(5) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

"(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

"(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual, foreign corporation, or qualified investment entity—

"(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding the ex-dividend date of a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

"(II) acquires, or enters into a contract or option to acquire, a substantially identical interest in such entity during the 61-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual, foreign corporation, or qualified investment entity shall be treated as having acquired any interest acquired by a person related (within the meaning of section 267(b) or 707(b)(1)) to the individual, corporation, or entity, and any interest which such person has entered into any contract or option to acquire.

"(ii) APPLICATION TO SUBSTITUTE DIVIDEND AND SIMILAR PAYMENTS.—Subparagraph (A) shall apply to—

"(I) any substitute dividend payment (within the meaning of section 861), or

"(II) any other similar payment specified in regulations which the Secretary determines necessary to prevent avoidance of the purposes of this paragraph.

The portion of any such payment treated by the taxpayer as gain from the sale or exchange of a United States real property interest under subparagraph (A) by reason of this clause shall be equal to the portion of the distribution such payment is in lieu of which would have been so treated but for the transaction giving rise to such payment.

"(iii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual, foreign corporation, or qualified investment entity receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

"(iv) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual, foreign corporation, or qualified investment entity did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).".

26 USC 1445.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(5).".

26 USC 897 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that such amendments shall not apply to any distribution, or substitute dividend payment, occurring before the date that is 30 days after the date of the enactment of this Act.

**SEC. 507. SECTION 355 NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT COMPANIES.**

(a) IN GENERAL.—

Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection: 26 USC 355.

"(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

"(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

"(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

"(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

"(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is—

"(i) in the case of distributions after the end of the 1-year period beginning on the date of the enactment of this subsection, ⅔ or more of the fair market value of all assets of the corporation, and

"(ii) in the case of distributions during such 1-year period, ¾ or more of the fair market value of all assets of the corporation.

"(B) INVESTMENT ASSETS.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

"(I) cash,

"(II) any stock or securities in a corporation,

"(III) any interest in a partnership,

"(IV) any debt instrument or other evidence of indebtedness,

"(V) any option, forward or futures contract, notional principal contract, or derivative,

"(VI) foreign currency, or

"(VII) any similar asset.

"(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

"(I) a lending or finance business (within the meaning of section 954(h)(4)),

"(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

"(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

Applicability.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

"(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

"(iv) STOCK OR SECURITIES IN A 20-PERCENT CONTROLLED ENTITY.—

"(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 20-percent controlled entity with respect to the distributing or controlled corporation.

"(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 20-percent controlled entity.

Applicability.

"(III) 20-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '20-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '20 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

"(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

"(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

"(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

"(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

Applicability.

"(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

"(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

"(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

"(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

"(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

"(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

"(C) which modify the application of the attribution rules applied for purposes of this subsection.".

(b) EFFECTIVE DATES.— 26 USC 355 note.

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 508. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.**

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows: 26 USC 149.

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

"(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 30 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

"(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.".

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

"(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

"(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 30 percent of the net proceeds of such issue.

"(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which—

"(i) is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State, or

"(ii) is a State-created entity providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

"(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

"(A) the amount required to be used under such clause, over

"(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.".

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

26 USC 148.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking "paragraphs (2) and (3)" and inserting "paragraphs (2), (3), (4), and (5)".

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking "paragraph (4)(A)" and inserting "paragraph (6)(A)".

(3) Section 54(l)(2) is amended by striking "section 149(f)(4)(A)" and inserting "section 149(f)(6)(A)".

26 USC 54 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 509. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to compromises) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

"(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

"(A) LUMP-SUM OFFERS.—

"(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of the amount of such offer.

"(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

"(B) PERIODIC PAYMENT OFFERS.—

"(i) IN GENERAL.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment.

"(ii) FAILURE TO MAKE INSTALLMENT DURING PENDENCY OF OFFER.—Any failure to make an installment (other than the first installment) due under such offer-in-compromise during the period such offer is being evaluated by the Secretary may be treated by the Secretary as a withdrawal of such offer-in-compromise.

"(2) RULES OF APPLICATION.—

"(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

"(B) APPLICATION OF USER FEE.—In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

"(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).".

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking "; and" at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph: 26 USC 7122.

"(C) any offer-in-compromise which does not meet the requirements of subparagraph (A)(i) or (B)(i), as the case may be, of subsection (c)(1) may be returned to the taxpayer as unprocessable.".

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken into account in determining the expiration of the 24-month period.".

(c) CONFORMING AMENDMENT.—Section 6159(f) is amended by striking "section 7122(d)" and inserting "section 7122(e)".

26 USC 6159 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

**SEC. 510. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.**

26 USC 1.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.".

(c) CONFORMING AMENDMENT.—Section 1(g)(2) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) such child does not file a joint return for the taxable year.".

26 USC 1 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 511. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.**

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

"(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

"(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment to any person providing any property or services (including any payment made in connection with a government voucher or certificate program which functions as a payment for property or services) shall deduct and withhold from such payment a tax in an amount equal to 3 percent of such payment.

"(2) PROPERTY AND SERVICES SUBJECT TO WITHHOLDING.—Paragraph (1) shall not apply to any payment—

"(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

"(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

"(C) of interest,

"(D) for real property,

"(E) to any governmental entity subject to the requirements of paragraph (1), any tax-exempt entity, or any foreign government,

"(F) made pursuant to a classified or confidential contract described in section 6050M(e)(3),

"(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually,

"(H) which is in connection with a public assistance or public welfare program for which eligibility is determined by a needs or income test, and

"(I) to any government employee not otherwise excludable with respect to their services as an employee.

"(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person for property or services which are subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010. 26 USC 3402 note.

**SEC. 512. CONVERSIONS TO ROTH IRAS.**

(a) REPEAL OF INCOME LIMITATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 408A(c) (relating to limits based on modified adjusted gross income) is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively. 26 USC 408A.

(2) CONFORMING AMENDMENT.—Clause (i) of section 408A(c)(3)(B) (as redesignated by paragraph (1)) is amended by striking "except that—" and all that follows and inserting "except that any amount included in gross income under subsection (d)(3) shall not be taken into account, and".

(b) ROLLOVERS TO A ROTH IRA FROM AN IRA OTHER THAN A ROTH IRA.—

(1) IN GENERAL.—Clause (iii) of section 408A(d)(3)(A) (relating to rollovers from an IRA other than a Roth IRA) is amended to read as follows:

"(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.".

(2) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 408A(d)(3)(E) is amended to read as follows:

"(i) ACCELERATION OF INCLUSION.—

"(I) IN GENERAL.—The amount otherwise required to be included in gross income for any taxable year beginning in 2010 or the first taxable year in the 2-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

"(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included

in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 2-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.".

26 USC 408A.

(B) The heading for section 408A(d)(3)(E) is amended by striking "4-YEAR" and inserting "2-YEAR".

26 USC 408A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

**SEC. 513. REPEAL OF FSC/ETI BINDING CONTRACT RELIEF.**

26 USC 56 note.

(a) FSC PROVISIONS.—Paragraph (1) of section 5(c) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 is amended by striking "which occurs—" and all that follows and inserting "which occurs before January 1, 2002.".

26 USC 114 note.

(b) ETI PROVISIONS.—Section 101 of the American Jobs Creation Act of 2004 is amended by striking subsection (f).

26 USC 56 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 514. ONLY WAGES ATTRIBUTABLE TO DOMESTIC PRODUCTION TAKEN INTO ACCOUNT IN DETERMINING DEDUCTION FOR DOMESTIC PRODUCTION.**

(a) IN GENERAL.—Paragraph (2) of section 199(b) (relating to W-2 wages) is amended to read as follows:

"(2) W-2 WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'W-2 wages' means, with respect to any person for any taxable year of such person, the sum of the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

"(B) LIMITATION TO WAGES ATTRIBUTABLE TO DOMESTIC PRODUCTION.—Such term shall not include any amount which is not properly allocable to domestic production gross receipts for purposes of subsection (c)(1).

"(C) RETURN REQUIREMENT.—Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.".

(b) SIMPLIFICATION OF RULES FOR DETERMINING W-2 WAGES OF PARTNERS AND S CORPORATION SHAREHOLDERS.—

(1) IN GENERAL.—Clause (iii) of section 199(d)(1)(A) is amended to read as follows:

"(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W-2 wages for the taxable year in an amount equal to such person's allocable share of the W-2 wages of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary).".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 199(a) is amended by striking "and subsection (d)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 199 note.

**SEC. 515. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.**

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended— 26 USC 911.

(1) by striking "2007" and inserting "2005", and

(2) by striking "2006" in subclause (II) and inserting "2004".

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MODIFICATION OF HOUSING COST FLOOR.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

"(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by".

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting "to the extent such expenses do not exceed the amount determined under paragraph (2)" after "the taxable year".

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount determined under this paragraph is an amount equal to the product of—

"(i) 30 percent (adjusted as may be provided under subparagraph (B)) of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

"(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

"(B) REGULATIONS.—The Secretary may issue regulations or other guidance providing for the adjustment of the percentage under subparagraph (A)(i) on the basis of geographic differences in housing costs relative to housing costs in the United States.".

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking "and (c)(1)(B)(ii)" and inserting ", (c)(1)(B)(ii), and (c)(2)(A)(ii)".

(ii) Section 911(d)(7) is amended by striking "subsection (c)(3)" and inserting "subsection (c)(4)".

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—For purposes of this chapter, if any amount is excluded

from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

"(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

"(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were increased by the amount excluded under subsection (a) for the taxable year, over

"(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

"(2) the tentative minimum tax under section 55 for such taxable year shall be equal to the excess (if any) of—

"(A) the amount which would be such tentative minimum tax for the taxable year if the taxpayer's taxable excess were increased by the amount excluded under subsection (a) for the taxable year, over

"(B) the amount which would be such tentative minimum tax for the taxable year if the taxpayer's taxable excess were equal to the amount excluded under subsection (a) for the taxable year.

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.".

26 USC 911 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 516. TAX INVOLVEMENT OF ACCOMMODATION PARTIES IN TAX SHELTER TRANSACTIONS.**

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

## "Subchapter F—Tax Shelter Transactions

"Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.

**"SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.**

"(a) BEING A PARTY TO AND APPROVAL OF PROHIBITED TRANSACTIONS.—

"(1) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—If a transaction is a prohibited tax shelter transaction at the time any tax-exempt entity described in paragraph (1), (2), or (3) of subsection (c) becomes a party to the transaction, such entity shall pay a tax for the taxable year in which the entity becomes such a party and any subsequent taxable year in the amount determined under subsection (b)(1).

"(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity described in paragraph (1), (2), or (3) of subsection (c) is a party to a subsequently listed transaction at any time during a taxable year, such entity shall pay

a tax for such taxable year in the amount determined under subsection (b)(1).

"(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

"(b) AMOUNT OF TAX.—

"(1) ENTITY.—In the case of a tax-exempt entity—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of the tax imposed under subsection (a)(1) with respect to any transaction for a taxable year shall be an amount equal to the product of the highest rate of tax under section 11, and the greater of—

"(i) the entity's net income (after taking into account any tax imposed by this subtitle (other than by this section) with respect to such transaction) for such taxable year which—

"(I) in the case of a prohibited tax shelter transaction (other than a subsequently listed transaction), is attributable to such transaction, or

"(II) in the case of a subsequently listed transaction, is attributable to such transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

"(ii) 75 percent of the proceeds received by the entity for the taxable year which—

"(I) in the case of a prohibited tax shelter transaction (other than a subsequently listed transaction), are attributable to such transaction, or

"(II) in the case of a subsequently listed transaction, are attributable to such transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

"(B) INCREASE IN TAX FOR CERTAIN KNOWING TRANSACTIONS.—In the case of a tax-exempt entity which knew, or had reason to know, a transaction was a prohibited tax shelter transaction at the time the entity became a party to the transaction, the amount of the tax imposed under subsection (a)(1)(A) with respect to any transaction for a taxable year shall be the greater of—

"(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle (other than by this section) with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

"(ii) 75 percent of the proceeds received by the entity for the taxable year which are attributable to the prohibited tax shelter transaction.

This subparagraph shall not apply to any prohibited tax shelter transaction to which a tax-exempt entity became a party on or before the date of the enactment of this section.

"(2) ENTITY MANAGER.—In the case of each entity manager, the amount of the tax imposed under subsection (a)(2) shall be $20,000 for each approval (or other act causing participation) described in subsection (a)(2).

"(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

"(1) described in section 501(c) or 501(d),

"(2) described in section 170(c) (other than the United States),

"(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

"(4) described in paragraph (1), (2), or (3) of section 4979(e),

"(5) a program described in section 529,

"(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

"(7) an arrangement described in section 4973(a).

"(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

"(1) in the case of an entity described in paragraph (1), (2), or (3) of subsection (c)—

"(A) the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization, and

"(B) with respect to any act, the person having authority or responsibility with respect to such act, and

"(2) in the case of an entity described in paragraph (4), (5), (6), or (7) of subsection (c), the person who approves or otherwise causes the entity to be a party to the prohibited tax shelter transaction.

"(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

"(1) PROHIBITED TAX SHELTER TRANSACTION.—

"(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

"(i) any listed transaction, and

"(ii) any prohibited reportable transaction.

"(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

"(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

"(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after

the entity has become a party to the transaction. Such term shall not include a transaction which is a prohibited reportable transaction at the time the entity became a party to the transaction.

"(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income or proceeds of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

"(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.".

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end the following new item:

"SUBCHAPTER F. TAX SHELTER TRANSACTIONS.".

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ENTITY TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph: 26 USC 6033.

"(2) BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

"(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

"(B) the identity of any other party to such transaction which is known by such tax-exempt entity.".

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.".

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) DISCLOSURE UNDER SECTION 6033(a)(2).—

"(A) PENALTY ON ENTITIES.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager

in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

"(B) WRITTEN DEMAND.—

"(i) IN GENERAL.—The Secretary may make a written demand on any entity or manager subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

"(ii) FAILURE TO COMPLY WITH DEMAND.—If any entity or manager fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such entity or manager failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all entities and managers for failures with respect to any 1 disclosure shall not exceed $10,000.

"(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 6652(c) is amended by striking "6033" each place it appears in the text and heading thereof and inserting "6033(a)(1)".

26 USC 6652.

(d) EFFECTIVE DATES.—

26 USC 4965 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act, with respect to transactions before, on, or after such date, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income or proceeds that are properly allocable to any period ending on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

Approved May 17, 2006.

LEGISLATIVE HISTORY—H.R. 4297 (S. 2020):

HOUSE REPORTS: Nos. 109–304 (Comm. on Ways and Means) and 109–455 (Comm. of Conference).

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 8, considered and passed House.
Vol. 152 (2006): Feb. 1, 2, considered and passed Senate, amended.
May 10, House agreed to conference report.
May 11, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
May 17, Presidential remarks.

# Public Law 109–223
# 109th Congress

## Joint Resolution

May 18, 2006
[H.J. Res. 83]

To memorialize and honor the contribution of Chief Justice William H. Rehnquist.

Whereas President Richard M. Nixon nominated William H. Rehnquist to replace Associate Justice John Marshall Harlan on the Supreme Court on October 21, 1971, he was confirmed by the United States Senate on December 10, 1971, and served as an Associate Justice of the Supreme Court of the United States from January 1972 through September 1986;

Whereas President Ronald W. Reagan nominated Associate Justice William H. Rehnquist to replace Chief Justice Warren E. Burger as the Sixteenth Chief Justice of the United States on June 20, 1986, and he was confirmed by the United States Senate on September 17, 1986;

Whereas William Rehnquist presided as Chief Justice from September 1986 until September 2005 for a total of 19 years, making him the fourth-longest-serving Chief Justice after Melville W. Fuller, Roger B. Taney, and John Marshall, and the longest-serving Chief Justice who had previously served as an Associate Justice;

Whereas Chief Justice Rehnquist ably presided as chief administrator of the United States courts to insure the due administration of justice during times of rising caseloads and fiscal constraints;

Whereas Chief Justice Rehnquist was respected for his intellect, fairness, and humor by his fellow Justices and by members of the other branches of government; and

Whereas despite the debilitating effects of thyroid cancer, Chief Justice Rehnquist continued his service to the court and the country, and administered the oath of office to President George W. Bush at his second inauguration on January 20, 2005: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. ACKNOWLEDGMENT AND HONOR.**

Supreme Court.

The United States, acting through Congress, authorizes and directs the Curator of the Supreme Court, subject to the direction and approval of the Chief Justice of the United States, to procure a marble bust, including pedestal, of the late Chief Justice William H. Rehnquist, and to cause them to be placed in the Supreme Court building to honor his memory and legacy to the Supreme Court of the United States.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated $50,000 to carry out this Act.

Approved May 18, 2006.

---

LEGISLATIVE HISTORY—H.J. Res. 83:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 25, considered and passed House.
May 4, considered and passed Senate.

# Public Law 109–224
# 109th Congress

## An Act

May 18, 2006
[S. 1382]

To require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Washington.

**SECTION 1. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLEMENT.**

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) accept the conveyance of the parcels of land within the Puyallup Reservation described in subsection (b); and

(2) hold the land in trust for the benefit of the Puyallup Indian tribe.

(b) LAND DESCRIPTION.—The parcels of land referred to in subsection (a) are as follows:

(1) PARCEL A.—Lot B, boundary line adjustment 9508150496, as depicted on the map dated August 15, 1995, held in the records of the Pierce County Auditor, situated in the city of Fife, county of Pierce, State of Washington.

(2) PARCEL B.—

(A) IN GENERAL.—Parcel B shall be comprised of land situated in the city of Fife, county of Pierce, State of Washington, more particularly described as follows:

(i) Lots 3 and 4, Pierce County Short Plat No. 8908020412, as depicted on the map dated August 2, 1989, held in the records of the Pierce County Auditor, together with portion of SR 5 abutting lot 4, conveyed by the deed recorded under Recording No. 9309070433, described as follows:

(I) That portion of Government lot 1, sec. 07, T. 20 N., R. 4 E., of the Willamette Meridian, described as commencing at Highway Engineer's Station AL 26 6+38.0 P.O.T. on the AL26 line survey of SR 5, Tacoma to King County line.

(II) Thence S88°54′30″ E., along the north line of said lot 1 a distance of 95 feet to the true point of beginning.

(III) Thence S01°05′30″ W87.4′ feet.

(IV) Thence westerly to a point opposite Highway Engineer's Station AL26 5+50.6 P.O.T. on said AL26 line survey and 75 feet easterly therefrom.

(V) Thence northwesterly to a point opposite AL26 5+80.6 on said AL26 line survey and 55 feet easterly therefrom.

(VI) Thence northerly parallel with said line survey to the north line of said lot 1.

(VII) Thence N88°54′30″ E., to the true point of beginning.

(ii) Chicago Title Insurance Company Order No. 4293514 lot A boundary line adjustment recorded under Recording No. 9508150496, as depicted on the map dated August 15, 1995, held in the records of the Pierce County Auditor.

(B) EXCLUSION.—Excluded from Parcel B shall be that portion of lot 4 conveyed to the State of Washington by deed recorded under recording number 9308100165 and more particularly described as follows:

(i) Commencing at the northeast corner of said lot 4.

(ii) Thence N89°53′30″ W., along the north line of said lot 4 a distance of 147.44 feet to the true point of beginning and a point of curvature.

(iii) Thence southwesterly along a curve to the left, the center of which bears S0°06′30″ W., 55.00 feet distance, through a central angle of 89°01′00″, an arc distance of 85.45 feet.

(iv) Thence S01°05′30″ W., 59.43 feet.

(v) Thence N88°54′30″ W., 20.00 feet to a point on the westerly line of said lot 4.

(vi) Thence N0°57′10″ E., along said westerly line 113.15 feet to the northwest corner of said lot 4.

(vii) Thence S89°53′30″ east along said north line, a distance of 74.34 feet to the true point of beginning.

(3) ADDITIONAL LOTS.—Any lots acquired by the Puyallup Indian tribe located in block 7846, 7850, 7945, 7946, 7949, 7950, 8045, or 8049 in the Indian Addition to the city of Tacoma, State of Washington.

Approved May 18, 2006.

LEGISLATIVE HISTORY—S. 1382 (H.R. 374):

HOUSE REPORTS: No. 109–422 accompanying H.R. 374 (Comm. on Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 24, considered and passed Senate.
Vol. 152 (2006): May 9, considered and passed House.

# Public Law 109–225
# 109th Congress

## An Act

May 25, 2006
[S. 1165]

To provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

James Campbell National Wildlife Refuge Expansion Act of 2005.
16 USC 668dd note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "James Campbell National Wildlife Refuge Expansion Act of 2005".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the United States Fish and Wildlife Service manages the James Campbell National Wildlife Refuge for the purpose of promoting the recovery of 4 species of endangered Hawaiian waterbirds;

(2) the United States Fish and Wildlife Service leases approximately 240 acres of high-value wetland habitat (including ponds, marshes, freshwater springs, and adjacent land) and manages the habitat in accordance with the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd note; Public Law 105–312);

(3) the United States Fish and Wildlife Service entered into a contract to purchase in fee title the land described in paragraph (2) from the estate of James Campbell for the purposes of—

(A) permanently protecting the endangered species habitat; and

(B) improving the management of the Refuge;

(4) the United States Fish and Wildlife Service has identified for inclusion in the Refuge approximately 800 acres of additional high-value wildlife habitat adjacent to the Refuge that are owned by the estate of James Campbell;

(5) the land of the estate of James Campbell on the Kahuku Coast features coastal dunes, coastal wetlands, and coastal strand that promote biological diversity for threatened and endangered species, including—

(A) the 4 species of endangered Hawaiian waterbirds described in paragraph (1);

(B) migratory shorebirds;

(C) waterfowl;

(D) seabirds;

(E) endangered and native plant species;

(F) endangered monk seals; and

(G) green sea turtles;

(6) because of extensive coastal development, habitats of the type within the Refuge are increasingly rare on the Hawaiian islands;

(7) expanding the Refuge will provide increased opportunities for wildlife-dependent public uses, including wildlife observation, photography, and environmental education and interpretation; and

(8) acquisition of the land described in paragraph (4)—

(A) will create a single, large, manageable, and ecologically-intact unit that includes sufficient buffer land to reduce impacts on the Refuge; and

(B) is necessary to reduce flood damage following heavy rainfall to residences, businesses, and public buildings in the town of Kahuku.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the United States Fish and Wildlife Service.

(2) REFUGE.—The term "Refuge" means the James Campbell National Wildlife Refuge established pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 4. EXPANSION OF REFUGE.**

(a) EXPANSION.—The boundary of the Refuge is expanded to include the approximately 1,100 acres of land (including any water and interest in the land) depicted on the map entitled "James Campbell National Wildlife Refuge—Expansion" dated October 20, 2005, and on file in the office of the Director.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor modifications to the boundary of the Refuge as the Secretary determines to be appropriate to—

(1) achieve the goals of the United States Fish and Wildlife Service relating to the Refuge; or

(2) facilitate the acquisition of property within the Refuge.

(c) AVAILABILITY OF MAP.—

(1) IN GENERAL.—The map described in subsection (a) shall remain available for inspection in an appropriate office of the United States Fish and Wildlife Service, as determined by the Secretary.

(2) NOTICE.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register and any publication of local circulation in the area of the Refuge notice of the availability of the map.

Federal Register, publication.

**SEC. 5. ACQUISITION OF LAND AND WATER.**

(a) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary may acquire the land described in section 4(a).

(b) INCLUSION.—Any land, water, or interest acquired by the Secretary pursuant to this section shall—

(1) become part of the Refuge; and

(2) be administered in accordance with applicable law.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved May 25, 2006.

LEGISLATIVE HISTORY—S. 1165:

HOUSE REPORTS: No. 109–429 (Comm. on Resources).
SENATE REPORTS: No. 109–191 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): May 16, considered and passed House.

# Public Law 109–226
# 109th Congress

## An Act

To reauthorize the Coastal Barrier Resources Act, and for other purposes.

May 25, 2006
[S. 1869]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Coastal Barrier Resources Reauthorization Act of 2005.
16 USC 3503 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Coastal Barrier Resources Reauthorization Act of 2005".

16 USC 3503 note.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) OTHERWISE PROTECTED AREA.—The term "otherwise protected area" has the meaning given the term in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591).

(2) PILOT PROJECT.—The term "pilot project" means the digital mapping pilot project authorized under section 6 of the Coastal Barrier Resources Reauthorization Act of 2000 (16 U.S.C. 3503 note; Public Law 106–514).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) SYSTEM UNIT.—The term "System unit" has the meaning given the term in section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502).

Reports.
16 USC 3503 note.

**SEC. 3. DIGITAL MAPPING PILOT PROJECT FINALIZATION.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report regarding the digital maps of the System units and otherwise protected areas created under the pilot project.

(b) CONSULTATION.—The Secretary shall prepare the report required under subsection (a)—

(1) in consultation with the Governors of the States in which any System units and otherwise protected areas are located; and

(2) after—

(A) providing an opportunity for the submission of public comments; and

(B) considering any public comments submitted under subparagraph (A).

(c) CONTENTS.—The report required under subsection (a) shall contain—

(1) the final recommended digital maps created under the pilot project;

(2) recommendations for the adoption of the digital maps by Congress;

(3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the digital maps;

(4) a summary and update of the protocols and findings of the report required under section 6(d) of the Coastal Barrier Resources Reauthorization Act of 2000 (16 U.S.C. 3503 note; Public Law 106–514); and

(5) an analysis of any benefits that the public would receive by using digital mapping technology for all System units and otherwise protected areas.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000 for each of fiscal years 2006 through 2007.

16 USC 3503 note.

**SEC. 4. DIGITAL MAPPING PROJECT FOR THE REMAINING JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM UNITS AND OTHERWISE PROTECTED AREAS.**

(a) IN GENERAL.—The Secretary shall carry out a project to create digital versions of all of the John H. Chafee Coastal Barrier Resources System maps referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), including maps of otherwise protected areas, that were not included in the pilot project.

(b) DATA.—

(1) USE OF EXISTING DATA.—To the maximum extent practicable, in carrying out the project under this section, the Secretary shall use any digital spatial data in the possession of Federal, State, and local agencies, including digital orthophotos, color infrared photography, wetlands data, and property parcel data.

(2) PROVISION OF DATA BY OTHER AGENCIES.—The head of a Federal agency that possesses any data referred to in paragraph (1) shall, on request of the Secretary, promptly provide the data to the Secretary at no cost.

(3) PROVISION OF DATA BY NON-FEDERAL AGENCIES.—State and local agencies and any other non-Federal entities that possess data referred to in paragraph (1) are encouraged, on request of the Secretary, to promptly provide the data to the Secretary at no cost.

(4) ADDITIONAL DATA.—If the Secretary determines that any data necessary to carry out the project under this section does not exist, the Director of the United States Fish and Wildlife Service shall enter into an agreement with the Director of the United States Geological Survey under which the United States Geological Survey, in cooperation with the heads of other Federal agencies, as appropriate, shall obtain and provide to the Director of the United States Fish and Wildlife Service the data required to carry out this section.

(5) DATA STANDARDS.—All data used or created to carry out this section shall comply with—

(A) the National Spatial Data Infrastructure established by Executive Order No. 12906 (59 Fed. Reg. 17671); and

(B) any other standards established by the Federal Geographic Data Committee established by the Office of Management and Budget circular numbered A–16.

(c) REPORT.—

(1) IN GENERAL.—Not later than 5 years after the submission of the report under section 3(a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report regarding the digital maps created under this section.

(2) CONSULTATION.—The Secretary shall prepare the report required under paragraph (1)—

(A) in consultation with the Governors of the States in which the System units and otherwise protected areas are located; and

(B) after—

(i) providing an opportunity for the submission of public comments; and

(ii) considering any public comments submitted under clause (i).

(3) CONTENTS.—The report required under paragraph (1) shall contain—

(A) a description of the extent to which the boundary lines on the digital maps differ from the boundary lines on the original maps;

(B) a summary of the comments received from Governors, other government officials, and the public regarding the digital maps created under this section;

(C) recommendations for the adoption of the digital maps created under this section by Congress;

(D) recommendations for expansion of the John H. Chafee Coastal Barrier Resources System and otherwise protected areas, as in existence on the date of enactment of this Act;

(E) a summary and update on the implementation and use of the digital maps created under the pilot project; and

(F) a description of the feasibility of, and the amount of funding necessary for—

(i) making all of the System unit and otherwise protected area maps available to the public in digital format; and

(ii) facilitating the integration of digital System unit and otherwise protected area boundaries into Federal, State, and local planning tools.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

16 USC 3503 note.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

Section 10 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended by striking "2001, 2002, 2003, 2004, and 2005" and inserting "2006 through 2010".

Approved May 25, 2006.

LEGISLATIVE HISTORY—S. 1869:

HOUSE REPORTS: No. 109–428 (Comm. on Resources).
SENATE REPORTS: No. 109–179 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): May 16, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
May 25, Presidential statement.

# Public Law 109–227
# 109th Congress

## An Act

To amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.

May 29, 2006
[H.R. 1499]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. SHORT TITLE.**

Heroes Earned Retirement Opportunities Act.
26 USC 1 note.

This Act may be cited as the "Heroes Earned Retirement Opportunities Act".

**SEC. 2. COMBAT ZONE COMPENSATION TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING LIMITATION AND DEDUCTIBILITY OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.**

(a) IN GENERAL.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

26 USC 219.

"(7) SPECIAL RULE FOR COMPENSATION EARNED BY MEMBERS OF THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE.—For purposes of subsections (b)(1)(B) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 112.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

26 USC 219 note.

(c) CONTRIBUTIONS FOR TAXABLE YEARS ENDING BEFORE ENACTMENT.—

26 USC 219 note.

(1) IN GENERAL.—In the case of any taxpayer with respect to whom compensation was excluded from gross income under section 112 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 2003, and ending before the date of the enactment of this Act, any contribution to an individual retirement plan made on account of such taxable year and not later than the last day of the 3-year period beginning on the date of the enactment of this Act shall be treated, for purposes of such Code, as having been made on the last day of such taxable year.

(2) WAIVER OF LIMITATIONS.—

(A) CREDIT OR REFUND.—If the credit or refund of any overpayment of tax resulting from a contribution to which paragraph (1) applies is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed

or made if the claim therefor is filed before the close of the 1-year period beginning on the date that such contribution is made (determined without regard to paragraph (1)).

(B) ASSESSMENT OF DEFICIENCY.—The period for assessing a deficiency attributable to a contribution to which paragraph (1) applies shall not expire before the close of the 3-year period beginning on the date that such contribution is made. Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(3) INDIVIDUAL RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "individual retirement plan" has the meaning given such term by section 7701(a)(37) of such Code.

Approved May 29, 2006.

LEGISLATIVE HISTORY—H.R. 1499:

CONGRESSIONAL RECORD:
Vol. 151 (2005): May 23, considered and passed House.
Nov. 15, considered and passed Senate, amended.
Vol. 152 (2006): May 9, House concurred in Senate amendement with an amendment pursuant to H. Res. 803.
May 18, Senate concurred in House amendment.

Public Law 109–228
109th Congress

# An Act

To amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

May 29, 2006
[H.R. 5037]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Respect for America's Fallen Heroes Act.
38 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Respect for America's Fallen Heroes Act".

**SEC. 2. PROHIBITION ON CERTAIN DEMONSTRATIONS AT CEMETERIES UNDER THE CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION AND AT ARLINGTON NATIONAL CEMETERY.**

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

**"§ 2413. Prohibition on certain demonstrations at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery**

"(a) PROHIBITION.—No person may carry out—

"(1) a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

"(2) with respect to such a cemetery, a demonstration during the period beginning 60 minutes before and ending 60 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

"(A)(i) takes place within 150 feet of a road, pathway, or other route of ingress to or egress from such cemetery property; and

"(ii) includes, as part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral, memorial service, or ceremony; or

"(B) is within 300 feet of such cemetery and impedes the access to or egress from such cemetery.

"(b) DEMONSTRATION.—For purposes of this section, the term 'demonstration' includes the following:

"(1) Any picketing or similar conduct.

"(2) Any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony.

"(3) The display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony.

"(4) The distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2413. Prohibition on certain demonstrations at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery.".

38 USC 2413 note.

(b) CONSTRUCTION.—Nothing in section 2413 of title 38, United States Code (as amended by subsection (a)), shall be construed as limiting the authority of the Secretary of Veterans Affairs, with respect to property under control of the National Cemetery Administration, or the Secretary of the Army, with respect to Arlington National Cemetery, to issue or enforce regulations that prohibit or restrict conduct that is not specifically covered by section 2413 of such title (as so added).

**SEC. 3. PENALTY FOR VIOLATION OF PROHIBITION ON UNAPPROVED DEMONSTRATIONS AT CEMETERIES UNDER THE CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION AND AT ARLINGTON NATIONAL CEMETERY.**

(a) PENALTY.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 1387. Demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery**

"Whoever violates section 2413 of title 38 shall be fined under this title, imprisoned for not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1387. Demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery.".

**SEC. 4. SENSE OF CONGRESS ON STATE RESTRICTION OF DEMONSTRATIONS NEAR MILITARY FUNERALS.**

It is the sense of Congress that each State should enact legislation to restrict demonstrations near any military funeral.

Approved May 29, 2006.

LEGISLATIVE HISTORY—H.R. 5037:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 9, considered and passed House.
May 24, considered and passed Senate, amended. House concurred in Senate amendment.

# Public Law 109–229
# 109th Congress

## An Act

May 31, 2006
[S. 1736]

To provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LEAVE TRANSFER PROGRAM IN DISASTERS AND EMERGENCIES.**

Section 6391 of title 5, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) After consultation with the Administrative Office of the United States Courts, the Office of Personnel Management shall provide for the participation of employees in the judicial branch in any emergency leave transfer program under this section.".

Approved May 31, 2006.

LEGISLATIVE HISTORY—S. 1736:

HOUSE REPORTS: No. 109–449 (Comm. on Government Reform).
SENATE REPORTS: No. 109–158 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 19, considered and passed Senate.
Vol. 152 (2006): May 22, considered and passed House.

# Public Law 109–230
# 109th Congress

## An Act

To require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco, otherwise known as the "Granite Lady", and for other purposes.

June 15, 2006
[H.R. 1953]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

San Francisco Old Mint Commemorative Coin Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "San Francisco Old Mint Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress hereby finds as follows:

(1) The Granite Lady played an important role in the history of the Nation.

(2) The San Francisco Mint was established pursuant to an Act of Congress of July 3, 1852, to convert miners' gold from the California gold rush into coins.

(3) The San Francisco Old Mint Building was designed by architect A.B. Mullett, who also designed the United States Treasury Building and the Old Executive Office Building.

(4) The solid construction of the Granite Lady enabled it to survive the 1906 San Francisco earthquake and fire, making it the only financial institution that was able to operate immediately after the earthquake as the treasury for disaster relief funds for the city of San Francisco.

(5) Coins struck at the San Francisco Old Mint are distinguished by the "S" mint mark.

(6) The San Francisco Old Mint is famous for having struck many rare, legendary issues, such as the 1870–S $3 coin, which is valued today at well over $1,000,000, and the 1894–S dime which is comparatively rare.

(7) The San Francisco Old Mint Commemorative Coin will be the first commemorative coin to honor a United States mint.

**SEC. 3. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—Notwithstanding any other provision of law, and in commemoration of the San Francisco Old Mint, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the San Francisco Old Mint Building, its importance to California and the history of the United States, and its role in rebuilding San Francisco after the 1906 earthquake and fire.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2006"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts, and the Board of the San Francisco Museum and Historical Society; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—The coins authorized under this Act shall be struck at the San Francisco Mint to the greatest extent possible.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2006.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of $35 per coin for the $5 coin.

(2) A surcharge of $10 per coin for the $1 coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the San Francisco Museum and Historical Society for use for the purposes of rehabilitating the Historic Old Mint in San Francisco as a city museum and an American Coin and Gold Rush Museum.

(c) AUDITS.—The San Francisco Museum and Historical Society shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Fund under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

**SEC. 8. TECHNICAL CORRECTION.**

31 USC 5112 note.

Notwithstanding the fifth sentence of section 5112(d)(1) of title 31, United States Code, the Secretary of the Treasury may continue to issue, after December 31, 2005, numismatic items that contain 5-cent coins minted in the years 2004 and 2005.

Approved June 15, 2006.

---

LEGISLATIVE HISTORY—H.R. 1953:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 8, 10, considered and passed House.
Vol. 152 (2006): May 25, considered and passed Senate.

# Public Law 109–231
# 109th Congress

## An Act

June 15, 2006
[H.R. 3829]

To designate the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. JACK C. MONTGOMERY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.**

(a) IN GENERAL.—The Department of Veterans Affairs medical center in Muskogee, Oklahoma, shall after the date of the enactment of this Act be known and designated as the "Jack C. Montgomery Department of Veterans Affairs Medical Center".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Jack C. Montgomery Department of Veterans Affairs Medical Center.

Approved June 15, 2006.

LEGISLATIVE HISTORY—H.R. 3829:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 9, considered and passed House.
May 26, considered and passed Senate.

Public Law 109–232
109th Congress

# An Act

To amend section 308 of the Lewis and Clark Expedition Bicentennial Commemorative Coin Act to make certain clarifying and technical amendments.

June 15, 2006
[H.R. 5401]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Lewis and Clark Commemorative Coin Correction Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lewis and Clark Commemorative Coin Correction Act".

**SEC. 2. LEWIS AND CLARK COMMEMORATIVE COIN AMENDMENTS.**

Section 308 of the Lewis and Clark Expedition Bicentennial Commemorative Coin Act (31 U.S.C. 5112 note) is amended—

(1) in subsection (a), by striking "Secretary as follows:" and all that follows through the end of the subsection and inserting the following:

"Secretary for expenditure on activities associated with commemorating the bicentennial of the Lewis and Clark Expedition, as follows:

"(1) NATIONAL COUNCIL OF THE LEWIS AND CLARK BICENTENNIAL.—½ to the National Council of the Lewis and Clark Bicentennial.

"(2) MISSOURI HISTORICAL SOCIETY.—½ to the Missouri Historical Society.";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

"(b) TRANSFER OF UNEXPENDED FUNDS.—Any proceeds referred to in subsection (a) that were dispersed by the Secretary and remain unexpended by the National Council of the Lewis and Clark Bicentennial or the Missouri Historical Society as of June 30, 2007, shall be transferred to the Lewis and Clark Trail Heritage

Foundation for the purpose of establishing a trust for the stewardship of the Lewis and Clark National Historic Trail.".

Approved June 15, 2006.

LEGISLATIVE HISTORY—H.R. 5401:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 22, considered and passed House.
May 25, considered and passed Senate.

# Public Law 109–233
# 109th Congress

## An Act

To amend title 38, United States Code, to improve and extend housing, insurance, outreach, and benefits programs provided under the laws administered by the Secretary of Veterans Affairs, to improve and extend employment programs for veterans under laws administered by the Secretary of Labor, and for other purposes.

June 15, 2006
[S. 1235]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans' Housing Opportunity and Benefits Improvement Act of 2006.
38 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Housing Opportunity and Benefits Improvement Act of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—HOUSING MATTERS

Sec. 101. Adapted housing assistance for disabled veterans residing temporarily in housing owned by a family member.
Sec. 102. Adjustable rate mortgages.
Sec. 103. Permanent authority to make direct housing loans to Native American veterans.
Sec. 104. Extension of eligibility for direct loans for Native American veterans to a veteran who is the spouse of a Native American.
Sec. 105. Technical corrections to Veterans Benefits Improvement Act of 2004.

TITLE II—EMPLOYMENT MATTERS

Sec. 201. Additional duty for the Assistant Secretary of Labor for Veterans' Employment and Training to raise awareness of skills of veterans and of the benefits of hiring veterans.
Sec. 202. Modifications to the Advisory Committee on Veterans Employment and Training.
Sec. 203. Reauthorization of appropriations for homeless veterans reintegration programs.

TITLE III—LIFE AND HEALTH INSURANCE MATTERS

Sec. 301. Duration of Servicemembers' Group Life Insurance coverage for totally disabled veterans following separation from service.
Sec. 302. Limitation on premium increases for reinstated health insurance of servicemembers released from active military service.
Sec. 303. Preservation of employer-sponsored health plan coverage for certain reserve-component members who acquire TRICARE eligibility.

TITLE IV—OTHER MATTERS

Sec. 401. Inclusion of additional diseases and conditions in diseases and disabilities presumed to be associated with prisoner of war status.
Sec. 402. Consolidation and revision of outreach authorities.
Sec. 403. Extension of annual report requirement on equitable relief cases.

TITLE V—TECHNICAL AMENDMENTS

Sec. 501. Technical and clarifying amendments to new traumatic injury protection coverage under Servicemembers' Group Life Insurance.

Sec. 502. Terminology amendments to revise references to certain veterans in provisions relating to eligibility for compensation or dependency and indemnity compensation.
Sec. 503. Technical and clerical amendments.

# TITLE I—HOUSING MATTERS

## SEC. 101. ADAPTED HOUSING ASSISTANCE FOR DISABLED VETERANS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.

(a) ASSISTANCE AUTHORIZED.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2102 the following new section:

### "§ 2102A. Assistance for veterans residing temporarily in housing owned by a family member

"(a) PROVISION OF ASSISTANCE.—In the case of a disabled veteran who is described in subsection (a)(2) or (b)(2) of section 2101 of this title and who is residing, but does not intend to permanently reside, in a residence owned by a member of such veteran's family, the Secretary may assist the veteran in acquiring such adaptations to such residence as are determined by the Secretary to be reasonably necessary because of the veteran's disability.

"(b) AMOUNT OF ASSISTANCE.—The assistance authorized under subsection (a) may not exceed—

"(1) $14,000, in the case of a veteran described in section 2101(a)(2) of this title; or

"(2) $2,000, in the case of a veteran described in section 2101(b)(2) of this title.

"(c) LIMITATION.—The assistance authorized by subsection (a) shall be limited in the case of any veteran to one residence.

"(d) REGULATIONS.—Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.

"(e) TERMINATION.—No assistance may be provided under this section after the end of the five-year period that begins on the date of the enactment of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006.".

(b) LIMITATIONS ON ADAPTED HOUSING ASSISTANCE.—Section 2102 of such title is amended—

(1) in the matter in subsection (a) preceding paragraph (1)—

(A) by striking "shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and"; and

(B) by striking "veteran but shall not exceed $50,000 in any one case—" and inserting "veteran—"; and

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

"(d)(1) The aggregate amount of assistance available to a veteran under sections 2101(a) and 2102A of this title shall be limited to $50,000.

"(2) The aggregate amount of assistance available to a veteran under sections 2101(b) and 2102A of this title shall be limited to $10,000.

"(3) No veteran may receive more than three grants of assistance under this chapter.".

(c) COORDINATION OF ADMINISTRATION OF BENEFITS.—Chapter 21 of such title is further amended by adding at the end the following new section:

**"§ 2107. Coordination of administration of benefits**

"The Secretary shall provide for the coordination of the administration of programs to provide specially adapted housing that are administered by the Under Secretary for Health and such programs that are administered by the Under Secretary for Benefits under this chapter, chapter 17, and chapter 31 of this title.".

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended—

(1) by inserting after the item relating to section 2102 the following new item:

"2102A. Assistance for veterans residing temporarily in housing owned by a family member.";

and

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

"2107. Coordination of administration of benefits.".

(e) GAO REPORTS.—

(1) INTERIM REPORT.—Not later than three years after the date of the enactment of this Act, the Comptroller General shall submit to Congress an interim report on the implementation by the Secretary of Veterans Affairs of section 2102A of title 38, United States Code, as added by subsection (a).

(2) FINAL REPORT.—Not later than five years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a final report on the implementation of such section.

(f) TEMPORARY INCREASE IN CERTAIN HOUSING LOAN FEES.—For a subsequent loan described in subsection (a) of section 3710 of title 38, United States Code, to purchase or construct a dwelling with 0-down or any other subsequent loan described in that subsection, other than a loan with 5-down or 10-down, that is closed during fiscal year 2007, the Secretary of Veterans Affairs shall apply section 3729(b)(2) of such title by substituting "3.35" for "3.30". 38 USC 3729 note.

**SEC. 102. ADJUSTABLE RATE MORTGAGES.**

Section 3707A(c)(4) of title 38, United States Code, is amended by striking "1 percentage point" and inserting "such percentage points as the Secretary may prescribe".

**SEC. 103. PERMANENT AUTHORITY TO MAKE DIRECT HOUSING LOANS TO NATIVE AMERICAN VETERANS.**

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "establish and implement a pilot program under which the Secretary may" in the first sentence; and

(B) by striking "shall establish and implement the pilot program" in the third sentence and inserting "shall make such loans";

(2) in subsection (b), by striking "In carrying out the pilot program under this subchapter, the" and inserting "The"; and

(3) by striking subsection (c).

38 USC 3762.

(b) REPORTS.—Section 3762(j) of such title is amended to read as follows:

"(j) The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.".

(c) CONFORMING AMENDMENTS.—

(1) SECTION 3762.—Section 3762 of such title is amended—

(A) in subsection (a), by inserting "under this subchapter" after "to a Native American veteran";

(B) in subsection (b)(1)(E), by striking "the pilot program established under this subchapter is implemented" and inserting "loans under this subchapter are made";

(C) in subsection (c)(1)(B), by striking "carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans" in the second sentence and inserting "make direct housing loans under this subchapter";

(D) in subsection (i)—

(i) by striking "the pilot program provided for under this subchapter and" in paragraph (1);

(ii) by striking "under the pilot program and in assisting such organizations and veterans in participating in the pilot program" in paragraph (2)(A) and inserting "under this subchapter and in assisting such organizations and veterans with respect to such housing benefits"; and

(iii) by striking "in participating in the pilot program" in paragraph (2)(E) and inserting "with respect to such benefits".

(2) CONFORMING REPEAL.—Section 8(b) of the Veterans Home Loan Program Amendments of 1992 (Public Law 102–547; 38 U.S.C. 3761 note) is repealed.

(d) ESTABLISHMENT OF MAXIMUM AMOUNT OF LOANS.—Section 3762(c)(1)(B) of title 38, United States Code, is amended—

(1) by striking "(B) The" and inserting "(B)(i) Subject to clause (ii), the"; and

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

"(ii) The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.".

(e) TECHNICAL AMENDMENT.—Subsection (c)(1)(A) of section 3762 of such title is amended by inserting "veteran" after "Native American".

(f) CLERICAL AMENDMENTS.—

(1) SUBCHAPTER HEADING.—The heading for subchapter V of chapter 37 of such title is amended to read as follows:

"SUBCHAPTER V—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS".

(2) SECTION HEADING.—The heading for section 3761 of such title is amended to read as follows:

**"§ 3761. Direct housing loans to Native American veterans; program authority".**

(3) SECTION HEADING.—The heading for section 3762 of such title is amended to read as follows:

**"§ 3762. Direct housing loans to Native American veterans; program administration".**

(4) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 37 of such title is amended by striking the items relating to subchapter V and sections 3761 and 3762 and inserting the following new items:

"SUBCHAPTER V—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

"3761. Direct housing loans to Native American veterans; program authority.

"3762. Direct housing loans to Native American veterans; program administration.".

**SEC. 104. EXTENSION OF ELIGIBILITY FOR DIRECT LOANS FOR NATIVE AMERICAN VETERANS TO A VETERAN WHO IS THE SPOUSE OF A NATIVE AMERICAN.**

(a) EXTENSION.—Subchapter V of chapter 37 of title 38, United States Code, is amended—

(1) by redesignating section 3764 as section 3765; and

(2) by inserting after section 3763 the following new section:

**"§ 3764. Qualified non-Native American veterans**

"(a) TREATMENT OF NON-NATIVE AMERICAN VETERANS.—Subject to the succeeding provisions of this section, for purposes of this subchapter—

"(1) a qualified non-Native American veteran is deemed to be a Native American veteran; and

"(2) for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal organization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

"(b) USE OF LOAN.—In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

"(c) RESTRICTIONS IMPOSED BY TRIBAL ORGANIZATIONS.—Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.".

(b) CONFORMING AMENDMENTS.—Section 3765 of such title, as redesignated by subsection (a)(1), is amended by adding at the end the following new paragraph:

"(5) The term 'qualified non-Native American veteran' means a veteran who—

"(A) is the spouse of a Native American, but

"(B) is not a Native American.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of such title is amended by striking the item relating to section 3764 and inserting the following new items:

"3764. Qualified non-Native American veterans.
"3765. Definitions.".

**SEC. 105. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.**

(a) CORRECTIONS.—Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3614), is amended—

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

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) in paragraph (1)—

(i) in the first sentence, by striking "paragraph (1), (2), or (3)" and inserting "subparagraph (A), (B), (C), or (D) of paragraph (2)"; and

(ii) in the second sentence, by striking "the second sentence" and inserting "paragraph (3)"; and

(B) in paragraph (2)—

(i) in the first sentence, by striking "paragraph (1)" and inserting "paragraph (2)"; and

(ii) in the second sentence, by striking "paragraph (2)" and inserting "paragraph (3)"; and

(3) in subsection (a)(3), by striking "subsection (c)" in the matter preceding subparagraph (A) and inserting "subsection (d)".

38 USC 2101 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of December 10, 2004, as if enacted immediately after the enactment of the Veterans Benefits Improvement Act of 2004 on that date.

# TITLE II—EMPLOYMENT MATTERS

**SEC. 201. ADDITIONAL DUTY FOR THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING TO RAISE AWARENESS OF SKILLS OF VETERANS AND OF THE BENEFITS OF HIRING VETERANS.**

Subsection (b) of section 4102A of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(8) With advice and assistance from the Advisory Committee on Veterans Employment and Training, and Employer Outreach established under section 4110 of this title, furnish information to employers (through meetings in person with hiring executives of corporations and otherwise) with respect to the training and skills of veterans and disabled veterans,

and the advantages afforded employers by hiring veterans with such training and skills, and to facilitate employment of veterans and disabled veterans through participation in labor exchanges (Internet-based and otherwise), and other means.".

**SEC. 202. MODIFICATIONS TO THE ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING.**

(a) COMMITTEE NAME.—

(1) CHANGE OF NAME.—Subsection (a)(1) of section 4110 of title 38, United States Code, is amended by striking "Advisory Committee on Veterans Employment and Training" and inserting "Advisory Committee on Veterans Employment, Training, and Employer Outreach".

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach".**

(3) TABLE OF SECTIONS.—The item relating to section 4110 in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

"4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach.".

(4) REFERENCES.—Any reference to the Advisory Committee established under section 4110 of such title in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Advisory Committee on Veterans Employment, Training, and Employer Outreach.

38 USC 4110 note.

(b) EXPANSION OF DUTIES OF ADVISORY COMMITTEE.—Subsection (a)(2) of such section is amended—

(1) in subparagraph (A), by inserting "and their integration into the workforce" after "veterans";

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

(3) by redesignating subparagraph (C) as subparagraph (E); and

(4) by inserting after subparagraph (B) the following new subparagraphs:

"(C) assist the Assistant Secretary of Labor for Veterans' Employment and Training in carrying out outreach activities to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

"(D) make recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training, with respect to outreach activities and the employment and training of veterans; and".

(c) MODIFICATION OF ADVISORY COMMITTEE MEMBERSHIP.—

(1) MEMBERSHIP.—Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) The Secretary of Labor shall appoint at least 12, but no more than 15, individuals to serve as members of the advisory committee as follows:

"(A) Six individuals, one each from among representatives nominated by each of the following organizations:

"(i) The National Society of Human Resource Managers.

"(ii) The Business Roundtable.

"(iii) The National Association of State Workforce Agencies.

"(iv) The United States Chamber of Commerce.

"(v) The National Federation of Independent Business.

"(vi) A nationally recognized labor union or organization.

"(B) Not more than five individuals from among representatives nominated by veterans service organizations that have a national employment program.

"(C) Not more than five individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.".

(2) CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(A) by striking paragraphs (3), (4), (8), (10), (11), and (12); and

(B) by redesignating paragraphs (5), (6), (7), and (9) as paragraphs (3), (4), (5), and (6), respectively.

(d) REINSTATEMENT AND MODIFICATION OF REPORTING REQUIREMENT.—Subsection (f)(1) of such section is amended—

(1) by striking the first sentence and inserting the following: "Not later than December 31 of each year, the advisory committee shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the employment and training needs of veterans, with special emphasis on disabled veterans, for the previous fiscal year.";

(2) in subparagraph (A), by inserting "and their integration into the workforce" after "veterans";

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

(4) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (F), respectively;

(5) by inserting after subparagraph (A) the following new subparagraph:

"(B) an assessment of the outreach activities carried out by the Secretary of Labor to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;"; and

(6) by inserting after subparagraph (C), as so redesignated, the following new subparagraphs:

"(D) a description of the activities of the advisory committee during that fiscal year;

"(E) a description of activities that the advisory committee proposes to undertake in the succeeding fiscal year; and".

**SEC. 203. REAUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS REINTEGRATION PROGRAMS.**

Subsection (e)(1) of section 2021 of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(F) $50,000,000 for each of fiscal years 2007 through 2009.".

# TITLE III—LIFE AND HEALTH INSURANCE MATTERS

**SEC. 301. DURATION OF SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE FOR TOTALLY DISABLED VETERANS FOLLOWING SEPARATION FROM SERVICE.**

(a) SEPARATION OR RELEASE FROM ACTIVE DUTY.—

(1) EXTENSION OF PERIOD OF COVERAGE.—Paragraph (1)(A) of section 1968(a) of title 38, United States Code, is amended by striking "shall cease" and all that follows and inserting "shall cease on the earlier of the following dates (but in no event before the end of 120 days after such separation or release):

"(i) The date on which the insured ceases to be totally disabled.

"(ii) The date that is—

"(I) two years after the date of separation or release from such active duty or active duty for training, in the case of such a separation or release during the period beginning on the date that is one year before the date of the enactment of Veterans' Housing Opportunity and Benefits Improvement Act of 2006 and ending on September 30, 2011; and

"(II) 18 months after the date of separation or release from such active duty or active duty for training, in the case of such a separation or release on or after October 1, 2011.".

(2) TECHNICAL AMENDMENTS.—Paragraph (1) of such section is further amended—

(A) in the matter preceding subparagraph (A), by striking "shall cease—" and inserting "shall cease as follows:"; and

(B) in subparagraph (B), by striking "at" after "(B)" and inserting "At".

(b) SEPARATION OR RELEASE FROM CERTAIN RESERVE ASSIGNMENTS.—Paragraph (4) of such section is amended by striking "shall cease" the second place it appears and all that follows and inserting "shall cease on the earlier of the following dates (but in no event before the end of 120 days after separation or release from such assignment):

"(A) The date on which the insured ceases to be totally disabled.

"(B) The date that is—

"(i) two years after the date of separation or release from such assignment, in the case of such a separation or release during the period beginning on the date that is one year before the date of the enactment of Veterans' Housing Opportunity and Benefits Improvement Act of 2006 and ending on September 30, 2011; and

"(ii) 18 months after the date of separation or release from such assignment, in the case of such a separation or release on or after October 1, 2011.".

**SEC. 302. LIMITATION ON PREMIUM INCREASES FOR REINSTATED HEALTH INSURANCE OF SERVICEMEMBERS RELEASED FROM ACTIVE MILITARY SERVICE.**

(a) PREMIUM PROTECTION.—Section 704 of the Servicemembers Civil Relief Act (50 U.S.C. App. 594) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON PREMIUM INCREASES.—

"(1) PREMIUM PROTECTION.—The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be increased, for the balance of the period for which coverage would have been continued had the coverage not been terminated, to an amount greater than the amount chargeable for such coverage before the termination.

"(2) INCREASES OF GENERAL APPLICABILITY NOT PRECLUDED.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by the carrier of the health care insurance for the same health insurance coverage for persons similarly covered by such insurance during the period between the termination and the reinstatement.".

(b) TECHNICAL AMENDMENT.—Subsection (b)(3) of such section is amended by striking "if the" and inserting "in a case in which the".

**SEC. 303. PRESERVATION OF EMPLOYER-SPONSORED HEALTH PLAN COVERAGE FOR CERTAIN RESERVE-COMPONENT MEMBERS WHO ACQUIRE TRICARE ELIGIBILITY.**

(a) CONTINUATION OF COVERAGE.—Subsection (a)(1) of section 4317 of title 38, United States Code, is amended by inserting after "by reason of service in the uniformed services," the following: "or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,".

(b) REINSTATEMENT OF COVERAGE.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after "by reason of service in the uniformed services," the following: "or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,"; and

(B) by inserting "or eligibility" before the period at the end of the first sentence; and

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

"(3) In the case of a person whose coverage under a health plan is terminated by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title but who subsequently does not commence a period of active duty under the order to active duty that established such eligibility because the order is canceled before such active duty commences, the provisions of paragraph (1) relating to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to such person's continued employment, upon the termination of such eligibility for medical and dental care under chapter 55 of title 10 that is incident to the cancellation of such order, in the

same manner as if the person had become reemployed upon such termination of eligibility.”.

# TITLE IV—OTHER MATTERS

**SEC. 401. INCLUSION OF ADDITIONAL DISEASES AND CONDITIONS IN DISEASES AND DISABILITIES PRESUMED TO BE ASSOCIATED WITH PRISONER OF WAR STATUS.**

Section 1112(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraphs:

“(L) Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure and arrhythmia).

“(M) Stroke and its complications.”.

**SEC. 402. CONSOLIDATION AND REVISION OF OUTREACH AUTHORITIES.**

(a) IN GENERAL.—Part IV of title 38, United States Code, is amended by adding at the end the following new chapter:

## “CHAPTER 63—OUTREACH ACTIVITIES

“6301. Purpose; definitions.
“6302. Biennial plan.
“6303. Outreach services.
“6304. Veterans assistance offices.
“6305. Outstationing of counseling and outreach personnel.
“6306. Use of other agencies.
“6307. Outreach for eligible dependents.
“6308. Biennial report to Congress.

### “§ 6301. Purpose; definitions

“(a) PURPOSE.—The Congress declares that—

“(1) the outreach services program authorized by this chapter is for the purpose of ensuring that all veterans (especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Department) are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents; and

“(2) the outreach services program authorized by this chapter is for the purpose of charging the Department with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

“(b) DEFINITIONS.—For the purposes of this chapter—

“(1) the term ‘other governmental programs’ includes all programs under State or local laws as well as all programs under Federal law other than those authorized by this title; and

“(2) the term ‘eligible dependent’ means a spouse, surviving spouse, child, or dependent parent of a person who served in the active military, naval, or air service.

**"§ 6302. Biennial plan**

"(a) BIENNIAL PLAN REQUIRED.—The Secretary shall, during the first nine months of every odd-numbered year, prepare a biennial plan for the outreach activities of the Department for the two-fiscal-year period beginning on October 1 of that year.

"(b) ELEMENTS.—Each biennial plan under subsection (a) shall include the following:

"(1) Plans for efforts to identify eligible veterans and eligible dependents who are not enrolled or registered with the Department for benefits or services under the programs administered by the Secretary.

"(2) Plans for informing eligible veterans and eligible dependents of modifications of the benefits and services under the programs administered by the Secretary, including eligibility for medical and nursing care and services.

"(c) COORDINATION IN DEVELOPMENT.—In developing the biennial plan under subsection (a), the Secretary shall consult with the following:

"(1) Directors or other appropriate officials of organizations approved by the Secretary under section 5902 of this title.

"(2) Directors or other appropriate officials of State and local education and training programs.

"(3) Representatives of nongovernmental organizations that carry out veterans outreach programs.

"(4) Representatives of State and local veterans employment organizations.

"(5) Other individuals and organizations that the Secretary considers appropriate.

**"§ 6303. Outreach services**

"(a) REQUIREMENT TO PROVIDE SERVICES.—In carrying out the purposes of this chapter, the Secretary shall provide the outreach services specified in subsections (b) through (d). In areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, such services shall, to the maximum feasible extent, be provided in the principal language of such persons.

"(b) INDIVIDUAL NOTICE TO NEW VETERANS.—The Secretary shall by letter advise each veteran at the time of the veteran's discharge or release from active military, naval, or air service (or as soon as possible after such discharge or release) of all benefits and services under laws administered by the Department for which the veteran may be eligible. In carrying out this subsection, the Secretary shall ensure, through the use of veteran-student services under section 3485 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release.

"(c) DISTRIBUTION OF INFORMATION.—(1) The Secretary—

"(A) shall distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Secretary; and

"(B) may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which the Secretary determines would be beneficial to veterans.

"(2) Whenever a veteran or dependent first applies for any benefit under laws administered by the Secretary (including a request for burial or related benefits or an application for life insurance proceeds), the Secretary shall provide to the veteran or dependent information concerning benefits and health care services under programs administered by the Secretary. Such information shall be provided not later than three months after the date of such application.

Deadline.

"(d) PROVISION OF AID AND ASSISTANCE.—The Secretary shall provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents with respect to subsections (b) and (c) and in the preparation and presentation of claims under laws administered by the Department.

"(e) ASSIGNMENT OF EMPLOYEES.—In carrying out this section, the Secretary shall assign such employees as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veterans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.

Homeless.

**"§ 6304. Veterans assistance offices**

"(a) IN GENERAL.—The Secretary shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and in the Commonwealth of Puerto Rico, as the Secretary determines to be necessary to carry out the purposes of this chapter. The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense and taking into account recommendations, if any, of the Secretary of Labor, determines to be necessary to carry out such purposes.

Establishment.

"(b) LOCATION OF OFFICES.—In establishing and maintaining such offices, the Secretary shall give due regard to—

"(1) the geographical distribution of veterans recently discharged or released from active military, naval, or air service;

"(2) the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services); and

"(3) the necessity of providing appropriate outreach services in less populated areas.

**"§ 6305. Outstationing of counseling and outreach personnel**

"The Secretary may station employees of the Department at locations other than Department offices, including educational institutions, to provide—

"(1) counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title; and

"(2) outreach services under this chapter.

**"§ 6306. Use of other agencies**

"(a) In carrying out this chapter, the Secretary shall arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, including, where possible, arrangements for outstationing the State

employment personnel who provide such assistance at appropriate facilities of the Department.

"(b) In carrying out this chapter, the Secretary shall, in consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment opportunities, training opportunities, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

"(c) In carrying out this chapter, the Secretary shall cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization.

"(d) In carrying out this chapter, the Secretary shall, where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization.

"(e) In carrying out this chapter, the Secretary may furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services.

"(f) In carrying out this chapter, the Secretary shall conduct and provide for studies, in consultation with appropriate Federal departments and agencies, to determine the most effective program design to carry out the purposes of this chapter.

**"§ 6307. Outreach for eligible dependents**

"(a) NEEDS OF DEPENDENTS.—In carrying out this chapter, the Secretary shall ensure that the needs of eligible dependents are fully addressed.

"(b) INFORMATION AS TO AVAILABILITY OF OUTREACH SERVICES FOR DEPENDENTS.—The Secretary shall ensure that the availability of outreach services and assistance for eligible dependents under this chapter is made known through a variety of means, including the Internet, announcements in veterans publications, and announcements to the media.

**"§ 6308. Biennial report to Congress**

"(a) REPORT REQUIRED.—The Secretary shall, not later than December 1 of every even-numbered year (beginning in 2008), submit to Congress a report on the outreach activities carried out by the Department.

"(b) CONTENT.—Each report under this section shall include the following:

"(1) A description of the implementation during the preceding fiscal year of the current biennial plan under section 6302 of this title.

"(2) Recommendations for the improvement or more effective administration of the outreach activities of the Department.".

(b) INCORPORATION OF RECOMMENDATIONS TO IMPROVE OUTREACH AND AWARENESS.—The Secretary of Veterans Affairs shall, to the extent appropriate, incorporate the recommendations for the improvement of veterans outreach and awareness activities included in the report submitted to Congress by the Secretary

pursuant to section 805 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454).

(c) REPEAL OF RECODIFIED PROVISIONS.—Subchapter II of chapter 77 of title 38, United States Code, is repealed.

38 USC 7721–7727.

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Subchapter III of chapter 77 of such title is redesignated as subchapter II.

(2) The table of sections at the beginning of such chapter is amended by striking the items relating to the heading for subchapter II, sections 7721 through 7727, and the heading for subchapter III and inserting the following:

"SUBCHAPTER II—QUALITY ASSURANCE".

(3) The tables of chapters at the beginning of such title, and at the beginning of part IV of such title, are amended by inserting after the item relating to chapter 61 the following new item:

"63. Outreach Activities ..... 6301".

(e) CROSS-REFERENCE AMENDMENTS.—

(1) Section 3485(a)(4)(A) of title 38, United States Code, is amended by striking "subchapter II of chapter 77" and inserting "chapter 63".

(2) Section 4113(a)(2) of such title is amended by striking "section 7723(a)" and inserting "section 6304(a)".

(3) Section 4214(g) of such title is amended by striking "section 7722" and "section 7724" and inserting "section 6303" and "section 6305", respectively.

(4) Section 168(b)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2913(b)(2)(B)) is amended by striking "subchapter II of chapter 77" and inserting "chapter 63".

**SEC. 403. EXTENSION OF ANNUAL REPORT REQUIREMENT ON EQUITABLE RELIEF CASES.**

Section 503(c) of title 38, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2009".

# TITLE V—TECHNICAL AMENDMENTS

**SEC. 501. TECHNICAL AND CLARIFYING AMENDMENTS TO NEW TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.**

(a) SECTION 1980A.—Section 1980A of title 38, United States Code, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) A member of the uniformed services who is insured under Servicemembers' Group Life Insurance shall automatically be insured for traumatic injury in accordance with this section. Insurance benefits under this section shall be payable if the member, while so insured, sustains a traumatic injury on or after December 1, 2005, that results in a qualifying loss specified pursuant to subsection (b)(1).

"(2) If a member suffers more than one such qualifying loss as a result of traumatic injury from the same traumatic event, payment shall be made under this section in accordance with the

schedule prescribed pursuant to subsection (d) for the single loss providing the highest payment.".

(2) Subsection (b) is amended—

(A) in paragraph (1)—

(i) by striking "issued a" and all that follows through "limited to—" and inserting "insured against traumatic injury under this section is insured against such losses due to traumatic injury (in this section referred to as 'qualifying losses') as are prescribed by the Secretary by regulation. Qualifying losses so prescribed shall include the following:";

(ii) by capitalizing the first letter of the first word of each of subparagraphs (A) through (H);

(iii) by striking the semicolon at the end of each of subparagraphs (A) through (F) and inserting a period; and

(iv) by striking "; and" at the end of subparagraph (G) and inserting a period;

(B) in paragraph (2)—

(i) by striking "subsection—" and inserting "subsection:";

(ii) by striking "the" at the beginning of subparagraphs (A), (B), and (C) and inserting "The";

(iii) in subparagraph (A), by striking "4 limbs;" and inserting "four limbs.";

(iv) in subparagraph (B), by striking "; and" at the end and inserting a period;

(v) in subparagraph (C), by striking "1 side" and inserting "one side"; and

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

"(D) The term 'inability to carry out the activities of daily living' means the inability to independently perform two or more of the following six functions:

"(i) Bathing.

"(ii) Continence.

"(iii) Dressing.

"(iv) Eating.

"(v) Toileting.

"(vi) Transferring.";

(C) in paragraph (3)—

(i) by striking ", in collaboration with the Secretary of Defense,";

(ii) by striking "shall prescribe" and inserting "may prescribe"; and

(iii) by striking "the conditions under which coverage against loss will not be provided" and inserting "conditions under which coverage otherwise provided under this section is excluded"; and

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

"(4) A member shall not be considered for the purposes of this section to be a member insured under Servicemembers' Group Life Insurance if the member is insured under Servicemembers' Group Life Insurance only as an insurable dependent of another member pursuant to subparagraph (A)(ii) or (C)(ii) of section 1967(a)(1) of this title.".

(3) Subsection (c) is amended to read as follows:

"(c)(1) A payment may be made to a member under this section only for a qualifying loss that results directly from a traumatic injury sustained while the member is covered against loss under this section and from no other cause.

"(2)(A) A payment may be made to a member under this section for a qualifying loss resulting from a traumatic injury only for a loss that is incurred during the applicable period of time specified pursuant to subparagraph (B).

"(B) For each qualifying loss, the Secretary shall prescribe, by regulation, a period of time to be the period of time within which a loss of that type must be incurred, determined from the date on which the member sustains the traumatic injury resulting in that loss, in order for that loss to be covered under this section.". Regulations.

(4) Subsection (d) is amended by striking "losses described in subsection (b)(1) shall be—" and all that follows and inserting "qualifying losses shall be made in accordance with a schedule prescribed by the Secretary, by regulation, specifying the amount of payment to be made for each type of qualifying loss, to be based on the severity of the qualifying loss. The minimum payment that may be prescribed for a qualifying loss is $25,000, and the maximum payment that may be prescribed for a qualifying loss is $100,000.". Regulations.

(5) Subsection (e) is amended—

(A) by striking "of Veterans Affairs" each place it appears;

(B) in paragraph (1), by striking "as the premium allocable" and all that follows through "protection under this section";

(C) in paragraph (2), by striking "Secretary of the concerned service" and inserting "Secretary concerned"; and

(D) by striking paragraphs (6), (7), and (8) and inserting the following:

"(6) The cost attributable to insuring members under this section for any month or other period specified by the Secretary, less the premiums paid by the members, shall be paid by the Secretary concerned to the Secretary. The Secretary shall allocate the amount payable among the uniformed services using such methods and data as the Secretary determines to be reasonable and practicable. Payments under this paragraph shall be made on a monthly basis or at such other intervals as may be specified by the Secretary and shall be made within 10 days of the date on which the Secretary provides notice to the Secretary concerned of the amount required.

"(7) For each period for which a payment by a Secretary concerned is required under paragraph (6), the Secretary concerned shall contribute such amount from appropriations available for active duty pay of the uniformed service concerned.

"(8) The sums withheld from the basic or other pay of members, or collected from them by the Secretary concerned, under this subsection, and the sums contributed from appropriations under this subsection, together with the income derived from any dividends or premium rate adjustments received from insurers shall be deposited to the credit of the revolving fund established in the Treasury of the United States under section 1869(d)(1) of this title.".

(6) Subsection (f) is amended to read as follows:

"(f) When a claim for benefits is submitted under this section, the Secretary of Defense or, in the case of a member not under the jurisdiction of the Secretary of Defense, the Secretary concerned, shall certify to the Secretary whether the member with respect to whom the claim is submitted—

"(1) was at the time of the injury giving rise to the claim insured under Servicemembers' Group Life Insurance for the purposes of this section; and

"(2) has sustained a qualifying loss.".

(7) Subsection (g) of such section is amended—

(A) by inserting "(1)" after "(g)";

(B) by striking "will not be made" and inserting "may not be made under the insurance coverage under this section";

(C) by striking "the period" and all that follows through "the date" and inserting "a period prescribed by the Secretary, by regulation, for such purpose that begins on the date";

(D) by designating the second sentence as paragraph (2);

(E) by striking "If the member" and inserting "If a member eligible for a payment under this section";

(F) by striking "will be" and inserting "shall be"; and

(G) by striking "according to" and all that follows and inserting "to the beneficiary or beneficiaries to whom the payment would be made if the payment were life insurance under section 1967(a) of this title.".

(8) Subsection (h) of such section is amended—

(A) in the first sentence, by striking "member's separation from the uniformed service" and inserting "termination of the member's duty status in the uniformed services that established eligibility for Servicemembers' Group Life Insurance";

(B) by striking the second sentence; and

(C) by adding at the end the following new sentence: "The termination of coverage under this section is effective in accordance with the preceding sentence, notwithstanding any continuation after the date specified in that sentence of Servicemembers' Group Life Insurance coverage pursuant to 1968(a) of this title for a period specified in that section.".

(9) Such section is further amended by adding at the end the following new subsection:

Regulations.

"(j) Regulations under this section shall be prescribed in consultation with the Secretary of Defense.".

38 USC 1980A note.

(b) APPLICABILITY TO QUALIFYING LOSSES INCURRED IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM BEFORE EFFECTIVE DATE OF NEW PROGRAM.—

(1) ELIGIBILITY.—A member of the uniformed services who during the period beginning on October 7, 2001, and ending at the close of November 30, 2005, sustains a traumatic injury resulting in a qualifying loss is eligible for coverage for that loss under section 1980A of title 38, United States Code, if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) CERTIFICATION OF PERSONS ENTITLED TO PAYMENT.—The Secretary concerned shall certify to the life insurance company issuing the policy of life insurance for Servicemembers' Group Life Insurance under chapter 19 of title 38, United States Code, the name and address of each person who the Secretary concerned determines to be entitled by reason of paragraph (1) to a payment under section 1980A of title 38, United States Code, plus such additional information as the Secretary of Veterans Affairs may require.

(3) FUNDING.—At the time a certification is made under paragraph (2), the Secretary concerned, from funds then available to that Secretary for the pay of members of the uniformed services under the jurisdiction of that Secretary, shall pay to the Secretary of Veterans Affairs the amount of funds the Secretary of Veterans Affairs determines to be necessary to pay all costs related to payments to be made under that certification. Amounts received by the Secretary of Veterans Affairs under this paragraph shall be deposited to the credit of the revolving fund in the Treasury of the United States established under section 1969(d) of title 38, United States Code.

(4) QUALIFYING LOSS.—For purposes of this subsection, the term "qualifying loss" means—

(A) a loss specified in the second sentence of subsection (b)(1) of section 1980A of title 38, United States Code, as amended by subsection (a); and

(B) any other loss specified by the Secretary of Veterans Affairs pursuant to the first sentence of that subsection.

(5) SECRETARY CONCERNED.—For purposes of this subsection, the term "Secretary concerned" has the meaning given that term in paragraph (25) of section 101 of title 38, United States Code.

(c) CONFORMING AMENDMENTS.—

(1) Section 1965 of title 38, United States Code, is amended by striking paragraph (11).

(2) Section 1032(c) of Public Law 109–13 (119 Stat. 257; 38 U.S.C. 1980A note) is repealed.

**SEC. 502. TERMINOLOGY AMENDMENTS TO REVISE REFERENCES TO CERTAIN VETERANS IN PROVISIONS RELATING TO ELIGIBILITY FOR COMPENSATION OR DEPENDENCY AND INDEMNITY COMPENSATION.**

Title 38, United States Code, is amended as follows:

(1) Section 1114(l) is amended by striking "so helpless" and inserting "with such significant disabilities".

(2) Section 1114(m) is amended by striking "so helpless" and inserting "so significantly disabled".

(3) Sections 1115(1)(E)(ii), 1122(b)(2), 1311(c)(2), 1315(g)(2), and 1502(b)(2) are amended by striking "helpless or blind, or so nearly helpless or blind as to" and inserting "blind, or so nearly blind or significantly disabled as to".

**SEC. 503. TECHNICAL AND CLERICAL AMENDMENTS.**

Title 38, United States Code, is amended as follows:

(1) TYPOGRAPHICAL ERROR.—Section 1117(h)(1) is amended by striking "nothwithstanding" and inserting "notwithstanding".

38 USC 1513.

(2) INSERTION OF MISSING WORD.—Section 1513(a) is amended by inserting "section" after "prescribed by".

(3) DELETION OF EXTRA WORDS.—Section 3012(a)(1)(C)(ii) is amended by striking "on or".

(4) CROSS REFERENCE CORRECTION.—Section 3017(b)(1)(D) is amended by striking "3011(c)" and inserting "3011(e)".

(5) STYLISTIC AMENDMENTS.—Section 3018A is amended—

(A) by striking "of this section" in subsections (b) and (c);

(B) by striking "of this subsection" in subsections (a)(4), (a)(5), (d)(1) (both places it appears), and (d)(3); and

(C) by striking "of this chapter" in subsection (d)(3) and inserting "of this title".

(6) CROSS REFERENCE CORRECTION.—Section 3117(b)(1) is amended—

(A) by striking "section 8" and inserting "section 4(b)(1)"; and

(B) by striking "633(b)" and inserting "633(b)(1)".

(7) INSERTION OF MISSING WORD.—Section 3511(a)(1) is amended by inserting "sections" after "under both".

(8) SUBSECTION HEADINGS.—

(A) Sections 3461, 3462, 3481, 3565, 3680, and 3690 are each amended by revising each subsection heading for a subsection therein (appearing as a centered heading immediately before the text of the subsection) so that such heading appears immediately after the subsection designation and is set forth in capitals-and-small-capitals typeface, followed by a period and a one-em dash.

(B) Section 3461(c) is amended by inserting after the subsection designation the following: "DURATION OF ENTITLEMENT.—".

(C) Section 3462 is amended—

(i) in subsection (d), by inserting after the subsection designation the following: "PRISONERS OF WAR.—"; and

(ii) in subsection (e), by inserting after the subsection designation the following: "TERMINATION OF ASSISTANCE.—".

(9) CROSS REFERENCE CORRECTION.—Section 3732(c)(10)(D) is amended by striking "clause (B) of paragraphs (5), (6), (7), and (8) of this subsection" and inserting "paragraphs (5)(B), (6), (7)(B), and (8)(B)".

(10) DATE OF ENACTMENT REFERENCE.—Section 3733(a)(7) is amended by striking "the date of the enactment of the Veterans Benefits Act of 2003" and inserting "December 16, 2003".

(11) REPEAL OF OBSOLETE PROVISIONS.—Section 4102A is amended—

(A) in subsection (c)(7)—

(i) by striking "With respect to program years beginning during or after fiscal year 2004, one percent of" and inserting "Of"; and

(ii) by striking "for the program year" and inserting "for any program year, one percent"; and

(B) in subsection (f)(1), by striking "By not later than May 7, 2003, the" and inserting "The".

(12) REPEAL OF OBSOLETE PROVISIONS.—Section 4105(b) is amended— 38 USC 4105.

(A) by striking "shall provide," and all that follows through "Affairs with" and inserting "shall, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding"; and

(B) by striking "and shall" and all that follows through "regarding the list".

(13) CITATION CORRECTION.—Section 4110B is amended—

(A) by striking "this Act" and inserting "the Workforce Investment Act of 1998"; and

(B) by inserting "(29 U.S.C. 2822(b))" before the period at the end.

(14) CROSS-REFERENCE CORRECTION.—Section 4331(b)(2)(C) is amended by striking "section 2303(a)(2)(C)(ii)" and inserting "section 2302(a)(2)(C)(ii)".

(15) CAPITALIZATION CORRECTION.—Section 7253(d)(5) is amended by striking "court" and inserting "Court".

Approved June 15, 2006.

LEGISLATIVE HISTORY—S. 1235 (H.R. 2046) (H.R. 3665):

HOUSE REPORTS: Nos. 109–88 accompanying H.R. 2046 and 109–263 accompanying H.R. 3665 (both from Comm. on Veterans' Affairs).
SENATE REPORTS: No. 109–139 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Sept. 28, considered and passed Senate.
Vol. 152 (2006): May 22, considered and passed House, amended.
May 25, Senate concurred in House amendments.

# Public Law 109–234
# 109th Congress

## An Act

June 15, 2006
[H.R. 4939]

Making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes.

Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

## TITLE I

## GLOBAL WAR ON TERROR SUPPLEMENTAL APPROPRIATIONS

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

### FOREIGN AGRICULTURAL SERVICE

#### PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for "Public Law 480 Title II Grants", during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $350,000,000, to remain available until expended: *Provided,* That from this amount, to the maximum extent possible, funding shall be used to support the previously approved fiscal year 2006 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 2

## DEPARTMENT OF DEFENSE—MILITARY

## MILITARY PERSONNEL

### MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $6,587,473,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $1,321,474,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $840,872,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $1,155,713,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $140,570,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $110,712,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $10,627,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant

to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $1,940,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $111,550,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $1,200,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $17,744,410,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $2,696,693,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $1,639,911,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,576,257,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement

pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Defense-Wide", $2,830,677,000, of which—

(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed $5,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes;

(3) not to exceed $740,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph; and

Notification. Deadline.

Reports.

(4) up to $75,000,000 shall be transferred to the Coast Guard "Operating Expenses" account:

*Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $100,100,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $78,509,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $87,875,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $18,563,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $178,600,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $30,400,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For an additional amount for "Former Soviet Union Threat Reduction Account", $44,500,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AFGHANISTAN SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Afghanistan Security Forces Fund", $1,908,133,000, to remain available until September 30, 2007: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Office of Security Cooperation—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further,* That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test

and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further,* That the Secretary of Defense shall, not fewer than five days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Notification.

Deadline.
Notification.

Reports.
Deadline.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Iraq Security Forces Fund", $3,007,000,000, to remain available until September 30, 2007: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further,* That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and

Notification.

amounts of the funds received and the specific use of such contributions: *Provided further,* That the Secretary of Defense shall, not fewer than five days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Deadline. Notification.

Reports. Deadline.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Joint Improvised Explosive Device Defeat Fund", $1,958,089,000, to remain available until September 30, 2008: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further,* That within 60 days of the enactment of this Act, a plan for the intended management and use of the Fund is provided to the congressional defense committees: *Provided further,* That the Secretary of Defense shall submit a report not later than 30 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of this Fund: *Provided further,* That the Secretary of Defense may transfer funds provided herein to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon determination that all or part of the funds so transferred from this appropriation are not necessary for the purpose provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Deadline.

Reports. Deadline.

Notification. Deadline.

## PROCUREMENT

### AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $345,000,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", $203,300,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $1,767,451,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $829,679,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $5,819,645,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $516,869,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $55,200,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $323,256,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $54,640,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $2,577,467,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $674,815,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", $29,047,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $1,500,591,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated

as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $331,353,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $54,700,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $124,845,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $382,630,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $148,551,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $516,700,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to

section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

### DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $1,153,562,000 for operation and maintenance: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $150,470,000, to remain available until expended: *Provided,* That these funds may be used only for such activities related to Afghanistan and the Central Asia area: *Provided further,* That the Secretary of Defense may transfer such funds only to appropriations for military personnel; operation and maintenance; procurement; and research, development, test and evaluation: *Provided further,* That the funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $5,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RELATED AGENCIES

### INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For an additional amount for the "Intelligence Community Management Account", $158,875,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

(TRANSFER OF FUNDS)

SEC. 1201. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,000,000,000 of the funds made available to the Department of Defense in this chapter: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2006, except for the fourth proviso.

Notification.

(TRANSFER OF FUNDS)

SEC. 1202. Section 8005 of the Department of Defense Appropriations Act, 2006, (Public Law 109–148; 119 Stat. 2680), is amended by striking "$3,750,000,000" and inserting "$5,000,000,000": *Provided,* That funds previously transferred among appropriations under the authority of section 8005 of Public Law 109–148 pursuant to reprogramming action 06–13PA may be restored to their source appropriations accounts: *Provided further,* That transfers made pursuant to reprogramming action 06–13PA and transfers back under this section shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under section 8005: *Provided further,* That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

119 Stat. 2697.

(TRANSFER OF FUNDS)

SEC. 1203. During fiscal year 2006 and from funds in the Defense Cooperation Account, the Secretary of Defense may transfer not to exceed $5,800,000 to such appropriations or funds of the Department of Defense as he shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided,* That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further,* That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 1204. Section 1005(c)(2) of the National Defense Authorization Act, Fiscal Year 2006 (Public Law 109–163) is amended by striking "$289,447,000" and inserting "$345,547,000".

119 Stat. 3421.

SEC. 1205. (a) AUTHORITY TO PROVIDE SUPPORT.—Of the amount appropriated by this Act under the heading, "Drug Interdiction and Counter-Drug Activities, Defense", not to exceed $22,200,000 may be made available for support for counter-drug activities of the Governments of Afghanistan and Pakistan: *Provided,* That such support shall be in addition to support provided

for the counter-drug activities of such Governments under any other provision of the law.

(b) TYPES OF SUPPORT.—

Applicability.

(1) Except as specified in subsections (b)(2) and (b)(3) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Law 106–398 and Public Law 108–136), and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2006.

(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

(3) For the Government of Afghanistan, the Secretary of Defense may also provide individual and crew-served weapons, and ammunition for counter-drug security forces.

10 USC 2208 note.

SEC. 1206. Notwithstanding 10 U.S.C. 2208(l), the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in fiscal year 2006 shall not exceed $1,200,000,000: *Provided,* That the amounts made available pursuant to this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 1207. In addition to amounts authorized in section 1202(a) of Public Law 109–163, from funds made available in this chapter to the Department of Defense, not to exceed $423,000,000 may be used to fund the Commander's Emergency Response Program and for a similar program to assist the people of Afghanistan, to remain available until December 31, 2007.

SEC. 1208. Supervision and administration costs associated with a construction project funded with "Afghanistan Security Forces Fund" or "Iraq Security Forces Fund" appropriations may be obligated at the time a construction contract is awarded: *Provided,* That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 1209. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal year 2005 and 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

Effective date.

SEC. 1210. Effective as of January 6, 2006, and as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163), subsection (d)(2) of section 1478 of title 10, United States Code, as added by section 664(b) of such Act (119 Stat. 3316), is amended by striking "May 11, 2005" and inserting "August 31, 2005".

10 USC 1478 and note.

(RESCISSIONS)

SEC. 1211. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Missile Procurement, Air Force, 2006/2008", $80,000,000;

"Other Procurement, Air Force, 2005/2007", $39,400,000.

SEC. 1212. (a) SENSE OF CONGRESS.—Congress recognizes the importance of ensuring that absent uniformed services voters,

Department of Defense personnel, and their dependents have the opportunity to exercise their right to vote.

(b) IVAS BALLOT REQUEST PROGRAM.—

(1) The Interim Voting Assistance System (IVAS) Ballot Request Program shall be continued with respect to all absent uniformed services voters, Department of Defense personnel, and dependents covered by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) with the objective to further improve ballot request procedures and voting assistance with respect to such persons.

Deadline. Reports.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the program referred to in paragraph (1), including an accounting of the utilization of funds available for the program under subsection (c).

(c) FUNDING.—Of the amounts provided by this chapter, $2,500,000 shall be available for the program referred to in subsection (b).

SEC. 1213. (a) FINDINGS.—The Senate makes the following findings:

(1) Title IX of the Department of Defense Appropriations Act, 2006 (division A of Public Law 109–148) appropriated $50,000,000,000 for the cost of ongoing military operations overseas in fiscal year 2006, although those funds were not requested by the President.

(2) The President on February 16, 2006, submitted to Congress a request for supplemental appropriations in the amount of $67,600,000,000 for ongoing military operations in fiscal year 2006, none of which supplemental appropriations was included in the concurrent resolution on the budget for fiscal year 2006, as agreed to in the Senate on April 28, 2005.

(3) The President on February 6, 2006, included a $50,000,000,000 allowance for ongoing military operations in fiscal year 2007, but did not formally request the funds or provide any detail on how the allowance may be used.

(4) The concurrent resolution on the budget for fiscal year 2007, as agreed to in the Senate on March 16, 2007, anticipates as much as $86,300,000,000 in emergency spending in fiscal year 2007, indicating that the Senate expects to take up another supplemental appropriations bill to fund ongoing military operations during fiscal year 2007.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2007 for ongoing military operations in Afghanistan and Iraq should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) any request for funds for such a fiscal year for ongoing military operations should provide an estimate of all funds required in that fiscal year for such operations;

(3) any request for funds for ongoing military operations should include a detailed justification of the anticipated use of such funds for such operations; and

(4) any funds provided for ongoing military operations overseas should be provided in appropriations Acts for such fiscal

year through appropriations to specific accounts set forth in such appropriations Acts.

## CHAPTER 3

## BILATERAL ECONOMIC ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

### UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

#### CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for "Child Survival and Health Programs Fund", $7,800,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### DEVELOPMENT ASSISTANCE

For an additional amount for "Development Assistance", $16,500,000, to remain available until September 30, 2007: *Provided,* That of the funds appropriated under this heading, $6,000,000 shall be made available for assistance for Guatemala for relief and reconstruction activities related to Hurricane Stan: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "International Disaster and Famine Assistance", $161,300,000, to remain available until expended, of which up to $80,000 may be transferred to and merged with "Operating Expenses of the United States Agency for International Development", for associated administrative costs: *Provided,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development", $101,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## OTHER BILATERAL ECONOMIC ASSISTANCE

### ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic Support Fund", $1,686,000,000, to remain available until September 30, 2007, of which up to $11,000,000 may be used for the costs, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees for Afghanistan or otherwise of reducing any amounts owed to the United States or any agency of the United States by Afghanistan: *Provided,* That such amounts for the costs of modifying direct loans and guarantees shall not be considered "assistance" for the purposes of any provision of law limiting assistance to a country: *Provided further,* That the last proviso under the heading "Economic Support Fund" in title II of Public Law 109–102 and comparable provisions in prior Acts making appropriations for foreign operations, export financing, and related programs shall no longer be applicable to funds appropriated under such heading in this Act or any prior Act: *Provided further,* That of the funds available under this heading for assistance for Afghanistan, $5,000,000 shall be made available for agriculture and rural development programs in Afghanistan to be administered through a national consortium of agriculture colleges and land-grant universities: *Provided further,* That of the funds available under this heading for assistance for Iraq, not less than $50,000,000 shall be made available to the United States Agency for International Development for continued support for its Community Action Program in Iraq, of which not less than $5,000,000 shall be transferred to and merged with funds appropriated under the heading "Iraq Relief and Reconstruction Fund" in chapter 2 of title II of Public Law 108–106 and shall be made available for the Marla Ruzicka Iraqi War Victims Fund: *Provided further,* That of the funds made available under this heading for assistance for Iraq, not less than $50,000,000 shall be made available for programs and activities to promote democracy, the rule of law and reconciliation: *Provided further,* That funds appropriated under this heading that are made available for police and judicial reform in Haiti shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Notification.

## DEPARTMENT OF STATE

### DEMOCRACY FUND

For an additional amount for "Democracy Fund", $22,500,000, of which $20,000,000 shall be made available for programs and activities promoting democracy in Iran and of which $2,500,000 shall be made available for assistance for the Democratic Republic of the Congo, to remain available until September 30, 2007: *Provided*, That funds appropriated under this heading shall be made available notwithstanding any other provision of law, and those funds made available to promote democracy in Iran shall be

Notification.

administered by the Middle East Partnership Initiative, in consultation with the Bureau of Democracy, Human Rights, and Labor of the Department of State: *Provided further,* That funds made available under this heading in this Act shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "International Narcotics Control and Law Enforcement", $107,700,000, to remain available until September 30, 2008: *Provided,* That of the funds appropriated under this heading, not less than $3,300,000 shall be made available for assistance for the Peace and Justice Unit of the Colombian Fiscalia notwithstanding section 599E of Public Law 109–102: *Provided further,* That of the funds appropriated under this heading, up to $13,000,000 is available for procurement of a maritime patrol aircraft for the Colombian Navy and may be transferred to and merged with funds previously appropriated to the "Foreign Military Financing Program" to finance such procurement: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $75,700,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For an additional amount for "International Affairs Technical Assistance", $13,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## MILITARY ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", $178,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated

as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. Funds appropriated or made available by transfer in this chapter may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 10 of Public Law 91–672 (22 U.S.C. 2412).

SEC. 1302. (a) Notwithstanding any other provision of law, amounts under the heading "Iraq Relief and Reconstruction Fund" in title II of Public Law 108–106 shall remain available for one additional year from the date on which the availability of funds would otherwise have expired, if such funds are initially obligated before the expiration of the period of availability provided herein: *Provided,* That notwithstanding section 2207(d) of Public Law 108–106, requirements of section 2207 of Public Law 108–106 shall expire on October 1, 2008.

Expiration date. 22 USC 2151 note.

(b) Chapter 2 of title II of Public Law 108–106 (117 Stat. 1225–1226), as amended by Public Law 108–309 (118 Stat. 1142–1143), is further amended under the heading "Iraq Relief and Reconstruction Fund" by—

(1) striking "$5,090,000,000" and inserting "$5,036,000,000" for security and law enforcement;

(2) striking "$1,960,000,000" and inserting "$2,349,800,000" for justice, public safety infrastructure, and civil society;

(3) striking "$4,455,000,000" and inserting "$4,220,000,000" for the electric sector;

(4) striking "$1,723,000,000" and inserting "$1,735,600,000" for oil infrastructure;

(5) striking "$2,361,000,000" and inserting "$2,131,100,000" for water resources and sanitation;

(6) striking "$500,000,000" and inserting "$465,500,000" for transportation and telecommunications;

(7) striking "$370,000,000" and inserting "$333,700,000" for roads, bridges, and construction;

(8) striking "$793,000,000" and inserting "$739,000,000" for health care;

(9) striking "$845,000,000" and inserting "$805,300,000" for private sector development; and

(10) striking "$342,000,000" and inserting "$410,000,000" for education, refugees, human rights, and governance.

SEC. 1303. Of the funds made available for Coalition Solidarity Initiative under the heading "Peacekeeping Operations" in chapter 2 of title II of division A of Public Law 109–13, $7,000,000 is rescinded.

SEC. 1304. (a) Section 550 of Public Law 109–102 (119 Stat. 2217) is amended to read as follows:

"PROHIBITION ON ASSISTANCE FOR THE PALESTINIAN AUTHORITY

"SEC. 550. (a) PROHIBITION ON ASSISTANCE.—None of the funds appropriated by this Act or any prior Act making appropriations for foreign operations, export financing, and related programs, may be obligated or expended for assistance for the Palestinian Authority unless the Secretary of State determines, and so reports to the Committees on Appropriations, that the Palestinian Authority has

complied with the standards contained in the Quartet's January 30, 2006 Statement on the Situation in the Middle East that "a future Palestinian government must be committed to nonviolence, recognition of Israel, and acceptance of previous agreements and obligations, including the Roadmap".

President.

"(b) WAIVER AUTHORITY.—

"(1) The President may waive subsection (a) with respect to the administrative and personal security costs of the Office of the President of the Palestinian Authority, for activities of the President of the Palestinian Authority to promote democracy, peaceful resolution of the Israeli-Palestinian conflict, and the rule of law, and with respect to independent agencies, if the President certifies and reports to the Committees on Appropriations that—

"(A) it is in the national security interest of the United States to provide such assistance;

"(B) as the case may be, the President of the Palestinian Authority, the President's party, and independent agencies and any members thereof, are not members of, appointed by, or effectively controlled by Hamas or any other foreign terrorist organization; and

"(C) assistance provided under the authority of this subsection will not be transferred or retransferred to any member of Hamas or other foreign terrorist organization or to any entity effectively controlled by Hamas or other foreign terrorist organization.

Deadline.

"(2) Not less than 15 days prior to exercising the authority provided in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committees on Appropriations of the House of Representatives and the Senate and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(c) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations describing how the funds will be spent and the accounting procedures in place to ensure proper oversight and accountability.".

Effective date.
Reports.

(b) Effective on the date of enactment of this Act, none of the funds appropriated under the heading "Economic Support Fund" in Public Law 109–102 (119 Stat. 2217) or any prior Act making appropriations for foreign operations, export financing and related programs may be obligated for assistance for the West Bank and Gaza until the Secretary of State consults with the Committees on Appropriations, submits a revised plan for such assistance to the Committees on Appropriations, and determines and reports to the Committees on Appropriations that appropriate procedures and safeguards exist to ensure that United States assistance is not provided to or through any individual, private or government entity, or educational institution, that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity.

SEC. 1305. Of the funds appropriated under the heading "Subsidy Appropriation" for the Export-Import Bank of the United States that are available for tied-aid grants in title I of Public Law 107–115 and under such heading in prior Acts making appropriations

for foreign operations, export financing, and related programs, $37,000,000 are rescinded.

SEC. 1306. To the extent not otherwise authorized, supervision and administrative costs of the Department of Defense associated with a construction project funded with the Iraq Relief and Reconstruction Fund may be obligated at the time a construction contract is awarded or, for pre-existing contracts, by September 30, 2006: *Provided,* That for the purposes of this section, supervision and administration costs include all in-house Government costs.

## CHAPTER 4

## DEPARTMENT OF HOMELAND SECURITY

### UNITED STATES COAST GUARD

#### OPERATING EXPENSES

For an additional amount for "Operating Expenses", $26,692,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 5

## DEPARTMENT OF DEFENSE

## MILITARY CONSTRUCTION

### MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", $187,100,000, to remain available until September 30, 2007: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further,* That $50,000,000 of the funds provided under this heading may not be obligated or expended until after that date on which the Secretary of Defense submits a detailed plan for Counter IED/Urban Bypass Roads, Iraq, to the Committees on Appropriations of the House of Representatives and Senate.

### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $27,700,000, to remain available until September 30, 2007: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for "Military Construction, Defense-Wide", $20,600,000, to remain available until September 30, 2007: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 6

## DEPARTMENT OF JUSTICE

### LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and Expenses, United States Attorneys", $3,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Certification.

For an additional amount for "Salaries and Expenses", $85,700,000, to remain available until September 30, 2007: *Provided*, That no funding provided under this heading shall be available for obligation for a new or enhanced information technology program unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice and Federal Bureau of Investigation: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $14,200,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $4,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF STATE AND RELATED AGENCY

## DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Diplomatic and Consular Programs", $1,383,625,000, to remain available until September 30, 2007: *Provided,* That of the funds available under this heading, not less than $250,000 shall be made available for the establishment and adequate support, including staffing and travel, of the Office of the Presidential Special Envoy for Sudan: *Provided further,* That of the amount made available under this heading, $1,000,000 shall be available for transfer to the United States Institute of Peace: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of Inspector General", $25,300,000, to remain available until September 30, 2007, of which $24,000,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for "Educational and Cultural Exchange Programs", $5,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $129,800,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations" for programs and activities promoting democracy in Iran, $10,274,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for "Broadcasting Capital Improvements", $25,826,000, to support programming to Iran, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 1601. Funds appropriated or made available in this chapter for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947.

SEC. 1602. (a) WAIVER OF ANNUITY LIMITATIONS ON REEMPLOYED FOREIGN SERVICE ANNUITANTS.—Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) is amended to read as follows:

"(g)(1) To facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Secretary of State may waive the

application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis, or grant authority to the head of an Executive agency to waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis—

"(A) if, and for so long as, such waiver is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances; or

"(B) if the annuitant is employed in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee.

Termination date.

"(2) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (B) of paragraph (1), or to grant authority to the head of an Executive agency to waive the application of such subsections to an annuitant under subparagraphs (A) or (B) of such paragraph, shall terminate on October 1, 2008. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

"(3) The Secretary should prescribe procedures for the exercise of any authority under paragraph (1), including criteria for any exercise of authority and procedures for a delegation of authority.".

(b) WAIVER OF ANNUITY LIMITATIONS ON REEMPLOYED CIVIL SERVICE ANNUITANTS.—

(1) DEPARTMENT OF STATE.—Title I of the Department of State Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

22 USC 2733.

**"SEC. 61. REEMPLOYMENT OF ANNUITANTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.**

"(a) AUTHORITY.—

"(1) IN GENERAL.—To facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Secretary of State may waive the application of the provisions of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis for employment of an annuitant in a position in the Department of State for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

"(2) TERMINATION OF AUTHORITY.—The authority of the Secretary under paragraph (1) shall terminate on October 1, 2008. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

"(b) PROCEDURES.—The Secretary should prescribe procedures for the exercise of any authority under subsection (a), including criteria for any exercise of authority and procedures for a delegation of authority.

"(c) ANNUITANTS NOT TREATED AS EMPLOYEES FOR PURPOSES OF RETIREMENT BENEFITS.—An employee for whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter III of chapter 83, or chapter 84 of title 5, United States Code.".

(2) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—Section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385) is amended by adding at the end the following new subsection:

"(j)(1)(A) To facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Administrator of the United States Agency for International Development may waive the application of the provisions of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis for employment of an annuitant in a position in the United States Agency for International Development for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

Termination date.

"(B) The authority of the Administrator under subparagraph (A) shall terminate on October 1, 2008. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

"(2) The Administrator should prescribe procedures for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for a delegation of authority.

"(3) An employee for whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter III of chapter 83, or chapter 84 of title 5, United States Code.".

(c) REPORT ON USE OF ANNUITY LIMITATION WAIVER AUTHORITY.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Foreign Relations, the Committee on Appropriations, and the Committee on Homeland Security and Government Affairs of the Senate and the Committee on International Relations, the Committee on Appropriations, and the Committee on Government Reform of the House of Representatives a report on the exercise of the waiver authorities provided under section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)), as amended by subsection (a), section 61 of the State Department Basic Authorities Act of 1956, as added by subsection (b)(1), and section 625(j) of the Foreign Assistance Act of 1961, as added by subsection (b)(2). The report shall include the number and type of positions that have been filled under such waiver authority, and the retirement date, former job title, and new job title of each annuitant reemployed under such authority.

(d) HOME LEAVE PROVISIONS.—

(1) TRAVEL EXPENSES FOR REST AND RECUPERATION TRAVEL.—Section 901(6) of the Foreign Service Act (22 U.S.C. 4081(6)) is amended by striking "unbroken by home leave" each place it appears.

(2) AUTHORITY TO REQUIRE LEAVES OF ABSENCE.—Section 903(a) of the Foreign Service Act (22 U.S.C. 4083) is amended by striking "18 months" and inserting "12 months".

22 USC 2703 note.

(e) AUTHORITY TO PROVIDE ACCOMMODATION AND SUBSISTENCE TO INDIVIDUALS SERVING IN IRAQ AND AFGHANISTAN.—The Secretary of State may provide during any fiscal year, with or without reimbursement, accommodation and subsistence to personnel in Iraq and Afghanistan for whom the Chief of Mission is responsible.

SEC. 1603. (a) IN GENERAL.—During fiscal years 2006, 2007, and 2008, the head of an agency may, in the agency head's discretion, provide to an individual employed by, or assigned or detailed to, such agency allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3973; 4081 et seq.), if such individual is on official duty in Iraq or Afghanistan.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impair or otherwise affect the authority of the head of an agency under any other provision of law.

(c) APPLICABILITY OF CERTAIN AUTHORITIES.—Section 912(a) of the Internal Revenue Code of 1986 shall apply with respect to amounts received as allowances or otherwise under this section in the same manner as section 912 of the Internal Revenue Code of 1986 applies with respect to amounts received by members of the Foreign Service as allowances or otherwise under chapter 9 of title I of the Foreign Service Act of 1980.

## CHAPTER 7

## DEPARTMENT OF THE TREASURY

### DEPARTMENTAL OFFICES

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,800,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

# TITLE II

# FURTHER HURRICANE DISASTER RELIEF AND RECOVERY

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

### EXECUTIVE OPERATIONS

#### WORKING CAPITAL FUND

For an additional amount for "Working Capital Fund", $25,000,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $445,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $10,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $20,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for "Emergency Watershed Protection Program", $50,955,000, to remain available until expended, for emergency measures in disaster areas affected by Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That notwithstanding any other provision of law, the Secretary, acting through the Natural Resources Conservation Service, using funds made available under this heading may provide financial and technical assistance to remove and dispose of debris and animal carcasses that could adversely affect health and safety on non-Federal land in a hurricane-affected county: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL DEVELOPMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season for State Rural Development

offices located in Mississippi and Louisiana: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL COMMUNITY ADVANCEMENT PROGRAM

For an additional amount for the cost of community facilities direct loans, loan guarantees, and grants described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, $25,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That not to exceed $5,000,000 shall be available for direct and guaranteed loans: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 2101. Notwithstanding subsection (b) of section 102 of title I of division B of Public Law 109–148 (119 Stat. 2748), the Secretary of Agriculture may provide financial and technical assistance in carrying out such section in an amount up to 100 percent Federal share, as provided in regulations implementing the emergency watershed protection program: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2102. Notwithstanding any other provision of law, the Chief of the Natural Resources Conservation Service may enter into agreements to donate up to 20 used vehicles currently on loan to organizations or State or local units of government affected by Hurricane Katrina and other hurricanes of the 2005 season.

SEC. 2103. The Secretary of Agriculture may continue to use any of the authorities provided in section 105 of chapter 1 of title I of division B of Public Law 109–148 (119 Stat. 2749–2750), for a period not to exceed 18 additional months: *Provided,* That the authority provided in subsection (a)(7) of such section may allow funds made available under the Community Facility Grant program to be approved without regard to income limits for purposes related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season for structures designated by a State or local governmental entity as an emergency shelter: *Provided further,* That the amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2104. Of the funds appropriated in section 101(a) of chapter 1 of title I of division B of Public Law 109–148 (119 Stat. 2747), to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.), $38,000,000 are transferred to the National Oceanic and Atmospheric Administration in the

Department of Commerce for activities involving oysters: *Provided,* That the amount transferred under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2105. Section 101(b) of chapter 1 of title I of division B of Public Law 109–148 (119 Stat. 2747) is amended—

(1) in the heading, by striking ", Oyster,";

(2) in the matter preceding paragraph (1)—

(A) by striking ", oyster,"; and

(B) by striking "public and private oyster reefs or";

(3) in paragraph (3), by adding "and" at the end;

(4) by striking paragraph (4); and

(5) by redesignating paragraph (5) as paragraph (4).

SEC. 2106. Funds made available for the wildlife habitat incentive program established under section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) under section 211(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) and section 820 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–59) shall remain available until expended to carry out obligations made for fiscal year 2001 and are not available for new obligations.

## CHAPTER 2

## DEPARTMENT OF DEFENSE—MILITARY

## MILITARY PERSONNEL

### MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $2,125,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $22,002,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $3,992,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section

402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $21,610,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $4,071,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $10,200,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $2,176,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $94,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $1,304,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading

is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $1,408,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $29,913,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $37,359,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $12,755,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $1,277,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con.

Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $42,307,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## PROCUREMENT

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $700,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $9,136,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $579,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $899,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Shipbuilding and Conversion, Navy", $775,236,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, which shall be available for transfer within this account to replace destroyed or damaged equipment; prepare and recover naval vessels under contract; and provide for cost adjustments for naval vessels for which funds have been previously appropriated: *Provided,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers within this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Deadline.
Notification.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $85,040,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $13,000,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $2,797,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $12,000,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $6,250,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $730,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## REVOLVING AND MANAGEMENT FUNDS

### DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $1,222,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### NATIONAL DEFENSE SEALIFT FUND

For an additional amount for "National Defense Sealift Fund", $10,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## TRUST FUNDS

### GENERAL FUND PAYMENT, SURCHARGE COLLECTIONS, SALES OF COMMISSARY STORES, DEFENSE

For an additional amount for "General Fund Payment, Surcharge Collections, Sales of Commissary Stores, Defense", $10,530,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

### DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $33,881,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $326,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## GENERAL PROVISIONS—THIS CHAPTER

### (TRANSFER OF FUNDS)

SEC. 2201. Upon his determination that such action is necessary to ensure the appropriate allocation of funds provided to the Department of Defense in this chapter and in chapter 2, title I of this Act, the Secretary of Defense may transfer up to $150,000,000 between appropriations made available for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and revolving and management funds: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

Notification.

SEC. 2202. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal year 2005 and 2006 appropriations to the Department of Defense or to initiate a procurement or research, development,

test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 2203. Notwithstanding any other provision of law, of the amounts appropriated or otherwise made available under the heading "Shipbuilding and Conversion, Navy" in chapter 2 of title II of this Act, or under said heading in chapter 2 of title I of the Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006 (division B of Public Law 109–148; 119 Stat. 2757), not less than $140,000,000 shall be made available for infrastructure improvements at Gulf Coast shipyards that have existing Navy shipbuilding contracts and that were damaged by Hurricane Katrina in calendar year 2005.

## CHAPTER 3

## DEPARTMENT OF DEFENSE—CIVIL

## DEPARTMENT OF THE ARMY

### CORPS OF ENGINEERS—CIVIL

#### INVESTIGATIONS

For an additional amount for "Investigations" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $3,300,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, utilizing $3,300,000 of the funds provided herein shall develop a comprehensive plan, at full Federal expense, to deauthorize deep draft navigation on the Mississippi River-Gulf Outlet, Louisiana, extending from the Gulf of Mexico to the Gulf Intracoastal Waterway: *Provided further,* That, not later than 6 months after the date of enactment of this Act, the Secretary shall submit an interim report to Congress comprising the plan: *Provided further,* That the Secretary shall refine the plan, if necessary, to be fully consistent, integrated, and included in the final report to be issued in December 2007 for the Louisiana Coastal Protection and Restoration Plan: *Provided further,* the Secretary shall provide to the Congress a report, by not later than 90 days after the date of enactment of this Act, describing, for the period beginning on the date on which the individual system components for hurricane and storm damage reduction were constructed and ending on the date on which the report is prepared, the difference between the vertical settlement of the system that is attributable to the settling of levees and floodwalls or subsidence versus the vertical grade deficiencies that are attributable to new storm data that may require a higher level of vertical protection in order to comply with 100-year floodplain certification and standard project hurricane.

Deadline. Reports.

Deadline. Reports.

CONSTRUCTION

For an additional amount for "Construction" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $549,400,000, to remain available until expended, of which up to $20,200,000 may be used to reduce the risk of storm damage to the greater New Orleans metropolitan area, at full Federal expense, by restoring the surrounding wetlands through measures to begin to reverse wetland losses in areas affected by navigation, oil and gas, and other channels and through modification of the Caernarvon Freshwater Diversion structure or its operations; at least $495,300,000 shall be used consistent with the cost-sharing provisions under which the projects were originally constructed to raise levee heights where necessary and otherwise enhance the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to provide the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of this construction: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further,* That $1,500,000 shall be for the North Padre Island, Texas project: *Provided further,* That $30,400,000 is available for flood control work in the Sacramento, California, Area: *Provided further*, That $2,000,000 shall be provided at full Federal expense for the Hawaii Water Systems Technical Assistance Program.

OPERATIONS AND MAINTENANCE

For an additional amount for "Operations and Maintenance" to dredge navigation channels and repair other Corps projects related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $3,200,000 to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein for dredging needs along the Texas Gulf Coast.

FLOOD CONTROL AND COASTAL EMERGENCIES

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes, $3,145,024,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use the funds appropriated under this heading to modify, at full Federal expense, authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas; $530,000,000 shall be used to

modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; $250,000,000 shall be used for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; $170,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; $350,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; $215,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; $1,584,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; $30,024,000 for repairs, replacements, modifications and improvements of non-Federal levees and associated protection measures in Terrebonne Parish at full Federal expense: *Provided further*, That $16,000,000 is provided for the restoration of funds for hurricane-damaged projects in the State of Pennsylvania: *Provided further,* That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Contracts.

Of the funds provided under this heading in chapter 3 of division B of Public Law 109–148, $15,000,000 are rescinded.

## DEPARTMENT OF THE INTERIOR

### BUREAU OF RECLAMATION

#### WATER AND RELATED RESOURCES

For an additional amount for "Water and Related Resources", $9,000,000, to remain available until expended for Drought Emergency Assistance: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## GENERAL PROVISION—THIS CHAPTER

SEC. 2301. USE OF UNEXPENDED FUNDS. (a) IN GENERAL.—Notwithstanding any other provision of law, amounts made available to the State of Oklahoma or agencies or authorities therein (referred to in this section as the "State") before the date of enactment of this Act for general remediation activities being conducted in the vicinity of the Tar Creek Superfund Site in northeastern Oklahoma and in Ottawa County, Oklahoma, that remain unexpended as of the date of enactment of this Act are authorized

to be used by the State to assist individuals and entities in relocation from areas at risk or potential risk of damage caused by land subsidence as determined by the State.

(b) USE OF UNEXPENDED FUNDS.—The use of unexpended funds in accordance with subsection (a)—

(1) shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

(2) may include any general remediation activities described in section (a) determined to be appropriate by the State, including the buyout of 1 or more properties to facilitate a relocation described in subsection (a).

SEC. 2302. (a) The $12,000,000 provided in division B, chapter 3 of title I, Investigations, of Public Law 109–148 (119 Stat. 2761) for the Louisiana hurricane protection study shall be at full Federal expense.

(b) Of the $12,000,000 provided in division B, chapter 3 of title I, Investigations, of Public Law 109–148 (119 Stat. 2761) for the Louisiana hurricane protection study, $5,000,000 shall be available for expenditure prior to the effective date of the enactment of a State law establishing a single State or quasi-State entity to act as local sponsor for construction, operation and maintenance of all of the hurricane, storm damage reduction and flood control projects in the greater New Orleans and southeast Louisiana area.

SEC. 2303. Chapter 3, under division B of title I of Public Law 109–148 (119 Stat. 2762) under the heading "Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" is modified by inserting the following before the period: ": *Provided further,* That the Corps is directed to expedite and accelerate completion of any study or any unconstructed portion of the Mississippi River and Tributaries project for the flood and storm damage reduction projects in the south Louisiana area": *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2304. Chapter 3, under division B of title I of Public Law 109–148 (119 Stat. 2762) under the heading "Operations and Maintenance" is modified by inserting the following before the last proviso: ": *Provided further,* That $75,000,000 of the funds provided herein shall be used for the repair, construction or provision of measures or structures necessary to protect, restore or increase wetlands, to prevent saltwater intrusion or storm surge": *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2305. Section 227 of Public Law 104–303 is modified as follows:

(1) Section 5(a) is amended by striking "6", and inserting "7" in lieu thereof.

(2) Section 5(e)(2) is amended by striking "$21,000,000", and inserting "$25,000,000" in lieu thereof.

SEC. 2306. (a) Section 104(c) of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214(c)) is amended by striking "September 30, 2005" and inserting "September 30, 2010" in lieu thereof.

(b) Section 301 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2241) is amended by striking "fiscal years 1992, 1993, 1994, 1995, 1996, 1999, 2000, 2001, 2002, 2003, and 2004" and inserting "the period of fiscal years 2006 through 2010" in lieu thereof.

33 USC 2293a.

SEC. 2307. None of the funds made available before, on, or after the date of enactment of this Act in an appropriations Act may be expended to prevent or limit any reprogramming of funds for a project to be carried out by the Corps of Engineers using funds appropriated in any Act making appropriations for energy and water development, based on whether the project was included by the President in the budget transmitted under section 1105(a) of title 31, United States Code, or is otherwise proposed by the President or considered part of the budget by the Office of Management and Budget, if the project received funds in an Act making appropriations for energy and water development or any other appropriations Act making additional funds available for energy and water development.

SEC. 2308. None of the funds made available under this or any other Act shall be used during fiscal year 2006 or previous to April 1, 2007, to make, or plan or prepare to make, any payment on bonds issued by the Administrator of the Bonneville Power Administration (referred in this section as the "Administrator") or for an appropriated Federal Columbia River Power System investment, if the payment is both—

(1) greater, during any fiscal year, than the payments calculated in the rate hearing of the Administrator to be made during that fiscal year using the repayment method used to establish the rates of the Administrator as in effect on February 6, 2006; and

(2) based or conditioned on the actual or expected net secondary power sales receipts of the Administrator.

SEC. 2309. Section 1202 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (110 Stat. 4085, 4091; 16 U.S.C. 4722(i)(3)(C)), is amended by deleting ", to carry out this paragraph, $750,000", and inserting the following in lieu thereof: "such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph".

## CHAPTER 4

## DEPARTMENT OF HOMELAND SECURITY

### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $2,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CUSTOMS AND BORDER PROTECTION

### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $12,900,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### CONSTRUCTION

For an additional amount for "Construction" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $4,800,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## UNITED STATES COAST GUARD

### OPERATING EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Operating Expenses" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $88,970,000, to remain available until September 30, 2007, of which up to $267,000 may be transferred to "Environmental Compliance and Restoration" to be used for environmental cleanup and restoration of Coast Guard facilities in the Gulf of Mexico region; and of which up to $470,000 may be transferred to "Research, Development, Test, and Evaluation" to be used for salvage and repair of research and development equipment and facilities: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $191,730,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### ADMINISTRATIVE AND REGIONAL OPERATIONS

For an additional amount for "Administrative and Regional Operations" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season,

$71,800,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For an additional amount for "Preparedness, Mitigation, Response, and Recovery" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $10,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DISASTER RELIEF

For an additional amount for "Disaster Relief" for necessary expenses under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $6,000,000,000, to remain available until expended: *Provided,* That for States in which the President declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) on September 24, 2005, as a result of Hurricane Rita, each county or parish eligible for individual and public assistance under such declaration in such States will be treated equally for purposes of cost-share adjustments under such Act, to account for the impact in those counties and parishes of Hurricanes Rita and Katrina: *Provided further,* That the Secretary of Homeland Security shall submit for approval a proposal and an expenditure plan for housing, including the alternative housing pilot programs under section 2403 of this Act, to the Committees on Appropriations of the Senate and House of Representatives within forty-five days from the date of enactment of this Act: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Deadline.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For an additional amount for "Disaster Assistance Direct Loan Program Account" for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184), $279,800,000, to be used to assist local governments affected by Hurricane Katrina and other hurricanes of the 2005 season in providing essential services, of which $1,000,000 is for administrative expenses to carry out the direct loan program: *Provided,* That such funds may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $371,733,000: *Provided further,* That notwithstanding section 417(b) of such Act, the amount of any such loan issued pursuant to this section may exceed $5,000,000, and may be equal to not more than 50 percent of the annual operating budget of the local government in any case in which that local government has suffered a loss of 25 percent or more in tax revenues due to Hurricane

Katrina or Hurricane Rita: *Provided further*, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled: *Provided further,* That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a): *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2401. The Federal Emergency Management Agency may provide funds to a State or local government or, as necessary, assume an existing agreement from such unit of government, to pay for utility costs resulting from the provision of temporary housing units to evacuees from Hurricane Katrina and other hurricanes of the 2005 season if the State or local government has previously arranged to pay for such utilities on behalf of the evacuees for the term of any leases, not to exceed 12 months, contracted by or prior to February 7, 2006: *Provided*, That the Federal share of the costs eligible to be paid shall be 100 percent.

SEC. 2402. (a) Title III of Public Law 109–90 (119 Stat. 2079) is amended under the heading "National Flood Insurance Fund" by striking in the proviso "$30,000,000" and inserting "such sums as necessary".

(b) The provisions of this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2403. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Individual Assistance Program the costs sufficient for alternative housing pilot programs in the areas hardest hit by Hurricane Katrina and other hurricanes of the 2005 season.

## CHAPTER 5

## DEPARTMENT OF THE INTERIOR

### UNITED STATES FISH AND WILDLIFE SERVICE

#### CONSTRUCTION

For an additional amount for "Construction" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season and for repayment of advances to projects from which funds were transferred for such purposes, $132,400,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## NATIONAL PARK SERVICE

### HISTORIC PRESERVATION FUND

For an additional amount for the "Historic Preservation Fund" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $43,000,000, to remain available until September 30, 2007: *Provided,* That of the funds provided under this heading, $40,000,000 shall be provided to State Historic Preservation Officers, after consultation with the National Park Service, for grants for disaster relief in areas of Louisiana, Mississippi, and Alabama impacted by Hurricanes Katrina or Rita: *Provided further,* That grants shall be for the preservation, stabilization, rehabilitation, and repair of historic properties listed in or eligible for the National Register of Historic Places, for planning and technical assistance: *Provided further,* That preference shall be given to grants based upon, but not limited to, properties located within National Heritage Areas, owner-occupied houses, and an ability to spend the funds expeditiously: *Provided further,* That grants shall only be available for areas that the President determines to be a major disaster under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) due to Hurricanes Katrina or Rita: *Provided further,* That individual grants shall not be subject to a non-Federal matching requirement: *Provided further,* That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses: *Provided further,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Grants.

### CONSTRUCTION

For an additional amount for "Construction" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $55,400,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## UNITED STATES GEOLOGICAL SURVEY

### SURVEYS, INVESTIGATIONS, AND RESEARCH

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Surveys, Investigations, and Research" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season and for repayment of advances to other appropriation accounts from which funds were transferred for such purposes, $10,200,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Royalty and Offshore Minerals Management" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season and for repayment of advances to other appropriation accounts from which funds were transferred for such purposes, $15,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for "Environmental Programs and Management" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $6,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For an additional amount for the "Leaking Underground Storage Tank Program" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $7,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for the "National Forest System" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $20,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 6

## DEPARTMENT OF LABOR

### EMPLOYMENT AND TRAINING ADMINISTRATION

#### TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services", $16,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, for construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Workforce Investment Act of 1998: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HEALTH RESOURCES AND SERVICES ADMINISTRATION

#### HEALTH RESOURCES AND SERVICES

For an additional amount for "Community Health Centers", $4,000,000, to remain available until expended, to purchase and operate communications equipment including satellite phones for a communications network among departments of health, community health centers and major medical centers in States affected by Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### CENTERS FOR DISEASE CONTROL AND PREVENTION

#### DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for "Disease Control, Research, and Training", $8,000,000, to remain available until expended, for mosquito and other pest abatement activities in States affected by Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF EDUCATION

### HURRICANE EDUCATION RECOVERY

For an additional amount under the heading "Department of Education" in Public Law 109–148 for carrying out section 107 of title IV, division B of that Act, $235,000,000, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season: *Provided,* That the amount

provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

For an additional amount under part B of title VII of the Higher Education Act of 1965 ("HEA") for institutions of higher education (as defined in section 102 of that Act) that are located in an area in which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to hurricanes in the Gulf of Mexico in calendar year 2005, $50,000,000: *Provided,* That such funds shall be available to the Secretary of Education only for payments to help defray the expenses (which may include lost revenue, reimbursement for expenses already incurred, and construction) incurred by such institutions of higher education that were forced to close, relocate or significantly curtail their activities as a result of damage directly caused by such hurricanes: *Provided further,* That such payments shall be made in accordance with criteria established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act, section 553 of title 5, United States Code, or part B of title VII of the HEA: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RELATED AGENCIES

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

#### NATIONAL AND COMMUNITY SERVICE PROGRAMS, OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the Corporation for National and Community Service (the "Corporation") for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $10,000,000, to remain available until September 30, 2007: *Provided,* That the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the National and Community Service Act of 1990 (the "Act") (42 U.S.C. 12611 et seq.): *Provided further,* That the Corporation may transfer funds from the amount provided under the first proviso to the National Service Trust authorized under subtitle D of title I of the Act (42 U.S.C. 12601) upon determination that such transfer is necessary to support the activities of Civilian Community Corps participants and after notice is transmitted to Congress: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. (a) In this section:

(1) The term "affected institution" means an institution of higher education that is—

(A) a part B institution, as such term is defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061);

(B) located in an area affected by a Gulf hurricane disaster; and

(C) able to demonstrate that the institution—

(i) incurred physical damage resulting from the impact of Hurricane Katrina or Rita;

(ii) has pursued collateral source compensation from insurance, the Federal Emergency Management Agency, or the Small Business Administration, as appropriate; and

(iii) has not been able to fully reopen in existing facilities or fully reopen to the levels that existed before the impact of such hurricane due to physical damage to the institution.

(2) The terms "area affected by a Gulf hurricane disaster" and "Gulf hurricane disaster" have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109–148, 119 Stat. 2809).

(b) Notwithstanding any other provision of law (unless enacted with specific reference to this section), the Secretary of Education is authorized to waive or modify, as the Secretary determines is necessary, any statutory or regulatory provision related to historically Black college and university capital financing under part D of title III of the Higher Education Act of 1965 (20 U.S.C. 1066 et seq.), in connection with a Gulf hurricane disaster, to ensure that—

(1) the calculation of financing need under section 343 of such Act (20 U.S.C. 1066b) for an affected institution is modified to reflect any changes in the financial condition of the institution as a result of the Gulf hurricane disaster; and

(2) an affected institution that was not receiving assistance under such part before the Gulf hurricane disaster is eligible to apply for capital financing to assist in institutional recovery from the Gulf hurricane disaster.

(c)(1) Notwithstanding section 343(b)(1) or any other provision of title III of the Higher Education Act of 1965 (20 U.S.C. 1066b(b)(1), 1051 et seq.), in carrying out section 343 of such Act, a designated bonding authority shall withhold not more than 1 percent for the cost of issuance from the proceeds of qualified bonds that are loaned to an affected institution.

(2) Notwithstanding section 343(b)(3) or any other provision of title III of the Higher Education Act of 1965 (20 U.S.C. 1066b(b)(3), 1051 et seq.), the Secretary shall pay any interest above 1 percent charged for a loan issued under part D of title III of such Act, after the date of enactment of this Act and with respect to an affected institution, such that the affected institution pays interest at a rate no higher than 1 percent.

(3) Notwithstanding any other provision of title III of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.), the requirements of section 343(b)(8) and 343(c)(2) of such Act (20 U.S.C. 1066(b)(8)) shall not apply with respect to an affected institution receiving a loan under part D of title III of such Act (20 U.S.C. 1066 et seq.).

(d) Notwithstanding any provision of title III of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.), or any regulation

Deferment period.

promulgated under such title, the Secretary of Education shall grant a deferment, for a period of not more than 3 years, to an affected institution that has received a loan under part D of title III of such Act (20 U.S.C. 1066 et seq.). During the deferment period granted under this subsection, the affected institution shall not be required to pay any periodic installment of principal required under the loan agreement for such loan, and interest on such loan shall not accrue for the period of the deferment. During the deferment period, the Secretary shall make principal and interest payments otherwise due under the loan agreement. At the closing of the loan, terms shall be set under which the affected institution shall be required to repay the Secretary for the payments of principal made by the Secretary during the deferment, on a schedule that begins upon repayment to the lender in full on the loan agreement.

Termination date.

(e)(1) Except as provided in paragraph (2), the authority provided under this section to enter into, or modify or waive the terms of, a loan agreement or insurance agreement under part D of title III of the Higher Education Act of 1965 (20 U.S.C. 1066 et seq.), or to grant a loan deferment under subsection (d), shall terminate 1 year after the date of enactment of this Act.

(2) Any provision of a loan agreement or insurance agreement modified or waived by the authority under this section shall remain so modified or waived for the duration of the period covered by the loan agreement or insurance agreement.

(f) The amount provided in this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Deadline.

SEC. 2602. Notwithstanding sections 107(f) and 110 of title IV (commonly known as the "Hurricane Education Recovery Act") of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2680), the Secretary of Education may extend the period during which a State educational agency or local educational agency may obligate funds received under section 107 of that title to a date no later than September 30, 2006, except that such funds shall be used only for expenses incurred during the 2005–2006 school year, as required by section 107 of that title.

SEC. 2603. Funds available to the Mississippi Institutes of Higher Learning under the heading "Department of Education" in Public Law 109–148 may be used to support activities authorized by part B of title VII of the Higher Education Act of 1965, as determined necessary by the Mississippi Institutes of Higher Learning: *Provided,* That the amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

(TRANSFER OF FUNDS)

SEC. 2604. Of the funds made available under the heading "Disaster Relief" under the heading "Federal Emergency Management Agency" in chapter 4 of this title, $38,000,000 is hereby transferred to the Social Security Administration for necessary expenses and direct or indirect losses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season:

*Provided,* That the amount transferred by this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 7

## DEPARTMENT OF DEFENSE

## MILITARY CONSTRUCTION

### MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Military Construction, Navy and Marine Corps", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $44,770,000, to remain available until September 30, 2010: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $97,300,000, to remain available until September 30, 2010: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for "Military Construction, Army National Guard", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $330,071,000, to remain available until September 30, 2010: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That of the amount provided under this heading in chapter 7 of title I of division B of Public Law 109–148 (119 Stat. 2770), $120,000,000 are rescinded: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for "Military Construction, Air National Guard", for necessary expenses related to the consequences

of Hurricane Katrina and other hurricanes of the 2005 season, $5,800,000, to remain available until September 30, 2010: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, NAVY RESERVE

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for "Military Construction, Navy Reserve", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $24,270,000, to remain available until September 30, 2010: *Provided,* That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further,* That the amount provided under the heading "Military Construction, Naval Reserve" in chapter 7 of title I of division B of Public Law 109–148 (119 Stat. 2771) shall remain available until September 30, 2010, except that, of such amount $49,530,000 are rescinded: *Provided further,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, Major Projects", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $585,919,000, to remain available until expended: *Provided,* That $35,919,000 shall be available for environmental cleanup and removal of debris from the Department of Veterans Affairs land in Gulfport, Mississippi, and for any authorized purpose under this heading: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RELATED AGENCY

ARMED FORCES RETIREMENT HOME

MAJOR CONSTRUCTION

For an additional amount for "Major Construction", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $176,000,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, such funds shall be obligated and expended for the planning and design and construction of a new Armed Forces

Retirement Home in Gulfport, Mississippi: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 2701. The limitation of Federal contribution established under section 18236(b) of title 10 is hereby waived for projects appropriated in this chapter.

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

SEC. 2702. (a) Of the amounts made available in chapter 7 of title I of division B of Public Law 109–148, Department of Veterans Affairs, "Medical Services", $198,265,000 are hereby rescinded.

(b) For an additional amount for Department of Veterans Affairs, "Medical Services", $198,265,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurrican Katrina and other hurricanes of the 2005 season.

(c) The funds made available in subsection (b) may be transferred to the Department of Veterans Affairs, "Medical Services", "Medical Administration", "Medical Facilities", "Construction, Minor Projects", and "Information Technology Systems" accounts as required.

(d) Not less than 15 days prior to making any such transfer as authorized under subsection (c), the Department shall notify the Committees on Appropriations of both Houses of Congress.

Deadline. Notification.

(e) This section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 2703. Notwithstanding any other provision of law, within six months of enactment of this Act, the Secretary of Veterans Affairs is authorized and directed to clean up and transfer all land parcels of the Department's land in Gulfport, Mississippi, to the city of Gulfport, Mississippi.

Deadline. Mississippi.

(TRANSFER OF FUNDS)

SEC. 2704. The following unobligated balances shall be transferred to the Armed Forces Retirement Home "Major Construction" account, to remain available until expended, for the planning and design and construction of a new Armed Forces Retirement Home in Gulfport, Mississippi, from amounts appropriated under the heading "Armed Forces Retirement Home" in chapter 7 of division B of Public Law 109–148 (119 Stat. 2769), $45,000,000 provided for Armed Forces Retirement Home-Gulfport; and unobligated balances of funds provided in fiscal years 1998 through 2004 for construction and renovation of the physical plants at the United States Naval Home/Armed Forces Retirement Home-Gulfport: *Provided*, That the General Services Administration, in consultation with the Naval Facilities Engineering Command and the management of the Armed Forces Retirement Home, shall be the agent for all matters with regard to the planning, design, construction, and contract administration related to the construction of the new

Armed Forces Retirement Home in Gulfport, Mississippi: *Provided further*, That the amounts provided or otherwise made available under this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 8

## DEPARTMENT OF JUSTICE

### LEGAL ACTIVITIES

#### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and Expenses, General Legal Activities" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $2,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and Expenses, United States Attorneys" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $6,500,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## DEPARTMENT OF COMMERCE

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

#### OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $118,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $32,000,000, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## SCIENCE

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### EXPLORATION CAPABILITIES

For an additional amount for "Exploration Capabilities" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $35,000,000 shall be for the Stennis Space Center and Michoud Assembly Facility, to remain available until expended: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## RELATED AGENCIES

### SMALL BUSINESS ADMINISTRATION

#### DISASTER LOANS PROGRAM ACCOUNT

#### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Disaster Loans Program Account" for the cost of direct loans authorized by section 7(b) of the Small Business Act, $542,000,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That up to $190,000,000 may be transferred to and merged with "Salaries and Expenses" for administrative expenses to carry out the disaster loan program: *Provided further,* That none of the funds provided under this heading may be used for indirect administrative expenses: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 9

## DEPARTMENT OF TRANSPORTATION

### FEDERAL HIGHWAY ADMINISTRATION

#### FEDERAL-AID HIGHWAYS

#### EMERGENCY RELIEF PROGRAM

For an additional amount for "Emergency Relief Program" as authorized under 23 U.S.C. 125, $702,362,500, to remain available until expended, for expenses identified under "Formal Requests" in the Federal Highway Administration table entitled "Emergency Relief Program Fund Requests—updated 06/06/06" with the exception of such expenses addressed in other provisions of this Act making amendments to Public Law 109–148 and expenses otherwise funded in other Appropriations Acts: *Provided*, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than $100,000,000 for such projects in a State in a fiscal year, to respond to damage caused by Hurricane Dennis

and the 2004–2005 winter storms in the State of California: *Provided further*, That any amounts in excess of those necessary for emergency expenses relating to the eligible projects cited in the first sentence of this paragraph may be used for other projects authorized under 23 U.S.C. 125: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, $702,362,500 are rescinded: *Provided*, That such rescission shall not apply to the funds distributed in accordance with 23 U.S.C. 130(f), 23 U.S.C. 133(d)(1) as in effect prior to the date of enactment of Public Law 109–59, the first sentence of 23 U.S.C. 133(d)(3)(A), 23 U.S.C. 104(b)(5), or 23 U.S.C. 163 as in effect prior to the enactment of Public Law 109–59.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Community development fund", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of Hurricanes Katrina, Rita, or Wilma in States for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $5,200,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): *Provided,* That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further,* That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further,* That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: *Provided further,* That each State may use up to five percent of its allocation for administrative costs: *Provided further,* That not less than $1,000,000,000 from funds made available on a pro-rata basis according to the allocation made to each State under this heading shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas: *Provided further*, That no State shall receive more than $4,200,000,000: *Provided further,* That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify

alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further,* That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further,* That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further,* That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further,* That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further,* That prior to the obligation of funds to each State, the Secretary shall ensure that such plan gives priority to infrastructure development and rehabilitation and the rehabilitation and reconstruction of the affordable rental housing stock including public and other HUD-assisted housing: *Provided further,* That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further,* That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this heading no later than 5 days before such waiver is made: *Provided further,* That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: *Provided further*, That of the amounts made available under this heading, $12,000,000 shall be transferred to "Management and Administration, Salaries and Expenses", of which $7,000,000 is for the administrative costs, including IT costs, of the KDHAP/DVP voucher program; $9,000,000 shall be transferred to the Office of Inspector General; and $6,000,000 shall be transferred to HUD's Working Capital Fund: *Provided further*, That none of the funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Federal Register, publication. Deadline.

Reports. Contracts.

Notification. Deadline.

Procedures. Reports. Fraud.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

For an additional amount for the "Federal Buildings Fund" for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $37,000,000, from the General Fund and to remain available until expended: *Provided,* That notwithstanding 40 U.S.C. 3307, the Administrator of General Services is authorized to proceed with repairs and alterations for affected buildings: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Emergency Agricultural Disaster Assistance Act of 2006.
16 USC 3801 note.

# TITLE III—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

**SEC. 3001. SHORT TITLE.**

This title may be cited as the "Emergency Agricultural Disaster Assistance Act of 2006".

**SEC. 3002. DEFINITIONS.**

In this title:

(1) HURRICANE-AFFECTED COUNTY.—The term "hurricane-affected county" means—

(A) a county included in the geographic area covered by a natural disaster declaration related to Hurricane Katrina, Hurricane Ophelia, Hurricane Rita, Hurricane Wilma, or a related condition; and

(B) each county contiguous to a county described in subparagraph (A).

(2) NATURAL DISASTER DECLARATION.—The term "natural disaster declaration" means—

(A) a natural disaster declared by the Secretary—

(i) during calendar year 2005 under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(ii) during calendar year 2006 under that section, but for which a request was pending as of December 31, 2005; or

(B) a major disaster or emergency designated by the President—

(i) during calendar year 2005 under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(ii) during calendar year 2006 under that Act, but for which a request was pending as of December 31, 2005.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

# Subtitle A—Crop and Livestock Assistance

**SEC. 3011. SUGAR AND SUGARCANE DISASTER ASSISTANCE.**

(a) FLORIDA.—The Secretary of Agriculture shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments to processors in Florida that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)) to compensate first processors and producers for crop and other losses in hurricane-affected counties that are related to hurricanes, tropical storms, excessive rains, floods, and wind in Florida during calendar year 2005, by an agreement on the same terms and conditions, to the maximum extent practicable, as the payments made under section 102 of the Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act of 2005 (Public Law 108–324; 118 Stat. 1235), including that the 2005 base production of each harvesting unit shall be determined using the same base year crop production history that was used pursuant to the agreement under that section.

(b) LOUISIANA.—

(1) COMPENSATION FOR LOSSES.—The Secretary shall use $40,000,000 of the funds of the Commodity Credit Corporation to make assistance available to first processors of sugarcane that operate in a hurricane-affected county, or obtain sugarcane from a hurricane-affected county, and that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)), in the form of monetary payments or commodities in the inventory of the Commodity Credit Corporation derived from carrying out that section, to compensate producers and first processors for crop and other losses due to Hurricane Katrina, Hurricane Rita, or related conditions.

(2) ADMINISTRATION.—Assistance under this subsection shall be—

(A) shared by an affected first processor with affected producers that provide commodities to the processor in a manner that reflects contracts entered into between the processor and the producers, except with respect to a portion of the amount of total assistance provided under paragraph (1) necessary to compensate affected producers for individual losses experienced by the producers, including losses due to saltwater intrusion, flooding, wind damage, or increased planting, replanting, or harvesting costs, which shall be transferred by the first processor to the affected producers without regard to contractual share arrangements; and

(B) made available under such terms and conditions as the Secretary determines are necessary to carry out this subsection.

(3) FORM OF ASSISTANCE.—In carrying out this subsection, the Secretary shall—

(A) convey to the first processor commodities in the inventory of the Commodity Credit Corporation derived from carrying out section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a));

(B) make monetary payments to the first processor; or

(C) take any combination of actions described in paragraphs (1) and (2), using commodities or monetary payments.

(4) LOSS DETERMINATION.—In carrying out this subsection, the Secretary shall use the same base year to determine crop loss that was elected by a producer to determine crop loss in carrying out the hurricane assistance program under section 207 of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 543).

(5) LIMITATION.—The Secretary shall provide assistance under this subsection only in a State described in section 359f(c)(1)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)(1)(A)).

(c) TEXAS.—The Secretary shall use $400,000 of funds of the Commodity Credit Corporation to assist sugarcane growers in Texas by making a payment in that amount to a farmer-owned cooperative sugarcane processor in that State, for costs of demurrage, storage, and transportation resulting from hurricanes, excessive rains, floods, wind, and other related conditions during calendar year 2005.

**SEC. 3012. LIVESTOCK ASSISTANCE.**

(a) LIVESTOCK COMPENSATION PROGRAM.—

Effective date.

(1) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Effective beginning on the date of enactment of this Act, the Secretary shall use $95,000,000 of funds of the Commodity Credit Corporation to provide assistance under the same terms and conditions as assistance provided under section 203 of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 539).

(2) ELIGIBLE APPLICANTS.—Subject to subsection (d), in providing assistance under paragraph (1), the Secretary shall provide assistance to any applicant that—

(A) produces poultry, swine, sheep, beef, equine, buffalo, beefalo, dairy, goats, or an animal described in section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1));

(B) conducts an agricultural operation that is physically located in a hurricane-affected county; and

(C) meets all other eligibility requirements established by the Secretary.

(b) LIVESTOCK INDEMNITY PROGRAM.—

Effective date.

(1) IN GENERAL.—Effective beginning on the date of enactment of this Act, the Secretary shall use $30,000,000 of funds of the Commodity Credit Corporation to carry out a program under the same terms and conditions as the Livestock Indemnity Program authorized under title III of Public Law 105–18 (111 Stat. 170).

(2) ELIGIBLE APPLICANTS.—Subject to subsection (d), in carrying out the Program, the Secretary shall provide assistance to any applicant that—

(A) produces poultry, swine, sheep, eggs, beef, equine, buffalo, beefalo, dairy, goats, crawfish, or an animal described in section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1));

(B) conducts an agricultural operation that is physically located in a hurricane-affected county; and

(C) meets all other eligibility requirements established by the Secretary for the Program.

(c) LIVESTOCK INDEMNITY PROGRAM FOR CONTRACT GROWERS.—

(1) IN GENERAL.—Subject to subsection (d), the Secretary shall use funds of the Commodity Credit Corporation to establish a program to assist poultry and egg producers in hurricane-affected counties that suffered income losses.

(2) TERMS AND CONDITIONS.—The program established under paragraph (1) shall contain similar terms and conditions as the terms and conditions used for the livestock indemnity program for contract growers described in subpart E of chapter XIV of title 7, Code of Federal Regulations (as in effect on January 1, 2002).

(d) LIMIT ON AMOUNT OF ASSISTANCE.—The Secretary shall ensure, to the maximum extent practicable, that no producer on a farm receives duplicative payments under this section and any other Federal program for the same loss.

**SEC. 3013. SPECIALTY CROPS AND NURSERY CROPS.**

(a) IN GENERAL.—The Secretary shall use $95,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers of specialty crops and nursery crops in hurricane-affected counties.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Assistance required by subsection (a) shall be carried out by the Secretary under the same terms and conditions as the special disaster relief programs carried out for producers that suffered from crop damage and tree losses, and carried out related cleanup, in certain areas of Florida due to Hurricanes Charley, Frances, and Jeanne during August and September 2004, as described in the notice of program implementation relating to Florida citrus, fruit, vegetable, and nursery crop disaster programs (69 Fed. Reg. 63134 (October 29, 2004)), with vegetable losses treated as citrus losses for purposes of that program.

(2) LOSS OF RECORDS.—Due to the complete destruction of the business records of many producers, the Secretary shall use the best available information in determining eligibility, determining losses, and calculating payment amounts under this section.

(c) LIMIT ON AMOUNT OF ASSISTANCE.—The Secretary shall ensure, to the maximum extent practicable, that no producer on a farm receives duplicative payments under this section and any other Federal program for the same loss.

**SEC. 3014. DAIRY ASSISTANCE.**

The Secretary shall use $17,000,000 of the funds of the Commodity Credit Corporation to make payments to dairy producers for dairy production losses and dairy spoilage losses in hurricane-affected counties.

**SEC. 3015. COTTONSEED.**

(a) IN GENERAL.—The Secretary shall use $15,000,000 of the funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2005 crop of cottonseed in hurricane-affected counties.

(b) DISTRIBUTION OF FUNDS.—The Secretary shall provide disaster assistance under subsection (a) under the same terms and

conditions as assistance provided under section 206 of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 543), except that assistance shall be—

(1) distributed to producers and first handlers of cottonseed; and

(2) based on cottonseed production during the most recent year for which a disaster payment specifically for cottonseed was not authorized.

## Subtitle B—Forestry

**SEC. 3021. TREE ASSISTANCE PROGRAM.**

(a) DEFINITION OF TREE.—In this section, the term "tree" includes a tree (including a Christmas tree, ornamental tree, nursery tree, and potted tree), bush (including a shrub), and vine.

(b) PROGRAM.—Except as otherwise provided in this section, the Secretary shall use such sums of funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under sections 10201 through 10203 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.) to—

(1) producers who suffered tree losses in hurricane-affected counties; and

(2) fruit and tree nut producers in hurricane-affected counties for site preparation, replacement, rehabilitation, and pruning.

(c) COSTS.—Funds made available under this section shall also be made available to cover costs associated with tree pruning, tree rehabilitation, and other appropriate tree-related activities as determined by the Secretary.

(d) LIMIT ON AMOUNT OF ASSISTANCE.—The Secretary shall ensure, to the maximum extent practicable, that no producer on a farm receives duplicative payments under this section and any other Federal program for the same loss.

**SEC. 3022. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.**

Section 1231(k)(3)(G) of the Food Security Act of 1985 (16 U.S.C. 3831(k)(3)(G)) is amended by striking "$404,100,000" and inserting "$504,100,000".

SEC. 3023. When evaluating an offer to enroll private nonindustrial forest land into the emergency forestry conservation reserve program, as authorized by section 1231(k) of the Food Security Act of 1985 (16 U.S.C. 3831(k)), the Secretary of Agriculture shall accord equal weight to, and not distinguish between, private nonindustrial forest lands comprised of softwood or hardwood trees for the purpose of determining whether the private nonindustrial forest land of the landowner satisfies criteria used to evaluate the offer, including, but not limited to, soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

## Subtitle C—Miscellaneous

**SEC. 3031. ADMINISTRATIVE COSTS.**

The Secretary may use not more than $9,600,000 of funds of the Commodity Credit Corporation to cover administrative costs incurred by the Farm Service Agency directly related to carrying out this title.

**SEC. 3032. AQUACULTURE PRODUCER GRANTS.**

Grants to assist aquaculture producers announced by the Secretary on May 10, 2006 (71 Fed. Reg. 27188; relating to 2005 section 32 hurricane disaster programs) shall be provided for industry recovery in a manner consistent with the announcement or under the same terms and conditions as assistance provided under section 203(a)(2)(B) of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 540).

**SEC. 3033. EMERGENCY DESIGNATION.**

Amounts made available by the transfer of funds in or pursuant to this title are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

**SEC. 3034. REGULATIONS.**

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

## TITLE IV

## PANDEMIC FLU

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### OFFICE OF THE SECRETARY

##### PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Public Health and Social Services Emergency Fund" to prepare for and respond to an influenza pandemic, including international activities and activities in foreign countries, preparedness planning, enhancing the pandemic influenza regulatory science base, accelerating pandemic influenza

disease surveillance, developing registries to monitor influenza vaccine distribution and use, supporting pandemic influenza research, clinical trials and clinical trials infrastructure, and the development and purchase of vaccines, antivirals, and necessary medical supplies, $2,300,000,000, to remain available until expended: *Provided,* That $30,000,000 shall be transferred to and merged with funds appropriated under the heading "Child Survival and Health Programs Fund" in chapter 3 of title II of division B, of Public Law 109–148 for activities related to international surveillance, planning, preparedness, and response to the avian influenza virus: *Provided further,* That $250,000,000 shall be for upgrading State and local capacity, and at least $200,000,000 shall be for the Centers for Disease Control and Prevention to carry out global and domestic disease surveillance, laboratory capacity and research, laboratory diagnostics, risk communication, rapid response and quarantine: *Provided further,* That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: *Provided further,* That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologicals, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologicals: *Provided further,* That the Secretary may negotiate a contract with a vendor under which a State may place an order with the vendor for antivirals; may reimburse a State for a portion of the price paid by the State pursuant to such an order; and may use amounts made available herein for such reimbursement: *Provided further,* That funds appropriated herein and not specifically designated under this heading may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence: *Provided further,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## TITLE V

## BORDER SECURITY

## CHAPTER 1

## DEPARTMENT OF DEFENSE

## OPERATION AND MAINTENANCE

### OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Defense-Wide", $708,000,000 for emergency National Guard support to the Department of Homeland Security, including operating surveillance systems, analyzing intelligence, installing fences and vehicle barriers, building patrol roads, and providing training, to remain available until September 30, 2007: *Provided,* That the Secretary of Defense may transfer these funds to appropriations

for military personnel, operation and maintenance, and procurement to be available for the same purposes as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation, to be merged with and made available for the same purposes and for the time period provided under this heading: *Provided further,* That the Secretary of Defense shall, not more than five days after making transfers from this appropriation, notify the congressional defense committees in writing of any such transfer.

Deadline.
Notification.

## CHAPTER 2

## DEPARTMENT OF HOMELAND SECURITY

### CUSTOMS AND BORDER PROTECTION

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $410,000,000, to remain available until September 30, 2007: *Provided,* That the entire amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for "Air and Marine Interdiction, Operations, Maintenance, and Procurement", $95,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### CONSTRUCTION

For an additional amount for "Construction", $300,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### IMMIGRATION AND CUSTOMS ENFORCEMENT

#### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $327,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PREPAREDNESS

OFFICE FOR DOMESTIC PREPAREDNESS

STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs", for discretionary grants as determined by the Secretary, $15,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for "Acquisition, Construction, Improvements, and Related Expenses", $25,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## CHAPTER 3

## DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

ADMINISTRATIVE REVIEW AND APPEALS

For an additional amount for "Administrative Review and Appeals", $9,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and Expenses, General Legal Activities", $9,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and Expenses, United States Attorneys", $2,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## TITLE VI

## LEGISLATIVE BRANCH

### ARCHITECT OF THE CAPITOL

#### CAPITOL POWER PLANT

For an additional amount for "Capitol Power Plant", $27,600,000, to remain available until September 30, 2011: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

## TITLE VII

## GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

#### AVAILABILITY OF FUNDS

SEC. 7001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 7002. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 7003. Section 8044 of Public Law 109–148 (119 Stat. 2708) is amended as follows: After "Defense," and before "acting" insert, "notwithstanding any other provision of law,".

SEC. 7004. (a) Of the unobligated balances made available pursuant to section 504 of Public Law 108–334, $20,000,000 are rescinded.

(b) For an additional amount for "United States Secret Service, Salaries and Expenses", $20,000,000, to remain available until September 30, 2007.

SEC. 7005. (a) Of the funds available for "Screening Coordination and Operations", $3,960,000 are rescinded.

(b) For an additional amount for the "Office of the Secretary and Executive Management", $3,960,000.

SEC. 7006. Public Law 109–90 is amended by striking section 528.

119 Stat 2086.

SEC. 7007. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "June 30, 2006" and inserting "September 30, 2007".

SEC. 7008. For an additional amount for "Department of Labor, Mine Safety and Health Administration, Salaries and Expenses", $25,600,000 for the enforcement of mine safety law with respect to coal mines, including the training and equipping of inspectors: *Provided,* That progress reports on hiring shall be submitted to the House and Senate Committees on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Education and the Workforce of the House on a quarterly basis, with the first report due July 15, 2006: *Provided further,* That the amount provided under this heading shall remain available until September 30, 2007: *Provided further,*

Reports.
Deadline.

That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 7009. Unexpended balances for Health Resources and Services Administration grant number 7C6HF03601–01–00, appropriated in Public Law 106–554, shall remain available until September 30, 2009.

SEC. 7010. For an additional amount for "Department of Health and Human Services, Centers for Disease Control and Prevention, Disease Control, Research and Training", to carry out section 501 of the Federal Mine Safety and Health Act of 1977, $10,000,000 for research to develop mine safety technology: *Provided*, That progress reports on technology development shall be submitted to the House and Senate Committees on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Education and the Workforce of the House on a quarterly basis, with the first report due July 15, 2006: *Provided further,* That the amount provided under this heading shall remain available until September 30, 2007: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Reports.
Deadline.

SEC. 7011. Public Law 109–149 (119 Stat. 2876) under the heading "Railroad Retirement Board, Dual Benefits Payments Account" is amended by striking "to the amount by which the product of recipients and the average benefit received exceeds $97,000,000" and inserting "to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits" in lieu thereof.

SEC. 7012. Section 224 of Public Law 109–149 (119 Stat. 2862) is amended by striking "June" and inserting "December" in lieu thereof.

SEC. 7013. None of the funds appropriated in Public Law 109–149 or prior Acts under the heading "Employment and Training Administration" that are available for expenditure on or after the date of enactment of this section shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109–149. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A–133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs.

Awards.
42 USC 12601 note.

SEC. 7014. Any national service educational award described in subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.), made with funds appropriated to, funds transferred to, or interest accumulated in the National Service Trust, shall hereafter be known as a "Segal AmeriCorps Education Award".

SEC. 7015. (a) REPEAL OF SINGLE HOLDER RULE.—Section 428C(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(1)(A)) is amended by striking "and (i)" and all that follows through "so selected for consolidation)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any loan made under section 428C of the Higher Education Act of 1965 (20 U.S.C. 1078–3) for which the application is received by an eligible lender on or after the date of enactment of this Act. 20 USC 1078–3 note.

(c) CONSOLIDATION INTO DIRECT LENDING.—Section 428C(b)(5) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(5)) is amended by striking "DIRECT LOANS.—" and all that follows through "Such direct consolidation loan" and inserting the following: "DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. Such direct consolidation loan".

(d) REPEAL.—Section 8009(a) of the Higher Education Reconciliation Act of 2005 (Public Law 109–171, 120 Stat. 164) is amended by striking paragraph (2). 20 USC 1078–3.

SEC. 7016. Section 2401 of the Military Construction Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended by striking after "Augusta", "$61,466,000" and inserting in lieu thereof "$340,854,000". This project may be incrementally funded. Funds appropriated in Public Law 109–114 for this project shall be available to fund the first increment. 119 Stat. 3496.

SEC. 7017. Section 2401 of the Military Construction Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended by striking after "Kunia", "$305,000,000" and inserting in lieu thereof "$350,490,000". The project may be incrementally funded. Funds appropriated in Public Laws 108–7, 108–87, and 109–114 for this project shall be available to fund the first increment.

SEC. 7018. Section 2403(b) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163) is amended in paragraph (2) by striking "$12,500,000" and inserting "$291,888,000", and in paragraph (3) by striking "$256,034,000" and inserting "$301,524,000". 119 Stat. 3500.

SEC. 7019. Section 2846 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1320), as amended by section 2865 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2149) is further amended by striking "840 acres" and inserting "1,540 acres".

SEC. 7020. Of the amount made available by the Department of Justice Appropriations Act, 2006 under the heading "Community Oriented Policing Services" (Public Law 109–108, 199 Stat. 2302), for Paul Coverdell Forensic Sciences Improvement Grants under part BB of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797 et seq.), $1,500,000 shall be available to the Attorney General, without regard to such part BB, for the study on forensic science described in House Report 109–272 to accompany Public Law 109–108.

SEC. 7021. The referenced statement of the managers in House Report 109–272, Making Appropriations for Science, the Departments of State, Justice, and Commerce, and Related Agencies for the Fiscal Year Ending September 30, 2006, and for other purposes, under this heading is deemed to be amended with respect to amounts made available under the heading "Science, Aeronautics and Exploration" for the Mitchell Institute by striking "educational purposes" and inserting "the science and engineering education endowment".

SEC. 7022. Section 613 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2336) is amended—

(1) by inserting after "$500,000 shall be available for the Iowa Department of Economic Development for the Entrepreneurial Venture Assistance Project" the following: "(including the ability to make subgrants or loans for such project)"; and

(2) by striking "Clark County Department of Aviation, Las Vegas," and inserting "University of Nevada Las Vegas,".

SEC. 7023. Under the heading "Department of Transportation, Federal Highway Administration, Emergency Relief Program" in Public Law 109–148 (119 Stat. 2778), strike "$629,000,000" and insert "$803,000,000".

SEC. 7024. Notwithstanding 49 U.S.C. 5336, any funds remaining available under Federal Transit Administration grant numbers NY–03–345–00, NY–03–0325–00, NY–03–0405, NY–90–X398–00, NY–90–X373–00, NY–90–X418–00, NY–90–X465–00 together with an amount not to exceed $19,200,000 in urbanized area formula funds that were allocated by the New York Metropolitan Transportation Council to the New York City Department of Transportation as a designated recipient under 49 U.S.C. 5307 may be made available to the New York Metropolitan Transportation Authority for eligible capital projects authorized under 49 U.S.C. 5307 and 5309.

SEC. 7025. For recipients of assistance under chapter 53 of title 49, United States Code, directly affected by Hurricane Katrina, the Secretary may waive the Federal matching share requirements for Federal transit assistance programs under such chapter, including the Federal matching share requirements contained in existing Federal assistance grant agreements: *Provided,* That the Secretary may allow such recipients to use such assistance for operating assistance, notwithstanding the terms and conditions contained in existing Federal assistance grant agreements: *Provided further,* That the authority of the Secretary hereunder shall expire two years after the date of enactment of this section, unless determined otherwise by the Secretary for a compelling need.

Expiration date.

SEC. 7026. The first sentence under the heading "Department of the Treasury, Departmental Offices, Salaries and Expenses" in title II of division A of Public Law 109–115 (119 Stat. 2432) is amended by inserting after "travel expenses" the words "(except for travel performed by officials in the Office of Terrorism and Financial Intelligence and the Office of International Affairs)".

SEC. 7027. (a) Funds appropriated for intelligence activities, or made available by the transfer of funds, by this Act, by Public Law 109–108 for the Department of Justice, or by Public Law 109–115 for the Department of the Treasury, are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947, as amended, (50 U.S.C. 414)

during fiscal year 2006 until the enactment of the Intelligence Authorization Act for Fiscal Year 2006.

(b) Subsection (a) shall be effective: Effective date.

(1) with respect to funds appropriated, or made available by the transfer of funds, by this Act, upon the enactment of this Act;

(2) with respect to funds appropriated, or made available by the transfer of funds, by Public Law 109–108 for the Department of Justice, as if enacted on the date of enactment of Public Law 109–108; and

(3) with respect to funds appropriated, or made available by the transfer of funds, by Public Law 109–115 for the Department of the Treasury, as if enacted on the date of enactment of Public Law 109–115.

SEC. 7028. (a) The matter under the heading "Tenant-Based Rental Assistance" in chapter 9 of title I of division B of Public Law 109–148 is amended— 119 Stat. 2779.

(1) in the first proviso, by striking "or the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77)" and inserting "the McKinney-Vento Homeless Assistance Act, section 221(d)(3), 221(d)(5), or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965"; and

(2) in the second proviso, by inserting ", except that paragraph (7)(A) of such section shall not apply" after "1937".

(b) The provisions of this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 7029. The Department of Housing and Urban Development Appropriations Act, 2006 (Public Law 109–115) is amended in designated paragraph (5) under the heading "Tenant-based Rental Assistance"— 119 Stat. 2441.

(1) by striking "$10,000,000" and inserting "$25,000,000"; and

(2) by striking "$1,240,000,000" and inserting "$1,225,000,000".

SEC. 7030. (a) The second paragraph under the heading "Community Development Fund" in title III of division A of Public Law 109–115 is amended by striking "statement of managers accompanying this Act" and inserting "statement of managers correction for H.R. 3058 relating to the Economic Development Initiative submitted to the House of Representatives by the Chairman of the Committee on Appropriations of the House on November 18, 2005, and printed in the House section of the Congressional Record on such date". 119 Stat. 2447.

(b) Section 5023 of title V of division B of Public Law 109–148 is amended by striking "in title III of Public Law 109–115 (as in effect pursuant to H. Con. Res. 308, 109th Congress)" and inserting "in title III of division A of Public Law 109–115". 119 Stat. 2817.

(c) Each amendment made by this section shall apply as if included in the amended public law on the date of its enactment. Applicability.

SEC. 7031. The referenced statement of the managers under the heading "Community Development Fund" in title II, division G of Public Law 108–199 is deemed to be amended—

(1) with respect to item number 402, by striking "in Kansas City, Missouri" and inserting "in the Kansas City Metropolitan Statistical Area (MSA)";

(2) with respect to item number 329 by striking "for purchase of the D.C. Metropolitan Police Boys and Girls Club facility" and inserting "for renovation of Boys and Girls Clubs of Greater Washington Clubhouse #2, Clubhouse #4, Clubhouse #10, Clubhouse #11, and Clubhouse #14 in the District of Columbia";

(3) with respect to item number 188 by striking "the City of Macon for construction of the historic Coca-Cola building" and inserting "Wesleyan College in Macon, Georgia for facility renovation, build out, and construction";

(4) with respect to item number 830 by striking "construction" and inserting "purchase, renovation, build out and upgrade";

(5) with respect to item number 380 by striking "for construction of a new facility" and inserting "to upgrade an existing facility";

(6) with respect to item number 348 by striking "land acquisition" and inserting "the construction and renovation of the Holyoke Community College Enrollment Center"; and

(7) with respect to item number 602 by striking "to the J. Frank Troy Senior Center in Toledo, Ohio for renovation and construction" and inserting ", including $100,000 to the Northwest Ohio Area Office on Aging for construction of the Jerusalem Township Senior Center and Food Pantry; and $100,000 to Aurora Gonzales Resource Center, Toledo, Ohio, for renovation and build out of a facility".

SEC. 7032. The referenced statement of the managers under the heading "Community Development Fund" in title II, division I of Public Law 108–447 is deemed to be amended—

(1) with respect to item number 838 by striking "City of Canby, Minnesota" and inserting "Western Five Community Development Corporation.";

(2) with respect to item number 912 by striking "renovations to the Broadway Market" and inserting "the demolition and redevelopment of properties in the Broadway-Fillmore Corridor, Buffalo, New York";

(3) with respect to item number 631 by striking "contruction" and inserting "acquisition";

(4) with respect to item number 536 by striking "an economic development planning study" and inserting "the Main Street Revitalization Project";

(5) with respect to item number 444, by striking "City of St. Petersburg, Florida for facilities construction and renovation for the Mid-Pinellas Science Center" and inserting "St. Petersburg College, City of Seminole, Florida for the development of Science and Nature Park at St. Petersburg College";

(6) with respect to item 260 by inserting after renovations "and for property renovation at 754 Broad Street for the Family Center emergency shelter for families and children"; and

(7) with respect to item number 136, by striking "renovation of the Fire House in Brookhaven, Mississippi" and inserting "the restoration of the historic City Hall in Brookhaven, Mississippi".

SEC. 7033. The statement of managers correction referenced in the second paragraph under the heading "Community Development Fund" in title III, division A of Public Law 109–115 is deemed to be amended—

(1) with respect to item number 793 by striking "for street infrastructure and parking facility improvements" and inserting "to purchase and demolish blighted property, develop detailed design/construction drawings, and to begin site preparation for new infill housing lots";

(2) with respect to item number 1114 by striking "West Virginia Technical College" and inserting "West Virginia University Institute of Technology Community and Technical College";

(3) with respect to item number 849, by striking "Mahonoy City, Pennsylvania for improvements to West Market Street" and inserting "Mahanoy City, Pennsylvania for improvements to Centre Street";

(4) with respect to item number 740 by striking "infrastructure improvements in Central Plaza Park" and inserting "the demolition and redevelopment of properties in the Broadway-Fillmore Corridor, Buffalo, New York";

(5) with respect to item number 374 by striking "Day Care" and inserting "Senior Citizens";

(6) with respect to item number 714, by striking "construction of a senior center;" and inserting "renovation and build out of a multipurpose center;";

(7) with respect to item number 850, by striking "City of Lancaster, Pennsylvania" and inserting "in Pennsylvania";

(8) with respect to item number 925, by striking "Greenwood Partnership Alliance, South Carolina for the renovation of the Old Federal Courthouse" and inserting "City of Greenwood, South Carolina for the Emerald Triangle Project"; and

(9) with respect to item number 615 by inserting "and UND Technology Transfer and Commercialization Center" before the semicolon.

SEC. 7034. Notwithstanding any other provision of law, the Administrator of General Services may convey, without consideration ownership and jurisdiction (custody, accountability and control) to the City of Crosby, North Dakota real property as described: Lots 9, 10, 11, 12, 13, and 14, Eastlawn Addition to Crosby, Divide County, North Dakota.

SEC. 7035. 2007 DISCRETIONARY LIMITS. (a) IN GENERAL.—For the purposes of section 302(a) of the Congressional Budget Act of 1974, the allocations of the appropriate levels of budget totals for the Committee on Appropriations of the Senate for fiscal year 2007 shall be—

(1) $872,778,000,000 in total new budget authority for general purposes discretionary; and

(2) $577,241,000,000 in total new budget authority for mandatory;

until a concurrent resolution on the budget for fiscal year 2007 is agreed to by the Senate and the House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

(b) ADJUSTMENTS AND LIMITS.—The limits and adjustments provided in section 402 of S. Con. Res. 83 (109th Congress), as

Applicability.

passed the Senate, for fiscal year 2007 shall apply to subsection (a).

(c) APPLICATION.—The section 302(a) allocations in subsection (a) shall be deemed to be allocations set forth in the joint explanatory statement of managers accompanying the concurrent resolution on the budget for fiscal year 2007, as though adopted by Congress, for all purposes under titles III and IV of the Congressional Budget Act of 1974. Section 302(a)(4) of the Congressional Budget Act of 1974 shall not apply to this section.

(d) EXCEPTIONS.—The following provisions of H. Con. Res. 95 (109th Congress) shall not apply in the Senate—

(1) Section 404; and

Effective date.

(2) until January 3, 2007, section 403(b)(2).

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

This Act may be cited as the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006".

Approved June 15, 2006.

---

LEGISLATIVE HISTORY—H.R. 4939:

HOUSE REPORTS: Nos. 109–388 (Comm. on Appropriations) and 109–494 (Comm. of Conference).

SENATE REPORTS: No. 109–230 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Mar. 15, 16, considered and passed House.

Apr. 25–27, May 1–4, considered and passed Senate, amended.

June 12, House considered conference report.

June 13, House agreed to conference report. Senate considered conference report.

June 14, 15, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

June 15, Presidential statement.

# Public Law 109–235
# 109th Congress

## An Act

To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

June 15, 2006
[S. 193]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Broadcast Decency Enforcement Act of 2005.
47 USC 609 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Broadcast Decency Enforcement Act of 2005".

**SEC. 2. INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.**

Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

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

"(C) Notwithstanding subparagraph (A), if the violator is—

"(i)(I) a broadcast station licensee or permittee; or

"(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

"(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed $325,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $3,000,000 for any single act or failure to act."; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)".

Approved June 15, 2006.

LEGISLATIVE HISTORY—S. 193 (H.R. 310):

HOUSE REPORTS: No. 109–5 accompanying H.R. 310 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 18, considered and passed Senate.
June 6, 7, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
June 15, Presidential remarks.

# Public Law 109–236
# 109th Congress

## An Act

To amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

June 15, 2006
[S. 2803]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Mine Improvement and New Emergency Response Act of 2006.
30 USC 801 note.

This Act may be cited as the "Mine Improvement and New Emergency Response Act of 2006" or the "MINER Act".

**SEC. 2. EMERGENCY RESPONSE.**

Section 316 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 876) is amended—

(1) in the section heading by adding at the end the following: "AND EMERGENCY RESPONSE PLANS";

(2) by striking "Telephone" and inserting "(a) IN GENERAL.—Telephone"; and

(3) by adding at the end the following:

"(b) ACCIDENT PREPAREDNESS AND RESPONSE.—

"(1) IN GENERAL.—Each underground coal mine operator shall carry out on a continuing basis a program to improve accident preparedness and response at each mine.

"(2) RESPONSE AND PREPAREDNESS PLAN.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, each underground coal mine operator shall develop and adopt a written accident response plan that complies with this subsection with respect to each mine of the operator, and periodically update such plans to reflect changes in operations in the mine, advances in technology, or other relevant considerations. Each such operator shall make the accident response plan available to the miners and the miners' representatives.

Deadline.

"(B) PLAN REQUIREMENTS.—An accident response plan under subparagraph (A) shall—

"(i) provide for the evacuation of all individuals endangered by an emergency; and

"(ii) provide for the maintenance of individuals trapped underground in the event that miners are not able to evacuate the mine.

"(C) PLAN APPROVAL.—The accident response plan under subparagraph (A) shall be subject to review and approval by the Secretary. In determining whether to approve a particular plan the Secretary shall take into

consideration all comments submitted by miners or their representatives. Approved plans shall—

"(i) afford miners a level of safety protection at least consistent with the existing standards, including standards mandated by law and regulation;

"(ii) reflect the most recent credible scientific research;

"(iii) be technologically feasible, make use of current commercially available technology, and account for the specific physical characteristics of the mine; and

"(iv) reflect the improvements in mine safety gained from experience under this Act and other worker safety and health laws.

"(D) PLAN REVIEW.—The accident response plan under subparagraph (A) shall be reviewed periodically, but at least every 6 months, by the Secretary. In such periodic reviews, the Secretary shall consider all comments submitted by miners or miners' representatives and intervening advancements in science and technology that could be implemented to enhance miners' ability to evacuate or otherwise survive in an emergency.

"(E) PLAN CONTENT-GENERAL REQUIREMENTS.—To be approved under subparagraph (C), an accident response plan shall include the following:

"(i) POST-ACCIDENT COMMUNICATIONS.—The plan shall provide for a redundant means of communication with the surface for persons underground, such as secondary telephone or equivalent two-way communication.

"(ii) POST-ACCIDENT TRACKING.—Consistent with commercially available technology and with the physical constraints, if any, of the mine, the plan shall provide for above ground personnel to determine the current, or immediately pre-accident, location of all underground personnel. Any system so utilized shall be functional, reliable, and calculated to remain serviceable in a post-accident setting.

"(iii) POST-ACCIDENT BREATHABLE AIR.—The plan shall provide for—

"(I) emergency supplies of breathable air for individuals trapped underground sufficient to maintain such individuals for a sustained period of time;

"(II) in addition to the 2 hours of breathable air per miner required by law under the emergency temporary standard as of the day before the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, caches of self-rescuers providing in the aggregate not less than 2 hours per miner to be kept in escapeways from the deepest work area to the surface at a distance of no further than an average miner could walk in 30 minutes;

"(III) a maintenance schedule for checking the reliability of self rescuers, retiring older self-rescuers first, and introducing new self-rescuer technology, such as units with interchangeable air or oxygen cylinders not requiring doffing to replenish airflow and units with supplies of greater than 60 minutes, as they are approved by the Administration and become available on the market; and

"(IV) training for each miner in proper procedures for donning self-rescuers, switching from one unit to another, and ensuring a proper fit.

"(iv) POST-ACCIDENT LIFELINES.—The plan shall provide for the use of flame-resistant directional lifelines or equivalent systems in escapeways to enable evacuation. The flame-resistance requirement of this clause shall apply upon the replacement of existing lifelines, or, in the case of lifelines in working sections, upon the earlier of the replacement of such lifelines or 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

Applicability.

"(v) TRAINING.—The plan shall provide a training program for emergency procedures described in the plan which will not diminish the requirements for mandatory health and safety training currently required under section 115.

"(vi) LOCAL COORDINATION.—The plan shall set out procedures for coordination and communication between the operator, mine rescue teams, and local emergency response personnel and make provisions for familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.

"(F) PLAN CONTENT-SPECIFIC REQUIREMENTS.—

"(i) IN GENERAL.—In addition to the content requirements contained in subparagraph (E), and subject to the considerations contained in subparagraph (C), the Secretary may make additional plan requirements with respect to any of the content matters.

"(ii) POST ACCIDENT COMMUNICATIONS.—Not later than 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, a plan shall, to be approved, provide for post accident communication between underground and surface personnel via a wireless two-way medium, and provide for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground or set forth within the plan the reasons such provisions can not be adopted. Where such plan sets forth the reasons such provisions can not be adopted, the plan shall also set forth the operator's alternative means of compliance. Such alternative shall approximate, as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system referred to in this subpart.

Deadline.

"(G) PLAN DISPUTE RESOLUTION.—

"(i) IN GENERAL.—Any dispute between the Secretary and an operator with respect to the content of the operator's plan or any refusal by the Secretary to approve such a plan shall be resolved on an expedited basis.

Citation.
Deadlines.

"(ii) DISPUTES.—In the event of a dispute or refusal described in clause (i), the Secretary shall issue a citation which shall be immediately referred to a Commission Administrative Law Judge. The Secretary and the operator shall submit all relevant material regarding the dispute to the Administrative Law Judge within 15 days of the date of the referral. The Administrative Law Judge shall render his or her decision with respect to the plan content dispute within 15 days of the receipt of the submission.

"(iii) FURTHER APPEALS.—A party adversely affected by a decision under clause (ii) may pursue all further available appeal rights with respect to the citation involved, except that inclusion of the disputed provision in the plan will not be limited by such appeal unless such relief is requested by the operator and permitted by the Administrative Law Judge.

"(H) MAINTAINING PROTECTIONS FOR MINERS.—Notwithstanding any other provision of this Act, nothing in this section, and no response and preparedness plan developed under this section, shall be approved if it reduces the protection afforded miners by an existing mandatory health or safety standard.".

**SEC. 3. INCIDENT COMMAND AND CONTROL.**

Title I of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 811 et seq.) is amended by adding at the end the following:

30 USC 826.

**"SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RESCUE OPERATIONS.**

"(a) IN GENERAL.—No person shall bring an action against any covered individual or his or her regular employer for property damage or an injury (or death) sustained as a result of carrying out activities relating to mine accident rescue or recovery operations. This subsection shall not apply where the action that is alleged to result in the property damages or injury (or death) was the result of gross negligence, reckless conduct, or illegal conduct or, where the regular employer (as such term is used in this Act) is the operator of the mine at which the rescue activity takes place. Nothing in this section shall be construed to preempt State workers' compensation laws.

"(b) COVERED INDIVIDUAL.—For purposes of subsection (a), the term 'covered individual' means an individual—

"(1) who is a member of a mine rescue team or who is otherwise a volunteer with respect to a mine accident; and

"(2) who is carrying out activities relating to mine accident rescue or recovery operations.

"(c) REGULAR EMPLOYER.—For purposes of subsection (a), the term 'regular employer' means the entity that is the covered employee's legal or statutory employer pursuant to applicable State law.".

**SEC. 4. MINE RESCUE TEAMS.**

Section 115(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 825(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2)(A) The Secretary shall issue regulations with regard to mine rescue teams which shall be finalized and in effect not later than 18 months after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

Regulations. Deadline.

"(B) Such regulations shall provide for the following:

"(i) That such regulations shall not be construed to waive operator training requirements applicable to existing mine rescue teams.

"(ii) That the Mine Safety and Health Administration shall establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams.

Certification.

"(iii)(I) That the operator of each underground coal mine with more than 36 employees—

"(aa) have an employee knowledgeable in mine emergency response who is employed at the mine on each shift at each underground mine; and

"(bb) make available two certified mine rescue teams whose members—

"(AA) are familiar with the operations of such coal mine;

"(BB) participate at least annually in two local mine rescue contests;

"(CC) participate at least annually in mine rescue training at the underground coal mine covered by the mine rescue team; and

"(DD) are available at the mine within one hour ground travel time from the mine rescue station.

"(II)(aa) For the purpose of complying with subclause (I), an operator shall employ one team that is either an individual mine site mine rescue team or a composite team as provided for in item (bb)(BB).

"(bb) The following options may be used by an operator to comply with the requirements of item (aa):

"(AA) An individual mine-site mine rescue team.

"(BB) A multi-employer composite team that is made up of team members who are knowledgeable about the operations and ventilation of the covered mines and who train on a semi-annual basis at the covered underground coal mine—

"(aaa) which provides coverage for multiple operators that have team members which include at least two active employees from each of the covered mines;

"(bbb) which provides coverage for multiple mines owned by the same operator which members include at least two active employees from each mine; or

"(ccc) which is a State-sponsored mine rescue team comprised of at least two active employees from each of the covered mines.

"(CC) A commercial mine rescue team provided by contract through a third-party vendor or mine rescue team provided by another coal company, if such team—

"(aaa) trains on a quarterly basis at covered underground coal mines;

"(bbb) is knowledgeable about the operations and ventilation of the covered mines; and

"(ccc) is comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.

"(DD) A State-sponsored team made up of State employees.

"(iv) That the operator of each underground coal mine with 36 or less employees shall—

"(I) have an employee on each shift who is knowledgeable in mine emergency responses; and

"(II) make available two certified mine rescue teams whose members—

"(aa) are familiar with the operations of such coal mine;

"(bb) participate at least annually in two local mine rescue contests;

"(cc) participate at least semi-annually in mine rescue training at the underground coal mine covered by the mine rescue team;

"(dd) are available at the mine within one hour ground travel time from the mine rescue station;

"(ee) are knowledgeable about the operations and ventilation of the covered mines; and

"(ff) are comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.".

**SEC. 5. PROMPT INCIDENT NOTIFICATION.**

(a) IN GENERAL.—Section 103(j) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 813(j)) is amended by inserting after the first sentence the following: "For purposes of the preceding sentence, the notification required shall be provided by the operator within 15 minutes of the time at which the operator realizes that the death of an individual at the mine, or an injury or entrapment of an individual at the mine which has a reasonable potential to cause death, has occurred.".

(b) PENALTY.—Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended—

(1) by striking "The operator" and inserting "(1) The operator"; and

(2) by adding at the end the following:

"(2) The operator of a coal or other mine who fails to provide timely notification to the Secretary as required under section 103(j) (relating to the 15 minute requirement) shall be assessed a civil penalty by the Secretary of not less than $5,000 and not more than $60,000.".

**SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.**

(a) GRANTS.—Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end the following:

"(h) OFFICE OF MINE SAFETY AND HEALTH.—

Establishment.

"(1) IN GENERAL.—There shall be permanently established within the Institute an Office of Mine Safety and Health which shall be administered by an Associate Director to be appointed by the Director.

"(2) PURPOSE.—The purpose of the Office is to enhance the development of new mine safety technology and technological applications and to expedite the commercial availability and implementation of such technology in mining environments.

"(3) FUNCTIONS.—In addition to all purposes and authorities provided for under this section, the Office of Mine Safety and Health shall be responsible for research, development, and testing of new technologies and equipment designed to enhance mine safety and health. To carry out such functions the Director of the Institute, acting through the Office, shall have the authority to—

"(A) award competitive grants to institutions and private entities to encourage the development and manufacture of mine safety equipment;

"(B) award contracts to educational institutions or private laboratories for the performance of product testing or related work with respect to new mine technology and equipment; and

"(C) establish an interagency working group as provided for in paragraph (5).

"(4) GRANT AUTHORITY.—To be eligible to receive a grant under the authority provided for under paragraph (3)(A), an entity or institution shall—

"(A) submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

"(B) include in the application under subparagraph (A), a description of the mine safety equipment to be developed and manufactured under the grant and a description of the reasons that such equipment would otherwise not be developed or manufactured, including reasons relating to the limited potential commercial market for such equipment.

"(5) INTERAGENCY WORKING GROUP.—

"(A) ESTABLISHMENT.—The Director of the Institute, in carrying out paragraph (3)(D) shall establish an interagency working group to share technology and technological research and developments that could be utilized to enhance mine safety and accident response.

"(B) MEMBERSHIP.—The working group under subparagraph (A) shall be chaired by the Associate Director of the Office who shall appoint the members of the working group, which may include representatives of other Federal agencies or departments as determined appropriate by the Associate Director.

"(C) DUTIES.—The working group under subparagraph (A) shall conduct an evaluation of research conducted by, and the technological developments of, agencies and departments who are represented on the working group that may have applicability to mine safety and accident response and make recommendations to the Director for the further development and eventual implementation of such technology.

"(6) ANNUAL REPORT.—Not later than 1 year after the establishment of the Office under this subsection, and annually thereafter, the Director of the Institute shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a report that, with respect to the year involved, describes the new mine safety technologies and equipment that have been studied, tested, and certified for use, and with respect to those instances of technologies and equipment that have been considered but not yet certified for use, the reasons therefore.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to enable the Institute and the Office of Mine Safety and Health to carry out this subsection.".

30 USC 801 note.

**SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS.**

The Secretary of Labor shall establish a policy that—

(1) requires the temporary assignment of an individual Department of Labor official to be a liaison between the Department and the families of victims of mine tragedies involving multiple deaths;

(2) requires the Mine Safety and Health Administration to be as responsive as possible to requests from the families of mine accident victims for information relating to mine accidents; and

(3) requires that in such accidents, that the Mine Safety and Health Administration shall serve as the primary communicator with the operator, miners' families, the press and the public.

**SEC. 8. PENALTIES.**

(a) IN GENERAL.—Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following:

"(2) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104 and section 107, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under paragraph (1) or section 105(c), shall, upon conviction, be punished by a fine of not more than $250,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than $500,000, or by imprisonment for not more than five years, or both.

"(3)(A) The minimum penalty for any citation or order issued under section 104(d)(1) shall be $2,000.

"(B) The minimum penalty for any order issued under section 104(d)(2) shall be $4,000.

"(4) Nothing in this subsection shall be construed to prevent an operator from obtaining a review, in accordance with section 106, of an order imposing a penalty described in this subsection. If a court, in making such review, sustains the order, the court

shall apply at least the minimum penalties required under this subsection."; and

(2) by adding at the end of subsection (b) the following: "Violations under this section that are deemed to be flagrant may be assessed a civil penalty of not more than $220,000. For purposes of the preceding sentence, the term 'flagrant' with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.".

(b) REGULATIONS.—Not later than December 30, 2006, the Secretary of Labor shall promulgate final regulations with respect to penalties.

**SEC. 9. FINE COLLECTIONS.**

Courts.
Deadline.
30 USC 820 note.

Section 108(a)(1)(A) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended by inserting before the comma, the following: ", or fails or refuses to comply with any order or decision, including a civil penalty assessment order, that is issued under this Act".

**SEC. 10. SEALING OF ABANDONED AREAS.**

Deadline.
Standards.
Sago Mine.
30 USC 811 note.

Not later than 18 months after the issuance by the Mine Safety and Health Administration of a final report on the Sago Mine accident or the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, whichever occurs earlier, the Secretary of Labor shall finalize mandatory heath and safety standards relating to the sealing of abandoned areas in underground coal mines. Such health and safety standards shall provide for an increase in the 20 psi standard currently set forth in section 75.335(a)(2) of title 30, Code of Federal Regulations.

**SEC. 11. TECHNICAL STUDY PANEL.**

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.) is amended by adding at the end the following:

**"SEC. 514. TECHNICAL STUDY PANEL.**

30 USC 963.

"(a) ESTABLISHMENT.—There is established a Technical Study Panel (referred to in this section as the 'Panel') which shall provide independent scientific and engineering review and recommendations with respect to the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

"(b) MEMBERSHIP.—The Panel shall be composed of—

"(1) two individuals to be appointed by the Secretary of Health and Human Services, in consultation with the Director of the National Institute for Occupational Safety and Health and the Associate Director of the Office of Mine Safety;

"(2) two individuals to be appointed by the Secretary of Labor, in consultation with the Assistant Secretary for Mine Safety and Health; and

"(3) two individuals, one to be appointed jointly by the majority leaders of the Senate and House of Representatives and one to be appointed jointly by the minority leader of the Senate and House of Representatives, each to be appointed

prior to the sine die adjournment of the second session of the 109th Congress.

"(c) QUALIFICATIONS.—Four of the six individuals appointed to the Panel under subsection (b) shall possess a masters or doctoral level degree in mining engineering or another scientific field demonstrably related to the subject of the report. No individual appointed to the Panel shall be an employee of any coal or other mine, or of any labor organization, or of any State or Federal agency primarily responsible for regulating the mining industry.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date on which all members of the Panel are appointed under subsection (b), the Panel shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

"(2) RESPONSE BY SECRETARY.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

"(e) COMPENSATION.—Members appointed to the Panel, while carrying out the duties of the Panel shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 208(c) of the Public Health Service Act.".

**SEC. 12. SCHOLARSHIPS.**

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.), as amended by section 11, is further amended by adding at the end the following:

30 USC 964.

**"SEC. 515. SCHOLARSHIPS.**

"(a) ESTABLISHMENT.—The Secretary of Education (referred to in this section as the 'Secretary'), in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall establish a program to provide scholarships to eligible individuals to increase the skilled workforce for both private sector coal mine operators and mine safety inspectors and other regulatory personnel for the Mine Safety and Health Administration.

"(b) FUNDAMENTAL SKILLS SCHOLARSHIPS.—

"(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in 2-year associate's degree programs at community colleges or other colleges and universities that focus on providing the fundamental skills and training that is of immediate use to a beginning coal miner.

"(2) SKILLS.—The skills described in paragraph (1) shall include basic math, basic health and safety, business principles, management and supervisory skills, skills related to electric

circuitry, skills related to heavy equipment operations, and skills related to communications.

"(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

"(A) have a high school diploma or a GED;

"(B) have at least 2 years experience in full-time employment in mining or mining-related activities;

"(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

"(D) demonstrate an interest in working in the field of mining and performing an internship with the Mine Safety and Health Administration or the National Institute for Occupational Safety and Health Office of Mine Safety.

"(c) MINE SAFETY INSPECTOR SCHOLARSHIPS.—

"(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor's degree programs at accredited colleges or universities that provide the skills needed to become mine safety inspectors.

"(2) SKILLS.—The skills described in paragraph (1) include skills developed through programs leading to a degree in mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

"(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

"(A) have a high school diploma or a GED;

"(B) have at least 5 years experience in full-time employment in mining or mining-related activities;

"(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

"(D) agree to be employed for a period of at least 5 years at the Mine Safety and Health Administration or, to repay, on a pro-rated basis, the funds received under this program, plus interest, at a rate established by the Secretary upon the issuance of the scholarship.

"(d) ADVANCED RESEARCH SCHOLARSHIPS.—

"(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarships to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor's degree, masters degree, and Ph.D. degree programs at accredited colleges or universities that provide the skills needed to augment and advance research in mine safety and to broaden, improve, and expand the universe of candidates for mine safety inspector and other regulatory positions in the Mine Safety and Health Administration.

"(2) SKILLS.—The skills described in paragraph (1) include skills developed through programs leading to a degree in mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety,

geology, chemistry, or other fields of study related to mine safety and health work.

"(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

"(A) have a bachelor's degree or equivalent from an accredited 4-year institution;

"(B) have at least 5 years experience in full-time employment in underground mining or mining-related activities; and

"(C) submit to the Secretary an application at such time, in such manner, and containing such information.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

**SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES.**

(a) IN GENERAL.—The National Institute of Occupational Safety and Health shall provide for the conduct of research, including field tests, concerning the utility, practicality, survivability, and cost of various refuge alternatives in an underground coal mine environment, including commercially-available portable refuge chambers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the National Institute for Occupational Safety and Health shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the results of the research conducted under subsection (a), including any field tests.

(2) RESPONSE BY SECRETARY.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

30 USC 965.

**SEC. 14. BROOKWOOD-SAGO MINE SAFETY GRANTS.**

(a) IN GENERAL.—The Secretary of Labor shall establish a program to award competitive grants for education and training, to be known as Brookwood-Sago Mine Safety Grants, to carry out the purposes of this section.

(b) PURPOSES.—It is the purpose of this section, to provide for the funding of education and training programs to better identify, avoid, and prevent unsafe working conditions in and around mines.

(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a public or private nonprofit entity; and

(2) submit to the Secretary of Labor an application at such time, in such manner, and containing such information as the Secretary may require.

(d) USE OF FUNDS.—Amounts received under a grant under this section shall be used to establish and implement education and training programs, or to develop training materials for employers and miners, concerning safety and health topics in mines, as determined appropriate by the Mine Safety and Health Administration.

(e) AWARDING OF GRANTS.—

(1) ANNUAL BASIS.—Grants under this section shall be awarded on an annual basis.

(2) SPECIAL EMPHASIS.—In awarding grants under this section, the Secretary of Labor shall give special emphasis to programs and materials that target workers in smaller mines, including training miners and employers about new Mine Safety and Health Administration standards, high risk activities, or hazards identified by such Administration.

(3) PRIORITY.—In awarding grants under this section, the Secretary of Labor shall give priority to the funding of pilot and demonstration projects that the Secretary determines will provide opportunities for broad applicability for mine safety.

(f) EVALUATION.—The Secretary of Labor shall use not less than 1 percent of the funds made available to carry out this section in a fiscal year to conduct evaluations of the projects funded under grants under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year, such sums as may be necessary to carry out this section.

Approved June 15, 2006.

LEGISLATIVE HISTORY—S. 2803:

SENATE REPORTS: No. 109–365 (Comm. on Health, Education, Labor, and Penions).

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 24, considered and passed Senate.
June 7, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
June 15, Presidential remarks.

# Public Law 109–237
# 109th Congress

## An Act

June 23, 2006
[S. 1445]

To designate the facility of the United States Postal Service located at 520 Colorado Avenue in Arriba, Colorado, as the "William H. Emery Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WILLIAM H. EMERY POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 520 Colorado Avenue in Arriba, Colorado, shall be known and designated as the "William H. Emery Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "William H. Emery Post Office".

Approved June 23, 2006.

LEGISLATIVE HISTORY—S. 1445:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 3, considered and passed Senate.
June 12, considered and passed House.

Public Law 109–238
109th Congress

# An Act

To temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

June 30, 2006
[H.R. 5603]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. SHORT TITLE.**

Second Higher Education Extension Act of 2006.
20 USC 1001 note.

This Act may be cited as the "Second Higher Education Extension Act of 2006".

**SEC. 2. EXTENSION OF PROGRAMS.**

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking "June 30, 2006" and inserting "September 30, 2006".

**SEC. 3. RULE OF CONSTRUCTION.**

20 USC 1001 note.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

Approved June 30, 2006.

---

LEGISLATIVE HISTORY—H.R. 5603:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 21, considered and passed House.
June 23, considered and passed Senate.

# Public Law 109–239
# 109th Congress

## An Act

July 3, 2006
[H.R. 5403]

To improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Safe and Timely Interstate Placement of Foster Children Act of 2006.
42 USC 1305 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Safe and Timely Interstate Placement of Foster Children Act of 2006".

**SEC. 2. SENSE OF THE CONGRESS.**

It is the sense of the Congress that—

(1) the States should expeditiously ratify the revised Interstate Compact for the Placement of Children recently promulgated by the American Public Human Services Association;

(2) this Act and the revised Interstate Compact for the Placement of Children should not apply to those seeking placement in a licensed residential facility primarily to access clinical mental heath services;

(3) the States should recognize and implement the deadlines for the completion and approval of home studies as provided in section 4 to move children more quickly into safe, permanent homes; and

(4) Federal policy should encourage the safe and expedited placement of children into safe, permanent homes across State lines.

**SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE PLACEMENT OF CHILDREN.**

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following:

Procedures.

"(25) provide that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph.".

**SEC. 4. HOME STUDIES.**

(a) ORDERLY PROCESS.—

(1) IN GENERAL.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is further amended—

(A) by striking "and" at the end of paragraph (24);

(B) by striking the period at the end of paragraph (25) and inserting "; and"; and

(C) by adding at the end the following:

"(26) provides that—

"(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract— Deadline. Contracts.

"(I) conduct and complete the study; and

"(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and Reports.

"(ii) in the case of a home study begun on or before September 30, 2008, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check, or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

"(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

"(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

"(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A).".

(2) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on—

(A) how frequently States need the extended 75-day period provided for in clause (ii) of section 471(a)(26)(A) of the Social Security Act in order to comply with clause (i) of such section;

(B) the reasons given for utilizing the extended compliance period;

(C) the extent to which utilizing the extended compliance period leads to the resolution of the circumstances beyond the control of the State; and

(D) the actions taken by States and any relevant Federal agencies to resolve the need for the extended compliance period.

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State should—

(A) use private agencies to conduct home studies when doing so is necessary to meet the requirements of section 471(a)(26) of the Social Security Act; and

(B) give full faith and credit to any home study report completed by any other State or an Indian tribe with respect to the placement of a child in foster care or for adoption.

(b) TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670–679b) is amended by inserting after section 473A the following:

42 USC 673c note.

**"SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.**

"(a) GRANT AUTHORITY.—The Secretary shall make a grant to each State that is a home study incentive-eligible State for a fiscal year in an amount equal to the timely interstate home study incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

"(b) HOME STUDY INCENTIVE-ELIGIBLE STATE.—A State is a home study incentive-eligible State for a fiscal year if—

"(1) the State has a plan approved under this part for the fiscal year;

"(2) the State is in compliance with subsection (c) for the fiscal year; and

"(3) based on data submitted and verified pursuant to subsection (c), the State has completed a timely interstate home study during the fiscal year.

"(c) DATA REQUIREMENTS.—

"(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary a written report, covering the preceding fiscal year, that specifies—

"(A) the total number of interstate home studies requested by the State with respect to children in foster care under the responsibility of the State, and with respect to each such study, the identity of the other State involved;

"(B) the total number of timely interstate home studies completed by the State with respect to children in foster care under the responsibility of other States, and with respect to each such study, the identity of the other State involved; and

"(C) such other information as the Secretary may require in order to determine whether the State is a home study incentive-eligible State.

"(2) VERIFICATION OF DATA.—In determining the number of timely interstate home studies to be attributed to a State under this section, the Secretary shall check the data provided

by the State under paragraph (1) against complementary data so provided by other States.

"(d) TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.—

"(1) IN GENERAL.—The timely interstate home study incentive payment payable to a State for a fiscal year shall be $1,500, multiplied by the number of timely interstate home studies attributed to the State under this section during the fiscal year, subject to paragraph (2).

"(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—If the total amount of timely interstate home study incentive payments otherwise payable under this section for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year (reduced (but not below zero) by the total of the amounts (if any) payable under paragraph (3) of this subsection with respect to the preceding fiscal year), the amount of each such otherwise payable incentive payment shall be reduced by a percentage equal to—

"(A) the total of the amounts so made available (as so reduced); divided by

"(B) the total of such otherwise payable incentive payments.

"(3) APPROPRIATIONS AVAILABLE FOR UNPAID INCENTIVE PAYMENTS FOR PRIOR FISCAL YEARS.—

"(A) IN GENERAL.—If payments under this section are reduced under paragraph (2) or subparagraph (B) of this paragraph for a fiscal year, then, before making any other payment under this section for the next fiscal year, the Secretary shall pay each State whose payment was so reduced an amount equal to the total amount of the reductions which applied to the State, subject to subparagraph (B) of this paragraph.

"(B) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—If the total amount of payments otherwise payable under subparagraph (A) of this paragraph for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year, the amount of each such payment shall be reduced by a percentage equal to—

"(i) the total of the amounts so made available; divided by

"(ii) the total of such otherwise payable payments.

"(e) TWO-YEAR AVAILABILITY OF INCENTIVE PAYMENTS.—Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the next fiscal year.

"(f) LIMITATIONS ON USE OF INCENTIVE PAYMENTS.—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

"(g) DEFINITIONS.—In this section:

"(1) HOME STUDY.—The term 'home study' means an evaluation of a home environment conducted in accordance

with applicable requirements of the State in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

"(2) INTERSTATE HOME STUDY.—The term 'interstate home study' means a home study conducted by a State at the request of another State, to facilitate an adoptive or foster placement in the State of a child in foster care under the responsibility of the State.

Deadline. Reports.

"(3) TIMELY INTERSTATE HOME STUDY.—The term 'timely interstate home study' means an interstate home study completed by a State if the State provides to the State that requested the study, within 30 days after receipt of the request, a report on the results of the study. The preceding sentence shall not be construed to require the State to have completed, within the 30-day period, the parts of the home study involving the education and training of the prospective foster or adoptive parents.

"(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For payments under this section, there are authorized to be appropriated to the Secretary—

"(A) $10,000,000 for fiscal year 2007;

"(B) $10,000,000 for fiscal year 2008;

"(C) $10,000,000 for fiscal year 2009; and

"(D) $10,000,000 for fiscal year 2010.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.".

Effective date. 42 USC 673c and note.

(c) REPEALER.—Effective October 1, 2010, section 473B of the Social Security Act is repealed.

**SEC. 5. SENSE OF THE CONGRESS.**

It is the sense of the Congress that State agencies should fully cooperate with any court which has authority with respect to the placement of a child in foster care or for adoption, for the purpose of locating a parent of the child, and such cooperation should include making available all information obtained from the Federal Parent Locator Service.

**SEC. 6. CASEWORKER VISITS.**

(a) PURCHASE OF SERVICES IN INTERSTATE PLACEMENT CASES.—Section 475(5)(A)(ii) of the Social Security Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking "or of the State in which the child has been placed" and inserting "of the State in which the child has been placed, or of a private agency under contract with either such State".

(b) INCREASED VISITS.—Section 475(5)(A)(ii) of such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking "12" and inserting "6".

**SEC. 7. HEALTH AND EDUCATION RECORDS.**

Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)(C)—

(A) by striking "To the extent available and accessible, the" and inserting "The"; and

(B) by inserting "the most recent information available regarding" after "including"; and

(2) in paragraph (5)(D)—

(A) by inserting "a copy of the record is" before "supplied"; and

(B) by inserting ", and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law" before the semicolon.

**SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.**

(a) IN GENERAL.—Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended—

(1) by striking "an opportunity" and inserting "a right";

(2) by striking "and opportunity" and inserting "and right"; and

(3) by striking "review or hearing" each place it appears and inserting "proceeding".

(b) NOTICE OF PROCEEDING.—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting "shall have in effect a rule requiring State courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and" after "highest State court". 42 USC 629h.

**SEC. 9. COURT IMPROVEMENT.**

Section 438(a)(1) of the Social Security Act (42 U.S.C. 629h(a)(1)) is amended—

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

(2) by adding at the end the following:

"(E) that determine the best strategy to use to expedite the interstate placement of children, including—

"(i) requiring courts in different States to cooperate in the sharing of information;

"(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

"(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and".

**SEC. 10. REASONABLE EFFORTS.**

(a) IN GENERAL.—Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting "(including, if appropriate, through an interstate placement)" after "accordance with the permanency plan".

(b) PERMANENCY HEARING.—Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting ", which considers in-State and out-of-State permanent placement options for the child," before "shall".

(c) CONCURRENT PLANNING.—Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting ", including identifying appropriate in-State and out-of-State placements" before "may".

**SEC. 11. CASE PLANS.**

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting "to facilitate orderly and timely in-State and interstate placements" before the period.

**SEC. 12. CASE REVIEW SYSTEM.**

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C) is amended—

(1) by inserting ", in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options," after "living arrangement"; and

(2) by inserting "the hearing shall determine" before "whether the".

**SEC. 13. USE OF INTERJURISDICTIONAL RESOURCES.**

Section 422(b)(12) of the Social Security Act (42 U.S.C. 622(b)(12)) is amended—

(1) by striking "develop plans for the" and inserting "make";

(2) by inserting "(including through contracts for the purchase of services)" after "resources"; and

(3) by inserting ", and shall eliminate legal barriers," before "to facilitate".

42 USC 622 note.

**SEC. 14. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part B or E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by a provision of this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

Approved July 3, 2006.

LEGISLATIVE HISTORY—H.R. 5403:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 24, considered and passed House.
June 23, considered and passed Senate.

# Public Law 109–240
# 109th Congress

## An Act

To amend section 242 of the National Housing Act to extend the exemption for critical access hospitals under the FHA program for mortgage insurance for hospitals.

July 10, 2006
[H.R. 4912]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Rural Health Care Capital Access Act of 2006.
12 USC 1701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rural Health Care Capital Access Act of 2006".

**SEC. 2. EXTENSION.**

Paragraph (1) of section 242(i) of the National Housing Act (12 U.S.C. 1715z–7(i)(1)) is amended by striking "July 31, 2006" and inserting "July 31, 2011".

Approved July 10, 2006.

---

LEGISLATIVE HISTORY—H.R. 4912:

HOUSE REPORTS: No. 109–424 (Comm. on Financial Services).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 9, considered and passed House.
June 28, considered and passed Senate.

# Public Law 109–241
# 109th Congress

## An Act

July 11, 2006
[H.R. 889]

To authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Coast Guard and Maritime Transportation Act of 2006.
14 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Coast Guard and Maritime Transportation Act of 2006".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
Sec. 103. Supplemental authorization of appropriations.
Sec. 104. Web-based risk management data system.

TITLE II—COAST GUARD

Sec. 201. Extension of Coast Guard vessel anchorage and movement authority.
Sec. 202. International training and technical assistance.
Sec. 203. Officer promotion.
Sec. 204. Coast Guard band director.
Sec. 205. Authority for one-step turnkey design-build contracting.
Sec. 206. Reserve recall authority.
Sec. 207. Reserve officer distribution.
Sec. 208. Expansion of use of auxiliary equipment to support Coast Guard missions.
Sec. 209. Coast Guard history fellowships.
Sec. 210. Icebreakers.
Sec. 211. Operation as a service in the Navy.
Sec. 212. Limitation on moving assets to St. Elizabeth's Hospital.
Sec. 213. Cooperative agreements.
Sec. 214. Biodiesel feasibility study.
Sec. 215. Boating safety director.
Sec. 216. Hangar at Coast Guard Air Station Barbers Point.
Sec. 217. Promotion of Coast Guard officers.
Sec. 218. Redesignation of Coast Guard law specialists as judge advocates.

TITLE III—SHIPPING AND NAVIGATION

Sec. 301. Treatment of ferries as passenger vessels.
Sec. 302. Great Lakes pilotage annual ratemaking.
Sec. 303. Certification of vessel nationality in drug smuggling cases.
Sec. 304. LNG tankers.
Sec. 305. Use of maritime safety and security teams.
Sec. 306. Enhanced civil penalties for violations of provisions enacted by the Coast Guard and Maritime Transportation Act of 2004.

Sec. 307. Training of cadets at United States Merchant Marine Academy.
Sec. 308. Reports from mortgagees of vessels.
Sec. 309. Determination of the Secretary.
Sec. 310. Setting, relocating, and recovering anchors.
Sec. 311. International tonnage measurement of vessels engaged in the Aleutian trade.
Sec. 312. Riding gangs.

TITLE IV—MISCELLANEOUS

Sec. 401. Authorization of junior reserve officers training program pilot program.
Sec. 402. Transfer.
Sec. 403. LORAN–C.
Sec. 404. Long-range vessel tracking system.
Sec. 405. Marine vessel and cold water safety education.
Sec. 406. Reports.
Sec. 407. Conveyance of decommissioned Coast Guard Cutter MACKINAW.
Sec. 408. Deepwater reports.
Sec. 409. Helicopters.
Sec. 410. Newtown Creek, New York City, New York.
Sec. 411. Report on technology.
Sec. 412. Assessment and planning.
Sec. 413. Homeport.
Sec. 414. Navigational safety of certain facilities.
Sec. 415. Port Richmond.
Sec. 416. Western Alaska community development quota program.
Sec. 417. Quota share allocation.
Sec. 418. Maine fish tender vessels.
Sec. 419. Automatic identification system.
Sec. 420. Voyage data recorder study and report.
Sec. 421. Distant water tuna fleet.

TITLE V—LIGHTHOUSES

Sec. 501. Transfer.
Sec. 502. Misty Fiords National Monument and Wilderness.
Sec. 503. Miscellaneous Light Stations.
Sec. 504. Inclusion of lighthouse in St. Marks National Wildlife Refuge, Florida.

TITLE VI—DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

Sec. 601. Short title.
Sec. 602. Requirement to notify Coast Guard of release of objects into the navigable waters of the United States.
Sec. 603. Limits on liability.
Sec. 604. Requirement to update Philadelphia Area Contingency Plan.
Sec. 605. Submerged oil removal.
Sec. 606. Assessment of oil spill costs.
Sec. 607. Delaware River and Bay Oil Spill Advisory Committee.
Sec. 608. Nontank vessels.

TITLE VII—HURRICANE RESPONSE

Sec. 701. Homeowners assistance for Coast Guard personnel affected by Hurricanes Katrina or Rita.
Sec. 702. Temporary authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents.
Sec. 703. Temporary authorization to extend the duration of vessel certificates of inspection.
Sec. 704. Preservation of leave lost due to Hurricane Katrina operations.
Sec. 705. Reports on impact to Coast Guard.
Sec. 706. Reports on impacts on navigable waterways.

TITLE VIII—OCEAN COMMISSION RECOMMENDATIONS

Sec. 801. Implementation of international agreements.
Sec. 802. Voluntary measures for reducing pollution from recreational boats.
Sec. 803. Integration of vessel monitoring system data.
Sec. 804. Foreign fishing incursions.

TITLE IX—TECHNICAL CORRECTIONS

Sec. 901. Miscellaneous technical corrections.
Sec. 902. Correction of references to Secretary of Transportation and Department of Transportation; related matters.

# TITLE I—AUTHORIZATION

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are authorized to be appropriated for fiscal year 2006 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $5,633,900,000, of which $24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,903,821,000, of which—

(A) $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended;

(B) $1,316,300,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems; and

(C) $284,369,000 is authorized for sustainment of legacy vessels and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems.

(3) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $24,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $38,400,000.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), $12,000,000, to remain available until expended.

(7) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services, $119,000,000.

**SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

(a) ACTIVE-DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active-duty personnel of 45,500 for the fiscal year ending on September 30, 2006.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 2006, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

**SEC. 103. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts provided to the Coast Guard from another Federal agency for reimbursement of expenditures for Hurricane Katrina, there are authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating the following amounts for nonreimbursed expenditures:

(1) For the operation and maintenance of the Coast Guard in responding to Hurricane Katrina, including search and rescue efforts, clearing channels, and emergency response to oil and chemical spills, and for increased costs of operation and maintenance of the Coast Guard due to higher than expected fuel costs, $300,000,000.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore and offshore facilities, and vessels and aircraft, including equipment related thereto, related to damage caused by Hurricane Katrina, $200,000,000.

(b) CONSTRUCTION WITH OTHER FUNDING.—The amounts authorized to be appropriated by subsection (a) are in addition to any other amounts authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating under any other provision of law.

(c) AVAILABILITY.—The amounts made available under subsection (a) shall remain available until expended.

**SEC. 104. WEB-BASED RISK MANAGEMENT DATA SYSTEM.**

There is authorized to be appropriated for each of fiscal years 2006 and 2007 to the Secretary of the department in which the Coast Guard is operating $1,000,000 to continue deployment of a World Wide Web-based risk management system to help reduce accidents and fatalities.

# TITLE II—COAST GUARD

**SEC. 201. EXTENSION OF COAST GUARD VESSEL ANCHORAGE AND MOVEMENT AUTHORITY.**

Section 91 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) As used in this section 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.".

**SEC. 202. INTERNATIONAL TRAINING AND TECHNICAL ASSISTANCE.**

(a) IN GENERAL.—Section 149 of title 14, United States Code, is amended—

(1) by amending the section heading to read as follows:

**"§ 149. Assistance to foreign governments and maritime authorities"**;

(2) by inserting before the undesignated text the following:

"(a) DETAIL OF MEMBERS TO ASSIST FOREIGN GOVERNMENTS.—"; and

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

"(b) TECHNICAL ASSISTANCE TO FOREIGN MARITIME AUTHORITIES.—The Commandant, in coordination with the Secretary of State, may provide, in conjunction with regular Coast Guard operations, technical assistance (including law enforcement and maritime safety and security training) to foreign navies, coast guards, and other maritime authorities.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the analysis at the beginning of chapter 7 of such title is amended to read as follows:

"149. Assistance to foreign governments and maritime authorities".

**SEC. 203. OFFICER PROMOTION.**

Section 257 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(f) The Secretary may waive subsection (a) to the extent necessary to allow officers described therein to have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.".

**SEC. 204. COAST GUARD BAND DIRECTOR.**

(a) BAND DIRECTOR APPOINTMENT AND GRADE.—Section 336 of title 14, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first sentence and inserting the following: "The Secretary may designate as the director any individual determined by the Secretary to possess the necessary qualifications."; and

(B) in the second sentence, by striking "a member so designated" and inserting "an individual so designated";

(2) in subsection (c)—

(A) by striking "of a member" and inserting "of an individual"; and

(B) by striking "of lieutenant (junior grade) or lieutenant" and inserting "determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual";

(3) in subsection (d) by striking "A member" and inserting "An individual"; and

(4) in subsection (e)—

(A) by striking "When a member's designation is revoked," and inserting "When an individual's designation is revoked,"; and

(B) by striking "option:" and inserting "option—".

14 USC 336 note.

(b) CURRENT DIRECTOR.—The individual serving as Coast Guard band director on the date of enactment of this Act may be immediately promoted to a commissioned grade, not to exceed captain,

determined by the Secretary of the department in which the Coast Guard is operating to be most appropriate to the qualifications and experience of that individual.

**SEC. 205. AUTHORITY FOR ONE-STEP TURNKEY DESIGN-BUILD CONTRACTING.**

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

**"§ 677. Turnkey selection procedures**

"(a) AUTHORITY TO USE.—The Secretary may use one-step turnkey selection procedures for the purpose of entering into contracts for construction projects.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) The term 'one-step turnkey selection procedures' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary.

"(2) The term 'construction' includes the construction, procurement, development, conversion, or extension of any facility.

"(3) The term 'facility' means a building, structure, or other improvement to real property.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of such chapter is amended by inserting after the item relating to section 676 the following:

"677. Turnkey selection procedures".

**SEC. 206. RESERVE RECALL AUTHORITY.**

Section 712 of title 14, United States Code, is amended—

(1) in subsection (a) by striking "during a" and inserting "during a, or to aid in prevention of an imminent,";

(2) in subsection (a) by striking "or catastrophe," and inserting "catastrophe, act of terrorism (as defined in section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))), or transportation security incident as defined in section 70101 of title 46,";

(3) in subsection (a) by striking "thirty days in any four-month period" and inserting "60 days in any 4-month period";

(4) in subsection (a) by striking "sixty days in any two-year period" and inserting "120 days in any 2-year period"; and

(5) by adding at the end the following:

"(e) For purposes of calculating the duration of active duty allowed pursuant to subsection (a), each period of active duty shall begin on the first day that a member reports to active duty, including for purposes of training.".

**SEC. 207. RESERVE OFFICER DISTRIBUTION.**

Section 724 of title 14, United States Code, is amended—

(1) in subsection (a) by inserting after the first sentence the following: "Reserve officers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve."; and

(2) in subsection (b) by striking all that precedes paragraph (2) and inserting the following:

Computation.

"(b)(1) The Secretary shall make, at least once each year, a computation to determine the number of Reserve officers in an active status authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving in an active status on the date the computation is made. The number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed by pay grade so as not to exceed percentages of commissioned officers authorized by section 42(b) of this title. When the actual number of Reserve officers in an active status in a particular pay grade is less than the maximum percentage authorized, the difference may be applied to the number in the next lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.".

**SEC. 208. EXPANSION OF USE OF AUXILIARY EQUIPMENT TO SUPPORT COAST GUARD MISSIONS.**

(a) USE OF MOTORIZED VEHICLES.—Section 826 of title 14, United States Code, is amended—

(1) by inserting before the undesignated text the following:

"(a) MOTOR BOATS, YACHTS, AIRCRAFT, AND RADIO STATIONS.—"; and

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

"(b) MOTOR VEHICLES.—The Coast Guard may utilize to carry out its functions and duties as authorized by the Secretary any motor vehicle (as defined in section 154 of title 23, United States Code) placed at its disposition by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof, to tow Federal Government property.".

(b) APPROPRIATIONS FOR FACILITIES.—Section 830(a) of such title is amended by striking "or radio station" each place it appears and inserting "radio station, or motorized vehicle utilized under section 826(b)".

**SEC. 209. COAST GUARD HISTORY FELLOWSHIPS.**

(a) FELLOWSHIPS AUTHORIZED.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following:

### "§ 198. Coast Guard history fellowships

"(a) FELLOWSHIPS.—The Commandant of the Coast Guard may prescribe regulations under which the Commandant may award fellowships in Coast Guard history to individuals who are eligible under subsection (b).

"(b) ELIGIBLE INDIVIDUALS.—An individual shall be eligible under this subsection if the individual is a citizen or national of the United States and—

"(1) is a graduate student in United States history;

"(2) has completed all requirements for a doctoral degree other than preparation of a dissertation; and

"(3) agrees to prepare a dissertation in a subject area of Coast Guard history determined by the Commandant.

"(c) LIMITATIONS.—The Commandant may award up to 2 fellowships annually. The Commandant may not award any fellowship under this section that exceeds $25,000 in any year.

"(d) REGULATIONS.—The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients of fellowships;

"(3) the basis for determining the amount of a fellowship; and

"(4) subject to the availability of appropriations, the total amount that may be awarded as fellowships during an academic year.".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of such chapter is amended by adding at the end the following:

"198. Coast Guard history fellowships".

**SEC. 210. ICEBREAKERS.**

14 USC 93 note.

Deadline.

(a) OPERATION AND MAINTENANCE PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan—

(1) for operation and maintenance after fiscal year 2006 of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY, that does not rely on the transfer of funds to the Coast Guard by any other Federal agency; and

(2) for the long-term recapitalization of these assets.

(b) NECESSARY MEASURES.—The Secretary shall take all necessary measures to ensure that the Coast Guard maintains, at a minimum, its current vessel capacity for carrying out ice breaking in the Arctic and Antarctic, Great Lakes, and New England regions, including the necessary funding for operation and maintenance of such vessels, until it has implemented the long-term recapitalization of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY in accordance with the plan submitted under subsection (a).

(c) REIMBURSEMENT.—Nothing in this section shall preclude the Secretary from seeking reimbursement for operation and maintenance costs of such polar icebreakers from other Federal agencies and entities, including foreign countries, that benefit from the use of the icebreakers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 2006 to the Secretary of the department in which the Coast Guard is operating $100,000,000 to carry out this section with respect to the polar icebreakers referred to in subsection (a).

**SEC. 211. OPERATION AS A SERVICE IN THE NAVY.**

Section 3 of title 14, United States Code, is amended by inserting "if Congress so directs in the declaration" after "Upon the declaration of war".

**SEC. 212. LIMITATION ON MOVING ASSETS TO ST. ELIZABETH'S HOSPITAL.**

The Commandant of the Coast Guard may not move any Coast Guard personnel, property, or other assets to the West Campus

of St. Elizabeth's Hospital until the Administrator of General Services submits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a plan—

(1) to provide road access to the site from Interstate Route 295;

(2) for the design of facilities for at least one Federal agency other than the Coast Guard that would house no fewer than 2,000 employees at such location;

(3) to provide transportation of employees and visitors to and from sites in the District of Columbia metropolitan area that are located within close proximity to St. Elizabeth's Hospital;

(4) for the construction, facade, and layout of the proposed structures, including security considerations, parking facilities, medical facilities, dining facilities, and physical exercise facilities on the West Campus;

(5) that analyzes the costs of building restrictions, planning considerations, and permitting requirements of constructing new facilities on or near historic landmarks and historic buildings (especially those known to possess medical waste, lead paint, and asbestos);

(6) that analyzes the feasibility of relocating Coast Guard Headquarters—

(A) to the Department of Transportation Headquarters located at L'Enfant Plaza;

(B) to the Waterfront Mall Complex in Southwest District of Columbia; and

(C) to 3 alternative sites requiring either new construction or leasing of current facilities (other than those referred to in subparagraphs (A) and (B)) within the District of Columbia metropolitan area that accommodate the Coast Guard's minimum square footage requirements; and

(7) that analyzes how a potential move to the West Campus of St. Elizabeth's Hospital would impact—

(A) the Coast Guard's ability to access and cooperatively work with the Department of Homeland Security and the other Federal agencies of the Department; and

(B) plans under consideration for relocating all or parts of the headquarters of the Department of Homeland Security and other offices of the Department.

**SEC. 213. COOPERATIVE AGREEMENTS.**

Deadline. Reports.

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on opportunities for cost savings and operational efficiencies that can be achieved through and the feasibility of colocating Coast Guard assets and personnel at facilities of other armed forces throughout the United States. The report shall—

(1) identify opportunities for cooperative agreements with respect to siting of assets or operations that may be established between the Coast Guard and any of the other armed forces; and

(2) analyze anticipated costs and benefits, and operational impacts associated with each site and such agreements.

**SEC. 214. BIODIESEL FEASIBILITY STUDY.**

(a) STUDY.—The Secretary of the department in which the Coast Guard is operating shall conduct a study that examines the technical feasibility, costs, and potential cost savings of using biodiesel fuel in new and existing Coast Guard vehicles and vessels and that focuses on the use of biodiesel fuel in ports which have a high density of vessel traffic, including ports for which vessel traffic systems have been established.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report containing the findings, conclusions, and recommendations (if any) from the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 215. BOATING SAFETY DIRECTOR.**

(a) IN GENERAL.—Subchapter A of chapter 11 of title 14, United States Code, is amended by adding at the end the following:

**"§ 216. Director of Boating Safety Office**

"The initial appointment of the Director of the Boating Safety Office shall be in the grade of Captain.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 215 the following:

"216. Director of Boating Safety Office".

**SEC. 216. HANGAR AT COAST GUARD AIR STATION BARBERS POINT.**

Hawaii. Deadline.

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a proposal and cost analysis for constructing an enclosed hangar at Air Station Barbers Point, Hawaii. The proposal should ensure that the hangar has the capacity to shelter current aircraft assets and those projected to be located at the station over the next 20 years.

**SEC. 217. PROMOTION OF COAST GUARD OFFICERS.**

(a) IN GENERAL.—Section 211(a) of title 14, United States Code, is amended to read as follows:

"(a)(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualification, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

"(A) Graduates of the Coast Guard Academy.

"(B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.

"(C) Members of the Coast Guard Reserve who have served at least 2 years as such.

"(D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

President.
Congress.

"(2) Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

"(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.".

(b) WARTIME TEMPORARY SERVICE PROMOTION.—Section 275(f) of such title is amended by striking the second and third sentences and inserting "Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.".

**SEC. 218. REDESIGNATION OF COAST GUARD LAW SPECIALISTS AS JUDGE ADVOCATES.**

(a) DEFINITIONS IN TITLE 10.—Section 801 of title 10, United States Code, is amended—

(1) by striking paragraph (11); and

(2) in paragraph (13) by striking subparagraph (C) and inserting the following:

"(C) a commissioned officer of the Coast Guard designated for special duty (law).".

(b) CONFORMING AMENDMENTS.—

(1) TITLE 14.—Section 727 of title 14, United States Code, is amended by striking "law specialist" and inserting "judge advocate".

(2) SOCIAL SECURITY ACT.—Section 465(a)(2) of the Social Security Act (42 U.S.C. 665(a)(2)) is amended by striking "law specialist" and inserting "judge advocate".

# TITLE III—SHIPPING AND NAVIGATION

**SEC. 301. TREATMENT OF FERRIES AS PASSENGER VESSELS.**

(a) FERRY DEFINED.—Section 2101 of title 46, United States Code, is amended by inserting after paragraph (10a) the following:

"(10b) 'ferry' means a vessel that is used on a regular schedule—

"(A) to provide transportation only between places that are not more than 300 miles apart; and

"(B) to transport only—

"(i) passengers; or

"(ii) vehicles, or railroad cars, that are being used, or have been used, in transporting passengers or goods.".

(b) PASSENGER VESSELS THAT ARE FERRIES.—Section 2101(22) of title 46, United States Code, is amended—

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

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

(3) by adding at the end the following:

"(D) that is a ferry carrying a passenger.".

(c) SMALL PASSENGER VESSELS THAT ARE FERRIES.—Section 2101(35) of title 46, United States Code, is amended—

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

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

(3) by adding at the end the following:

"(E) that is a ferry carrying more than 6 passengers.".

**SEC. 302. GREAT LAKES PILOTAGE ANNUAL RATEMAKING.**

Section 9303 of title 46, United States Code, is amended—

(1) in subsection (f) by inserting at the end the following: "The Secretary shall establish new pilotage rates by March 1 of each year. The Secretary shall establish base pilotage rates by a full ratemaking at least once every 5 years and shall conduct annual reviews of such base pilotage rates, and make adjustments to such base rates, in each intervening year."; and

Deadlines.

(2) by adding at the end the following:

"(g) The Secretary shall ensure that a sufficient number of individuals are assigned to carrying out subsection (f).".

**SEC. 303. CERTIFICATION OF VESSEL NATIONALITY IN DRUG SMUGGLING CASES.**

Section 3(c)(2) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)(2)) is amended by striking the last two sentences and inserting the following: "The response of a foreign nation to a claim of registry under subparagraph (A) or (C) may be made by radio, telephone, or similar oral or electronic means, and is conclusively proved by certification of the Secretary of State or the Secretary's designee.".

**SEC. 304. LNG TANKERS.**

(a) PROGRAM.—The Secretary of Transportation shall develop and implement a program to promote the transportation of liquefied natural gas to the United States on United States flag vessels.

33 USC 1503 note.

(b) AMENDMENT TO DEEPWATER PORT ACT.—Section 4 of the Deepwater Port Act of 1974 (33 U.S.C. 1503) is amended by adding at the end the following:

"(i) To promote the security of the United States, the Secretary shall give top priority to the processing of a license under this Act for liquefied natural gas facilities that will be supplied with liquefied natural gas by United States flag vessels.".

(c) PUBLIC NOTICE OF LNG VESSEL'S REGISTRY AND CREW.—

(1) PLAN SUBMITTED WITH APPLICATION FOR DEEPWATER PORT LICENSE.—Section 5(c)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)) is amended—

(A) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

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

"(K) the nation of registry for, and the nationality or citizenship of officers and crew serving on board, vessels transporting natural gas that are reasonably anticipated to be servicing the deepwater port;".

(2) INFORMATION TO BE PROVIDED.—When the Coast Guard is operating as a contributing agency in the Federal Energy Regulatory Commission's shoreside licensing process for a liquefied natural gas or liquefied petroleum gas terminal located on shore or within State seaward boundaries, the Coast Guard shall provide to the Commission the information described in section 5(c)(2)(K) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)(K)) with respect to vessels reasonably anticipated to be servicing that port.

33 USC 1504 note.

Deadline.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report on the implementation of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 305. USE OF MARITIME SAFETY AND SECURITY TEAMS.**

Section 70106(b)(8) of title 46, United States Code, is amended by striking "other security missions" and inserting "any other missions of the Coast Guard".

**SEC. 306. ENHANCED CIVIL PENALTIES FOR VIOLATIONS OF PROVISIONS ENACTED BY THE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004.**

(a) CONTINUING VIOLATIONS.—The section enumerated 70119 of title 46, United States Code, as redesignated and transferred by section 802(a)(1) of the Coast Guard and Maritime Transportation Security Act of 2004 (118 Stat. 1078), relating to civil penalty, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Any";

(2) by striking "violation." and inserting "day during which the violation continues."; and

(3) by adding at the end the following:

"(b) CONTINUING VIOLATIONS.—The maximum amount of a civil penalty for a violation under this section shall not exceed $50,000.".

(b) APPLICATION OF CIVIL PENALTY PROCEDURES.—Section 2107 of title 46, United States Code, is amended by striking "this subtitle" each place it appears and inserting "this subtitle or subtitle VII".

**SEC. 307. TRAINING OF CADETS AT UNITED STATES MERCHANT MARINE ACADEMY.**

Section 1303(f) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(f)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) on any other vessel considered by the Secretary to be necessary or appropriate or in the national interest.".

**SEC. 308. REPORTS FROM MORTGAGEES OF VESSELS.**

Section 12120 of title 46, United States Code, is amended by striking "owners, masters, and charterers" and inserting "owners, masters, charterers, and mortgagees".

**SEC. 309. DETERMINATION OF THE SECRETARY.**

Section 70105(c) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) DENIAL OF WAIVER REVIEW.—

"(A) IN GENERAL.—The Secretary shall establish a review process before an administrative law judge for individuals denied a waiver under paragraph (2).

"(B) SCOPE OF REVIEW.—In conducting a review under the process established pursuant to subparagraph (A), the

administrative law judge shall be governed by the standards of section 706 of title 5. The substantial evidence standard in section 706(2)(E) of title 5 shall apply whether or not there has been an agency hearing. The judge shall review all facts on the record of the agency.

Applicability.

"(C) CLASSIFIED EVIDENCE.—The Secretary, in consultation with the National Intelligence Director, shall issue regulations to establish procedures by which the Secretary, as part of a review conducted under this paragraph, may provide to the individual adversely affected by the determination an unclassified summary of classified evidence upon which the denial of a waiver by the Secretary was based.

Regulations. Procedures.

"(D) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

"(i) REVIEW.—As part of a review conducted under this section, if the decision of the Secretary was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

"(ii) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Secretary, in coordination (as necessary) with the heads of other affected departments or agencies, shall ensure that administrative law judges reviewing negative waiver decisions of the Secretary under this paragraph possess security clearances appropriate for such review.

"(iii) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a review conducted under this paragraph and upon the request of the individual adversely affected by the decision of the Secretary not to grant a waiver, the Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under clause (i), an unclassified summary of any classified information upon which the decision of the Secretary was based.

"(E) NEW EVIDENCE.—The Secretary shall establish a process under which an individual may submit a new request for a waiver, notwithstanding confirmation by the administrative law judge of the Secretary's initial denial of the waiver, if the request is supported by substantial evidence that was not available to the Secretary at the time the initial waiver request was denied.".

**SEC. 310. SETTING, RELOCATING, AND RECOVERING ANCHORS.**

Section 12105 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) Only a vessel for which a certificate of documentation with a registry endorsement is issued may engage in—

"(A) the setting, relocation, or recovery of the anchors or other mooring equipment of a mobile offshore drilling unit that is located over the outer Continental Shelf (as defined

in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))); or

"(B) the transportation of merchandise or personnel to or from a point in the United States from or to a mobile offshore drilling unit located over the outer Continental Shelf that is not attached to the seabed.

"(2) Nothing in paragraph (1) authorizes the employment in the coastwise trade of a vessel that does not meet the requirements of section 12106 of this title.".

**SEC. 311. INTERNATIONAL TONNAGE MEASUREMENT OF VESSELS ENGAGED IN THE ALEUTIAN TRADE.**

(a) GENERAL INSPECTION EXEMPTION.—Section 3302(c)(2) of title 46, United States Code, is amended to read as follows:

"(2) Except as provided in paragraphs (3) and (4) of this subsection, the following fish tender vessels are exempt from section 3301(1), (6), (7), (11), and (12) of this title:

"(A) A vessel of not more than 500 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

"(B) A vessel engaged in the Aleutian trade that is not more than 2,500 gross tons as measured under section 14302 of this title.".

(b) OTHER INSPECTION EXEMPTION AND WATCH REQUIREMENT.—Paragraphs (3)(B) and (4) of section 3302(c) of title 46, United States Code, and section 8104(o) of that title are each amended by striking "or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" and inserting "or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title".

**SEC. 312. RIDING GANGS.**

(a) IN GENERAL.—Chapter 81 of title 46, United States Code, is amended by adding at the end the following:

**"§ 8106. Riding gangs**

"(a) IN GENERAL.—The owner or managing operator of a freight vessel of the United States on voyages covered by the International Convention for Safety of Life at Sea, 1974 (32 UST 47m) shall—

"(1) ensure that—

"(A) subject to subsection (d), each riding gang member on the vessel—

"(i) is a United States citizen or an alien lawfully admitted to the United States for permanent residence; or

"(ii) possesses a United States nonimmigrant visa for individuals desiring to enter the United States temporarily for business, employment-related and personal identifying information, and any other documentation required by the Secretary;

"(B) all required documentation for such member is kept on the vessel and available for inspection by the Secretary; and

"(C) each riding gang member is identified on the vessel's crew list;

"(2) ensure that—

"(A) the owner or managing operator attests in a certificate that the background of each riding gang member has been examined and found to be free of any credible information indicating a material risk to the security of the vessel, the vessel's cargo, the ports the vessel visits, or other individuals onboard the vessel;

"(B) the background check consisted of a search of all information reasonably available to the owner or managing operator in the riding gang member's country of citizenship and any other country in which the riding gang member works, receives employment referrals, or resides;

"(C) the certificate required under subparagraph (A) is kept on the vessel and available for inspection by the Secretary; and

"(D) the information derived from any such background check is made available to the Secretary upon request;

"(3) ensure that each riding gang member, while on board the vessel, is subject to the same random chemical testing and reporting regimes as crew members;

"(4) ensure that each such riding gang member receives basic safety familiarization and basic safety training approved by the Coast Guard as satisfying the requirements for such training under the International Convention of Training, Certification, and Watchkeeping for Seafarers, 1978;

"(5) prevent from boarding the vessel, or cause the removal from the vessel at the first available port, and disqualify from future service on board any other vessel owned or operated by that owner or operator, any riding gang member—

"(A) who has been convicted in any jurisdiction of an offense described in paragraph (2) or (3) of section 7703;

"(B) whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under section 7704; or

"(C) who otherwise constitutes a threat to the safety of the vessel;

"(6) ensure and certify to the Secretary that the sum of—

"(A) the number of riding gang members on board a freight vessel, and

"(B) the number of individuals in addition to crew permitted under section 3304,

does not exceed 12;

"(7) ensure that every riding gang member is employed on board the vessel under conditions that meet or exceed the minimum international standards of all applicable international labor conventions to which the United States is a party, including all of the merchant seamen protection and relief provided under United States law; and

"(8) ensure that each riding gang member—

"(A) is supervised by an individual who holds a license issued under chapter 71; and

"(B) only performs work in conjunction with individuals who hold merchant mariners documents issued under chapter 73 and who are part of the vessel's crew.

"(b) PERMITTED WORK.—Subject to subsection (f), a riding gang member on board a vessel to which subsection (a) applies who is neither a United States citizen nor an alien lawfully admitted

to the United States for permanent residence may not perform any work on board the vessel other than—

"(1) work in preparation of a vessel entering a shipyard located outside of the United States;

"(2) completion of the residual repairs after departing a shipyard located outside of the United States; or

"(3) technical in-voyage repairs, in excess of any repairs that can be performed by the vessel's crew, in order to advance the vessel's useful life without having to actually enter a shipyard.

"(c) WORKDAY LIMIT.—

"(1) IN GENERAL.—The maximum number of days in any calendar year that the owner or operator of a vessel to which subsection (a) applies may employ on board riding gang members who are neither United States citizens nor aliens lawfully admitted to the United States for permanent residence for work on board that vessel is 60 days. If the vessel is at sea on the 60th day, each riding gang member shall be discharged from the vessel at the next port of call reached by the vessel after the date on which the 60-workday limit is reached.

"(2) CALCULATION.—For the purpose of calculating the 60-workday limit under this subsection, each day worked by a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence shall be counted against the limitation.

"(d) EXCEPTIONS FOR WARRANTY WORK.—

"(1) IN GENERAL.—Subsections (b), (c), (e), and (f) do not apply to a riding gang member employed exclusively to perform, and who performs only, work that is—

"(A) customarily performed by original equipment manufacturers' technical representatives;

"(B) required by a manufacturer's warranty on specific machinery and equipment; or

"(C) required by a contractual guarantee or warranty on actual repairs performed in a shipyard located outside of the United States.

Applicability.

"(2) CITIZENSHIP REQUIREMENT.—Subsection (a)(1)(A) applies only to a riding gang member described in paragraph (1) who is on the vessel when it calls at a United States port.

"(e) RECORDKEEPING.—In addition to the requirements of subsection (a), the owner or managing operator of a vessel to which subsection (a) applies shall ensure that all information necessary to ensure compliance with this section, as determined by the Secretary, is entered into the vessel's official logbook required by chapter 113.

"(f) FAILURE TO EMPLOY QUALIFIED AVAILABLE U.S. CITIZENS OR RESIDENTS.—

"(1) IN GENERAL.—The owner or operator of a vessel to which subsection (a) applies may not employ a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence to perform work described in subsection (b) unless the owner or operator determines, in accordance with procedures established by the Secretary to carry out section 8103(b)(3)(C), that there is not a sufficient number of United States citizens or

individuals lawfully admitted to the United States for permanent residence who are qualified and available for the work for which the riding gang member is to be employed.

"(2) CIVIL PENALTY.—A violation of paragraph (1) is punishable by a civil penalty of not more than $10,000 for each day during which the violation continues.

"(3) CONTINUING VIOLATIONS.—The maximum amount of a civil penalty for a violation under this subsection shall not exceed—

"(A) $50,000 if the violation occurs in fiscal year 2006;

"(B) $75,000 if the violation occurs in fiscal year 2007; and

"(C) $100,000 if the violation occurs after fiscal year 2007.

"(4) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, the history of prior offenses, the ability to pay, and such other matters as justice may require.

"(5) COMPROMISE, MODIFICATION, AND REMITTAL.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.".

(b) RIDING GANG MEMBER DEFINED.—Section 2101 of such title is amended by inserting after paragraph (26) the following:

"(26a) 'riding gang member' means an individual who—

"(A) has not been issued a merchant mariner document under chapter 73;

"(B) does not perform—

"(i) watchstanding, automated engine room duty watch, or personnel safety functions; or

"(ii) cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go;

"(C) does not serve as part of the crew complement required under section 8101;

"(D) is not a member of the steward's department; and

"(E) is not a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.".

(c) CONFORMING AMENDMENTS.—

(1) CITIZENSHIP REQUIREMENT.—Section 8103 of such title is amended by adding at the end the following:

"(j) RIDING GANG MEMBER.—This section does not apply to an individual who is a riding gang member.".

(2) APPLICATION OF CHAPTER 103.—Section 10301(b) of such title is amended by striking "voyage." and inserting "voyage or to riding gang members.".

(d) CLERICAL AMENDMENT.—The analysis for chapter 81 of such title is amended by adding at the end the following:

"8106. Riding gangs".

# TITLE IV—MISCELLANEOUS

**SEC. 401. AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Camden County High School in Camden County, North Carolina.

(b) PROGRAM REQUIREMENTS.—The pilot program carried out by the Secretary under this section shall provide to students at Camden County High School—

(1) instruction in subject areas relating to operations of the Coast Guard; and

(2) training in skills which are useful and appropriate for a career in the Coast Guard.

(c) PROVISION OF ADDITIONAL SUPPORT.—To carry out the pilot program under this section, the Secretary may provide to Camden County High School—

(1) assistance in course development, instruction, and other support activities; and

(2) necessary and appropriate course materials, equipment, and uniforms.

(d) EMPLOYMENT OF RETIRED COAST GUARD PERSONNEL.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the Secretary may authorize the Camden County High School to employ, as administrators and instructors for the pilot program, retired Coast Guard and Coast Guard Reserve commissioned, warrant, and petty officers not on active duty who request that employment and who are approved by the Secretary and Camden County High School.

(2) AUTHORIZED PAY.—

(A) IN GENERAL.—Retired members employed under paragraph (1) of this subsection are entitled to receive their retired or retainer pay and an additional amount of not more than the difference between—

(i) the amount the individual would be paid as pay and allowance if the individual was considered to have been ordered to active duty during the period of employment; and

(ii) the amount of retired pay the individual is entitled to receive during that period.

(B) PAYMENT TO SCHOOL.—The Secretary shall pay to Camden County High School an amount equal to one half of the amount described in subparagraph (A), from funds appropriated for such purpose.

(C) NOT DUTY OR DUTY TRAINING.—Notwithstanding any other law, while employed under this subsection, an individual is not considered to be on active-duty or inactive-duty training.

**SEC. 402. TRANSFER.**

Section 602 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1050) is amended—

(1) in subsection (b)(2) by striking "to be conveyed" and all that follows through the period and inserting "to be conveyed to CAS Foundation, Inc. (a nonprofit corporation under the laws of the State of Indiana)."; and

(2) in subsection (c)(1)(A) by inserting "or, in the case of the vessel described in subsection (b)(2) only, for humanitarian purposes" before the semicolon at the end.

**SEC. 403. LORAN–C.**

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN–C system, for capital expenses related to LORAN–C navigation infrastructure, $25,000,000 for fiscal year 2006 and $25,000,000 for fiscal year 2007. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

**SEC. 404. LONG-RANGE VESSEL TRACKING SYSTEM.**

46 USC 70115 note.

(a) PILOT PROJECT.—The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, shall conduct a 3-year pilot program for long-range tracking of up to 2,000 vessels using satellite systems with a nonprofit maritime organization that has a demonstrated capability of operating a variety of satellite communications systems providing data to vessel tracking software and hardware that provides long-range vessel information to the Coast Guard to aid maritime security and response to maritime emergencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $4,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out subsection (a).

**SEC. 405. MARINE VESSEL AND COLD WATER SAFETY EDUCATION.**

14 USC 93 note.

The Coast Guard shall continue cooperative agreements and partnerships with organizations in effect on the date of enactment of this Act that provide marine vessel safety training and cold water immersion education and outreach programs for fishermen and children.

**SEC. 406. REPORTS.**

(a) ADEQUACY OF ASSETS.—

(1) REVIEW.—The Commandant of the Coast Guard shall review the adequacy of assets and facilities described in subsection (b) to carry out the Coast Guard's missions, including search and rescue, illegal drug and migrant interdiction, aids to navigation, ports, waterways and coastal security, marine environmental protection, and fisheries law enforcement.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes the findings of the review and any recommendations to enhance

mission capabilities in those areas referred to in paragraph (1).

(b) AREAS OF REVIEW.—The report under subsection (a) shall provide information and recommendations on the following assets:

(1) Coast Guard vessels and aircraft stationed in the Commonwealth of Puerto Rico.

(2) Coast Guard vessels and aircraft stationed in the State of Louisiana along the Lower Mississippi River between the Port of New Orleans and the Red River.

(3) Coast Guard vessels and aircraft stationed in Coast Guard Sector Delaware Bay.

(4) Physical infrastructure at Boat Station Cape May in the State of New Jersey.

(c) ADEQUACY OF ACTIVE-DUTY STRENGTH.—

(1) REVIEW.—The Commandant of the Coast Guard shall review the adequacy of the strength of active-duty personnel authorized under section 102(a) of this Act to carry out the Coast Guard's missions, including search and rescue, illegal drug and migrant interdiction, aids to navigation, ports, waterways, and coastal security, marine environmental protection, and fisheries law enforcement.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes the findings of the review.

**SEC. 407. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER MACKINAW.**

Icebreaker Mackinaw Maritime Museum, Inc.

(a) IN GENERAL.—Upon the scheduled decommissioning of the Coast Guard Cutter MACKINAW, the Commandant of the Coast Guard shall convey without consideration all right, title, and interest of the United States in and to that vessel to the Icebreaker Mackinaw Maritime Museum, Inc., located in the State of Michigan if—

(1) the recipient agrees—

(A) to use the vessel for purposes of a museum;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);

(2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in an amount of at least $700,000; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—

(1) MAINTENANCE.—Before conveyance of the vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) DELIVERY.—If a conveyance is made under this section, the Commandant shall deliver the vessel to a suitable mooring in the local area, in its present condition, no sooner than June 15, 2006, and not later than 30 days after the date on which the vessel is decommissioned.

(3) TREATMENT OF CONVEYANCE.—The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function for purposes of a museum.

**SEC. 408. DEEPWATER REPORTS.** 14 USC 663 note.

(a) ANNUAL DEEPWATER IMPLEMENTATION REPORT.—Not later than 30 days after the date of enactment of this Act and in conjunction with the transmittal by the President of the budget of the United States for each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of the Integrated Deepwater Systems Program, as revised in 2005 (in this section referred to as the "Deepwater program"), that includes—

(1) a justification for how the projected number and capabilities of each Deepwater program asset meets the revised mission needs statement delivered as part of the Deepwater program and the performance goals of the Coast Guard;

(2) a projection of the remaining operational lifespan of each legacy asset;

(3) an identification of any changes to the Deepwater program, including—

(A) any changes to the timeline for the acquisition of each new asset and the phase out of legacy assets for the life of the Deepwater program; and

(B) any changes to the costs for that fiscal year or future fiscal years or the total costs of the Deepwater program, including the costs of new and legacy assets;

(4) a justification for how any change to the Deepwater program fulfills the mission needs statement for the Deepwater program and performance goals of the Coast Guard;

(5) an identification of how funds in that fiscal year's budget request will be allocated, including information on the purchase of specific assets;

(6) a detailed explanation of how the costs of the legacy assets are being accounted for within the Deepwater program;

(7) a description of how the Coast Guard is planning for the integration of Deepwater program assets into the Coast Guard, including needs related to shore-based infrastructure and human resources; and

(8) a description of the competitive process conducted in all contracts and subcontracts exceeding $2,500,000 awarded under the Deepwater program.

(b) DEEPWATER ACCELERATION REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the acceleration of the current Deepwater program acquisition timeline that reflects completion of the Deepwater program in each of 10 years and 15 years and includes—

(1) a detailed explanation of the number and type of each asset that would be procured for each fiscal year under each accelerated acquisition timeline;

(2) the required funding for such completion under each accelerated acquisition timeline;

(3) anticipated costs associated with legacy asset sustainment for the Deepwater program under each accelerated acquisition timeline;

(4) anticipated mission deficiencies, if any, associated with the continued degradation of legacy assets in combination with the procurement of new assets under each accelerated acquisition timeline; and

(5) an evaluation of the overall feasibility of achieving each accelerated acquisition timeline, including—

(A) contractor capacity;

(B) national shipbuilding capacity;

(C) asset integration into Coast Guard facilities;

(D) required personnel; and

(E) training infrastructure capacity on technology associated with new assets.

(c) OVERSIGHT REPORT.—Not later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard, in consultation with the Government Accountability Office, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Coast Guard's implementation of the Government Accountability Office's recommendations in its report, GAO–04–380, entitled "Coast Guard Deepwater Program Needs Increased Attention to Management and Contractor Oversight", including the dates by which the Coast Guard plans to complete implementation of such recommendations if any of such recommendations remain open as of the date the report is transmitted to the Committees.

(d) INDEPENDENT ANALYSIS OF REVISED DEEPWATER PLAN.—The Secretary may periodically, either through an internal review process or a contract with an outside entity, conduct an analysis of all or part of the Deepwater program and assess whether—

(1) the choice of assets and capabilities selected as part of that program meets the Coast Guard's goals for performance and minimizing total ownership costs; or

(2) additional or different assets should be considered as part of that program.

**SEC. 409. HELICOPTERS.**

(a) STUDY.—The Secretary of the department in which the Coast Guard is operating shall conduct a study that analyses the

potential impact on Coast Guard acquisitions of requiring that the Coast Guard acquire only helicopters, or any major component of a helicopter, that are constructed in the United States.

(b) STUDY ELEMENTS.—The study shall include—

(1) identification of additional costs or added benefits that would result from the additional restrictions described in subsection (a) on acquisitions from nondomestic sources, including major components or subsystems;

(2) industrial impact on the United States of such additional restrictions on acquisitions from nondomestic sources;

(3) the contractual impact of such additional restrictions on the Integrated Deepwater Systems Program and its platform elements, including delivery interruptions in the program and the subsequent mission impact of these delays; and

(4) identification of reasonable executive authorities to waive such additional restrictions that the Secretary considers essential in order to ensure continued mission performance of the United States Coast Guard.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report on the results of the study and any recommendations of the Secretary regarding such results to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 410. NEWTOWN CREEK, NEW YORK CITY, NEW YORK.**

(a) STUDY.—Of the amounts provided under section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712), the Administrator of the Environmental Protection Agency shall conduct a study of public health and safety concerns related to the pollution of Newtown Creek, New York City, New York, caused by seepage of oil into Newtown Creek from 17,000,000 gallons of underground oil spills in Greenpoint, Brooklyn, New York.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report containing the results of the study to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 411. REPORT ON TECHNOLOGY.**

Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes an assessment of—

(1) the availability and effectiveness of software information technology systems for port security and the data evaluated, including data that has the ability to identify shippers, inbound vessels, and their cargo for potential threats to national security before it reaches United States ports, specifically the software already tested or being tested at Joint Harbor Operations Centers; and

(2) the costs associated with implementing such technology at all Sector Command Centers, Joint Harbor Operations Centers, and strategic defense and energy dependent ports.

**SEC. 412. ASSESSMENT AND PLANNING.**

There is authorized to be appropriated to the Maritime Administration $400,000 to carry out an assessment of, and planning for, the impact of an Arctic Sea Route on the indigenous people of Alaska.

**SEC. 413. HOMEPORT.**

(a) STUDY.—The Commandant of the Coast Guard shall conduct a study to assess the current homeport arrangement of the Coast Guard polar icebreaker HEALY to determine whether an alternative arrangement would enhance the Coast Guard's capabilities to carry out the recommendation to maintain dedicated, year-round icebreaker capability for the Arctic that was included in the report prepared by the National Academy of Sciences and entitled: "Polar Icebreaker Roles and U.S. Future Needs: A Preliminary Assessment (ISBN: 0–309–10069–0)".

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Commandant shall report the findings of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 414. NAVIGATIONAL SAFETY OF CERTAIN FACILITIES.**

Deadline.

(a) CONSIDERATION OF ALTERNATIVES.—In reviewing a lease, easement, or right-of-way for an offshore wind energy facility in Nantucket Sound under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)), not later than 60 days before the date established by the Secretary of the Interior for publication of a draft environmental impact statement, the Commandant of the Coast Guard shall specify the reasonable terms and conditions the Commandant determines to be necessary to provide for navigational safety with respect to the proposed lease, easement, or right-of-way and each alternative to the proposed lease, easement, or right-of-way considered by the Secretary.

(b) INCLUSION OF NECESSARY TERMS AND CONDITIONS.—In granting a lease, easement, or right-of-way for an offshore wind energy facility in Nantucket Sound under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)), the Secretary shall incorporate in the lease, easement, or right-of-way reasonable terms and conditions the Commandant determines to be necessary to provide for navigational safety.

Pennsylvania.

**SEC. 415. PORT RICHMOND.**

The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may not approve a security plan under section 70103(c) of title 46, United States Code, for a liquefied natural gas import facility at Port Richmond in Philadelphia, Pennsylvania, until the Secretary conducts a vulnerability assessment under section 70102(b) of such title.

**SEC. 416. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.**

(a) RESTATEMENT OF EXISTING PROGRAM INCORPORATING CERTAIN PROVISIONS OF REGULATIONS.—Section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) is amended by striking paragraph (1) and inserting the following:

"(1) WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.—

"(A) IN GENERAL.—There is established the western Alaska community development quota program in order—

"(i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area;

"(ii) to support economic development in western Alaska;

"(iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and

"(iv) to achieve sustainable and diversified local economies in western Alaska.

"(B) PROGRAM ALLOCATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program. The percentage for each fishery shall be either a directed fishing allowance or include both directed fishing and nontarget needs based on existing practice with respect to the program as of March 1, 2006, for each fishery.

"(ii) EXCEPTIONS.—Notwithstanding clause (i)—

"(I) the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a directed fishing allocation of 10 percent upon the establishment of a quota program, fishing cooperative, sector allocation, or other rationalization program in any sector of the fishery; and

"(II) the allocation under the program in any directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) established after the date of enactment of this subclause shall be a directed fishing allocation of 10 percent.

"(iii) PROCESSING AND OTHER RIGHTS.—Allocations to the program include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.

"(iv) REGULATION OF HARVEST.—The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.

"(C) ALLOCATIONS TO ENTITIES.—Each entity eligible to participate in the program shall be authorized under the program to harvest annually the same percentage of each species allocated to the program under subparagraph (B) that it was authorized by the Secretary to harvest

of such species annually as of March 1, 2006, except to the extent that its allocation is adjusted under subparagraph (H). Such allocation shall include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.

"(D) ELIGIBLE VILLAGES.—The following villages shall be eligible to participate in the program through the following entities:

"(i) The villages of Akutan, Atka, False Pass, Nelson Lagoon, Nikolski, and Saint George through the Aleutian Pribilof Island Community Development Association.

"(ii) The villages of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuk, Ekwok, King Salmon/Savonoski, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, Portage Creek, South Naknek, Togiak, Twin Hills, and Ugashik through the Bristol Bay Economic Development Corporation.

"(iii) The village of Saint Paul through the Central Bering Sea Fishermen's Association.

"(iv) The villages of Chefornak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Oscarville, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak through the Coastal Villages Region Fund.

"(v) The villages of Brevig Mission, Diomede, Elim, Gambell, Golovin, Koyuk, Nome, Saint Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain through the Norton Sound Economic Development Corporation.

"(vi) The villages of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, and Nunam Iqua through the Yukon Delta Fisheries Development Association.

"(E) ELIGIBILITY REQUIREMENTS FOR PARTICIPATING ENTITIES.—To be eligible to participate in the program, an entity referred to in subparagraph (D) shall meet the following requirements:

Establishment.

"(i) BOARD OF DIRECTORS.—The entity shall be governed by a board of directors. At least 75 percent of the members of the board shall be resident fishermen from the entity's member villages. The board shall include at least one director selected by each such member village.

"(ii) PANEL REPRESENTATIVE.—The entity shall elect a representative to serve on the panel established by subparagraph (G).

"(iii) OTHER INVESTMENTS.—The entity may make up to 20 percent of its annual investments in any combination of the following:

"(I) For projects that are not fishery-related and that are located in its region.

"(II) On a pooled or joint investment basis with one or more other entities participating in the program for projects that are not fishery-

related and that are located in one or more of their regions.

"(III) For matching Federal or State grants for projects or programs in its member villages without regard to any limitation on the Federal or State share, or restriction on the source of any non-Federal or non-State matching funds, of any grant program under any other provision of law.

"(iv) FISHERY-RELATED INVESTMENTS.—The entity shall make the remainder percent of its annual investments in fisheries-related projects or for other purposes consistent with the practices of the entity prior to March 1, 2006.

"(v) ANNUAL STATEMENT OF COMPLIANCE.—Each year the entity, following approval by its board of directors and signed by its chief executive officer, shall submit a written statement to the Secretary and the State of Alaska that summarizes the purposes for which it made investments under clauses (iii) and (iv) during the preceding year.

"(vi) OTHER PANEL REQUIREMENTS.—The entity shall comply with any other requirements established by the panel under subparagraph (G).

"(F) ENTITY STATUS, LIMITATIONS, AND REGULATION.—The entity—

"(i) shall be subject to any excessive share ownership, harvesting, or processing limitations in the fisheries of the Bering Sea and Aleutian Islands Management Area only to the extent of the entity's proportional ownership, excluding any program allocations, and notwithstanding any other provision of law;

"(ii) shall comply with State of Alaska law requiring annual reports to the entity's member villages summarizing financial operations for the previous calendar year, including general and administrative costs and compensation levels of the top 5 highest paid personnel;

"(iii) shall comply with State of Alaska laws to prevent fraud that are administered by the Alaska Division of Banking and Securities, except that the entity and the State shall keep confidential from public disclosure any information if the disclosure would be harmful to the entity or its investments; and

"(iv) is exempt from compliance with any State law requiring approval of financial transactions, community development plans, or amendments thereto, except as required by subparagraph (H).

"(G) ADMINISTRATIVE PANEL.—

"(i) ESTABLISHMENT.—There is established a community development quota program panel.

"(ii) MEMBERSHIP.—The panel shall consist of 6 members. Each entity participating in the program shall select one member of the panel.

"(iii) FUNCTIONS.—The panel shall—

"(I) administer those aspects of the program not otherwise addressed in this paragraph, either through private contractual arrangement or

through recommendations to the North Pacific Council, the Secretary, or the State of Alaska, as the case may be; and

"(II) coordinate and facilitate activities of the entities under the program.

"(iv) UNANIMITY REQUIRED.—The panel may act only by unanimous vote of all 6 members of the panel and may not act if there is a vacancy in the membership of the panel.

"(H) DECENNIAL REVIEW AND ADJUSTMENT OF ENTITY ALLOCATIONS.—

"(i) IN GENERAL.—During calendar year 2012 and every 10 years thereafter, the State of Alaska shall evaluate the performance of each entity participating in the program based on the criteria described in clause (ii).

"(ii) CRITERIA.—The panel shall establish a system to be applied under this subparagraph that allows each entity participating in the program to assign relative values to the following criteria to reflect the particular needs of its villages:

"(I) Changes during the preceding 10-year period in population, poverty level, and economic development in the entity's member villages.

"(II) The overall financial performance of the entity, including fishery and nonfishery investments by the entity.

"(III) Employment, scholarships, and training supported by the entity.

"(IV) Achieving of the goals of the entity's community development plan.

"(iii) ADJUSTMENT OF ALLOCATIONS.—After the evaluation required by clause (i), the State of Alaska shall make a determination, on the record and after an opportunity for a hearing, with respect to the performance of each entity participating in the program for the criteria described in clause (ii). If the State determines that the entity has maintained or improved its overall performance with respect to the criteria, the allocation to such entity under the program shall be extended by the State for the next 10-year period. If the State determines that the entity has not maintained or improved its overall performance with respect to the criteria—

"(I) at least 90 percent of the entity's allocation for each species under subparagraph (C) shall be extended by the State for the next 10-year period; and

"(II) the State may determine, or the Secretary may determine (if State law prevents the State from making the determination), and implement an appropriate reduction of up to 10 percent of the entity's allocation for each species under subparagraph (C) for all or part of such 10-year period.

"(iv) REALLOCATION OF REDUCED AMOUNT.—If the State or the Secretary reduces an entity's allocation

under clause (iii), the reduction shall be reallocated among other entities participating in the program whose allocations are not reduced during the same period in proportion to each such entity's allocation of the applicable species under subparagraph (C).

"(I) SECRETARIAL APPROVAL NOT REQUIRED.—Notwithstanding any other provision of law or regulation thereunder, the approval by the Secretary of a community development plan, or an amendment thereof, under the program is not required.

"(J) COMMUNITY DEVELOPMENT PLAN DEFINED.—In this paragraph, the term 'community development plan' means a plan, prepared by an entity referred to in subparagraph (D), for the program that describes how the entity intends—

"(i) to harvest its share of fishery resources allocated to the program, or

"(ii) to use its share of fishery resources allocated to the program, and any revenue derived from such use, to assist its member villages with projects to advance economic development,

but does not include a plan that allocates fishery resources to the program.".

(b) NO INTERRUPTION OF EXISTING ALLOCATIONS.—The amendment made by subsection (a) shall not be construed or implemented in a way that causes any interruption in the allocations of fishery resources to the western Alaska community development quota program or in the opportunity of an entity participating in that program to harvest its share of such allocations. 16 USC 1855 note.

(c) LOAN SUBSIDIES.—The last proviso under the heading "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—OPERATIONS, RESEARCH, AND FACILITIES" in the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2311–2312) is amended—

(1) by striking "for the cost of loans" and inserting "to subsidize gross obligations for the principal amount of direct loans, not to exceed a total of $200,000,000,"; and

(2) by striking "use" and inserting "the purchase of all or part of ownership interests in fishing or processing vessels, shoreside fish processing facilities, permits, quota, and cooperative rights".

**SEC. 417. QUOTA SHARE ALLOCATION.**

(a) IN GENERAL.— The Secretary of Commerce shall modify the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands being implemented under section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1862(j)) to require that Blue Dutch, LLC, receives processor quota shares units equal to 0.75 percent of the total number of processor quota share units for each of the following fisheries: the Bristol Bay red king crab fishery and the Bering Sea C. opilio crab fishery.

(b) APPLICABILITY.—The modification made under subsection (a) shall apply with respect to each fishery referred to in subsection (a) whenever the total allowable catch for that fishery is more than 2 percent higher than the most recent total allowable catch in effect for that fishery prior to September 15, 2005.

(c) SAVINGS PROVISION.—Nothing in this section affects the authority of the North Pacific Fishery Management Council to submit, and the Secretary of Commerce to implement, changes to or repeal of conservation and management measures under section 313(j)(3)) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1862(j)(3)).

Deadline.

(d) REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall issue regulations to implement this section.

**SEC. 418. MAINE FISH TENDER VESSELS.**

The prohibition under section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) against transportation of fish or shellfish between places in the State of Maine by a vessel constructed in Canada shall not apply to a vessel of less than 5 net tons if—

(1) the vessel was engaged in the transportation of fish or shellfish between places in the State of Maine before January 1, 2005;

(2) before January 1, 2005, the owner of the vessel transported fish or shellfish pursuant to a valid wholesale seafood license issued under section 6851 of title 12 of the Maine Revised Statutes;

(3) the vessel is owned by a person that meets the citizenship requirements of section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802); and

Deadline.

(4) not later than 180 days after the date of enactment of this Act, the owner of the vessel submits to the Secretary of the department in which the Coast Guard is operating an affidavit certifying that the vessel and owner meet the requirements of this section.

Deadlines.
Grants.

**SEC. 419. AUTOMATIC IDENTIFICATION SYSTEM.**

(a) PREVENTION OF HARMFUL INTERFERENCE.—Not later than 60 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may transfer $1,000,000 to the National Telecommunications and Information Administration of the Department of Commerce for the purposes of awarding, not later than 120 days after such date of enactment, a competitive grant to design and develop a prototype device that integrates a Class B Automatic Identification System transponder (International Electrotechnical Commission standard 62287) with a wireless maritime data device approved by the Federal Communications Commission with channel throughput greater than 19.2 kilobits per second to enable such wireless maritime data device to provide wireless maritime data services, concurrent with the operation of the transponder, on frequency channels adjacent to the frequency channels on which the transponder operates, while minimizing or eliminating the harmful interference between the transponder and such wireless maritime data device. The design of the device developed under this subsection shall be available for public use.

(b) IMPLEMENTATION OF AIS.—It is the sense of the Senate, not later than 60 days after the date of enactment of this Act, that the Federal Communications Commission should resolve the disposition of its rulemaking on the Automatic Information System and licensee use of frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz (RM–10821, WT Docket Number 04–344).

The implementation of this section shall not delay the implementation of an Automatic Identification System as required by section 70114 of title 46, United States Code, and international convention.

**SEC. 420. VOYAGE DATA RECORDER STUDY AND REPORT.**

(a) STUDY.—The Secretary of the department in which the Coast Guard is operating shall study—

(1) the carriage of a voyage data recorder by a passenger vessel described in section 2101(22)(D) of title 46, United States Code, carrying more than 399 passengers; and

(2) standards for voyage data recorders, methods for approval of models of voyage data recorders, and procedures for annual performance testing of voyage data recorders.

(b) CONSULTATION.—In conducting the study, the Secretary shall consult, at a minimum, with manufacturers of voyage data recorders and operators of potentially affected passenger vessels.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the study's findings, including a proposal for legislation if such a proposal is considered appropriate by the Secretary.

**SEC. 421. DISTANT WATER TUNA FLEET.**

(a) MANNING REQUIREMENTS.—Notwithstanding section 8103(a) of title 46, United States Code, United States purse seine fishing vessels fishing exclusively for highly migratory species in the treaty area under a fishing license issued pursuant to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States of America, or transiting to or from the treaty area exclusively for such purpose, may engage foreign citizens to meet the manning requirement (except for the master) in the 48-month period beginning on the date of enactment of this Act if, after timely notice of a vacancy to meet the manning requirement, no United States citizen personnel are readily available to fill such vacancy.

(b) LICENSING RESTRICTIONS.—

(1) IN GENERAL.—Subsection (a)(1) only applies to a foreign citizen that holds a valid license or certificate issued—

(A) in accordance with the standards established by the 1995 amendments to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 95); and

(B) by an authority that the Secretary of the department in which the Coast Guard is operating recognizes as imposing competency and training standards equivalent to or exceeding those required for a United States license issued under chapter 71 of title 46, United States Code.

(2) TREATMENT OF EQUIVALENT LICENSE.—An equivalent license or certificate as recognized by the Secretary under paragraph (1) shall be considered as meeting the requirements of section 8304 of title 46, United States Code, but only while a person holding the license or certificate is in the service of a vessel to which this section applies.

(c) LIMITATION.—Subsection (a) applies only to vessels operating in and out of American Samoa.

(d) EXPIRATION.—This section expires 48 months after the date of enactment of this Act.

(e) REPORTS.—On March 1, 2007, and annually thereafter until the date of expiration of this section, the Coast Guard and the National Marine Fisheries Service shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Resources of the House of Representatives, providing the following information on the United States purse seine fleet referred to in subsection (a):

(1) The number and identity of vessels in the fleet using foreign citizens to meet manning requirements pursuant to this section and any marine casualties involving such vessel.

(2) The number of vessels in the fishery under United States flag as of January 1 of the year in which the report is submitted, the percentage ownership or control of such vessels by non-United States citizens, and the nationality of such ownership or control.

(3) Description of any transfers or sales of United States flag vessels in the previous calendar year, and the disposition of such vessel, including whether the vessel was scrapped or sold, and, if sold, the nationality of the new owner and location of any fishery to which the vessel will be transferred.

(4) Landings of tuna by vessels under flag in the 2 previous calendar years, including an assessment of landing trends, and a description of landing percentages and totals—

(A) delivered to American Samoa and any other port in a State or territory of the United States; and

(B) delivered to ports outside of a State or territory of the United States, including the identity of the port.

(5) An evaluation of capacity and trends in the purse seine fleet fishing in the area covered by the South Pacific Regional Fisheries Treaty, and any transfer of capacity from such fleet or area to other fisheries, including those governed under the Western and Central Pacific Fisheries Convention and the Inter-American Tropical Tuna Convention.

# TITLE V—LIGHTHOUSES

**SEC. 501. TRANSFER.**

Alaska.

(a) JURISDICTIONAL TRANSFERS.—Administrative jurisdiction over the National Forest System lands in the State of Alaska described in subsection (b) and improvements situated on such lands is transferred without consideration from the Secretary of Agriculture to the Secretary of the department in which the Coast Guard is operating.

(b) AREAS REFERRED TO.—The areas of lands referred to in subsection (a) are the following:

(1) GUARD ISLAND LIGHT STATION.—The area described in the Guard Island Lighthouse reserve dated January 4, 1901, comprising approximately 8.0 acres of National Forest uplands.

(2) ELDRED ROCK LIGHT STATION.—The area described in the December 30, 1975, listing of the Eldred Rock Light Station on the National Register of Historic Places, comprising approximately 2.4 acres.

(3) MARY ISLAND LIGHT STATION.—The area described as the remaining National Forest System uplands in the Mary Island Lighthouse Reserve dated January 4, 1901, as amended by Public Land Order 6964, dated April 5, 1993, comprising approximately 1.07 acres.

(4) CAPE HINCHINBROOK LIGHT STATION.—The area described in the survey dated November 1, 1957, prepared for the Coast Guard for the Cape Hinchinbrook Light Station comprising approximately 57.4 acres.

(c) MAPS.—The Commandant of the Coast Guard, in consultation with the Secretary of Agriculture, shall prepare and maintain maps of the lands transferred by subsection (a), and such maps shall be on file and available for public inspection in the Coast Guard District 17 office in Juneau, Alaska.

(d) EFFECT OF TRANSFER.—The lands transferred to the Secretary of the department in which the Coast Guard is operating by subsection (a)—

(1) shall be administered by the Commandant of the Coast Guard;

(2) shall be considered to be transferred from, and no longer part of, the National Forest System; and

(3) shall be considered not suitable for return to the public domain for disposition under the general public land laws.

(e) TRANSFER OF LAND.—

(1) REQUIREMENT.—Subject to paragraph (2), the Administrator of General Services, upon request by the Secretary of Agriculture, shall transfer without consideration to the Secretary of Agriculture any land identified in subsection (b), together with the improvements thereon, for administration under the laws pertaining to the National Forest System if—

(A) the Secretary of the Interior cannot identify and select an eligible entity for such land and improvements in accordance with section 308(b)(2) of the National Historic Preservation Act (16 U.S.C. 470w–7(b)(2)) not later than 3 years after the date the Secretary of the department in which the Coast Guard is operating determines that the land is excess property, as that term is defined in section 102(3) of title 40, United States Code; or Deadline.

(B) the land reverts to the United States pursuant to section 308(c)(3) of the National Historic Preservation Act (16 U.S.C. 470w–7(c)(3)).

(2) RESERVATIONS FOR AIDS TO NAVIGATION.—Any action taken under this subsection by the Administrator of General Services shall be subject to any rights that may be reserved by the Commandant of the Coast Guard for the operation and maintenance of Federal aids to navigation.

(f) NOTIFICATION; DISPOSAL OF LANDS BY THE ADMINISTRATOR.—The Administrator of General Services shall promptly notify the Secretary of Agriculture upon the occurrence of any of the events described in subparagraphs (A) and (B) of subsection (e)(1). If the Secretary of Agriculture does not request a transfer as provided for in subsection (e) not later than 90 days after the date of receiving such notification from the Administrator, the Administrator may dispose of the property in accordance with section 309 of the National Historic Preservation Act (16 U.S.C. 470w–8) or other applicable surplus real property disposal authority. Deadline.

(g) PRIORITY.—In selecting an eligible entity to which to convey under section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w–7(b)) land referred to in subsection (b), the Secretary of the Interior shall give priority to an eligible entity (as defined in section 308(e) of that Act) that is the local government of the community in which the land is located.

**SEC. 502. MISTY FIORDS NATIONAL MONUMENT AND WILDERNESS.**

(a) REQUIREMENT TO TRANSFER.—Notwithstanding section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w–7(b)), if the Secretary of the department in which the Coast Guard is operating determines that the Tree Point Light Station is no longer needed for the purposes of the Coast Guard, the Secretary shall transfer without consideration to the Secretary of Agriculture all administrative jurisdiction over the Tree Point Light Station.

(b) EFFECTUATION OF TRANSFER.—The transfer pursuant to this section shall be effectuated by a letter from the Secretary of the department in which the Coast Guard is operating to the Secretary of Agriculture and, except as provided in subsection (g), without any further requirements for administrative or environmental analyses or examination. The transfer shall not be considered a conveyance to an eligible entity pursuant to section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w–7(b)).

(c) RESERVATION FOR AIDS TO NAVIGATION.—As part of the transfer pursuant to this section, the Commandant of the Coast Guard may reserve rights to operate and maintain Federal aids to navigation at the site of the light station.

(d) EASEMENTS AND SPECIAL USE AUTHORIZATIONS.—Notwithstanding any other provision of law, including the Wilderness Act (16 U.S.C. 1131 et seq.) and section 703 of the Alaska National Interests Lands Conservation Act (16 U.S.C. 1132 note; 94 Stat. 2418), with respect to the light station transferred pursuant to this section, the Secretary of Agriculture—

(1) may identify an entity to be granted an easement or other special use authorization and, in identifying the entity, may consult with the Secretary of the Interior concerning the application of policies for eligible entities developed pursuant to subsection 308(b)(1) of the National Historic Preservation Act (16 U.S.C. 470w–7(b)(1)); and

(2) may grant an easement or other special use authorization to the entity, for no consideration, to approximately 31 acres as described in the map entitled "Tree Point Light Station", dated September 24, 2004, on terms and conditions that provide for—

(A) maintenance and preservation of the structures and improvements;

(B) the protection of wilderness and national monument resources;

(C) public safety; and

(D) such other terms and conditions considered appropriate by the Secretary of Agriculture.

(e) ACTIONS FOLLOWING TERMINATION OR REVOCATION.—The Secretary of Agriculture may take such actions as are authorized under section 110(b) of the National Historic Preservation Act (16 U.S.C. 470h–2(b)) with respect to Tree Point Light Station if—

Deadline.

(1) no entity is identified under subsection (d) within 3 years after the date on which administrative jurisdiction is

transferred to the Secretary of Agriculture pursuant to this section; or

(2) any easement or other special use authorization granted under subsection (d) is terminated or revoked.

(f) REVOCATION OF WITHDRAWALS AND RESERVATIONS.—Effective on the date of transfer of administrative jurisdiction pursuant to this section, the following public land withdrawals or reservations for light station and lighthouse purposes on lands in Alaska are revoked as to the lands transferred:

(1) The unnumbered Executive Order dated January 4, 1901, as it affects the Tree Point Light Station site only.

(2) Executive Order No. 4410 dated April 1, 1926, as it affects the Tree Point Light Station site only.

(g) REMEDIATION RESPONSIBILITIES NOT AFFECTED.—Nothing in this section shall affect any responsibilities of the Commandant of the Coast Guard for the remediation of hazardous substances and petroleum contamination at the Tree Point Light Station consistent with existing law and regulations. The Commandant and the Secretary shall execute an agreement to provide for the remediation of the land and structures at the Tree Point Light Station.

**SEC. 503. MISCELLANEOUS LIGHT STATIONS.**

(a) CAPE ST. ELIAS LIGHT STATION.—For purposes of section 416(a)(2) of the Coast Guard Authorization Act of 1998 (112 Stat. 3435), the Cape St. Elias Light Station shall comprise approximately 10 acres in fee, along with additional access easements issued without consideration by the Secretary of Agriculture, as generally described in the map entitled "Cape St. Elias Light Station", dated September 14, 2004. The Secretary of the department in which the Coast Guard is operating shall keep such map on file and available for public inspection.

(b) POINT WILSON LIGHTHOUSE.—Section 325(c)(3) of the Coast Guard Authorization Act of 1993 (107 Stat. 2432) is amended—

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

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

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

"(C) all housing units and related structures associated with the lighthouse; and".

**SEC. 504. INCLUSION OF LIGHTHOUSE IN ST. MARKS NATIONAL WILDLIFE REFUGE, FLORIDA.**

16 USC 668dd note.

(a) REVOCATION OF EXECUTIVE ORDER DATED NOVEMBER 12, 1838.—Any reservation of public land described in subsection (b) for lighthouse purposes by the Executive Order dated November 12, 1838, as amended by Public Land Order 5655, dated January 9, 1979, is revoked.

(b) DESCRIPTION OF LAND.—The public land referred to in subsection (a) consists of approximately 8.0 acres within the external boundaries of St. Marks National Wildlife Refuge in Wakulla County, Florida, that is east of the Tallahassee Meridian, Florida, in Township 5 South, Range 1 East, Section 1 (fractional) and containing all that remaining portion of the unsurveyed fractional section, more particularly described as follows: A parcel of land, including submerged areas, beginning at a point which marks the center of the light structure, thence due North (magnetic) a distance of 350 feet to the point of beginning a strip of land 500 feet in width, the axial centerline of which runs from the point of

beginning due South (magnetic) a distance of 700 feet, more or less, to the shoreline of Apalachee Bay, comprising 8.0 acres, more or less, as shown on the plat dated January 2, 1902, by Office of L. H. Engineers, 7th and 8th District, Mobile, Alabama.

(c) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—Subject to subsection (f) and paragraph (2), administrative jurisdiction over the public land described in subsection (b), and over all improvements located thereon, is transferred without reimbursement from the department in which the Coast Guard is operating to the Secretary of the Interior.

(2) RESPONSE AND RESTORATION.—The transfer under paragraph (1) may not be made to the Secretary of the Interior until the Coast Guard has completed any response and restoration action necessary under subsection (d)(1).

(d) RESPONSIBILITY FOR ENVIRONMENTAL RESPONSE ACTIONS.—The Coast Guard shall have sole responsibility in the Federal Government to fund and conduct any response or restoration action required under any applicable Federal or State law or implementing regulation to address—

(1) a release or threatened release on or originating from public land described in subsection (b) of any hazardous substance, pollutant, contaminant, petroleum, or petroleum product or derivative that is located on such land on the date of enactment of this Act; or

(2) any other release or threatened release on or originating from public land described in subsection (b) of any hazardous substance, pollutant, contaminant, petroleum, or petroleum product or derivative, that results from any Coast Guard activity occurring after the date of enactment of this Act.

(e) INCLUSION IN REFUGE.—

(1) INCLUSION.—The public land described in subsection (b) shall be part of St. Marks National Wildlife Refuge.

(2) ADMINISTRATION.—Subject to this subsection, the Secretary of the Interior shall administer the public land described in subsection (b)—

(A) through the Director of the United States Fish and Wildlife Service; and

(B) in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and such other laws as apply to Federal real property under the sole jurisdiction of the United States Fish and Wildlife Service.

(f) MAINTENANCE OF NAVIGATION FUNCTIONS.—The transfer by subsection (c), and the administration of the public land described in subsection (b), shall be subject to such conditions and restrictions as the Secretary of the department in which the Coast Guard is operating considers necessary to ensure that—

(1) the Federal aids to navigation located at St. Marks National Wildlife Refuge continue to be operated and maintained by the Coast Guard for as long as they are needed for navigational purposes;

(2) the Coast Guard may remove, replace, or install any Federal aid to navigation at the St. Marks National Wildlife Refuge as may be necessary for navigational purposes;

(3) the United States Fish and Wildlife Service will not interfere or allow interference in any manner with any Federal

aid to navigation, and will not hinder activities required for the operation and maintenance of any Federal aid to navigation, without express written approval by the Secretary of the department in which the Coast Guard is operating; and

(4) the Coast Guard may enter, at any time, the St. Marks National Wildlife Refuge, without notice, for purposes of operating, maintaining, and inspecting any Federal aid to navigation and ensuring compliance with this subsection, to the extent that it is not possible to provide advance notice.

# TITLE VI—DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

Delaware River Protection Act of 2006.

**SEC. 601. SHORT TITLE.**

33 USC 2701 note.

This title may be cited as the "Delaware River Protection Act of 2006".

**SEC. 602. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVIGABLE WATERS OF THE UNITED STATES.**

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following:

**"SEC. 15. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVIGABLE WATERS OF THE UNITED STATES.**

33 USC 1232b.

"(a) REQUIREMENT.—As soon as a person has knowledge of any release from a vessel or facility into the navigable waters of the United States of any object that creates an obstruction prohibited under section 10 of the Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army of such release.

"(b) RESTRICTION ON USE OF NOTIFICATION.—Any notification provided by an individual in accordance with subsection (a) may not be used against such individual in any criminal case, except a prosecution for perjury or for giving a false statement.".

**SEC. 603. LIMITS ON LIABILITY.**

(a) ADJUSTMENT OF LIABILITY LIMITS.—

(1) TANK VESSELS.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) with respect to a single-hull vessel, including a single-hull vessel fitted with double sides only or a double bottom only, $3,000 per gross ton;

"(B) with respect to a vessel other than a vessel referred to in subparagraph (A), $1,900 per gross ton; or

"(C)(i) with respect to a vessel greater than 3,000 gross tons that is—

"(I) a vessel described in subparagraph (A), $22,000,000; or

"(II) a vessel described in subparagraph (B), $16,000,000; or

"(ii) with respect to a vessel of 3,000 gross tons or less that is—

"(I) a vessel described in subparagraph (A), $6,000,000; or

"(II) a vessel described in subparagraph (B), $4,000,000;".

33 USC 2704.

(2) OTHER VESSELS.—Section 1004(a)(2) of such Act (33 U.S.C. 2794(a)(2)) is amended—

(A) by striking "$600 per gross ton" and inserting "$950 per gross ton"; and

(B) by striking "$500,000" and inserting "$800,000,".

33 USC 2704 note.

(3) LIMITATION ON APPLICATION.—In the case of an incident occurring before the 90th day following the date of enactment of this Act, section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) shall apply as in effect immediately before the effective date of this subsection.

(b) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—Section 1004(d)(4) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)(4)) is amended to read as follows:

President. Regulations. Deadline.

"(4) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—The President, by regulations issued not later than 3 years after the date of enactment of the Delaware River Protection Act of 2006 and not less than every 3 years thereafter, shall adjust the limits on liability specified in subsection (a) to reflect significant increases in the Consumer Price Index.".

33 USC 2704 note.

(c) REPORT.—

(1) INITIAL REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report on liability limits described in paragraph (2) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report shall include, at a minimum, the following:

(A) An analysis of the extent to which oil discharges from vessels and nonvessel sources have or are likely to result in removal costs and damages (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) for which no defense to liability exists under section 1003 of such Act and that exceed the liability limits established in section 1004 of such Act, as amended by this section.

(B) An analysis of the impacts that claims against the Oil Spill Liability Trust Fund for amounts exceeding such liability limits will have on the Fund.

(C) Based on analyses under this paragraph and taking into account other factors impacting the Fund, recommendations on whether the liability limits need to be adjusted in order to prevent the principal of the Fund from declining to levels that are likely to be insufficient to cover expected claims.

(3) ANNUAL UPDATES.—The Secretary shall provide an update of the report to the Committees referred to in paragraph (1) on an annual basis.

**SEC. 604. REQUIREMENT TO UPDATE PHILADELPHIA AREA CONTINGENCY PLAN.**

Deadline.

Not later than one year after the date of enactment of this Act and not less than annually thereafter, the Philadelphia Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)) shall review and revise the Philadelphia Area Contingency Plan to include available data and biological information on environmentally sensitive areas of the Delaware River and Delaware Bay that has been collected by Federal and State surveys.

**SEC. 605. SUBMERGED OIL REMOVAL.**

(a) AMENDMENTS.—Title VII of the Oil Pollution Act of 1990 is amended—

(1) in section 7001(c)(4)(B) (33 U.S.C. 2761(c)(4)(B)) by striking "RIVERA," and inserting "RIVERA and the T/V ATHOS I,"; and

(2) by adding at the end the following:

**"SEC. 7002. SUBMERGED OIL PROGRAM.**

33 USC 2762.

"(a) PROGRAM.—

"(1) ESTABLISHMENT.—The Under Secretary of Commerce for Oceans and Atmosphere, in conjunction with the Commandant of the Coast Guard, shall establish a program to detect, monitor, and evaluate the environmental effects of submerged oil in the Delaware River and Bay region. The program shall include the following elements:

"(A) The development of methods to remove, disperse, or otherwise diminish the persistence of submerged oil.

"(B) The development of improved models and capacities for predicting the environmental fate, transport, and effects of submerged oil.

"(C) The development of techniques to detect and monitor submerged oil.

"(2) REPORT.—Not later than 3 years after the date of enactment of the Delaware River Protection Act of 2006, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the activities carried out under this subsection and activities proposed to be carried out under this subsection.

"(b) DEMONSTRATION PROJECT.—

"(1) REMOVAL OF SUBMERGED OIL.—The Commandant of the Coast Guard, in conjunction with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct a demonstration project for the purpose of developing and demonstrating technologies and management practices to remove submerged oil from the Delaware River and other navigable waters.

"(2) FUNDING.—There is authorized to be appropriated to the Commandant of the Coast Guard $2,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.".

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by inserting after the item relating to section 7001 the following:

"Sec. 7002. Submerged oil program".

**SEC. 606. ASSESSMENT OF OIL SPILL COSTS.**

(a) ASSESSMENT.—The Comptroller General shall conduct an assessment of the cost of response activities and claims related to oil spills from vessels that have occurred since January 1, 1990, for which the total costs and claims paid was at least $1,000,000 per spill.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the assessment conducted under subsection (a). The report shall summarize the following:

(1) The costs and claims described in subsection (a) for each year covered by the report.

(2) The source, if known, of each spill described in subsection (a) for each such year.

**SEC. 607. DELAWARE RIVER AND BAY OIL SPILL ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—There is established the Delaware River and Bay Oil Spill Advisory Committee (in this section referred to as the "Committee").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall consist of 27 members who are appointed by the Commandant of the Coast Guard and who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the Delaware River and Delaware Bay, as follows:

(A) Three members who are employed by port authorities that oversee operations on the Delaware River or have been selected to represent these port authorities, of whom—

(i) one member shall be an employee or representative of the Port of Wilmington;

(ii) one member shall be an employee or representative of the South Jersey Port Corporation; and

(iii) one member shall be an employee or representative of the Philadelphia Regional Port Authority.

(B) Two members who represent organizations that operate tugs or barges that utilize the port facilities on the Delaware River and Delaware Bay.

(C) Two members who represent shipping companies that transport cargo by vessel from ports on the Delaware River and Delaware Bay, of whom at least one may not be a representative of a shipping company that transports oil or petroleum products.

(D) Two members who represent operators of oil refineries adjacent to the Delaware River and Delaware Bay.

(E) Two members who represent State-licensed pilots who work on the Delaware River and Delaware Bay.

(F) One member who represents labor organizations whose members load and unload cargo at ports on the Delaware River and Delaware Bay.

(G) One member who represents local commercial fishing interests or an aquaculture organization the members of which organization depend on fisheries and

resources in the waters of Delaware River or Delaware Bay.

(H) Three members who represent environmental organizations active with respect to the Delaware River and Delaware Bay, including a watershed advocacy group and a wildlife conservation advocacy group.

(I) One member who represents an organization affiliated with recreational fishing interests in the vicinity of Delaware River and Delaware Bay.

(J) Two members who are scientists or researchers associated with an academic institution and who have professional credentials in fields of research relevant to oil spill safety, oil spill response, or wildlife and ecological recovery.

(K) Two members who are municipal or county officials from Delaware.

(L) Two members who are municipal or county officials from New Jersey.

(M) Two members who are municipal or county officials from Pennsylvania.

(N) One member who represents an oil spill response organization located on the lower Delaware River and Delaware Bay.

(O) One member who represents the general public.

(2) EX OFFICIO MEMBERS.—The Committee may also consist of an appropriate number (as determined by the Commandant of the Coast Guard) of nonvoting members who represent Federal agencies and agencies of the States of New Jersey, Pennsylvania, and Delaware with an interest in oil spill prevention in the Delaware River and Delaware Bay.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Committee shall provide advice and recommendations on measures to improve the prevention of and response to future oil spills in the Delaware River and Delaware Bay to the Commandant, the Governors of the States of New Jersey, Pennsylvania, and Delaware, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) REPORT.—Not later than 18 months after the date that the Commandant completes appointment of the members of the Committee, the Committee shall provide a report to the entities referred to in paragraph (1) with the recommendations of the Committee, including a ranking of priorities, for measures to improve prevention and response to oil spills described in paragraph (1).

(d) MEETINGS.—The Committee—

(1) shall hold its first meeting not later than 60 days after the date on which the Commandant completes the appointment of members of the Committee; and

Deadline.

(2) shall meet thereafter at the call of the Chairman.

(e) APPOINTMENT OF MEMBERS.—The Commandant shall appoint the members of the Committee after soliciting nominations by notice published in the Federal Register.

Federal Register, publication.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice

Chairman. The Vice Chairman shall act as Chairman in the absence of or incapacity of the Chairman or in the event of vacancy in the office of the Chairman.

(g) PAY AND EXPENSES.—

(1) PROHIBITION ON PAY.—Members of the Committee who are not officers or employees of the United States shall serve without pay. Members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee.

(2) EXPENSES.—While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(h) FUNDING.—There is authorized to be appropriated $1,000,000 for each of fiscal years 2006 through 2007 to carry out this section.

(i) TERMINATION.—The Committee shall terminate 18 months after the date on which the Commandant completes the appointment of members of the Committee.

**SEC. 608. NONTANK VESSELS.**

Section 311(a)(26) of the Federal Water Pollution Control Act (33 U.S.C. 1321(A)(26)) is amended to read as follows:

"(26) 'nontank vessel' means a self-propelled vessel that—

"(A) is at least 400 gross tons as measured under section 14302 of title 46, United States Code, or, for vessels not measured under that section, as measured under section 14502 of that title;

"(B) is not a tank vessel;

"(C) carries oil of any kind as fuel for main propulsion; and

"(D) operates on the navigable waters of the United States, as defined in section 2101(17a) of that title.".

# TITLE VII—HURRICANE RESPONSE

**SEC. 701. HOMEOWNERS ASSISTANCE FOR COAST GUARD PERSONNEL AFFECTED BY HURRICANES KATRINA OR RITA.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may reimburse a person who is eligible for reimbursement under this section, for losses of qualified property owned by such person that result from damage caused by Hurricane Katrina or Hurricane Rita.

(b) ELIGIBLE PERSONS.—A person is eligible for reimbursement under this section if the person is a civilian employee of the Federal Government or member of the uniformed services who—

(1) was assigned to, or employed at or in connection with, a Coast Guard facility located in the State of Louisiana, Mississippi, Alabama, or Texas on or before August 28, 2005;

(2) incident to such assignment or employment, owned and occupied property that is qualified property under subsection (e); and

(3) as a result of the effects of Hurricane Katrina or Hurricane Rita, incurred damage to such qualified property such that—

(A) the qualified property is unsalable (as determined by the Secretary); and

(B) the proceeds, if any, of insurance for such damage are less than an amount equal to the greater of—

(i) the fair market value of the qualified property on August 28, 2005 (as determined by the Secretary); or

(ii) the outstanding mortgage, if any, on the qualified property on that date.

(c) REIMBURSEMENT AMOUNT.—The amount of the reimbursement that an eligible person may be paid under this section with respect to a qualified property shall be determined as follows:

(1) In the case of qualified property that is a dwelling (including a condominium unit but excluding a manufactured home), the amount shall be—

(A) the amount equal to the greater of—

(i) 85 percent of the fair market value of the dwelling on August 28, 2005 (as determined by the Secretary); or

(ii) the outstanding mortgage, if any, on the dwelling on that date; minus

(B) the proceeds, if any, of insurance referred to in subsection (b)(3)(B).

(2) In the case of qualified property that is a manufactured home, the amount shall be—

(A) if the owner also owns the real property underlying such home, the amount determined under paragraph (1); or

(B) if the owner leases such underlying property—

(i) the amount determined under paragraph (1); plus

(ii) the amount of rent payable under the lease of such property for the period beginning on August 28, 2005, and ending on the date of the reimbursement under this section.

(d) TRANSFER AND DISPOSAL OF PROPERTY.—

(1) IN GENERAL.—A person receiving reimbursement under this section shall transfer to the Administrator of General Services all right, title, and interest of the owner in and to the qualified property for which the owner receives such reimbursement. The Administrator shall hold, manage, and dispose of such right, title, and interest in the same manner that the Secretary of Defense holds, manages, and disposes of real property under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

(2) TREATMENT OF PROCEEDS.—Any amounts received by the United States as proceeds of management or disposal of property by the Administrator of General Services under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(e) QUALIFIED PROPERTY.—Property is qualified property for the purposes of this section if as of August 28, 2005, the property was a one- or two-family dwelling, manufactured home, or condominium unit in the State of Louisiana, Mississippi, Alabama, or

Texas that was owned and occupied, as a principal residence, by a person who is eligible for reimbursement under this section.

(f) SUBJECT TO APPROPRIATIONS.—The authority to pay reimbursement under this section is subject to the availability of appropriations.

**SEC. 702. TEMPORARY AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.**

(a) LICENSES AND CERTIFICATES OF REGISTRY.—Notwithstanding section 7106 and 7107 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration of a license or certificate of registry issued for an individual under chapter 71 of that title for up to one year if—

(1) the records of the individual are located at the Coast Guard facility in New Orleans that was damaged by Hurricane Katrina;

(2) the individual is a resident of Alabama, Mississippi, or Louisiana; or

(3) the records of an individual were damaged or lost as a result of Hurricane Katrina.

(b) MERCHANT MARINERS' DOCUMENTS.—Notwithstanding section 7302(g) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration of a merchant mariners' document issued for an individual under chapter 73 of that title for up to one year, if—

(1) the records of the individual are located at the Coast Guard facility in New Orleans that was damaged by Hurricane Katrina;

(2) the individual is a resident of Alabama, Mississippi, or Louisiana; or

(3) the records of an individual were damaged or lost as a result of Hurricane Katrina.

(c) MANNER OF EXTENSION.—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

(d) EXPIRATION OF AUTHORITY.—The authorities provided under this section expire on April 1, 2007.

**SEC. 703. TEMPORARY AUTHORIZATION TO EXTEND THE DURATION OF VESSEL CERTIFICATES OF INSPECTION.**

(a) AUTHORITY TO EXTEND.—Notwithstanding section 3307 and 3711(b) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration or the validity of a certificate of inspection or a certificate of compliance issued under chapter 33 or 37, respectively, of that title for up to 6 months for a vessel inspected by a Coast Guard Marine Safety Office located in Alabama, Mississippi, or Louisiana.

(b) EXPIRATION OF AUTHORITY.—The authority provided under this section expires on April 1, 2007.

**SEC. 704. PRESERVATION OF LEAVE LOST DUE TO HURRICANE KATRINA OPERATIONS.**

(a) PRESERVATION OF LEAVE.—Notwithstanding section 701(b) of title 10, United States Code, any member of the Coast Guard

who served on active duty for a continuous period of 30 days, who was assigned to duty or otherwise detailed in support of units or operations in the Eighth Coast Guard District area of responsibility for activities to mitigate the consequences of, or assist in the recovery from, Hurricane Katrina during the period beginning on August 28, 2005, and ending on January 1, 2006, and who would have otherwise lost any accumulated leave in excess of 60 days as a consequence of such assignment, is authorized to retain an accumulated total of up to 120 days of leave.

(b) EXCESS LEAVE.—Leave in excess of 60 days accumulated under subsection (a) shall be lost unless used by the member before the commencement of the second fiscal year following the fiscal year in which the assignment commences, or in the case of a Reserve member, the year in which the period of active service is completed.

**SEC. 705. REPORTS ON IMPACT TO COAST GUARD.**

(a) REPORTS REQUIRED.—

(1) INTERIM REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an interim report on the impact of Hurricane Katrina and the response of the Coast Guard to such impact.

(2) FINAL REPORT.—Not later than 180 days after the date of the submittal of the report under paragraph (1), the Secretary shall submit to the committees referred to in paragraph (1) a final report on the impact of Hurricane Katrina and the response of the Coast Guard to such impact.

(b) ELEMENTS.—Each report required by subsection (a) shall include the following:

(1) A discussion and assessment of the impact of Hurricane Katrina on the facilities, aircraft, vessels, and other assets of the Coast Guard, including an assessment of such impact on pending or proposed replacements or upgrades of facilities, aircraft, vessels, or other assets of the Coast Guard.

(2) A discussion and assessment of the impact of Hurricane Katrina on Coast Guard operations and strategic goals.

(3) A statement of the number of emergency drills held by the Coast Guard during the 5-year period ending on the date of the report with respect to natural disasters and with respect to security incidents.

(4) A description and assessment of—

(A) the lines of communication and reporting, during the response to Hurricane Katrina, within the Coast Guard and between the Coast Guard and other departments and agencies of the Federal Government and State and local governments; and

(B) the interoperability of such communications during the response to Hurricane Katrina.

(5) A discussion and assessment of the financial impact on Coast Guard operations during fiscal years 2005 and 2006 of unbudgeted increases in prices of fuel.

**SEC. 706. REPORTS ON IMPACTS ON NAVIGABLE WATERWAYS.**

(a) REPORTS REQUIRED.—

(1) INTERIM REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the impacts of Hurricane Katrina on navigable waterways and the response of the Coast Guard to such impacts.

(2) FINAL REPORT.—Not later than 180 days after the date of the submittal of the report required by paragraph (1), the Secretary, in consultation with the Secretary of Commerce, shall submit to the committees referred to in paragraph (1) a report on the impacts of Hurricane Katrina on navigable waterways with respect to missions within the jurisdiction of the Coast Guard and the response of the Coast Guard to such impacts.

(b) ELEMENTS.—Each report required by subsection (a) shall include the following:

(1) A discussion and assessment of the impacts, and associated costs, of Hurricane Katrina on—

(A) the navigable waterways of the United States;

(B) facilities located in or on such waterways;

(C) aids to navigation to maintain the safety of such waterways; and

(D) any other equipment located in or on such waterways related to a mission of the Coast Guard.

(2) An estimate of the costs to the Coast Guard of restoring the resources described in paragraph (1) and an assessment of the vulnerability of such resources to natural disasters in the future.

(3) A discussion and assessment of the environmental impacts in areas within the Coast Guard's jurisdiction of Hurricane Katrina, with a particular emphasis on any releases of oil or hazardous chemicals into the navigable waterways of the United States.

(4) A discussion and assessment of the response of the Coast Guard to the impacts described in paragraph (3), including an assessment of environmental vulnerabilities in natural disasters in the future and an estimate of the costs of addressing such vulnerabilities.

(c) NAVIGABLE WATERWAYS OF THE UNITED STATES.—In this section, the term "navigable waterways of the United States" includes waters of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

# TITLE VIII—OCEAN COMMISSION RECOMMENDATIONS

14 USC 92 note.

**SEC. 801. IMPLEMENTATION OF INTERNATIONAL AGREEMENTS.**

In consultation with appropriate Federal agencies, the Secretary of the department in which the Coast Guard is operating shall work with the responsible officials and agencies of other nations to accelerate efforts at the International Maritime Organization to enhance oversight and enforcement of security, environmental, and other agreements adopted within the International

Maritime Organization by flag States on whom such agreements are binding, including implementation of—

(1) a code outlining flag State responsibilities and obligations;

(2) an audit regime for evaluating flag State performance;

(3) measures to ensure that responsible organizations, acting on behalf of flag States, meet established performance standards; and

(4) cooperative arrangements to improve enforcement on a bilateral, regional, or international basis.

**SEC. 802. VOLUNTARY MEASURES FOR REDUCING POLLUTION FROM RECREATIONAL BOATS.**

14 USC 92 note.

In consultation with appropriate Federal, State, and local government agencies, the Secretary of the department in which the Coast Guard is operating shall undertake outreach programs for educating the owners and operators of boats using two-stroke engines about the pollution associated with such engines and support voluntary programs that reduce such pollution and encourage the early replacement of older two-stroke engines.

**SEC. 803. INTEGRATION OF VESSEL MONITORING SYSTEM DATA.**

16 USC 1861 note.

The Secretary of the department in which the Coast Guard is operating shall integrate vessel monitoring system data into its maritime operations databases for the purpose of improving monitoring and enforcement of Federal fisheries laws and work with the Under Secretary of Commerce for Oceans and Atmosphere to ensure effective use of such data for monitoring and enforcement.

**SEC. 804. FOREIGN FISHING INCURSIONS.**

16 USC 1828.

Deadline. Reports.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on steps that the Coast Guard will take to significantly improve the Coast Guard's detection and interdiction of illegal incursions into the United States exclusive economic zone by foreign fishing vessels.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall—

(1) focus on areas in the exclusive economic zone where the Coast Guard has failed to detect or interdict such incursions in the 4-fiscal-year period beginning with fiscal year 2000, including such areas in the Western/Central Pacific and the Bering Sea; and

(2) include an evaluation of the potential use of unmanned aircraft and offshore platforms for detecting or interdicting such incursions.

(c) BIENNIAL UPDATES.—The Secretary shall provide biannual reports updating the Coast Guard's progress in detecting or interdicting such incursions to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

# TITLE IX—TECHNICAL CORRECTIONS

**SEC. 901. MISCELLANEOUS TECHNICAL CORRECTIONS.**

(a) REQUIREMENTS FOR COOPERATIVE AGREEMENTS FOR VOLUNTARY SERVICES.—Section 93(a)(19) of title 14, United States Code, is amended by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Effective date.

(b) CORRECTION OF AMENDMENT TO CHAPTER ANALYSIS.—Effective August 9, 2004, section 212(b) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1037) is amended by inserting "of title 14" after "chapter 17".

(c) RECOMMENDATIONS TO CONGRESS BY COMMANDANT OF THE COAST GUARD.—Section 93(a) of title 14, United States Code, is amended by redesignating paragraph (y) as paragraph (24).

Effective date.
33 USC 1223 and note.

(d) CORRECTION OF REFERENCE TO PORTS AND WATERWAYS SAFETY ACT.—Effective August 9, 2004, section 302 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1041) is amended by striking "of 1972".

(e) TECHNICAL CORRECTION OF PENALTY.—Section 4311(b) of title 46, United States Code, is amended by striking "4307(a)of" and inserting "4307(a) of".

(f) DETERMINING ADEQUACY OF POTABLE WATER.—Section 3305(a) of title 46, United States Code, is amended by moving paragraph (2) two ems to the left, so that the material preceding subparagraph (A) of such paragraph aligns with the left-hand margin of paragraph (1) of such section.

Effective date.
46 USC 4508 and note.

(g) RENEWAL OF ADVISORY GROUP.—Effective August 9, 2004, section 418(a) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1049) is amended by striking "of September 30, 2005" and inserting "on September 30, 2005".

(h) TECHNICAL CORRECTIONS RELATING TO REFERENCES TO NATIONAL DRIVER REGISTER.—

Effective date.
46 USC 7302 and note.

(1) AMENDMENT INSTRUCTION.—Effective August 9, 2004, section 609(1) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1058) is amended in the matter preceding subparagraph (A) by striking "7302" and inserting "7302(c)".

(2) OMITTED WORD.—Section 7302(c) of title 46, United States Code, is amended—

(A) by inserting "section" before "30305(b)(5)"; and

(B) by inserting "section" before "30304(a)(3)(A)".

(3) EXTRANEOUS U.S.C. REFERENCE.—Section 7703(3) of title 46, United States Code, is amended by striking "(23 U.S.C. 401 note)".

(i) VESSEL RESPONSE PLANS FOR NONTANK VESSELS.—

(1) CORRECTION OF VESSEL REFERENCES.—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended by striking "non-tank" each place it appears and inserting "nontank".

Effective date.
33 USC 1321 and note.

(2) PUNCTUATION ERROR.—Effective August 9, 2004, section 701(b)(9) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1068) is amended by inserting closing quotation marks after "each tank vessel".

(j) PUNCTUATION ERROR.—Section 5006(c) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(c)) is amended by inserting a comma after "October 1, 2012".

(k) CORRECTION TO SUBTITLE DESIGNATION.—

(1) REDESIGNATION.—Title 46, United States Code, is amended by redesignating subtitle VI as subtitle VII.

46 USC 70101.

(2) CLERICAL AMENDMENT.—The table of subtitles at the beginning of title 46, United States Code, is amended by striking the item relating to subtitle VI and inserting the following:

"VII. MISCELLANEOUS .....70101".

(l) CORRECTIONS TO CHAPTER 701 OF TITLE 46, UNITED STATES CODE.—Chapter 701 of title 46, United States Code, is amended as follows:

46 USC 70101 *et seq.*

(1) Sections 70118 and 70119, as added by section 801 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1078), relating to firearms, arrests, and seizure of property and to enforcement by State and local officers, are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(2) Sections 70117 and 70118, as added by section 802 of such Act (118 Stat. 1078), relating to in rem liability for civil penalties and to certain costs and withholding of clearance, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(3) In section 70120(a), as redesignated by paragraph (2) of this section, by striking "section 70120" and inserting "section 70119".

(4) In section 70121(a), as redesignated by paragraph (2) of this section, by striking "section 70120" and inserting "section 70119".

(5) In the analysis at the beginning of the chapter by striking the items relating to sections 70117 through the second 70119 and inserting the following:

"70117. Firearms, arrests, and seizure of property.
"70118. Enforcement by State and local officers.
"70119. Civil penalty.
"70120. In rem liability for civil penalties and certain costs.
"70121. Withholding of clearance.".

(m) AREA MARITIME SECURITY ADVISORY COMMITTEES; MARGIN ALIGNMENT.—Section 70112(b) of title 46, United States Code, is amended by moving paragraph (5) two ems to the left, so that the left-hand margin of paragraph (5) aligns with the left-hand margin of paragraph (4) of such section.

(n) TECHNICAL CORRECTION REGARDING TANK VESSEL ENVIRONMENTAL EQUIVALENCY EVALUATION INDEX.—Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended by striking "hull" the second place it appears.

(o) CORRECTIONS TO SECTION 6101 OF TITLE 46, UNITED STATES CODE.—Section 6101 of title 46, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by redesignating the second subsection (g) as subsection (h).

(p) DRUG INTERDICTION REPORT.—

(1) IN GENERAL.—Section 103 of the Coast Guard Authorization Act of 1996 (14 U.S.C. 89 note; 110 Stat. 3905) is amended to read as follows:

**"SEC. 103. ANNUAL REPORT ON DRUG INTERDICTION.**

"Not later than 30 days after the end of each fiscal year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on all expenditures related to drug interdiction activities of the Coast Guard on an annual basis.".

(2) CLERICAL AMENDMENT.—The table of contents in section 2 of such Act is amended by striking the item relating to section 103 and inserting the following:

"Sec. 103. Annual reports on drug interdiction.".

(q) ACTS OF TERRORISM REPORT.—Section 905 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (46 U.S.C. App. 1802; 100 Stat. 890) is amended by striking "Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report" and inserting "The Secretary of the department in which the Coast Guard is operating shall report annually".

(r) CORRECTIONS TO DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—

(1) SECTION 4.—Section 4(c) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended by striking ", for each of fiscal years 2006 through 2009,".

(2) SECTION 14.—Section 14(a)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777m(a)(1)) is amended by striking "For each of the fiscal years 2006 through 2009, not more than" and inserting "Not more than".

**SEC. 902. CORRECTION OF REFERENCES TO SECRETARY OF TRANSPORTATION AND DEPARTMENT OF TRANSPORTATION; RELATED MATTERS.**

(a) GOVERNMENT ORGANIZATION.—Title 5, United States Code, is amended—

(1) in section 101 by inserting "The Department of Homeland Security." after and immediately below "The Department of Veterans Affairs.";

(2) in section 2902(b) by inserting "the Secretary of Homeland Security," after "Secretary of the Interior,"; and

(3) in sections 5520a(k)(3), 5595(h)(5), 6308(b), and 9001(10) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(b) FINANCIAL MANAGEMENT.—Title 31, United States Code, is amended—

(1) in section 3321(c)(3) by striking "of Transportation" and inserting "of Homeland Security.";

(2) in section 3325(b) by striking "of Transportation" and inserting "of Homeland Security";

(3) in section 3527(b)(1) by striking "of Transportation" each place it appears and inserting "of Homeland Security"; and

(4) in section 3711(f)(2) by striking "of Transportation" and inserting "of Homeland Security".

(c) PUBLIC CONTRACTS.—Section 3732 of the Revised Statutes (41 U.S.C. 11) is amended by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(d) PUBLIC PRINTING AND DOCUMENTS.—Sections 1308 and 1309 of title 44, United States Code, are amended by striking "Secretary of the Department of Transportation" each place it appears and inserting "Secretary of the department in which the Coast Guard is operating".

(e) SHIPPING.—Title 46, United State Code, is amended—

(1) in section 2109 by striking "a Coast Guard or";

(2) in section 6308—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by striking subsection (a) and inserting the following:

"(a) Notwithstanding any other provision of law, no part of a report of a marine casualty investigation conducted under section 6301 of this title, including findings of fact, opinions, recommendations, deliberations, or conclusions, shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States.

"(b) Any member or employee of the Coast Guard investigating a marine casualty pursuant to section 6301 of this title shall not be subject to deposition or other discovery, or otherwise testify in such proceedings relevant to a marine casualty investigation, without the permission of the Secretary. The Secretary shall not withhold permission for such employee or member to testify, either orally or upon written questions, on solely factual matters at a time and place and in a manner acceptable to the Secretary if the information is not available elsewhere or is not obtainable by other means.";

(3) in subsection (c), as redesignated by this section, by striking "subsection (a)" and inserting "subsections (a) and (b)"; and

(4) in subsection (d), as redesignated by this section, by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (c)".

(f) MORTGAGE INSURANCE.—Section 222 of the National Housing Act of 1934 (12 U.S.C. 1715m) is amended by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(g) ARCTIC RESEARCH.—Section 107(b)(2) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4106(b)(2)) is amended—

(1) by redesignating subparagraphs (I) through (K) as subparagraphs (J) through (L), respectively; and

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

"(I) the Department of Homeland Security;".

(h) CONSERVATION.—

(1) SECTION 1029.—Section 1029(e)(2)(B) of the Bisti/De-Na-Zin Wilderness Expansion and Fossil Protection Act of 1996 (16 U.S.C. 460kkk(e)(2)(B)) is amended by striking "Secretary of Transportation, to represent the United States Coast Guard." and inserting "Commandant of the Coast Guard".

(2) SECTION 312.—Section 312(c) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2441(c)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(i) INTERNAL REVENUE CODE OF 1986.—Section 3122 of the Internal Revenue Code of 1986 (26 U.S.C. 3122) is amended by striking "Secretary of Transportation" each place it appears and

inserting "Secretary of the Department in which the Coast Guard is operating".

(j) ANCHORAGE GROUNDS.—Section 7 of the Rivers and Harbors Appropriations Act of 1915 (33 U.S.C. 471) is amended by striking "of Transportation" in each place it appears and inserting "of Homeland Security".

33 USC 494.

(k) BRIDGES.—Section 4 of the General Bridge Act of 1906 (33 U.S.C. 491) is amended by striking "of Transportation" and inserting "of Homeland Security".

(l) OIL POLLUTION.—The Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended—

(1) in section 5001(c)(1)(B) (33 U.S.C. 2731(c)(1)(B)) by striking "Commerce, the Interior, and Transportation," and inserting "Commerce and the Interior and the Commandant of the Coast Guard,";

(2) in section 5002(m)(4) (33 U.S.C. 2732(m)(4)) by striking "of Transportation." and inserting "of the department in which the Coast Guard is operating.";

(3) in section 7001(a) (33 U.S.C. 2761(a)) by striking paragraph (3) and all that follows through the end of the subsection and inserting the following:

"(3) MEMBERSHIP.—The Interagency Committee shall include representatives from the Coast Guard, the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the Minerals Management Service and the United States Fish and Wildlife Service), the Department of Transportation (including the Maritime Administration and the Pipeline and Hazardous Materials Safety Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Department of Homeland Security (including the United States Fire Administration in the Federal Emergency Management Agency), the Environmental Protection Agency, the National Aeronautics and Space Administration, and such other Federal agencies the President may designate.

"(4) CHAIRMAN.—A representative of the Coast Guard shall serve as Chairman."; and

(4) in section 7001(c)(6) (33 U.S.C. 2761(c)(6)) by striking "other such agencies in the Department of Transportation as the Secretary of Transportation may designate," and inserting "such agencies as the President may designate,".

(m) MEDICAL CARE.—Section 1(g)(4)(B) of Public Law 87–693 (42 U.S.C. 2651(g)(4)(B)) is amended by striking "of Transportation," and inserting "of Homeland Security,".

(n) SOCIAL SECURITY ACT.—Section 205(p)(3) of the Social Security Act (42 U.S.C. 405(p)(3)) is amended by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(o) MERCHANT MARINE ACT, 1920.—Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883) is amended in the matter following the ninth proviso (pertaining to transportation of a foreign-flag incineration vessel) by striking "Satisfactory inspection shall be certified in writing by the Secretary of Transportation" and inserting "Satisfactory inspection shall be certified, in writing, by the Secretary of Homeland Security.". Certification.

Approved July 11, 2006.

---

LEGISLATIVE HISTORY—H.R. 889 (S. 1280):

HOUSE REPORTS: Nos. 109–204, Pt. 1 (Comm. on Transportation and Infrastructure) and 109–413 (Comm. of Conference).

SENATE REPORTS: No. 109–114 accompanying S. 1280 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 151 (2005): Sep. 15, considered and passed House.
Oct. 27, considered and passed Senate, amended.

Vol. 152 (2006): June 26, House considered conference report.
June 27, House and Senate agreed to conference report. Senate vitiated agreement on conference report.
June 28, Senate agreed to conference report, pursuant to the order of June 22.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
July 11, Presidential statement.

# Public Law 109–242
# 109th Congress

## An Act

July 19, 2006
[S. 3504]

To amend the Public Health Service Act to prohibit the solicitation or acceptance of tissue from fetuses gestated for research purposes, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Fetus Farming Prohibition Act of 2006.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fetus Farming Prohibition Act of 2006".

**SEC. 2. PROHIBITION OF THE SOLICITATION OR ACCEPTANCE OF TISSUE FROM FETUSES GESTATED FOR RESEARCH PURPOSES.**

Section 498B of the Public Health Service Act (42 U.S.C. 289g–2) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

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

"(c) SOLICITATION OR ACCEPTANCE OF TISSUE FROM FETUSES GESTATED FOR RESEARCH PURPOSES.—It shall be unlawful for any person or entity involved or engaged in interstate commerce to—

"(1) solicit or knowingly acquire, receive, or accept a donation of human fetal tissue knowing that a human pregnancy was deliberately initiated to provide such tissue; or

"(2) knowingly acquire, receive, or accept tissue or cells obtained from a human embryo or fetus that was gestated in the uterus of a nonhuman animal.";

(3) in paragraph (1) of subsection (d), as so redesignated, by striking "(a) or (b)" and inserting "(a), (b), or (c)"; and

(4) in paragraph (1) of subsection (e), as so redesignated, by striking "section 498A(f)" and inserting "section 498A(g)".

Approved July 19, 2006.

LEGISLATIVE HISTORY—S. 3504:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 17, considered in Senate.
July 18, considered and passed Senate and House.

# Public Law 109–243
# 109th Congress

## An Act

July 24, 2006
[H.R. 42]

To ensure that the right of an individual to display the flag of the United States on residential property not be abridged.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Freedom to Display the American Flag Act of 2005.
4 USC 5 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Freedom to Display the American Flag Act of 2005".

4 USC 5 note.

**SEC. 2. DEFINITIONS.**

For purposes of this Act—

(1) the term "flag of the United States" has the meaning given the term "flag, standard, colors, or ensign" under section 3 of title 4, United States Code;

(2) the terms "condominium association" and "cooperative association" have the meanings given such terms under section 604 of Public Law 96–399 (15 U.S.C. 3603);

(3) the term "residential real estate management association" has the meaning given such term under section 528 of the Internal Revenue Code of 1986 (26 U.S.C. 528); and

(4) the term "member"—

(A) as used with respect to a condominium association, means an owner of a condominium unit (as defined under section 604 of Public Law 96–399 (15 U.S.C. 3603)) within such association;

(B) as used with respect to a cooperative association, means a cooperative unit owner (as defined under section 604 of Public Law 96–399 (15 U.S.C. 3603)) within such association; and

(C) as used with respect to a residential real estate management association, means an owner of a residential property within a subdivision, development, or similar area subject to any policy or restriction adopted by such association.

4 USC 5 note.

**SEC. 3. RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.**

A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.

**SEC. 4. LIMITATIONS.** 4 USC 5 note.

Nothing in this Act shall be considered to permit any display or use that is inconsistent with—

(1) any provision of chapter 1 of title 4, United States Code, or any rule or custom pertaining to the proper display or use of the flag of the United States (as established pursuant to such chapter or any otherwise applicable provision of law); or

(2) any reasonable restriction pertaining to the time, place, or manner of displaying the flag of the United States necessary to protect a substantial interest of the condominium association, cooperative association, or residential real estate management association.

Approved July 24, 2006.

LEGISLATIVE HISTORY—H.R. 42:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 27, considered and passed House.
July 17, considered and passed Senate.

# Public Law 109–244
# 109th Congress

## Joint Resolution

July 25, 2006
[S.J. Res. 40]

Authorizing the printing and binding of a supplement to, and revised edition of, Senate Procedure.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PRINTING OF SUPPLEMENT TO, AND REVISED EDITION OF, SENATE PROCEDURE.**

Alan Frumin.

(a) IN GENERAL.—Each of the following documents shall be prepared under the supervision of Alan Frumin, Parliamentarian and Parliamentarian Emeritus of the Senate, and shall be printed and bound as a Senate document:

(1) A supplement to "Riddick's Senate Procedure", to be styled "Frumin's Supplement to Riddick's Senate Procedure".

(2) A revised edition of "Riddick's Senate Procedure", to be styled "Frumin's Senate Procedure".

(b) COPIES.—One thousand five hundred copies of each document described in subsection (a) shall be printed for distribution to Senators and for the use of the Senate.

Approved July 25, 2006.

---

LEGISLATIVE HISTORY—S.J. Res. 40:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 29, considered and passed Senate.
July 11, considered and passed House.

Public Law 109–245
109th Congress

# An Act

To amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention.

July 26, 2006
[S. 655]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION; ACCEPTANCE OF VOLUNTARY SERVICES; FEDERAL FUNDING.**

(a) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES; STRIKING TWO-YEAR LIMIT PER INDIVIDUAL.—Section 399G(h)(2)(A) of the Public Health Service Act (42 U.S.C. 280e–11(h)(2)(A)) is amended by striking the second sentence and inserting the following: "In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual until such time as the private funding for such individual ends.".

(b) REPORTS.—Section 399G(h)(7) of the Public Health Service Act (42 U.S.C. 280e–11(h)(7)) is amended—

(1) in subparagraph (A), by inserting ", including an accounting of the use of amounts provided for under subsection (i)" before the period at the end of the second sentence; and

(2) by striking subparagraph (C) and inserting the following:

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

"(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge not to exceed the cost of providing the copy; and

"(ii) to the appropriate committees of Congress.".

(c) FEDERAL FUNDING.—Section 399G(i) of the Public Health Service Act (42 U.S.C. 280e–11(i)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "$500,000", and inserting "$1,250,000"; and

(B) in subparagraph (B), by striking "not more than $500,000" and inserting "not less than $500,000, and not more than $1,250,000"; and

(2) by adding at the end the following:

"(4) SUPPORT SERVICES.—The Director of the Centers for Disease Control and Prevention may provide facilities, utilities, and support services to the Foundation if it is determined

by the Director to be advantageous to the programs of such Centers.".

Approved July 26, 2006.

LEGISLATIVE HISTORY—S. 655:

HOUSE REPORTS: No. 109–510 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 109–91 (Comm. on Health, Education, Labor, and Pensions).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 27, considered and passed Senate.
Vol. 152 (2006): July 11, considered and passed House, amended.
July 13, Senate concurred in House amendment.

Public Law 109–246
109th Congress

# An Act

To amend the Voting Rights Act of 1965.

July 27, 2006
[H.R. 9]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006".

Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.
42 USC 1971 note.
42 USC 1973 note.

**SEC. 2. CONGRESSIONAL PURPOSE AND FINDINGS.**

(a) PURPOSE.—The purpose of this Act is to ensure that the right of all citizens to vote, including the right to register to vote and cast meaningful votes, is preserved and protected as guaranteed by the Constitution.

(b) FINDINGS.—The Congress finds the following:

(1) Significant progress has been made in eliminating first generation barriers experienced by minority voters, including increased numbers of registered minority voters, minority voter turnout, and minority representation in Congress, State legislatures, and local elected offices. This progress is the direct result of the Voting Rights Act of 1965.

(2) However, vestiges of discrimination in voting continue to exist as demonstrated by second generation barriers constructed to prevent minority voters from fully participating in the electoral process.

(3) The continued evidence of racially polarized voting in each of the jurisdictions covered by the expiring provisions of the Voting Rights Act of 1965 demonstrates that racial and language minorities remain politically vulnerable, warranting the continued protection of the Voting Rights Act of 1965.

(4) Evidence of continued discrimination includes—

(A) the hundreds of objections interposed, requests for more information submitted followed by voting changes withdrawn from consideration by jurisdictions covered by the Voting Rights Act of 1965, and section 5 enforcement actions undertaken by the Department of Justice in covered jurisdictions since 1982 that prevented election practices, such as annexation, at-large voting, and the use of multimember districts, from being enacted to dilute minority voting strength;

(B) the number of requests for declaratory judgments denied by the United States District Court for the District of Columbia;

(C) the continued filing of section 2 cases that originated in covered jurisdictions; and

(D) the litigation pursued by the Department of Justice since 1982 to enforce sections 4(e), 4(f)(4), and 203 of such Act to ensure that all language minority citizens have full access to the political process.

(5) The evidence clearly shows the continued need for Federal oversight in jurisdictions covered by the Voting Rights Act of 1965 since 1982, as demonstrated in the counties certified by the Attorney General for Federal examiner and observer coverage and the tens of thousands of Federal observers that have been dispatched to observe elections in covered jurisdictions.

(6) The effectiveness of the Voting Rights Act of 1965 has been significantly weakened by the United States Supreme Court decisions in Reno v. Bossier Parish II and Georgia v. Ashcroft, which have misconstrued Congress' original intent in enacting the Voting Rights Act of 1965 and narrowed the protections afforded by section 5 of such Act.

(7) Despite the progress made by minorities under the Voting Rights Act of 1965, the evidence before Congress reveals that 40 years has not been a sufficient amount of time to eliminate the vestiges of discrimination following nearly 100 years of disregard for the dictates of the 15th amendment and to ensure that the right of all citizens to vote is protected as guaranteed by the Constitution.

(8) Present day discrimination experienced by racial and language minority voters is contained in evidence, including the objections interposed by the Department of Justice in covered jurisdictions; the section 2 litigation filed to prevent dilutive techniques from adversely affecting minority voters; the enforcement actions filed to protect language minorities; and the tens of thousands of Federal observers dispatched to monitor polls in jurisdictions covered by the Voting Rights Act of 1965.

(9) The record compiled by Congress demonstrates that, without the continuation of the Voting Rights Act of 1965 protections, racial and language minority citizens will be deprived of the opportunity to exercise their right to vote, or will have their votes diluted, undermining the significant gains made by minorities in the last 40 years.

**SEC. 3. CHANGES RELATING TO USE OF EXAMINERS AND OBSERVERS.**

(a) USE OF OBSERVERS.—Section 8 of the Voting Rights Act of 1965 (42 U.S.C. 1973f) is amended to read as follows:

"SEC. 8. (a) Whenever—

"(1) a court has authorized the appointment of observers under section 3(a) for a political subdivision; or

"(2) the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b), unless a declaratory judgment has been rendered under section 4(a), that—

"(A) the Attorney General has received written meritorious complaints from residents, elected officials, or civic participation organizations that efforts to deny or abridge the right to vote under the color of law on account of

race or color, or in contravention of the guarantees set forth in section 4(f)(2) are likely to occur; or

"(B) in the Attorney General's judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to the Attorney General to be reasonably attributable to violations of the 14th or 15th amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the 14th or 15th amendment), the assignment of observers is otherwise necessary to enforce the guarantees of the 14th or 15th amendment;

the Director of the Office of Personnel Management shall assign as many observers for such subdivision as the Director may deem appropriate.

"(b) Except as provided in subsection (c), such observers shall be assigned, compensated, and separated without regard to the provisions of any statute administered by the Director of the Office of Personnel Management, and their service under this Act shall not be considered employment for the purposes of any statute administered by the Director of the Office of Personnel Management, except the provisions of section 7324 of title 5, United States Code, prohibiting partisan political activity.

"(c) The Director of the Office of Personnel Management is authorized to, after consulting the head of the appropriate department or agency, designate suitable persons in the official service of the United States, with their consent, to serve in these positions.

"(d) Observers shall be authorized to—

"(1) enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote; and

"(2) enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.

"(e) Observers shall investigate and report to the Attorney General, and if the appointment of observers has been authorized pursuant to section 3(a), to the court.". Investigation. Reports.

(b) MODIFICATION OF SECTION 13.—Section 13 of the Voting Rights Act of 1965 (42 U.S.C. 1973k) is amended to read as follows:

"SEC. 13. (a) The assignment of observers shall terminate in any political subdivision of any State—

"(1) with respect to observers appointed pursuant to section 8 or with respect to examiners certified under this Act before the date of the enactment of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, whenever the Attorney General notifies the Director of the Office of Personnel Management, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision described in subsection (b), that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) in such subdivision; and

"(2) with respect to observers appointed pursuant to section 3(a), upon order of the authorizing court.

"(b) A political subdivision referred to in subsection (a)(1) is one with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote.

"(c) A political subdivision may petition the Attorney General for a termination under subsection (a)(1).".

(c) REPEAL OF SECTIONS RELATING TO EXAMINERS.—Sections 6, 7, and 9 of the Voting Rights Act of 1965 (42 U.S.C. 1973d, 1973e and 1973g) are repealed.

(d) SUBSTITUTION OF REFERENCES TO "OBSERVERS" FOR REFERENCES TO "EXAMINERS".—

(1) Section 3(a) of the Voting Rights Act of 1965 (42 U.S.C. 1973a(a)) is amended by striking "examiners" each place it appears and inserting "observers".

(2) Section 4(a)(1)(C) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)(1)(C)) is amended by inserting "or observers" after "examiners".

(3) Section 12(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973j(b)) is amended by striking "an examiner has been appointed" and inserting "an observer has been assigned".

(4) Section 12(e) of the Voting Rights Act of 1965 (42 U.S.C. 1973j(e)) is amended—

(A) by striking "examiners" and inserting "observers"; and

(B) by striking "examiner" each place it appears and inserting "observer".

(e) CONFORMING CHANGES RELATING TO SECTION REFERENCES.—

(1) Section 4(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(b)) is amended by striking "section 6" and inserting "section 8".

(2) Subsections (a) and (c) of section 12 of the Voting Rights Act of 1965 (42 U.S.C. 1973j(a) and 1973j(c)) are each amended by striking "7,".

(3) Section 14(b) of the Voting Rights Act of 1965 (42 U.S.C. 1973l(b)) is amended by striking "or a court of appeals in any proceeding under section 9".

**SEC. 4. RECONSIDERATION OF SECTION 4 BY CONGRESS.**

Paragraphs (7) and (8) of section 4(a) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)) are each amended by striking "Voting Rights Act Amendments of 1982" and inserting "Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006".

**SEC. 5. CRITERIA FOR DECLARATORY JUDGMENT.**

Section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) is amended—

(1) by inserting "(a)" before "Whenever";

(2) by striking "does not have the purpose and will not have the effect" and inserting "neither has the purpose nor will have the effect"; and

(3) by adding at the end the following:

"(b) Any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting that has the purpose of or will have the effect of diminishing the ability

of any citizens of the United States on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of subsection (a) of this section.

"(c) The term 'purpose' in subsections (a) and (b) of this section shall include any discriminatory purpose.

"(d) The purpose of subsection (b) of this section is to protect the ability of such citizens to elect their preferred candidates of choice.".

**SEC. 6. EXPERT FEES AND OTHER REASONABLE COSTS OF LITIGATION.**

Section 14(e) of the Voting Rights Act of 1965 (42 U.S.C. 1973l(e)) is amended by inserting ", reasonable expert fees, and other reasonable litigation expenses" after "reasonable attorney's fee".

**SEC. 7. EXTENSION OF BILINGUAL ELECTION REQUIREMENTS.**

Section 203(b)(1) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a(b)(1)) is amended by striking "2007" and inserting "2032".

**SEC. 8. USE OF AMERICAN COMMUNITY SURVEY CENSUS DATA.**

Section 203(b)(2)(A) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a(b)(2)(A)) is amended by striking "census data" and inserting "the 2010 American Community Survey census data and subsequent American Community Survey data in 5-year increments, or comparable census data".

**SEC. 9. STUDY AND REPORT.**

The Comptroller General shall study the implementation, effectiveness, and efficiency of the current section 203 of the Voting Rights Act of 1965 and alternatives to the current implementation consistent with that section. The Comptroller General shall report the results of that study to Congress not later than 1 year after the date of the enactment of this Act.

Approved July 27, 2006.

---

LEGISLATIVE HISTORY—H.R. 9 (S. 2703):

HOUSE REPORTS: No. 109–478 (Comm. on the Judiciary).
SENATE REPORTS: No. 109–295 accompanying S. 2703 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 13, considered and passed House.
July 20, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
July 27, Presidential remarks.

# Public Law 109–247
# 109th Congress

## An Act

July 27, 2006
[H.R. 2872]

To require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Louis Braille Bicentennial—Braille Literacy Commemorative Coin Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Louis Braille Bicentennial—Braille Literacy Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Louis Braille, who invented the Braille method for reading and writing by the blind that has allowed millions of blind people to be literate participants in their societies, was born in Coupvray, a small village near Paris, on January 4, 1809.

(2) Braille lost his sight at the age of three after injuring himself with an awl in the shop of his father Rene, a maker of harnesses and other objects of leather.

(3) A youth who was both intelligent and creative and was blessed with dedicated parents, a thoughtful local priest and an energetic local schoolteacher, Braille adapted to the situation and attended local school with other youths of his age, an unheard-of practice for a blind child of the period.

(4) At the age of 10, when his schooling otherwise would have stopped, Braille—with the aid of the priest and schoolteacher—was given a scholarship by a local nobleman and went to Paris to attend the Royal Institute for Blind Children where he became the youngest pupil.

(5) At the school, most instruction was oral but Braille found there were books for the blind—large, expensive-to-produce books in which the text was of large letters embossed upon the page.

(6) Soon Braille had read all 14 books in the school, but thirsted for more.

(7) A captain in Napoleon's army, Charles Barbier de la Serre, had invented "night writing", a method for communicating on the battlefield amidst the thick smoke of combat or at night without lighting a match—which would aid enemy gunners—that used dots and dashes that were felt and interpreted with the fingers, and later adapted the method for use by the blind, calling it Sonography because it represented words by sounds, rather than spelling.

(8) Braille adopted the Sonography method instantly but soon recognized that the basis in sound and the large number of dots—as many as 12—used to represent words was too cumbersome.

(9) By the age of 15, and using a blunt awl, the same sort of tool that had blinded him, Braille had developed what is essentially modern Braille, a code that uses no more than 6 dots in a "cell" of 2 columns of 3 dots each to represent each letter and contains a system of punctuation and of "contractions" to speed writing and reading.

(10) In contrast to the bulky books consisting of large embossed letters, Braille books can contain as many as 1000 characters or contractions on a standard 11-by-12-inch page of heavy paper, and to this day Braille can be punched with an awl-like "stylus" into paper held in a metal "slate" that is very similar to the ones that Louis Braille adapted from Barbier's original "night writing" devices.

(11) Also a talented organist who supported himself by giving concerts, Braille went on to develop the Braille representation of music and in 1829 published the first-ever Braille book, a manual about how to read and write music.

(12) 8 years later, in 1837, Braille followed that publication with another book detailing a system of representation of mathematics.

(13) Braille's talents were quickly recognized, and at 17 he was made the first blind apprentice teacher at the school, where he taught algebra, grammar, music, and geography.

(14) He and two blind classmates, his friends who probably were the first people to learn to read and write Braille, later became the first three blind full professors at the school.

(15) However, despite the fact that many blind people enthusiastically adopted the system of writing and reading, there was great skepticism among sighted people about the real usefulness of Braille's code, and even at the Royal Institute, it was not taught until after his death on January 6, 1852.

(16) Braille did not start to spread widely until 1868 when a group of British men—later to become known as the Royal National Institute for the Blind—began publicizing and teaching the system.

(17) Braille did not become the official and sole method of reading and writing for blind United States citizens until the 20th Century.

(18) Helen Keller, a Braille reader of another generation, said: "Braille has been a most precious aid to me in many ways. It made my going to college possible—it was the only method by which I could take notes on lectures. All my examination papers were copied for me in this system. I use Braille as a spider uses its web—to catch thoughts that flit across my mind for speeches, messages and manuscripts.".

(19) While rapid technological advances in the 20th Century have greatly aided the blind in many ways by speeding access to information, each advance has seen a commensurate drop in the teaching of Braille, to the point that only about 10 percent of blind students today are taught the system.

(20) However, for the blind not to know Braille is in itself a handicap, because literacy is the ability to read and the ability to write and the ability to do the two interactively.

(21) The National Federation of the Blind, the Nation's oldest membership organization consisting of blind members, has been a champion of the Braille code, of Braille literacy for all blind people and of the memory of Louis Braille, and continues its Braille literacy efforts today through its divisions emphasizing Braille literacy, emphasizing education of blind children and emphasizing employment of the blind.

(22) Braille literacy aids the blind in taking responsible and self-sufficient roles in society, such as employment: while 70 percent of the blind are unemployed, 85 percent of the employed blind are Braille-literate.

**SEC. 3. COIN SPECIFICATIONS.**

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 400,000 $1 coins bearing the designs specified in section 4(a), each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the life and legacy of Louis Braille.

(2) OBVERSE.—The design on the obverse shall bear a representation of the image of Louis Braille.

(3) REVERSE.—The design on the reverse shall emphasize Braille literacy and shall specifically include the word for Braille in Braille code (the Braille capital sign and the letters Brl) represented in a way that substantially complies with section 3 of Specification 800 of the National Library Service for the Blind and Physically Handicapped of the Library of Congress specifications for Braille, and is tactilely indiscernible from printed or written Braille.

(4) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2009"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts and the National Federation of the Blind; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2009.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) SURCHARGE REQUIRED.—All sales of coins under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the National Federation of the Blind to further its programs to promote Braille literacy.

(c) AUDITS.—The National Federation of the Blind shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the National Federation under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the

date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved July 27, 2006.

LEGISLATIVE HISTORY—H.R. 2872 (S. 2321):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 28, considered and passed House.
July 12, considered and passed Senate.

# Public Law 109–248
# 109th Congress

## An Act

To protect children from sexual exploitation and violent crime, to prevent child abuse and child pornography, to promote Internet safety, and to honor the memory of Adam Walsh and other child crime victims.

July 27, 2006
[H.R. 4472]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Adam Walsh Child Protection and Safety Act of 2006.
42 USC 16901 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Adam Walsh Child Protection and Safety Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. In recognition of John and Revé Walsh on the occasion of the 25th anniversary of Adam Walsh's abduction and murder.

TITLE I—SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Sec. 101. Short title.
Sec. 102. Declaration of purpose.
Sec. 103. Establishment of program.

Subtitle A—Sex Offender Registration and Notification

Sec. 111. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators.
Sec. 112. Registry requirements for jurisdictions.
Sec. 113. Registry requirements for sex offenders.
Sec. 114. Information required in registration.
Sec. 115. Duration of registration requirement.
Sec. 116. Periodic in person verification.
Sec. 117. Duty to notify sex offenders of registration requirements and to register.
Sec. 118. Public access to sex offender information through the Internet.
Sec. 119. National Sex Offender Registry.
Sec. 120. Dru Sjodin National Sex Offender Public Website.
Sec. 121. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program.
Sec. 122. Actions to be taken when sex offender fails to comply.
Sec. 123. Development and availability of registry management and website software.
Sec. 124. Period for implementation by jurisdictions.
Sec. 125. Failure of jurisdiction to comply.
Sec. 126. Sex Offender Management Assistance (SOMA) Program.
Sec. 127. Election by Indian tribes.
Sec. 128. Registration of sex offenders entering the United States.
Sec. 129. Repeal of predecessor sex offender program.
Sec. 130. Limitation on liability for the National Center for Missing and Exploited Children.
Sec. 131. Immunity for good faith conduct.

Subtitle B—Improving Federal Criminal Law Enforcement To Ensure Sex Offender Compliance With Registration and Notification Requirements and Protection of Children From Violent Predators

Sec. 141. Amendments to title 18, United States Code, relating to sex offender registration.

Sec. 142. Federal assistance with respect to violations of registration requirements.
Sec. 143. Project Safe Childhood.
Sec. 144. Federal assistance in identification and location of sex offenders relocated as a result of a major disaster.
Sec. 145. Expansion of training and technology efforts.
Sec. 146. Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking.

Subtitle C—Access to Information and Resources Needed To Ensure That Children Are Not Attacked or Abused

Sec. 151. Access to national crime information databases.
Sec. 152. Requirement to complete background checks before approval of any foster or adoptive placement and to check national crime information databases and State child abuse registries; suspension and subsequent elimination of Opt-Out.
Sec. 153. Schools Safe Act.
Sec. 154. Missing child reporting requirements.
Sec. 155. DNA fingerprinting.

TITLE II—FEDERAL CRIMINAL LAW ENHANCEMENTS NEEDED TO PROTECT CHILDREN FROM SEXUAL ATTACKS AND OTHER VIOLENT CRIMES

Sec. 201. Prohibition on Internet sales of date rape drugs.
Sec. 202. Jetseta Gage assured punishment for violent crimes against children.
Sec. 203. Penalties for coercion and enticement by sex offenders.
Sec. 204. Penalties for conduct relating to child prostitution.
Sec. 205. Penalties for sexual abuse.
Sec. 206. Increased penalties for sexual offenses against children.
Sec. 207. Sexual abuse of wards.
Sec. 208. Mandatory penalties for sex-trafficking of children.
Sec. 209. Child abuse reporting.
Sec. 210. Sex offender submission to search as condition of release.
Sec. 211. No limitation for prosecution of felony sex offenses.
Sec. 212. Victims' rights associated with habeas corpus proceedings.
Sec. 213. Kidnapping jurisdiction.
Sec. 214. Marital communication and adverse spousal privilege.
Sec. 215. Abuse and neglect of Indian children.
Sec. 216. Improvements to the Bail Reform Act to address sex crimes and other matters.

TITLE III—CIVIL COMMITMENT OF DANGEROUS SEX OFFENDERS

Sec. 301. Jimmy Ryce State civil commitment programs for sexually dangerous persons.
Sec. 302. Jimmy Ryce civil commitment program.

TITLE IV—IMMIGRATION LAW REFORMS TO PREVENT SEX OFFENDERS FROM ABUSING CHILDREN

Sec. 401. Failure to register a deportable offense.
Sec. 402. Barring convicted sex offenders from having family-based petitions approved.

TITLE V—CHILD PORNOGRAPHY PREVENTION

Sec. 501. Findings.
Sec. 502. Other record keeping requirements.
Sec. 503. Record keeping requirements for simulated sexual conduct.
Sec. 504. Prevention of distribution of child pornography used as evidence in prosecutions.
Sec. 505. Authorizing civil and criminal asset forfeiture in child exploitation and obscenity cases.
Sec. 506. Prohibiting the production of obscenity as well as transportation, distribution, and sale.
Sec. 507. Guardians ad litem.

TITLE VI—GRANTS, STUDIES, AND PROGRAMS FOR CHILDREN AND COMMUNITY SAFETY

Subtitle A—Mentoring Matches for Youth Act

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Grant program for expanding Big Brothers Big Sisters mentoring program.

Sec. 604. Biannual report.
Sec. 605. Authorization of appropriations.

Subtitle B—National Police Athletic League Youth Enrichment Act

Sec. 611. Short title.
Sec. 612. Findings.
Sec. 613. Purpose.
Sec. 614. Grants authorized.
Sec. 615. Use of funds.
Sec. 616. Authorization of appropriations.
Sec. 617. Name of League.

Subtitle C—Grants, Studies, and Other Provisions

Sec. 621. Pilot program for monitoring sexual offenders.
Sec. 622. Treatment and management of sex offenders in the Bureau of Prisons.
Sec. 623. Sex offender apprehension grants; juvenile sex offender treatment grants.
Sec. 624. Assistance for prosecution of cases cleared through use of DNA backlog clearance funds.
Sec. 625. Grants to combat sexual abuse of children.
Sec. 626. Crime prevention campaign grant.
Sec. 627. Grants for fingerprinting programs for children.
Sec. 628. Grants for Rape, Abuse & Incest National Network.
Sec. 629. Children's safety online awareness campaigns.
Sec. 630. Grants for online child safety programs.
Sec. 631. Jessica Lunsford Address Verification Grant Program.
Sec. 632. Fugitive safe surrender.
Sec. 633. National registry of substantiated cases of child abuse.
Sec. 634. Comprehensive examination of sex offender issues.
Sec. 635. Annual report on enforcement of registration requirements.
Sec. 636. Government Accountability Office studies on feasibility of using driver's license registration processes as additional registration requirements for sex offenders.
Sec. 637. Sex offender risk classification study.
Sec. 638. Study of the effectiveness of restricting the activities of sex offenders to reduce the occurrence of repeat offenses.
Sec. 639. The justice for Crime Victims Family Act.

TITLE VII—INTERNET SAFETY ACT

Sec. 701. Child exploitation enterprises.
Sec. 702. Increased penalties for registered sex offenders.
Sec. 703. Deception by embedded words or images.
Sec. 704. Additional prosecutors for offenses relating to the sexual exploitation of children.
Sec. 705. Additional computer-related resources.
Sec. 706. Additional ICAC Task Forces.
Sec. 707. Masha's Law.

**SEC. 2. IN RECOGNITION OF JOHN AND REVÉ WALSH ON THE OCCASION OF THE 25TH ANNIVERSARY OF ADAM WALSH'S ABDUCTION AND MURDER.**

(a) ADAM WALSH'S ABDUCTION AND MURDER.—On July 27, 1981, in Hollywood, Florida, 6-year-old Adam Walsh was abducted at a mall. Two weeks later, some of Adam's remains were discovered in a canal more than 100 miles from his home.

(b) JOHN AND REVÉ WALSH'S COMMITMENT TO THE SAFETY OF CHILDREN.—Since the abduction and murder of their son Adam, both John and Revé Walsh have dedicated themselves to protecting children from child predators, preventing attacks on our children, and bringing child predators to justice. Their commitment has saved the lives of numerous children. Congress, and the American people, honor John and Revé Walsh for their dedication to the well-being and safety of America's children.

Sex Offender Registration and Notification Act.

# TITLE I—SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

42 USC 16901 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Sex Offender Registration and Notification Act".

42 USC 16901.

**SEC. 102. DECLARATION OF PURPOSE.**

In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators against the victims listed below, Congress in this Act establishes a comprehensive national system for the registration of those offenders:

Jacob Wetterling.

(1) Jacob Wetterling, who was 11 years old, was abducted in 1989 in Minnesota, and remains missing.

Megan Nicole Kanka.

(2) Megan Nicole Kanka, who was 7 years old, was abducted, sexually assaulted, and murdered in 1994, in New Jersey.

Pam Lychner.

(3) Pam Lychner, who was 31 years old, was attacked by a career offender in Houston, Texas.

(4) Jetseta Gage, who was 10 years old, was kidnapped, sexually assaulted, and murdered in 2005, in Cedar Rapids, Iowa.

Dru Sjodin.

(5) Dru Sjodin, who was 22 years old, was sexually assaulted and murdered in 2003, in North Dakota.

Jessica Lunsford.

(6) Jessica Lunsford, who was 9 years old, was abducted, sexually assaulted, buried alive, and murdered in 2005, in Homosassa, Florida.

Sarah Lunde.

(7) Sarah Lunde, who was 13 years old, was strangled and murdered in 2005, in Ruskin, Florida.

Amie Zyla.

(8) Amie Zyla, who was 8 years old, was sexually assaulted in 1996 by a juvenile offender in Waukesha, Wisconsin, and has become an advocate for child victims and protection of children from juvenile sex offenders.

Christy Ann Fornoff.

(9) Christy Ann Fornoff, who was 13 years old, was abducted, sexually assaulted, and murdered in 1984, in Tempe, Arizona.

Alexandra Nicole Zapp.

(10) Alexandra Nicole Zapp, who was 30 years old, was brutally attacked and murdered in a public restroom by a repeat sex offender in 2002, in Bridgewater, Massachusetts.

Polly Klaas.

(11) Polly Klaas, who was 12 years old, was abducted, sexually assaulted, and murdered in 1993 by a career offender in California.

Jimmy Ryce.

(12) Jimmy Ryce, who was 9 years old, was kidnapped and murdered in Florida on September 11, 1995.

Carlie Brucia.

(13) Carlie Brucia, who was 11 years old, was abducted and murdered in Florida in February, 2004.

Amanda Brown.

(14) Amanda Brown, who was 7 years old, was abducted and murdered in Florida in 1998.

Elizabeth Smart.

(15) Elizabeth Smart, who was 14 years old, was abducted in Salt Lake City, Utah in June 2002.

Molly Bish.

(16) Molly Bish, who was 16 years old, was abducted in 2000 while working as a lifeguard in Warren, Massachusetts, where her remains were found 3 years later.

(17) Samantha Runnion, who was 5 years old, was abducted, sexually assaulted, and murdered in California on July 15, 2002. Samantha Runnion.

**SEC. 103. ESTABLISHMENT OF PROGRAM.** 42 USC 16902.

This Act establishes the Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Program.

# Subtitle A—Sex Offender Registration and Notification

**SEC. 111. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA EXPANSION OF SEX OFFENDER DEFINITION AND EXPANDED INCLUSION OF CHILD PREDATORS.** 42 USC 16911.

In this title the following definitions apply:

(1) SEX OFFENDER.—The term "sex offender" means an individual who was convicted of a sex offense.

(2) TIER I SEX OFFENDER.—The term "tier I sex offender" means a sex offender other than a tier II or tier III sex offender.

(3) TIER II SEX OFFENDER.—The term "tier II sex offender" means a sex offender other than a tier III sex offender whose offense is punishable by imprisonment for more than 1 year and—

(A) is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:

(i) sex trafficking (as described in section 1591 of title 18, United States Code);

(ii) coercion and enticement (as described in section 2422(b) of title 18, United States Code);

(iii) transportation with intent to engage in criminal sexual activity (as described in section 2423(a)) of title 18, United States Code;

(iv) abusive sexual contact (as described in section 2244 of title 18, United States Code);

(B) involves—

(i) use of a minor in a sexual performance;

(ii) solicitation of a minor to practice prostitution; or

(iii) production or distribution of child pornography; or

(C) occurs after the offender becomes a tier I sex offender.

(4) TIER III SEX OFFENDER.—The term "tier III sex offender" means a sex offender whose offense is punishable by imprisonment for more than 1 year and—

(A) is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:

(i) aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code); or

(ii) abusive sexual contact (as described in section 2244 of title 18, United States Code) against a minor who has not attained the age of 13 years;

(B) involves kidnapping of a minor (unless committed by a parent or guardian); or

(C) occurs after the offender becomes a tier II sex offender.

(5) AMIE ZYLA EXPANSION OF SEX OFFENSE DEFINITION.—

(A) GENERALLY.—Except as limited by subparagraph (B) or (C), the term "sex offense" means—

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;

(ii) a criminal offense that is a specified offense against a minor;

(iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of title 18, United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of title 18, United States Code;

(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105–119 (10 U.S.C. 951 note); or

(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) FOREIGN CONVICTIONS.—A foreign conviction is not a sex offense for the purposes of this title if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 112.

(C) OFFENSES INVOLVING CONSENSUAL SEXUAL CONDUCT.—An offense involving consensual sexual conduct is not a sex offense for the purposes of this title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

(6) CRIMINAL OFFENSE.—The term "criminal offense" means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105–119 (10 U.S.C. 951 note)) or other criminal offense.

(7) EXPANSION OF DEFINITION OF "SPECIFIED OFFENSE AGAINST A MINOR" TO INCLUDE ALL OFFENSES BY CHILD PREDATORS.—The term "specified offense against a minor" means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping.

(B) An offense (unless committed by a parent or guardian) involving false imprisonment.

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Video voyeurism as described in section 1801 of title 18, United States Code.

(G) Possession, production, or distribution of child pornography.

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(I) Any conduct that by its nature is a sex offense against a minor.

(8) CONVICTED AS INCLUDING CERTAIN JUVENILE ADJUDICATIONS.—The term "convicted" or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

(9) SEX OFFENDER REGISTRY.—The term "sex offender registry" means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) JURISDICTION.—The term "jurisdiction" means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of section 127, a federally recognized Indian tribe.

(11) STUDENT.—The term "student" means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(12) EMPLOYEE.—The term "employee" includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) RESIDES.—The term "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

(14) MINOR.—The term "minor" means an individual who has not attained the age of 18 years.

**SEC. 112. REGISTRY REQUIREMENTS FOR JURISDICTIONS.** 42 USC 16912.

(a) JURISDICTION TO MAINTAIN A REGISTRY.—Each jurisdiction shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of this title.

(b) GUIDELINES AND REGULATIONS.—The Attorney General shall issue guidelines and regulations to interpret and implement this title.

**SEC. 113. REGISTRY REQUIREMENTS FOR SEX OFFENDERS.** 42 USC 16913.

(a) IN GENERAL.—A sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student. For initial registration purposes only, a sex offender shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence.

(b) INITIAL REGISTRATION.—The sex offender shall initially register—

(1) before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or

Deadline.

(2) not later than 3 business days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment.

Deadline.

(c) KEEPING THE REGISTRATION CURRENT.—A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.

Applicability.
Regulations.

(d) INITIAL REGISTRATION OF SEX OFFENDERS UNABLE TO COMPLY WITH SUBSECTION (b).—The Attorney General shall have the authority to specify the applicability of the requirements of this title to sex offenders convicted before the enactment of this Act or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply with subsection (b).

(e) STATE PENALTY FOR FAILURE TO COMPLY.—Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of this title.

42 USC 16914.

**SEC. 114. INFORMATION REQUIRED IN REGISTRATION.**

(a) PROVIDED BY THE OFFENDER.—The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry:

(1) The name of the sex offender (including any alias used by the individual).

(2) The Social Security number of the sex offender.

(3) The address of each residence at which the sex offender resides or will reside.

(4) The name and address of any place where the sex offender is an employee or will be an employee.

(5) The name and address of any place where the sex offender is a student or will be a student.

(6) The license plate number and a description of any vehicle owned or operated by the sex offender.

(7) Any other information required by the Attorney General.

(b) PROVIDED BY THE JURISDICTION.—The jurisdiction in which the sex offender registers shall ensure that the following information is included in the registry for that sex offender:

(1) A physical description of the sex offender.

(2) The text of the provision of law defining the criminal offense for which the sex offender is registered.

(3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender.

(4) A current photograph of the sex offender.

(5) A set of fingerprints and palm prints of the sex offender.

(6) A DNA sample of the sex offender.

(7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction.

(8) Any other information required by the Attorney General.

**SEC. 115. DURATION OF REGISTRATION REQUIREMENT.** 42 USC 16915.

(a) FULL REGISTRATION PERIOD.—A sex offender shall keep the registration current for the full registration period (excluding any time the sex offender is in custody or civilly committed) unless the offender is allowed a reduction under subsection (b). The full registration period is—

(1) 15 years, if the offender is a tier I sex offender;

(2) 25 years, if the offender is a tier II sex offender; and

(3) the life of the offender, if the offender is a tier III sex offender.

(b) REDUCED PERIOD FOR CLEAN RECORD.—

(1) CLEAN RECORD.—The full registration period shall be reduced as described in paragraph (3) for a sex offender who maintains a clean record for the period described in paragraph (2) by—

(A) not being convicted of any offense for which imprisonment for more than 1 year may be imposed;

(B) not being convicted of any sex offense;

(C) successfully completing any periods of supervised release, probation, and parole; and

(D) successfully completing of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General.

(2) PERIOD.—In the case of—

(A) a tier I sex offender, the period during which the clean record shall be maintained is 10 years; and

(B) a tier III sex offender adjudicated delinquent for the offense which required registration in a sex registry under this title, the period during which the clean record shall be maintained is 25 years.

(3) REDUCTION.—In the case of—

(A) a tier I sex offender, the reduction is 5 years;

(B) a tier III sex offender adjudicated delinquent, the reduction is from life to that period for which the clean record under paragraph (2) is maintained.

**SEC. 116. PERIODIC IN PERSON VERIFICATION.** 42 USC 16916.

A sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than—

(1) each year, if the offender is a tier I sex offender;

(2) every 6 months, if the offender is a tier II sex offender; and

(3) every 3 months, if the offender is a tier III sex offender.

**SEC. 117. DUTY TO NOTIFY SEX OFFENDERS OF REGISTRATION REQUIREMENTS AND TO REGISTER.** 42 USC 16917.

(a) IN GENERAL.—An appropriate official shall, shortly before release of the sex offender from custody, or, if the sex offender is not in custody, immediately after the sentencing of the sex offender, for the offense giving rise to the duty to register—

(1) inform the sex offender of the duties of a sex offender under this title and explain those duties;

(2) require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement; and

(3) ensure that the sex offender is registered.

Regulations.

(b) NOTIFICATION OF SEX OFFENDERS WHO CANNOT COMPLY WITH SUBSECTION (a).—The Attorney General shall prescribe rules for the notification of sex offenders who cannot be registered in accordance with subsection (a).

42 USC 16918.

**SEC. 118. PUBLIC ACCESS TO SEX OFFENDER INFORMATION THROUGH THE INTERNET.**

(a) IN GENERAL.—Except as provided in this section, each jurisdiction shall make available on the Internet, in a manner that is readily accessible to all jurisdictions and to the public, all information about each sex offender in the registry. The jurisdiction shall maintain the Internet site in a manner that will permit the public to obtain relevant information for each sex offender by a single query for any given zip code or geographic radius set by the user. The jurisdiction shall also include in the design of its Internet site all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General.

(b) MANDATORY EXEMPTIONS.—A jurisdiction shall exempt from disclosure—

(1) the identity of any victim of a sex offense;

(2) the Social Security number of the sex offender;

(3) any reference to arrests of the sex offender that did not result in conviction; and

(4) any other information exempted from disclosure by the Attorney General.

(c) OPTIONAL EXEMPTIONS.—A jurisdiction may exempt from disclosure—

(1) any information about a tier I sex offender convicted of an offense other than a specified offense against a minor;

(2) the name of an employer of the sex offender;

(3) the name of an educational institution where the sex offender is a student; and

(4) any other information exempted from disclosure by the Attorney General.

(d) LINKS.—The site shall include, to the extent practicable, links to sex offender safety and education resources.

(e) CORRECTION OF ERRORS.—The site shall include instructions on how to seek correction of information that an individual contends is erroneous.

(f) WARNING.—The site shall include a warning that information on the site should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported address. The warning shall note that any such action could result in civil or criminal penalties.

42 USC 16919.

**SEC. 119. NATIONAL SEX OFFENDER REGISTRY.**

(a) INTERNET.—The Attorney General shall maintain a national database at the Federal Bureau of Investigation for each sex offender and any other person required to register in a jurisdiction's sex offender registry. The database shall be known as the National Sex Offender Registry.

(b) ELECTRONIC FORWARDING.—The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions.

**SEC. 120. DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE.** 42 USC 16920.

(a) ESTABLISHMENT.—There is established the Dru Sjodin National Sex Offender Public Website (hereinafter in this section referred to as the "Website"), which the Attorney General shall maintain.

(b) INFORMATION TO BE PROVIDED.—The Website shall include relevant information for each sex offender and other person listed on a jurisdiction's Internet site. The Website shall allow the public to obtain relevant information for each sex offender by a single query for any given zip code or geographical radius set by the user in a form and with such limitations as may be established by the Attorney General and shall have such other field search capabilities as the Attorney General may provide.

**SEC. 121. MEGAN NICOLE KANKA AND ALEXANDRA NICOLE ZAPP COMMUNITY NOTIFICATION PROGRAM.** 42 USC 16921.

(a) ESTABLISHMENT OF PROGRAM.—There is established the Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program (hereinafter in this section referred to as the "Program").

(b) PROGRAM NOTIFICATION.—Except as provided in subsection (c), immediately after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall provide the information in the registry (other than information exempted from disclosure by the Attorney General) about that offender to the following:

(1) The Attorney General, who shall include that information in the National Sex Offender Registry or other appropriate databases.

(2) Appropriate law enforcement agencies (including probation agencies, if appropriate), and each school and public housing agency, in each area in which the individual resides, is an employee or is a student.

(3) Each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.

(4) Any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

(5) Social service entities responsible for protecting minors in the child welfare system.

(6) Volunteer organizations in which contact with minors or other vulnerable individuals might occur.

(7) Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction.

(c) FREQUENCY.—Notwithstanding subsection (b), an organization or individual described in subsection (b)(6) or (b)(7) may opt to receive the notification described in that subsection no less frequently than once every five business days.

**SEC. 122. ACTIONS TO BE TAKEN WHEN SEX OFFENDER FAILS TO COMPLY.** 42 USC 16922.

An appropriate official shall notify the Attorney General and appropriate law enforcement agencies of any failure by a sex offender to comply with the requirements of a registry and revise Notification.

the jurisdiction's registry to reflect the nature of that failure. The appropriate official, the Attorney General, and each such law enforcement agency shall take any appropriate action to ensure compliance.

42 USC 16923.

**SEC. 123. DEVELOPMENT AND AVAILABILITY OF REGISTRY MANAGEMENT AND WEBSITE SOFTWARE.**

(a) DUTY TO DEVELOP AND SUPPORT.—The Attorney General shall, in consultation with the jurisdictions, develop and support software to enable jurisdictions to establish and operate uniform sex offender registries and Internet sites.

(b) CRITERIA.—The software should facilitate—

(1) immediate exchange of information among jurisdictions;

(2) public access over the Internet to appropriate information, including the number of registered sex offenders in each jurisdiction on a current basis;

(3) full compliance with the requirements of this title; and

(4) communication of information to community notification program participants as required under section 121.

(c) DEADLINE.—The Attorney General shall make the first complete edition of this software available to jurisdictions within 2 years of the date of the enactment of this Act.

42 USC 16924.

**SEC. 124. PERIOD FOR IMPLEMENTATION BY JURISDICTIONS.**

(a) DEADLINE.—Each jurisdiction shall implement this title before the later of—

(1) 3 years after the date of the enactment of this Act; and

(2) 1 year after the date on which the software described in section 123 is available.

(b) EXTENSIONS.—The Attorney General may authorize up to two 1-year extensions of the deadline.

42 USC 16925.

**SEC. 125. FAILURE OF JURISDICTION TO COMPLY.**

(a) IN GENERAL.—For any fiscal year after the end of the period for implementation, a jurisdiction that fails, as determined by the Attorney General, to substantially implement this title shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(b) STATE CONSTITUTIONALITY.—

(1) IN GENERAL.—When evaluating whether a jurisdiction has substantially implemented this title, the Attorney General shall consider whether the jurisdiction is unable to substantially implement this title because of a demonstrated inability to implement certain provisions that would place the jurisdiction in violation of its constitution, as determined by a ruling of the jurisdiction's highest court.

(2) EFFORTS.—If the circumstances arise under paragraph (1), then the Attorney General and the jurisdiction shall make good faith efforts to accomplish substantial implementation of this title and to reconcile any conflicts between this title and the jurisdiction's constitution. In considering whether compliance with the requirements of this title would likely violate the jurisdiction's constitution or an interpretation thereof by the jurisdiction's highest court, the Attorney General

shall consult with the chief executive and chief legal officer of the jurisdiction concerning the jurisdiction's interpretation of the jurisdiction's constitution and rulings thereon by the jurisdiction's highest court.

(3) ALTERNATIVE PROCEDURES.—If the jurisdiction is unable to substantially implement this title because of a limitation imposed by the jurisdiction's constitution, the Attorney General may determine that the jurisdiction is in compliance with this Act if the jurisdiction has made, or is in the process of implementing reasonable alternative procedures or accommodations, which are consistent with the purposes of this Act.

(4) FUNDING REDUCTION.—If a jurisdiction does not comply with paragraph (3), then the jurisdiction shall be subject to a funding reduction as specified in subsection (a).

(c) REALLOCATION.—Amounts not allocated under a program referred to in this section to a jurisdiction for failure to substantially implement this title shall be reallocated under that program to jurisdictions that have not failed to substantially implement this title or may be reallocated to a jurisdiction from which they were withheld to be used solely for the purpose of implementing this title.

(d) RULE OF CONSTRUCTION.—The provisions of this title that are cast as directions to jurisdictions or their officials constitute, in relation to States, only conditions required to avoid the reduction of Federal funding under this section.

**SEC. 126. SEX OFFENDER MANAGEMENT ASSISTANCE (SOMA) PROGRAM.** 42 USC 16926.

(a) IN GENERAL.—The Attorney General shall establish and implement a Sex Offender Management Assistance program (in this title referred to as the "SOMA program"), under which the Attorney General may award a grant to a jurisdiction to offset the costs of implementing this title.

(b) APPLICATION.—The chief executive of a jurisdiction desiring a grant under this section shall, on an annual basis, submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(c) BONUS PAYMENTS FOR PROMPT COMPLIANCE.—A jurisdiction that, as determined by the Attorney General, has substantially implemented this title not later than 2 years after the date of the enactment of this Act is eligible for a bonus payment. The Attorney General may make such a payment under the SOMA program for the first fiscal year beginning after that determination. The amount of the payment shall be— Deadlines.

(1) 10 percent of the total received by the jurisdiction under the SOMA program for the preceding fiscal year, if that implementation is not later than 1 year after the date of enactment of this Act; and

(2) 5 percent of such total, if not later than 2 years after that date.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to the Attorney General, to be available only for the SOMA program, for fiscal years 2007 through 2009.

**SEC. 127. ELECTION BY INDIAN TRIBES.** 42 USC 16927.

(a) ELECTION.—

(1) IN GENERAL.—A federally recognized Indian tribe may, by resolution or other enactment of the tribal council or comparable governmental body—

(A) elect to carry out this subtitle as a jurisdiction subject to its provisions; or

(B) elect to delegate its functions under this subtitle to another jurisdiction or jurisdictions within which the territory of the tribe is located and to provide access to its territory and such other cooperation and assistance as may be needed to enable such other jurisdiction or jurisdictions to carry out and enforce the requirements of this subtitle.

(2) IMPUTED ELECTION IN CERTAIN CASES.—A tribe shall be treated as if it had made the election described in paragraph (1)(B) if—

(A) it is a tribe subject to the law enforcement jurisdiction of a State under section 1162 of title 18, United States Code;

(B) the tribe does not make an election under paragraph (1) within 1 year of the enactment of this Act or rescinds an election under paragraph (1)(A); or

(C) the Attorney General determines that the tribe has not substantially implemented the requirements of this subtitle and is not likely to become capable of doing so within a reasonable amount of time.

(b) COOPERATION BETWEEN TRIBAL AUTHORITIES AND OTHER JURISDICTIONS.—

(1) NONDUPLICATION.—A tribe subject to this subtitle is not required to duplicate functions under this subtitle which are fully carried out by another jurisdiction or jurisdictions within which the territory of the tribe is located.

(2) COOPERATIVE AGREEMENTS.—A tribe may, through cooperative agreements with such a jurisdiction or jurisdictions—

(A) arrange for the tribe to carry out any function of such a jurisdiction under this subtitle with respect to sex offenders subject to the tribe's jurisdiction; and

(B) arrange for such a jurisdiction to carry out any function of the tribe under this subtitle with respect to sex offenders subject to the tribe's jurisdiction.

Establishment.
42 USC 16928.

**SEC. 128. REGISTRATION OF SEX OFFENDERS ENTERING THE UNITED STATES.**

The Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, shall establish and maintain a system for informing the relevant jurisdictions about persons entering the United States who are required to register under this title. The Secretary of State and the Secretary of Homeland Security shall provide such information and carry out such functions as the Attorney General may direct in the operation of the system.

**SEC. 129. REPEAL OF PREDECESSOR SEX OFFENDER PROGRAM.**

(a) REPEAL.—Sections 170101 (42 U.S.C. 14071) and 170102 (42 U.S.C. 14072) of the Violent Crime Control and Law Enforcement Act of 1994, and section 8 of the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 (42 U.S.C. 14073), are repealed.

(b) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section shall take effect on the date of the deadline determined in accordance with section 124(a).

42 USC 14071 note.

**SEC. 130. LIMITATION ON LIABILITY FOR THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.**

Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended by adding at the end the following:

"(g) LIMITATION ON LIABILITY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the National Center for Missing and Exploited Children, including any of its directors, officers, employees, or agents, is not liable in any civil or criminal action arising from the performance of its CyberTipline responsibilities and functions, as defined by this section, or from its efforts to identify child victims.

"(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Paragraph (1) does not apply in an action in which a party proves that the National Center for Missing and Exploited Children, or its officer, employee, or agent as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose unrelated to the performance of responsibilities or functions under this section.

"(3) ORDINARY BUSINESS ACTIVITIES.—Paragraph (1) does not apply to an act or omission related to an ordinary business activity, such as an activity involving general administration or operations, the use of motor vehicles, or personnel management.".

**SEC. 131. IMMUNITY FOR GOOD FAITH CONDUCT.**

42 USC 16929.

The Federal Government, jurisdictions, political subdivisions of jurisdictions, and their agencies, officers, employees, and agents shall be immune from liability for good faith conduct under this title.

# Subtitle B—Improving Federal Criminal Law Enforcement To Ensure Sex Offender Compliance With Registration and Notification Requirements and Protection of Children From Violent Predators

**SEC. 141. AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO SEX OFFENDER REGISTRATION.**

(a) CRIMINAL PENALTIES FOR NONREGISTRATION.—

(1) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 109A the following:

## "CHAPTER 109B—SEX OFFENDER AND CRIMES AGAINST CHILDREN REGISTRY

"Sec.
"2250. Failure to register.

### "§ 2250. Failure to register

"(a) IN GENERAL.—Whoever—

"(1) is required to register under the Sex Offender Registration and Notification Act;

"(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

"(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

"(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) AFFIRMATIVE DEFENSE.—In a prosecution for a violation under subsection (a), it is an affirmative defense that—

"(1) uncontrollable circumstances prevented the individual from complying;

"(2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and

"(3) the individual complied as soon as such circumstances ceased to exist.

"(c) CRIME OF VIOLENCE.—

"(1) IN GENERAL.—An individual described in subsection (a) who commits a crime of violence under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States shall be imprisoned for not less than 5 years and not more than 30 years.

"(2) ADDITIONAL PUNISHMENT.—The punishment provided in paragraph (1) shall be in addition and consecutive to the punishment provided for the violation described in subsection (a).".

(2) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 109A the following:

**"109B. Sex offender and crimes against children registry ..... 2250".**

28 USC 994 note.

(b) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—In promulgating guidelines for use of a sentencing court in determining the sentence to be imposed for the offense specified in subsection (a), the United States Sentencing Commission shall consider the following matters, in addition to the matters specified in section 994 of title 28, United States Code:

(1) Whether the person committed another sex offense in connection with, or during, the period for which the person failed to register.

(2) Whether the person committed an offense against a minor in connection with, or during, the period for which the person failed to register.

(3) Whether the person voluntarily attempted to correct the failure to register.

(4) The seriousness of the offense which gave rise to the requirement to register, including whether such offense is a tier I, tier II, or tier III offense, as those terms are defined in section 111.

(5) Whether the person has been convicted or adjudicated delinquent for any offense other than the offense which gave rise to the requirement to register.

(c) FALSE STATEMENT OFFENSE.—Section 1001(a) of title 18, United States Code, is amended by adding at the end the following: "If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.".

(d) PROBATION.—Paragraph (8) of section 3563(a) of title 18, United States Code, is amended to read as follows:

"(8) for a person required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act; and".

(e) SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), in the sentence beginning with "The court shall order, as an explicit condition of supervised release for a person described in section 4042(c)(4)", by striking "described in section 4042(c)(4)" and all that follows through the end of the sentence and inserting "required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act.".

(2) in subsection (k)—

(A) by striking "2244(a)(1), 2244(a)(2)" and inserting "2243, 2244, 2245, 2250";

(B) by inserting "not less than 5," after "any term of years"; and

(C) by adding at the end the following: "If a defendant required to register under the Sex Offender Registration and Notification Act commits any criminal offense under chapter 109A, 110, or 117, or section 1201 or 1591, for which imprisonment for a term longer than 1 year can be imposed, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment under subsection (e)(3) without regard to the exception contained therein. Such term shall be not less than 5 years.".

(f) DUTIES OF THE BUREAU OF PRISONS.—Paragraph (3) of section 4042(c) of title 18, United States Code, is amended to read as follows:

"(3) The Director of the Bureau of Prisons shall inform a person who is released from prison and required to register under the Sex Offender Registration and Notification Act of the requirements of that Act as they apply to that person and the same information shall be provided to a person sentenced to probation by the probation officer responsible for supervision of that person.".

(g) CONFORMING AMENDMENTS TO CROSS-REFERENCES.—Section 4042(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "(4)" and inserting "(3), or any other person in a category specified by the Attorney General,"; and

(2) in paragraph (2)—

(A) in the first sentence, by striking "shall be subject to a registration requirement as a sex offender" and inserting "shall register as required by the Sex Offender Registration and Notification Act"; and

(B) in the fourth sentence, by striking "(4)" and inserting "(3)".

(h) CONFORMING REPEAL OF DEADWOOD.—Paragraph (4) of section 4042(c) of title 18, United States Code, is repealed.

10 USC 951 note.

(i) MILITARY OFFENSES.—

(1) Section 115(a)(8)(C)(i) of Public Law 105–119 (111 Stat. 2466) is amended by striking "which encompass" and all that follows through "and (B))" and inserting "which are sex offenses as that term is defined in the Sex Offender Registration and Notification Act".

(2) Section 115(a)(8)(C)(iii) of Public Law 105–119 (111 Stat. 2466; 10 U.S.C. 951 note) is amended by striking "the amendments made by subparagraphs (A) and (B)" and inserting "the Sex Offender Registration and Notification Act".

(j) CONFORMING AMENDMENT RELATING TO PAROLE.—Section 4209(a) of title 18, United States Code, is amended in the second sentence by striking "described" and all that follows through the end of the sentence and inserting "required to register under the Sex Offender Registration and Notification Act that the person comply with the requirements of that Act.".

42 USC 16941.

**SEC. 142. FEDERAL ASSISTANCE WITH RESPECT TO VIOLATIONS OF REGISTRATION REQUIREMENTS.**

(a) IN GENERAL.—The Attorney General shall use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements. For the purposes of section 566(e)(1)(B) of title 28, United States Code, a sex offender who violates a sex offender registration requirement shall be deemed a fugitive.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to implement this section.

42 USC 16942.

**SEC. 143. PROJECT SAFE CHILDHOOD.**

Deadline.

(a) ESTABLISHMENT OF PROGRAM.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall create and maintain a Project Safe Childhood program in accordance with this section.

(b) INITIAL IMPLEMENTATION.—Except as authorized under subsection (c), funds authorized under this section may only be used for the following 5 purposes:

(1) Integrated Federal, State, and local efforts to investigate and prosecute child exploitation cases, including—

(A) the partnership by each United States Attorney with each Internet Crimes Against Children Task Force that is a part of the Internet Crimes Against Children Task Force Program authorized and funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) (referred to in this

section as the "ICAC Task Force Program") that exists within the district of such attorney;

(B) the partnership by each United States Attorney with other Federal, State, and local law enforcement partners working in the district of such attorney to implement the program described in subsection (a);

(C) the development by each United States Attorney of a district-specific strategic plan to coordinate the investigation and prosecution of child exploitation crimes;

(D) efforts to identify and rescue victims of child exploitation crimes; and

(E) local training, educational, and awareness programs of such crimes.

(2) Major case coordination by the Department of Justice (or other Federal agencies as appropriate), including specific integration or cooperation, as appropriate, of—

(A) the Child Exploitation and Obscenity Section within the Department of Justice;

(B) the Innocent Images Unit of the Federal Bureau of Investigation;

(C) any task forces established in connection with the Project Safe Childhood program set forth under subsection (a); and

(D) the High Tech Investigative Unit within the Criminal Division of the Department of Justice.

(3) Increased Federal involvement in child pornography and enticement cases by providing additional investigative tools and increased penalties under Federal law.

(4) Training of Federal, State, and local law enforcement through programs facilitated by—

(A) the National Center for Missing and Exploited Children;

(B) the ICAC Task Force Program; and

(C) any other ongoing program regarding the investigation and prosecution of computer-facilitated crimes against children, including training and coordination regarding leads from—

(i) Federal law enforcement operations; and

(ii) the CyberTipline and Child Victim-Identification programs managed and maintained by the National Center for Missing and Exploited Children.

(5) Community awareness and educational programs through partnerships to provide national public awareness and educational programs through—

(A) the National Center for Missing and Exploited Children;

(B) the ICAC Task Force Program; and

(C) any other ongoing programs that—

(i) raises national awareness about the threat of online sexual predators; or

(ii) provides information to parents and children seeking to report possible violations of computer-facilitated crimes against children.

(c) EXPANSION OF PROJECT SAFE CHILDHOOD.—Notwithstanding subsection (b), funds authorized under this section may be also be used for the following purposes:

(1) The addition of not less than 8 Assistant United States Attorneys at the Department of Justice dedicated to the prosecution of cases in connection with the Project Safe Childhood program set forth under subsection (a).

(2) The creation, development, training, and deployment of not less than 10 new Internet Crimes Against Children task forces within the ICAC Task Force Program consisting of Federal, State, and local law enforcement personnel dedicated to the Project Safe Childhood program set forth under subsection (a), and the enhancement of the forensic capacities of existing Internet Crimes Against Children task forces.

(3) The development and enhancement by the Federal Bureau of Investigation of the Innocent Images task forces.

(4) Such other additional and related purposes as the Attorney General determines appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated—

(1) for the activities described under subsection (b)—

(A) $18,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the 5 succeeding fiscal years; and

(2) for the activities described under subsection (c)—

(A) for fiscal year 2007—

(i) $15,000,000 for the activities under paragraph (1);

(ii) $10,000,000 for activities under paragraph (2); and

(iii) $4,000,000 for activities under paragraph (3); and

(B) such sums as may be necessary for each of the 5 succeeding fiscal years.

42 USC 16943.

**SEC. 144. FEDERAL ASSISTANCE IN IDENTIFICATION AND LOCATION OF SEX OFFENDERS RELOCATED AS A RESULT OF A MAJOR DISASTER.**

The Attorney General shall provide assistance to jurisdictions in the identification and location of a sex offender relocated as a result of a major disaster.

42 USC 16944.

**SEC. 145. EXPANSION OF TRAINING AND TECHNOLOGY EFFORTS.**

(a) TRAINING.—The Attorney General shall—

(1) expand training efforts with Federal, State, and local law enforcement officers and prosecutors to effectively respond to the threat to children and the public posed by sex offenders who use the Internet and technology to solicit or otherwise exploit children;

(2) facilitate meetings involving corporations that sell computer hardware and software or provide services to the general public related to use of the Internet, to identify problems associated with the use of technology for the purpose of exploiting children;

(3) host national conferences to train Federal, State, and local law enforcement officers, probation and parole officers, and prosecutors regarding pro-active approaches to monitoring sex offender activity on the Internet;

(4) develop and distribute, for personnel listed in paragraph (3), information regarding multidisciplinary approaches to

holding offenders accountable to the terms of their probation, parole, and sex offender registration laws; and

(5) partner with other agencies to improve the coordination of joint investigations among agencies to effectively combat online solicitation of children by sex offenders.

(b) TECHNOLOGY.—The Attorney General shall—

(1) deploy, to all Internet Crimes Against Children Task Forces and their partner agencies, technology modeled after the Canadian Child Exploitation Tracking System; and

(2) conduct training in the use of that technology.

(c) REPORT.—Not later than July 1, 2007, the Attorney General, shall submit to Congress a report on the activities carried out under this section. The report shall include any recommendations that the Attorney General considers appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General, for fiscal year 2007—

(1) $1,000,000 to carry out subsection (a); and

(2) $2,000,000 to carry out subsection (b).

**SEC. 146. OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING.** 42 USC 16945.

(a) ESTABLISHMENT.—There is established within the Department of Justice, under the general authority of the Attorney General, an Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (hereinafter in this section referred to as the "SMART Office").

(b) DIRECTOR.—The SMART Office shall be headed by a Director who shall be appointed by the President. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs and shall have final authority for all grants, cooperative agreements, and contracts awarded by the SMART Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement. President.

(c) DUTIES AND FUNCTIONS.—The SMART Office is authorized to—

(1) administer the standards for the sex offender registration and notification program set forth in this Act;

(2) administer grant programs relating to sex offender registration and notification authorized by this Act and other grant programs authorized by this Act as directed by the Attorney General;

(3) cooperate with and provide technical assistance to States, units of local government, tribal governments, and other public and private entities involved in activities related to sex offender registration or notification or to other measures for the protection of children or other members of the public from sexual abuse or exploitation; and

(4) perform such other functions as the Attorney General may delegate.

## Subtitle C—Access to Information and Resources Needed To Ensure That Children Are Not Attacked or Abused

42 USC 16961.

**SEC. 151. ACCESS TO NATIONAL CRIME INFORMATION DATABASES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General shall ensure access to the national crime information databases (as defined in section 534 of title 28, United States Code) by—

(1) the National Center for Missing and Exploited Children, to be used only within the scope of the Center's duties and responsibilities under Federal law to assist or support law enforcement agencies in administration of criminal justice functions; and

(2) governmental social service agencies with child protection responsibilities, to be used by such agencies only in investigating or responding to reports of child abuse, neglect, or exploitation.

(b) CONDITIONS OF ACCESS.—The access provided under this section, and associated rules of dissemination, shall be—

(1) defined by the Attorney General; and

(2) limited to personnel of the Center or such agencies that have met all requirements set by the Attorney General, including training, certification, and background screening.

**SEC. 152. REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES; SUSPENSION AND SUBSEQUENT ELIMINATION OF OPT-OUT.**

(a) REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES; SUSPENSION OF OPT-OUT.—

(1) REQUIREMENT TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES.—Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (I)—

(I) by inserting ", including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code)," after "criminal records checks"; and

(II) by striking "on whose behalf foster care maintenance payments or adoption assistance payments are to be made" and inserting "regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child"; and

(ii) in each of clauses (i) and (ii), by inserting "involving a child on whose behalf such payments are to be so made" after "in any case"; and

(B) by adding at the end the following:

"(C) provides that the State shall—

"(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

"(ii) comply with any request described in clause (i) that is received from another State; and

"(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;".

(2) SUSPENSION OF OPT-OUT.—Section 471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B)) is amended—

(A) by inserting ", on or before September 30, 2005," after "plan if"; and

(B) by inserting ", on or before such date," after "or if".

(b) ELIMINATION OF OPT-OUT.—Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)), as amended by subsection (a) of this section, is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "unless an election provided for in subparagraph (B) is made with respect to the State,"; and

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.— 42 USC 671 note.

(1) GENERAL.—The amendments made by subsection (a) shall take effect on October 1, 2006, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(2) ELIMINATION OF OPT-OUT.—The amendments made by subsection (b) shall take effect on October 1, 2008, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(3) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under section 471 of the Social Security Act to meet the additional requirements imposed by the amendments made by a subsection of this section, the plan shall not be regarded as failing to meet

any of the additional requirements before the first day of the first calendar quarter beginning after the first regular session of the State legislature that begins after the otherwise applicable effective date of the amendments. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

Schools Safely Acquiring Faculty Excellence Act of 2006.
42 USC 16962.

**SEC. 153. SCHOOLS SAFE ACT.**

(a) SHORT TITLE.—This section may be cited as the "Schools Safely Acquiring Faculty Excellence Act of 2006".

(b) IN GENERAL.—The Attorney General of the United States shall, upon request of the chief executive officer of a State, conduct fingerprint-based checks of the national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code as redesignated under subsection (e)) pursuant to a request submitted by—

(1) a child welfare agency for the purpose of—

(A) conducting a background check required under section 471(a)(20) of the Social Security Act on individuals under consideration as prospective foster or adoptive parents; or

(B) an investigation relating to an incident of abuse or neglect of a minor; or

(2) a private or public elementary school, a private or public secondary school, a local educational agency, or State educational agency in that State, on individuals employed by, under consideration for employment by, or otherwise in a position in which the individual would work with or around children in the school or agency.

(c) FINGERPRINT-BASED CHECK.—Where possible, the check shall include a fingerprint-based check of State criminal history databases.

(d) FEES.—The Attorney General and the States may charge any applicable fees for the checks.

(e) PROTECTION OF INFORMATION.—An individual having information derived as a result of a check under subsection (b) may release that information only to appropriate officers of child welfare agencies, public or private elementary or secondary schools, or educational agencies or other persons authorized by law to receive that information.

(f) CRIMINAL PENALTIES.—An individual who knowingly exceeds the authority in subsection (b), or knowingly releases information in violation of subsection (e), shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(g) CHILD WELFARE AGENCY DEFINED.—In this section, the term "child welfare agency" means—

(1) the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act; and

(2) any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act, that is responsible for the licensing or approval of foster or adoptive parents.

(h) DEFINITION OF EDUCATION TERMS.—In this section, the terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given

to those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(i) TECHNICAL CORRECTION.—Section 534 of title 28, United States Code, is amended by redesignating the second subsection (e) as subsection (f).

**SEC. 154. MISSING CHILD REPORTING REQUIREMENTS.**

(a) IN GENERAL.—Section 3702 of the Crime Control Act of 1990 (42 U.S.C. 5780) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following:

"(2) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the removal of a missing person entry from its State law enforcement system or the National Crime Information Center computer database based solely on the age of the person; and"; and

(3) in paragraph (3), as redesignated, by striking "immediately" and inserting "within 2 hours of receipt".

(b) DEFINITIONS.—Section 403(1) of the Comprehensive Crime Control Act of 1984 (42 U.S.C. 5772) is amended by striking "if" through subparagraph (B) and inserting a semicolon.

**SEC. 155. DNA FINGERPRINTING.**

The first sentence of section 3(a)(1)(A) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(a)(1)(A)) is amended by striking "arrested" and inserting "arrested, facing charges, or convicted".

# TITLE II—FEDERAL CRIMINAL LAW ENHANCEMENTS NEEDED TO PROTECT CHILDREN FROM SEXUAL ATTACKS AND OTHER VIOLENT CRIMES

**SEC. 201. PROHIBITION ON INTERNET SALES OF DATE RAPE DRUGS.**

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

"(g) INTERNET SALES OF DATE RAPE DRUGS.—

"(1) Whoever knowingly uses the Internet to distribute a date rape drug to any person, knowing or with reasonable cause to believe that—

"(A) the drug would be used in the commission of criminal sexual conduct; or

"(B) the person is not an authorized purchaser;

shall be fined under this title or imprisoned not more than 20 years, or both.

"(2) As used in this subsection:

"(A) The term 'date rape drug' means—

"(i) gamma hydroxybutyric acid (GHB) or any controlled substance analogue of GHB, including gamma butyrolactone (GBL) or 1,4–butanediol;

"(ii) ketamine;

"(iii) flunitrazepam; or

"(iv) any substance which the Attorney General designates, pursuant to the rulemaking procedures prescribed by section 553 of title 5, United States Code, to be used in committing rape or sexual assault.

The Attorney General is authorized to remove any substance from the list of date rape drugs pursuant to the same rulemaking authority.

"(B) The term 'authorized purchaser' means any of the following persons, provided such person has acquired the controlled substance in accordance with this Act:

"(i) A person with a valid prescription that is issued for a legitimate medical purpose in the usual course of professional practice that is based upon a qualifying medical relationship by a practitioner registered by the Attorney General. A 'qualifying medical relationship' means a medical relationship that exists when the practitioner has conducted at least 1 medical evaluation with the authorized purchaser in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other heath professionals. The preceding sentence shall not be construed to imply that 1 medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

"(ii) Any practitioner or other registrant who is otherwise authorized by their registration to dispense, procure, purchase, manufacture, transfer, distribute, import, or export the substance under this Act.

"(iii) A person or entity providing documentation that establishes the name, address, and business of the person or entity and which provides a legitimate purpose for using any 'date rape drug' for which a prescription is not required.

Regulations. Records. Reports.

"(3) The Attorney General is authorized to promulgate regulations for record-keeping and reporting by persons handling 1,4–butanediol in order to implement and enforce the provisions of this section. Any record or report required by such regulations shall be considered a record or report required under this Act.".

**SEC. 202. JETSETA GAGE ASSURED PUNISHMENT FOR VIOLENT CRIMES AGAINST CHILDREN.**

Section 3559 of title 18, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) MANDATORY MINIMUM TERMS OF IMPRISONMENT FOR VIOLENT CRIMES AGAINST CHILDREN.—A person who is convicted of a Federal offense that is a crime of violence against the person of an individual who has not attained the age of 18 years shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense—

"(1) if the crime of violence is murder, be imprisoned for life or for any term of years not less than 30, except that such person shall be punished by death or life imprisonment

if the circumstances satisfy any of subparagraphs (A) through (D) of section 3591(a)(2) of this title;

"(2) if the crime of violence is kidnapping (as defined in section 1201) or maiming (as defined in section 114), be imprisoned for life or any term of years not less than 25; and

"(3) if the crime of violence results in serious bodily injury (as defined in section 1365), or if a dangerous weapon was used during and in relation to the crime of violence, be imprisoned for life or for any term of years not less than 10.".

**SEC. 203. PENALTIES FOR COERCION AND ENTICEMENT BY SEX OFFENDERS.**

Section 2422(b) of title 18, United States Code, is amended by striking "not less than 5 years and not more than 30 years" and inserting "not less than 10 years or for life".

**SEC. 204. PENALTIES FOR CONDUCT RELATING TO CHILD PROSTITUTION.**

Section 2423(a) of title 18, United States Code, is amended by striking "5 years and not more than 30 years" and inserting "10 years or for life".

**SEC. 205. PENALTIES FOR SEXUAL ABUSE.**

Section 2242 of title 18, United States Code, is amended by striking ", imprisoned not more than 20 years, or both" and inserting "and imprisoned for any term of years or for life".

**SEC. 206. INCREASED PENALTIES FOR SEXUAL OFFENSES AGAINST CHILDREN.**

(a) SEXUAL ABUSE AND CONTACT.—

(1) AGGRAVATED SEXUAL ABUSE OF CHILDREN.—Section 2241(c) of title 18, United States Code, is amended by striking ", imprisoned for any term of years or life, or both" and inserting "and imprisoned for not less than 30 years or for life".

(2) ABUSIVE SEXUAL CONTACT WITH CHILDREN.—Section 2244 of chapter 109A of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting "subsection (a) or (b) of" before "section 2241";

(ii) by striking "or" at the end of paragraph (3);

(iii) by striking the period at the end of paragraph (4) and inserting "; or"; and

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

"(5) subsection (c) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title and imprisoned for any term of years or for life."; and

(B) in subsection (c), by inserting "(other than subsection (a)(5))" after "violates this section".

(3) SEXUAL ABUSE OF CHILDREN RESULTING IN DEATH.—Section 2245 of title 18, United States Code, is amended to read as follows:

**"§ 2245. Offenses resulting in death**

"(a) IN GENERAL.—A person who, in the course of an offense under this chapter, or section 1591, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425, murders an individual, shall be punished by death or imprisoned for any term of years or for life.".

(4) DEATH PENALTY AGGRAVATING FACTOR.—Section 3592(c)(1) of title 18, United States Code, is amended by inserting "section 2245 (offenses resulting in death)," after "(wrecking trains),".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(e) of title 18, United States Code, is amended—

(A) by inserting "section 1591," after "this chapter," the first place it appears;

(B) by striking "the sexual exploitation of children" the first place it appears and inserting "aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography"; and

(C) by striking "any term of years or for life" and inserting "not less than 30 years or for life".

(2) ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF CHILDREN.—Section 2252(b) of title 18, United States Code, is amended in paragraph (1)—

(A) by striking "paragraphs (1)" and inserting "paragraph (1)";

(B) by inserting "section 1591," after "this chapter,"; and

(C) by inserting ", or sex trafficking of children" after "pornography".

(3) ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b) of title 18, United States Code, is amended in paragraph (1)—

(A) by inserting "section 1591," after "this chapter,"; and

(B) by inserting ", or sex trafficking of children" after "pornography".

(4) USING MISLEADING DOMAIN NAMES TO DIRECT CHILDREN TO HARMFUL MATERIAL ON THE INTERNET.—Section 2252B(b) of title 18, United States Code, is amended by striking "4" and inserting "10".

(5) EXTRATERRITORIAL CHILD PORNOGRAPHY OFFENSES.—Section 2260(c) of title 18, United States Code, is amended to read as follows:

"(c) PENALTIES.—

"(1) A person who violates subsection (a), or attempts or conspires to do so, shall be subject to the penalties provided in subsection (e) of section 2251 for a violation of that section, including the penalties provided for such a violation by a person with a prior conviction or convictions as described in that subsection.

"(2) A person who violates subsection (b), or attempts or conspires to do so, shall be subject to the penalties provided in subsection (b)(1) of section 2252 for a violation of paragraph (1), (2), or (3) of subsection (a) of that section, including the penalties provided for such a violation by a person with a prior conviction or convictions as described in subsection (b)(1) of section 2252.".

(c) MANDATORY LIFE IMPRISONMENT FOR CERTAIN REPEATED SEX OFFENSES AGAINST CHILDREN.—Section 3559(e)(2)(A) of title

18, United States Code, is amended by inserting "1591 (relating to sex trafficking of children)," after "under section".

**SEC. 207. SEXUAL ABUSE OF WARDS.**

Chapter 109A of title 18, United States Code, is amended—

(1) in section 2243(b), by striking "five years" and inserting "15 years"; and

(2) by inserting a comma after "Attorney General" each place it appears.

18 USC 2241–2244.

**SEC. 208. MANDATORY PENALTIES FOR SEX-TRAFFICKING OF CHILDREN.**

Section 1591(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "or imprisonment" and inserting "and imprisonment";

(B) by inserting "not less than 15" after "any term of years"; and

(C) by striking ", or both"; and

(2) in paragraph (2)—

(A) by striking "or imprisonment for not more than 40 years, or both" and inserting "and imprisonment for not less than 10 years or for life"; and

(B) by striking ", or both".

**SEC. 209. CHILD ABUSE REPORTING.**

Section 2258 of title 18, United States Code, is amended by striking "guilty of a Class B misdemeanor" and inserting "fined under this title or imprisoned not more than 1 year or both".

**SEC. 210. SEX OFFENDER SUBMISSION TO SEARCH AS CONDITION OF RELEASE.**

(a) CONDITIONS OF PROBATION.—Section 3563(b) of title 18, United States Code, is amended—

(1) in paragraph (21), by striking "or" ;

(2) in paragraph (22) by striking the period at the end and inserting "or;" and

(3) by inserting after paragraph (22) the following:

"(23) if required to register under the Sex Offender Registration and Notification Act, submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.".

(b) SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by adding at the end the following: "The court may order, as an explicit condition of supervised release for a person who is a felon and required to register under the Sex Offender Registration and Notification Act, that the person submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communications or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of supervised

release or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.".

**SEC. 211. NO LIMITATION FOR PROSECUTION OF FELONY SEX OFFENSES.**

Chapter 213 of title 18, United States Code, is amended—

(1) by adding at the end the following:

**"§ 3299. Child abduction and sex offenses**

"Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110 (except for section 2257 and 2257A), or 117, or section 1591."; and

(2) by adding at the end of the table of sections at the beginning of the chapter the following new item:

"3299. Child abduction and sex offenses".

**SEC. 212. VICTIMS' RIGHTS ASSOCIATED WITH HABEAS CORPUS PROCEEDINGS.**

Section 3771(b) of title 18, United States Code, is amended—

(1) by striking "In any court proceeding" and inserting the following:

"(1) IN GENERAL.—In any court proceeding"; and

(2) by adding at the end the following:

"(2) HABEAS CORPUS PROCEEDINGS.—

"(A) IN GENERAL.—In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).

"(B) ENFORCEMENT.—

"(i) IN GENERAL.—These rights may be enforced by the crime victim or the crime victim's lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).

Applicability.

"(ii) MULTIPLE VICTIMS.—In a case involving multiple victims, subsection (d)(2) shall also apply.

"(C) LIMITATION.—This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.

"(D) DEFINITION.—For purposes of this paragraph, the term 'crime victim' means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person's family member or other lawful representative.".

**SEC. 213. KIDNAPPING JURISDICTION.**

Section 1201 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "if the person was alive when the transportation began" and inserting ", or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense"; and

(2) in subsection (b), by striking "to interstate" and inserting "in interstate".

**SEC. 214. MARITAL COMMUNICATION AND ADVERSE SPOUSAL PRIVILEGE.**

The Committee on Rules, Practice, Procedure, and Evidence of the Judicial Conference of the United States shall study the necessity and desirability of amending the Federal Rules of Evidence to provide that the confidential marital communications privilege and the adverse spousal privilege shall be inapplicable in any Federal proceeding in which a spouse is charged with a crime against—

(1) a child of either spouse; or

(2) a child under the custody or control of either spouse.

**SEC. 215. ABUSE AND NEGLECT OF INDIAN CHILDREN.**

Section 1153(a) of title 18, United States Code, is amended by inserting "felony child abuse or neglect," after "years,".

**SEC. 216. IMPROVEMENTS TO THE BAIL REFORM ACT TO ADDRESS SEX CRIMES AND OTHER MATTERS.**

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (c)(1)(B), by inserting at the end the following: "In any case that involves a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title, or a failure to register offense under section 2250 of this title, any release order shall contain, at a minimum, a condition of electronic monitoring and each of the conditions specified at subparagraphs (iv), (v), (vi), (vii), and (viii).".

(2) in subsection (f)(1)—

(A) in subparagraph (C), by striking "or" at the end; and

(B) by adding at the end the following:

"(E) any felony that is not otherwise a crime of violence that involves a minor victim or that involves the possession or use of a firearm or destructive device (as those terms are defined in section 921), or any other dangerous weapon, or involves a failure to register under section 2250 of title 18, United States Code; or"; and

(3) in subsection (g), by striking paragraph (1) and inserting the following:

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;".

# TITLE III—CIVIL COMMITMENT OF DANGEROUS SEX OFFENDERS

**SEC. 301. JIMMY RYCE STATE CIVIL COMMITMENT PROGRAMS FOR SEXUALLY DANGEROUS PERSONS.** 42 USC 16971.

(a) GRANTS AUTHORIZED.—Except as provided in subsection (b), the Attorney General shall make grants to jurisdictions for

the purpose of establishing, enhancing, or operating effective civil commitment programs for sexually dangerous persons.

(b) LIMITATION.—The Attorney General shall not make any grant under this section for the purpose of establishing, enhancing, or operating any transitional housing for a sexually dangerous person in or near a location where minors or other vulnerable persons are likely to come into contact with that person.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a jurisdiction shall, before the expiration of the compliance period—

(A) have established a civil commitment program for sexually dangerous persons that is consistent with guidelines issued by the Attorney General; or

(B) submit a plan for the establishment of such a program.

Expiration date.
Extension.

(2) COMPLIANCE PERIOD.—The compliance period referred to in paragraph (1) expires on the date that is 2 years after the date of the enactment of this Act. However, the Attorney General may, on a case-by-case basis, extend the compliance period that applies to a jurisdiction if the Attorney General considers such an extension to be appropriate.

(3) RELEASE NOTICE.—

(A) Each civil commitment program for which funding is required under this section shall require the issuance of timely notice to a State official responsible for considering whether to pursue civil commitment proceedings upon the impending release of any person incarcerated by the State who—

(i) has been convicted of a sexually violent offense; or

(ii) has been deemed by the State to be at high risk for recommitting any sexual offense against a minor.

(B) The program shall further require that upon receiving notice under subparagraph (A), the State official shall consider whether or not to pursue a civil commitment proceeding, or any equivalent proceeding required under State law.

(d) ATTORNEY GENERAL REPORTS.—Not later than January 31 of each year, beginning with 2008, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of jurisdictions in implementing this section and the rate of sexually violent offenses for each jurisdiction.

(e) DEFINITIONS.—As used in this section:

(1) The term "civil commitment program" means a program that involves—

(A) secure civil confinement, including appropriate control, care, and treatment during such confinement; and

(B) appropriate supervision, care, and treatment for individuals released following such confinement.

(2) The term "sexually dangerous person" means a person suffering from a serious mental illness, abnormality, or disorder, as a result of which the individual would have serious difficulty in refraining from sexually violent conduct or child molestation.

(3) The term "jurisdiction" has the meaning given such term in section 111.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2007 through 2010.

**SEC. 302. JIMMY RYCE CIVIL COMMITMENT PROGRAM.**

Chapter 313 of title 18, United States Code, is amended—

(1) in the chapter analysis—

(A) in the item relating to section 4241, by inserting "or to undergo postrelease proceedings" after "trial"; and

(B) by inserting at the end the following:

"4248. Civil commitment of a sexually dangerous person";

(2) in section 4241—

(A) in the heading, by inserting or "**TO UNDERGO POSTRELEASE PROCEEDINGS**" after "**TRIAL**";

(B) in the first sentence of subsection (a), by inserting "or at any time after the commencement of probation or supervised release and prior to the completion of the sentence," after "defendant,";

(C) in subsection (d)—

(i) by striking "trial to proceed" each place it appears and inserting "proceedings to go forward"; and

(ii) by striking "section 4246" and inserting "sections 4246 and 4248"; and

(D) in subsection (e)—

(i) by inserting "or other proceedings" after "trial"; and

(ii) by striking "chapter 207" and inserting "chapters 207 and 227";

(3) in section 4247—

(A) by striking ", or 4246" each place it appears and inserting ", 4246, or 4248";

(B) in subsections (g) and (i), by striking "4243 or 4246" each place it appears and inserting "4243, 4246, or 4248";

(C) in subsection (a)—

(i) by amending subparagraph (1)(C) to read as follows:

"(C) drug, alcohol, and sex offender treatment programs, and other treatment programs that will assist the individual in overcoming a psychological or physical dependence or any condition that makes the individual dangerous to others; and";

(ii) in paragraph (2), by striking "and" at the end;

(iii) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(iv) by inserting at the end the following:

"(4) 'bodily injury' includes sexual abuse;

"(5) 'sexually dangerous person' means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others; and

"(6) 'sexually dangerous to others' with respect a person, means that the person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have

serious difficulty in refraining from sexually violent conduct or child molestation if released.";

(D) in subsection (b), by striking "4245 or 4246" and inserting "4245, 4246, or 4248";

(E) in subsection (c)(4)—

(i) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) respectively; and

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

"(D) if the examination is ordered under section 4248, whether the person is a sexually dangerous person;"; and

(F) in subsections (e) and (h)—

(i) by striking "hospitalized" each place it appears and inserting "committed"; and

(ii) by striking "hospitalization" each place it appears and inserting "commitment" ; and

(4) by inserting at the end the following:

**"§ 4248. Civil commitment of a sexually dangerous person**

"(a) INSTITUTION OF PROCEEDINGS.—In relation to a person who is in the custody of the Bureau of Prisons, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons relating to the mental condition of the person, the Attorney General or any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the person is a sexually dangerous person, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall place the person for treatment in a suitable facility, until—

"(1) such a State will assume such responsibility; or

"(2) the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment;

whichever is earlier.

"(e) DISCHARGE.—When the Director of the facility in which a person is placed pursuant to subsection (d) determines that the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person's condition is such that—

"(1) he will not be sexually dangerous to others if released unconditionally, the court shall order that he be immediately discharged; or

"(2) he will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the Director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(f) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that he is sexually dangerous to others in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

Notification.

Courts.

"(g) RELEASE TO STATE OF CERTAIN OTHER PERSONS.—If the director of the facility in which a person is hospitalized or placed pursuant to this chapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons

not related to the mental condition of the person, is a sexually dangerous person, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.".

# TITLE IV—IMMIGRATION LAW REFORMS TO PREVENT SEX OFFENDERS FROM ABUSING CHILDREN

**SEC. 401. FAILURE TO REGISTER A DEPORTABLE OFFENSE.**

Section 237(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

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

"(v) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien who is convicted under section 2250 of title 18, United States Code, is deportable.".

**SEC. 402. BARRING CONVICTED SEX OFFENDERS FROM HAVING FAMILY-BASED PETITIONS APPROVED.**

(a) IMMIGRANT FAMILY MEMBERS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking "Any" and inserting "Except as provided in clause (viii), any";

(2) in subparagraph (A), by inserting after clause (vii) the following:

"(viii)(I) Clause (i) shall not apply to a citizen of the United States who has been convicted of a specified offense against a minor, unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.

"(II) For purposes of subclause (I), the term 'specified offense against a minor' is defined as in section 111 of the Adam Walsh Child Protection and Safety Act of 2006."; and

(3) in subparagraph (B)(i)—

(A) by striking "(B)(i) Any alien" and inserting the following: "(B)(i)(I) Except as provided in subclause (II), any alien"; and

(B) by adding at the end the following:

"(I) Subclause (I) shall not apply in the case of an alien lawfully admitted for permanent residence who has been convicted of a specified offense against a minor (as defined in subparagraph (A)(viii)(II)), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that such person poses no

risk to the alien with respect to whom a petition described in subclause (I) is filed.".

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting "(other than a citizen described in section 204(a)(1)(A)(viii)(I))" after "citizen of the United States" each place that phrase appears.

# TITLE V—CHILD PORNOGRAPHY PREVENTION

**SEC. 501. FINDINGS.**

18 USC 2251 note.

Congress makes the following findings:

(1) The effect of the intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography on the interstate market in child pornography:

(A) The illegal production, transportation, distribution, receipt, advertising and possession of child pornography, as defined in section 2256(8) of title 18, United States Code, as well as the transfer of custody of children for the production of child pornography, is harmful to the physiological, emotional, and mental health of the children depicted in child pornography and has a substantial and detrimental effect on society as a whole.

(B) A substantial interstate market in child pornography exists, including not only a multimillion dollar industry, but also a nationwide network of individuals openly advertising their desire to exploit children and to traffic in child pornography. Many of these individuals distribute child pornography with the expectation of receiving other child pornography in return.

(C) The interstate market in child pornography is carried on to a substantial extent through the mails and other instrumentalities of interstate and foreign commerce, such as the Internet. The advent of the Internet has greatly increased the ease of transporting, distributing, receiving, and advertising child pornography in interstate commerce. The advent of digital cameras and digital video cameras, as well as videotape cameras, has greatly increased the ease of producing child pornography. The advent of inexpensive computer equipment with the capacity to store large numbers of digital images of child pornography has greatly increased the ease of possessing child pornography. Taken together, these technological advances have had the unfortunate result of greatly increasing the interstate market in child pornography.

(D) Intrastate incidents of production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the transfer of custody of children for the production of child pornography, have a substantial and direct effect upon interstate commerce because:

(i) Some persons engaged in the production, transportation, distribution, receipt, advertising, and possession of child pornography conduct such activities entirely within the boundaries of one state. These persons are unlikely to be content with the amount of child pornography they produce, transport, distribute,

receive, advertise, or possess. These persons are therefore likely to enter the interstate market in child pornography in search of additional child pornography, thereby stimulating demand in the interstate market in child pornography.

(ii) When the persons described in subparagraph (D)(i) enter the interstate market in search of additional child pornography, they are likely to distribute the child pornography they already produce, transport, distribute, receive, advertise, or possess to persons who will distribute additional child pornography to them, thereby stimulating supply in the interstate market in child pornography.

(iii) Much of the child pornography that supplies the interstate market in child pornography is produced entirely within the boundaries of one state, is not traceable, and enters the interstate market surreptitiously. This child pornography supports demand in the interstate market in child pornography and is essential to its existence.

(E) Prohibiting the intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the intrastate transfer of custody of children for the production of child pornography, will cause some persons engaged in such intrastate activities to cease all such activities, thereby reducing both supply and demand in the interstate market for child pornography.

(F) Federal control of the intrastate incidents of the production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the intrastate transfer of children for the production of child pornography, is essential to the effective control of the interstate market in child pornography.

(2) The importance of protecting children from repeat exploitation in child pornography:

(A) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and related media.

(B) Child pornography is not entitled to protection under the First Amendment and thus may be prohibited.

(C) The government has a compelling State interest in protecting children from those who sexually exploit them, and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain.

(D) Every instance of viewing images of child pornography represents a renewed violation of the privacy of the victims and a repetition of their abuse.

(E) Child pornography constitutes prima facie contraband, and as such should not be distributed to, or copied by, child pornography defendants or their attorneys.

(F) It is imperative to prohibit the reproduction of child pornography in criminal cases so as to avoid repeated violation and abuse of victims, so long as the government makes reasonable accommodations for the inspection, viewing, and examination of such material for the purposes of mounting a criminal defense.

**SEC. 502. OTHER RECORD KEEPING REQUIREMENTS.**

(a) IN GENERAL.—Section 2257 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "videotape," the following: "digital image, digitally- or computer-manipulated image of an actual human being, picture,";

(2) in subsection (e)(1), by adding at the end the following: "In this paragraph, the term 'copy' includes every page of a website on which matter described in subsection (a) appears.";

(3) in subsection (f), by—

(A) in paragraph (3), by striking "and" after the semicolon;

(B) in paragraph (4), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(5) for any person to whom subsection (a) applies to refuse to permit the Attorney General or his or her designee to conduct an inspection under subsection (c)."; and

(4) by striking subsection (h) and inserting the following: "(h) In this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in clauses (i) through (v) of section 2256(2)(A) of this title;

"(2) the term 'produces'—

"(A) means—

"(i) actually filming, videotaping, photographing, creating a picture, digital image, or digitally- or computer-manipulated image of an actual human being;

"(ii) digitizing an image, of a visual depiction of sexually explicit conduct; or, assembling, manufacturing, publishing, duplicating, reproducing, or reissuing a book, magazine, periodical, film, videotape, digital image, or picture, or other matter intended for commercial distribution, that contains a visual depiction of sexually explicit conduct; or

"(iii) inserting on a computer site or service a digital image of, or otherwise managing the sexually explicit content, of a computer site or service that contains a visual depiction of, sexually explicit conduct; and

"(B) does not include activities that are limited to—

"(i) photo or film processing, including digitization of previously existing visual depictions, as part of a commercial enterprise, with no other commercial interest in the sexually explicit material, printing, and video duplication;

"(ii) distribution;

"(iii) any activity, other than those activities identified in subparagraph (A), that does not involve the hiring, contracting for, managing, or otherwise arranging for the participation of the depicted performers;

"(iv) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of the Communications Act of 1934 (47 U.S.C. 231)); or

"(v) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)) shall not constitute such selection or alteration of the content of the communication; and

"(3) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct.".

18 USC 2257 note.

(b) CONSTRUCTION.—The provisions of section 2257 shall not apply to any depiction of actual sexually explicit conduct as described in clause (v) of section 2256(2)(A) of title 18, United States Code, produced in whole or in part, prior to the effective date of this section unless that depiction also includes actual sexually explicit conduct as described in clauses (i) through (iv) of section 2256(2)(A) of title 18, United States Code.

**SEC. 503. RECORD KEEPING REQUIREMENTS FOR SIMULATED SEXUAL CONDUCT.**

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2257 the following:

**"SEC. 2257A. RECORD KEEPING REQUIREMENTS FOR SIMULATED SEXUAL CONDUCT.**

"(a) Whoever produces any book, magazine, periodical, film, videotape, digital image, digitally- or computer-manipulated image of an actual human being, picture, or other matter that—

"(1) contains 1 or more visual depictions of simulated sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of simulated sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at their business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except

as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this chapter or chapter 71, or for a violation of any applicable provision of law with respect to the furnishing of false information.

Regulations.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in subsection (a)(1) in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located. In this paragraph, the term 'copy' includes every page of a website on which matter described in subsection (a) appears.

"(2) If the person to whom subsection (a) applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; or

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, that—

"(A) contains 1 or more visual depictions made after the date of enactment of this subsection of simulated sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(5) for any person to whom subsection (a) applies to refuse to permit the Attorney General or his or her designee to conduct an inspection under subsection (c).

"(g) As used in this section, the terms 'produces' and 'performer' have the same meaning as in section 2257(h) of this title.

"(h)(1) The provisions of this section and section 2257 shall not apply to matter, or any image therein, containing one or more

visual depictions of simulated sexually explicit conduct, or actual sexually explicit conduct as described in clause (v) of section 2256(2)(A), if such matter—

"(A)(i) is intended for commercial distribution;

"(ii) is created as a part of a commercial enterprise by a person who certifies to the Attorney General that such person regularly and in the normal course of business collects and maintains individually identifiable information regarding all performers, including minor performers, employed by that person, pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the name, address, and date of birth of the performer; and

"(iii) is not produced, marketed or made available by the person described in clause (ii) to another in circumstances such than an ordinary person would conclude that the matter contains a visual depiction that is child pornography as defined in section 2256(8); or

"(B)(i) is subject to the authority and regulation of the Federal Communications Commission acting in its capacity to enforce section 1464 of this title, regarding the broadcast of obscene, indecent or profane programming; and

"(ii) is created as a part of a commercial enterprise by a person who certifies to the Attorney General that such person regularly and in the normal course of business collects and maintains individually identifiable information regarding all performers, including minor performers, employed by that person, pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the name, address, and date of birth of the performer.

"(2) Nothing in subparagraphs (A) and (B) of paragraph (1) shall be construed to exempt any matter that contains any visual depiction that is child pornography, as defined in section 2256(8), or is actual sexually explicit conduct within the definitions in clauses (i) through (iv) of section 2256(2)(A).

Penalties.

"(i)(1) Whoever violates this section shall be imprisoned for not more than 1 year, and fined in accordance with the provisions of this title, or both.

"(2) Whoever violates this section in an effort to conceal a substantive offense involving the causing, transporting, permitting or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct in violation of this title, or to conceal a substantive offense that involved trafficking in material involving the sexual exploitation of a minor, including receiving, transporting, advertising, or possessing material involving the sexual exploitation of a minor with intent to traffic, in violation of this title, shall be imprisoned for not more than 5 years and fined in accordance with the provisions of this title, or both.

"(3) Whoever violates paragraph (2) after having been previously convicted of a violation punishable under that paragraph shall be imprisoned for any period of years not more than 10 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.

Effective date.
Federal Register, publication.

"The provisions of this section shall not become effective until 90 days after the final regulations implementing this section are

published in the Federal Register. The provisions of this section shall not apply to any matter, or image therein, produced, in whole or in part, prior to the effective date of this section.

"(k) On an annual basis, the Attorney General shall submit a report to Congress— Deadline. Reports.

"(1) concerning the enforcement of this section and section 2257 by the Department of Justice during the previous 12-month period; and

"(2) including—

"(A) the number of inspections undertaken pursuant to this section and section 2257;

"(B) the number of open investigations pursuant to this section and section 2257;

"(C) the number of cases in which a person has been charged with a violation of this section and section 2257; and

"(D) for each case listed in response to subparagraph (C), the name of the lead defendant, the federal district in which the case was brought, the court tracking number, and a synopsis of the violation and its disposition, if any, including settlements, sentences, recoveries and penalties.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by inserting after the item for section 2257 the following:

"2257A. Recordkeeping requirements for simulated sexual conduct.".

**SEC. 504. PREVENTION OF DISTRIBUTION OF CHILD PORNOGRAPHY USED AS EVIDENCE IN PROSECUTIONS.**

Section 3509 of title 18, United States Code, is amended by adding at the end the following:

"(m) PROHIBITION ON REPRODUCTION OF CHILD PORNOGRAPHY.—

"(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) shall remain in the care, custody, and control of either the Government or the court.

"(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.

"(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.".

**SEC. 505. AUTHORIZING CIVIL AND CRIMINAL ASSET FORFEITURE IN CHILD EXPLOITATION AND OBSCENITY CASES.**

(a) CONFORMING FORFEITURE PROCEDURES FOR OBSCENITY OFFENSES.—Section 1467 of title 18, United States Code, is amended—

(1) in subsection (a)(3), by inserting a period after "of such offense" and striking all that follows; and

(2) by striking subsections (b) through (n) and inserting the following:

Applicability.

"(b) The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853), with the exception of subsections (a) and (d), shall apply to the criminal forfeiture of property pursuant to subsection (a).

"(c) Any property subject to forfeiture pursuant to subsection (a) may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46 of this title.".

(b) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Section 2253(a) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting "or who is convicted of an offense under section 2252B of this chapter," after "2260 of this chapter"; and

(B) by striking "an offense under section 2421, 2422, or 2423 of chapter 117" and inserting "an offense under chapter 109A";

(2) in paragraph (1), by inserting "2252A, 2252B, or 2260" after "2252"; and

(3) in paragraph (3), by inserting "or any property traceable to such property" before the period.

(c) CRIMINAL FORFEITURE PROCEDURE.—Section 2253 of title 18, United States Code, is amended by striking subsections (b) through (o) and inserting the following:

Applicability.

"(b) Section 413 of the Controlled Substances Act (21 U.S.C. 853) with the exception of subsections (a) and (d), applies to the criminal forfeiture of property pursuant to subsection (a).".

(d) CIVIL FORFEITURE.—Section 2254 of title 18, United States Code, is amended to read as follows:

**"§ 2254. Civil forfeiture**

"Any property subject to forfeiture pursuant to section 2253 may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46.".

**SEC. 506. PROHIBITING THE PRODUCTION OF OBSCENITY AS WELL AS TRANSPORTATION, DISTRIBUTION, AND SALE.**

(a) SECTION 1465.—Section 1465 of title 18 of the United States Code is amended—

(1) by inserting "**PRODUCTION AND**" before "**TRANSPORTATION**" in the heading of the section;

(2) by inserting "produces with the intent to transport, distribute, or transmit in interstate or foreign commerce, or whoever knowingly" after "whoever knowingly" and before "transports or travels in"; and

(3) by inserting a comma after "in or affecting such commerce".

(b) SECTION 1466.—Section 1466 of title 18 of the United States Code is amended—

(1) in subsection (a), by inserting "producing with intent to distribute or sell, or" before "selling or transferring obscene matter,";

(2) in subsection (b), by inserting, "produces" before "sells or transfers or offers to sell or transfer obscene matter"; and

(3) in subsection (b) by inserting "production," before "selling or transferring or offering to sell or transfer such material.".

**SEC. 507. GUARDIANS AD LITEM.**

Section 3509(h)(1) of title 18, United States Code, is amended by inserting ", and provide reasonable compensation and payment of expenses for," before "a guardian".

# TITLE VI—GRANTS, STUDIES, AND PROGRAMS FOR CHILDREN AND COMMUNITY SAFETY

## Subtitle A—Mentoring Matches for Youth Act

Mentoring Matches for Youth Act of 2006.

**SEC. 601. SHORT TITLE.**

42 USC 5611 note.

This subtitle may be cited as the "Mentoring Matches for Youth Act of 2006".

**SEC. 602. FINDINGS.**

42 USC 5611 note.

Congress finds the following:

(1) Big Brothers Big Sisters of America, which was founded in 1904 and chartered by Congress in 1958, is the oldest and largest mentoring organization in the United States.

(2) There are over 450 Big Brothers Big Sisters of America local agencies providing mentoring programs for at-risk children in over 5,000 communities throughout every State, Guam, and Puerto Rico.

(3) Over the last decade, Big Brothers Big Sisters of America has raised a minimum of 75 percent of its annual operating budget from private sources and is continually working to grow private sources of funding to maintain this ratio of private to Federal funds.

(4) In 2005, Big Brothers Big Sisters of America provided mentors for over 235,000 children.

(5) Big Brothers Big Sisters of America has a goal to provide mentors for 1,000,000 children per year.

**SEC. 603. GRANT PROGRAM FOR EXPANDING BIG BROTHERS BIG SISTERS MENTORING PROGRAM.**

42 USC 5611 note.

In each of fiscal years 2007 through 2012, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (hereafter in this Act referred to as the "Administrator") may make grants to Big Brothers Big Sisters of America to use for expanding the capacity of and carrying out the Big Brothers Big Sisters mentoring programs for at-risk youth.

**SEC. 604. BIANNUAL REPORT.**

42 USC 5611 note.

(a) IN GENERAL.—Big Brothers Big Sisters of America shall submit 2 reports to the Administrator in each of fiscal years 2007 through 2013. Big Brothers Big Sisters of America shall submit the first report in a fiscal year not later than April 1 of that fiscal year and the second report in a fiscal year not later than September 30 of that fiscal year.

(b) REQUIRED CONTENT.—Each such report shall include the following:

(1) A detailed statement of the progress made by Big Brothers Big Sisters of America in expanding the capacity of and carrying out mentoring programs for at-risk youth.

(2) A detailed statement of how the amounts received under this Act have been used.

(3) A detailed assessment of the effectiveness of the mentoring programs.

(4) Recommendations for continued grants and the appropriate amounts for such grants.

42 USC 5611 note.

**SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this Act—

(1) $9,000,000 for fiscal year 2007;

(2) $10,000,000 for fiscal year 2008;

(3) $11,500,000 for fiscal year 2009;

(4) $13,000,000 for fiscal year 2010; and

(5) $15,000,000 for fiscal year 2011.

## Subtitle B—National Police Athletic League Youth Enrichment Act

National Police Athletic League Youth Enrichment Reauthorization Act of 2006. 42 USC 13701 note.

**SEC. 611. SHORT TITLE.**

This subtitle may be cited as the "National Police Athletic League Youth Enrichment Reauthorization Act of 2006".

**SEC. 612. FINDINGS.**

Section 2 of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (C) through (G) as subparagraphs (D) through (H), respectively; and

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

"(C) develop life enhancing character and leadership skills in young people;";

(2) in paragraph (2) by striking "55-year" and inserting "90-year";

(3) in paragraph (3)—

(A) by striking "320 PAL chapters" and inserting "350 PAL chapters"; and

(B) by striking "1,500,000 youth" and inserting "2,000,000 youth";

(4) in paragraph (4), by striking "82 percent" and inserting "85 percent";

(5) in paragraph (5), in the second sentence, by striking "receive no" and inserting "rarely receive";

(6) in paragraph (6), by striking "17 are at risk" and inserting "18 are at risk"; and

(7) in paragraph (7), by striking "1999" and inserting "2005".

**SEC. 613. PURPOSE.**

Section 3 of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended—

(1) in paragraph (1)—

(A) by striking "320 established PAL chapters" and inserting "342 established PAL chapters"; and

(B) by striking "and" at the end;

(2) in paragraph (2), by striking "2006." and inserting "2010; and"; and

(3) by adding at the end the following:

"(3) support of an annual gathering of PAL chapters and designated youth leaders from such chapters to participate in a 3-day conference that addresses national and local issues impacting the youth of America and includes educational sessions to advance character and leadership skills.".

**SEC. 614. GRANTS AUTHORIZED.**

Section 5 of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a), by striking "2001 through 2005" and inserting "2006 through 2010"; and

(2) in subsection (b)(1)(B), by striking "not less than 570 PAL chapters in operation before January 1, 2004" and inserting "not fewer than 500 PAL chapters in operation before January 1, 2010".

**SEC. 615. USE OF FUNDS.**

Section 6(a)(2) of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended—

(1) in the matter preceding subparagraph (A), by striking "four" and inserting "two"; and

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "two programs" and inserting "one program";

(B) in clause (iii), by striking "or";

(C) in clause (iv), by striking "and" and inserting "or"; and

(D) by inserting after clause (iv) the following:

"(v) character development and leadership training; and".

**SEC. 616. AUTHORIZATION OF APPROPRIATIONS.**

Section 8(a) of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended by striking "2001 through 2005" and inserting "2006 through 2010".

**SEC. 617. NAME OF LEAGUE.**

(a) DEFINITIONS.—Section 4(4) of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended in the paragraph heading, by striking "Athletic" and inserting "Athletic/activities".

(b) TEXT.—The National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended by striking "Police Athletic League" each place such term appears and inserting "Police Athletic/Activities League".

## Subtitle C—Grants, Studies, and Other Provisions

**SEC. 621. PILOT PROGRAM FOR MONITORING SEXUAL OFFENDERS.** 42 USC 16981.

(a) SEX OFFENDER MONITORING PROGRAM.—

(1) GRANTS AUTHORIZED.—

(A) IN GENERAL.—The Attorney General is authorized to award grants (referred to as "Jessica Lunsford and Sarah Lunde Grants") to States, local governments, and Indian tribal governments to assist in—

(i) carrying out programs to outfit sex offenders with electronic monitoring units; and

(ii) the employment of law enforcement officials necessary to carry out such programs.

(B) DURATION.—The Attorney General shall award grants under this section for a period not to exceed 3 years.

(C) MINIMUM STANDARDS.—The electronic monitoring units used in the pilot program shall at a minimum—

(i) provide a single-unit tracking device for each offender that—

(I) contains a central processing unit with global positioning system and cellular technology in a single unit; and

(II) provides two- and three-way voice communication; and

(ii) permit active, real-time, and continuous monitoring of offenders 24 hours a day.

(2) APPLICATION.—

(A) IN GENERAL.—Each State, local government, or Indian tribal government desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

(i) describe the activities for which assistance under this section is sought; and

(ii) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

(b) INNOVATION.—In making grants under this section, the Attorney General shall ensure that different approaches to monitoring are funded to allow an assessment of effectiveness.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2007 through 2009 to carry out this section.

(2) REPORT.—Not later than September 1, 2010, the Attorney General shall report to Congress—

(A) assessing the effectiveness and value of this section;

(B) comparing the cost effectiveness of the electronic monitoring to reduce sex offenses compared to other alternatives; and

(C) making recommendations for continuing funding and the appropriate levels for such funding.

**SEC. 622. TREATMENT AND MANAGEMENT OF SEX OFFENDERS IN THE BUREAU OF PRISONS.**

Section 3621 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) SEX OFFENDER MANAGEMENT.—

"(1) IN GENERAL.—The Bureau of Prisons shall make available appropriate treatment to sex offenders who are in need of and suitable for treatment, as follows:

"(A) SEX OFFENDER MANAGEMENT PROGRAMS.—The Bureau of Prisons shall establish non-residential sex offender management programs to provide appropriate treatment, monitoring, and supervision of sex offenders and to provide aftercare during pre-release custody.

"(B) RESIDENTIAL SEX OFFENDER TREATMENT PROGRAMS.—The Bureau of Prisons shall establish residential sex offender treatment programs to provide treatment to sex offenders who volunteer for such programs and are deemed by the Bureau of Prisons to be in need of and suitable for residential treatment.

"(2) REGIONS.—At least 1 sex offender management program under paragraph (1)(A), and at least one residential sex offender treatment program under paragraph (1)(B), shall be established in each region within the Bureau of Prisons.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau of Prisons for each fiscal year such sums as may be necessary to carry out this subsection.".

**SEC. 623. SEX OFFENDER APPREHENSION GRANTS; JUVENILE SEX OFFENDER TREATMENT GRANTS.**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following new part:

## "PART X—SEX OFFENDER APPREHENSION GRANTS; JUVENILE SEX OFFENDER TREATMENT GRANTS

**"SEC. 3011. SEX OFFENDER APPREHENSION GRANTS.** 42 USC 3797ee.

"(a) AUTHORITY TO MAKE SEX OFFENDER APPREHENSION GRANTS.—

"(1) IN GENERAL.—From amounts made available to carry out this part, the Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof for activities specified in paragraph (2).

"(2) COVERED ACTIVITIES.—An activity referred to in paragraph (1) is any program, project, or other activity to assist a State in enforcing sex offender registration requirements.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to carry out this part.

**"SEC. 3012. JUVENILE SEX OFFENDER TREATMENT GRANTS.** 42 USC 3797ee–1.

"(a) AUTHORITY TO MAKE JUVENILE SEX OFFENDER TREATMENT GRANTS.—

"(1) IN GENERAL.—From amounts made available to carry out this part, the Attorney General may make grants to units of local government, Indian tribal governments, correctional facilities, other public and private entities, and multijurisdictional or regional consortia thereof for activities specified in paragraph (2).

"(2) COVERED ACTIVITIES.—An activity referred to in paragraph (1) is any program, project, or other activity to assist in the treatment of juvenile sex offenders.

"(b) JUVENILE SEX OFFENDER DEFINED.—For purposes of this section, the term 'juvenile sex offender' is a sex offender who had not attained the age of 18 years at the time of his or her offense.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2007 through 2009 to carry out this part.".

42 USC 16982.

**SEC. 624. ASSISTANCE FOR PROSECUTION OF CASES CLEARED THROUGH USE OF DNA BACKLOG CLEARANCE FUNDS.**

(a) IN GENERAL.—The Attorney General may make grants to train and employ personnel to help prosecute cases cleared through use of funds provided for DNA backlog elimination.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

42 USC 16983.

**SEC. 625. GRANTS TO COMBAT SEXUAL ABUSE OF CHILDREN.**

(a) IN GENERAL.—The Bureau of Justice Assistance is authorized to make grants under this section—

(1) to any law enforcement agency that serves a jurisdiction with 50,000 or more residents; and

(2) to any law enforcement agency that serves a jurisdiction with fewer than 50,000 residents, upon a showing of need.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used by the law enforcement agency to—

(1) hire additional law enforcement personnel or train existing staff to combat the sexual abuse of children through community education and outreach, investigation of complaints, enforcement of laws relating to sex offender registries, and management of released sex offenders;

(2) investigate the use of the Internet to facilitate the sexual abuse of children; and

(3) purchase computer hardware and software necessary to investigate sexual abuse of children over the Internet, access local, State, and Federal databases needed to apprehend sex offenders, and facilitate the creation and enforcement of sex offender registries.

(c) CRITERIA.—The Attorney General shall give priority to law enforcement agencies making a showing of need.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to carry out this section.

**SEC. 626. CRIME PREVENTION CAMPAIGN GRANT.**

Subpart 2 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 is amended by adding at the end the following new chapter:

## "CHAPTER 4—GRANTS TO PRIVATE ENTITIES

42 USC 3765.

**"SEC. 519. CRIME PREVENTION CAMPAIGN GRANT.**

"(a) GRANT AUTHORIZATION.—The Attorney General may provide a grant to a national private, nonprofit organization that has expertise in promoting crime prevention through public outreach and media campaigns in coordination with law enforcement

agencies and other local government officials, and representatives of community public interest organizations, including schools and youth-serving organizations, faith-based, and victims' organizations and employers.

"(b) APPLICATION.—To request a grant under this section, an organization described in subsection (a) shall submit an application to the Attorney General in such form and containing such information as the Attorney General may require.

"(c) USE OF FUNDS.—An organization that receives a grant under this section shall—

"(1) create and promote national public communications campaigns;

"(2) develop and distribute publications and other educational materials that promote crime prevention;

"(3) design and maintain web sites and related web-based materials and tools;

"(4) design and deliver training for law enforcement personnel, community leaders, and other partners in public safety and hometown security initiatives;

"(5) design and deliver technical assistance to States, local jurisdictions, and crime prevention practitioners and associations;

"(6) coordinate a coalition of Federal, national, and statewide organizations and communities supporting crime prevention;

"(7) design, deliver, and assess demonstration programs;

"(8) operate McGruff-related programs, including McGruff Club;

"(9) operate the Teens, Crime, and Community Program; and

"(10) evaluate crime prevention programs and trends.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) for fiscal year 2007, $7,000,000;

"(2) for fiscal year 2008, $8,000,000;

"(3) for fiscal year 2009, $9,000,000; and

"(4) for fiscal year 2010, $10,000,000.".

**SEC. 627. GRANTS FOR FINGERPRINTING PROGRAMS FOR CHILDREN.** 42 USC 16984.

(a) IN GENERAL.—The Attorney General shall establish and implement a program under which the Attorney General may make grants to States, units of local government, and Indian tribal governments in accordance with this section.

(b) USE OF GRANT AMOUNTS.—A grant made to a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to law enforcement agencies within the jurisdiction of such State, unit, or tribal government to be used for any of the following activities:

(1) To establish a voluntary fingerprinting program for children, which may include the taking of palm prints of children.

(2) To hire additional law enforcement personnel, or train existing law enforcement personnel, to take fingerprints of children.

(3) To provide information within the community involved about the existence of such a fingerprinting program.

(4) To provide for computer hardware, computer software, or other materials necessary to carry out such a fingerprinting program.

(c) LIMITATION.—Fingerprints of a child derived from a program funded under this section—

(1) may be released only to a parent or guardian of the child; and

(2) may not be copied or retained by any Federal, State, local, or tribal law enforcement officer unless written permission is given by the parent or guardian.

(d) CRIMINAL PENALTY.—Any person who uses the fingerprints of a child derived from a program funded under this section for any purpose other than the purpose described in subsection (c)(1) shall be subject to imprisonment for not more than 1 year, a fine under title 18, United States Code, or both.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $20,000,000 to carry out this section for the 5-year period beginning on the first day of fiscal year 2007.

42 USC 16985.

**SEC. 628. GRANTS FOR RAPE, ABUSE & INCEST NATIONAL NETWORK.**

(a) FINDINGS.—Congress finds as follows:

(1) More than 200,000 Americans each year are victims of sexual assault, according to the Department of Justice.

(2) In 2004, 1 American was sexually assaulted every 2.5 minutes.

(3) One of every 6 women, and 1 of every 133 men, in America has been the victim of a completed or attempted rape, according to the Department of Justice.

(4) The Federal Bureau of Investigation ranks rape second in the hierarchy of violent crimes for its Uniform Crime Reports, trailing only murder.

(5) The Federal Government, through the Victims of Crime Act, Violence Against Women Act, and other laws, has long played a role in providing services to sexual assault victims and in seeking policies to increase the number of rapists brought to justice.

(6) Research suggests that sexual assault victims who receive counseling support are more likely to report their attack to the police and to participate in the prosecution of the offender.

(7) Due in part to the combined efforts of law enforcement officials at the local, State, and Federal level, as well as the efforts of the Rape, Abuse & Incest National Network (RAINN) and its affiliated rape crisis centers across the United States, sexual violence in America has fallen by more than half since 1994.

(8) RAINN, a 501(c)(3) nonprofit corporation headquartered in the District of Columbia, has since 1994 provided help to victims of sexual assault and educated the public about sexual assault prevention, prosecution, and recovery.

(9) RAINN established and continues to operate the National Sexual Assault Hotline, a free, confidential telephone hotline that provides help, 24 hours a day, to victims nationally.

(10) More than 1,100 local rape crisis centers in the 50 States and the District of Columbia partner with RAINN and are members of the National Sexual Assault Hotline network

(which has helped more than 970,000 people since its inception in 1994).

(11) To better serve victims of sexual assault, 80 percent of whom are under age 30 and 44 percent of whom are under age 18, RAINN will soon launch the National Sexual Assault Online Hotline, the web's first secure hotline service offering live help 24 hours a day.

(12) Congress and the Department of Justice have given RAINN funding to conduct its crucial work.

(13) RAINN is a national model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the communications and technology industries to launch the National Sexual Assault Hotline and the National Sexual Assault Online Hotline.

(14) Worth magazine selected RAINN as one of "America's 100 Best Charities", in recognition of the organization's "efficiency and effectiveness.".

(15) In fiscal year 2005, RAINN spent more than 91 cents of every dollar received directly on program services.

(16) The demand for RAINN's services is growing dramatically, as evidenced by the fact that, in 2005, the National Sexual Assault Hotline helped 137,039 people, an all-time record.

(17) The programs sponsored by RAINN and its local affiliates have contributed to the increase in the percentage of victims who report their rape to law enforcement.

(18) According to a recent poll, 92 percent of American women said that fighting sexual and domestic violence should be a top public policy priority (a higher percentage than chose health care, child care, or any other issue).

(19) Authorizing Federal funds for RAINN's national programs would promote continued progress with this interstate problem and would make a significant difference in the prosecution of rapists and the overall incidence of sexual violence.

(b) DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.—

(1) DESCRIPTION OF ACTIVITIES.—The Administrator shall—

Regulations.

(A) issue such rules as the Administrator considers necessary or appropriate to carry out this section;

(B) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all Federally funded programs relating to victims of sexual assault; and

(C) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this section.

(2) ANNUAL GRANT TO RAPE, ABUSE & INCEST NATIONAL NETWORK.—The Administrator shall annually make a grant to RAINN, which shall be used for the performance of the organization's national programs, which may include—

(A) operation of the National Sexual Assault Hotline, a 24-hour toll-free telephone line by which individuals may receive help and information from trained volunteers;

(B) operation of the National Sexual Assault Online Hotline, a 24-hour free online service by which individuals may receive help and information from trained volunteers;

(C) education of the media, the general public, and populations at risk of sexual assault about the incidence of sexual violence and sexual violence prevention, prosecution, and recovery;

(D) dissemination, on a national basis, of information relating to innovative and model programs, services, laws, legislation, and policies that benefit victims of sexual assault; and

(E) provision of technical assistance to law enforcement agencies, State and local governments, the criminal justice system, public and private nonprofit agencies, and individuals in the investigation and prosecution of cases involving victims of sexual assault.

(c) DEFINITIONS.—For the purposes of this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

(2) RAINN.—The term "RAINN" means the Rape, Abuse & Incest National Network, a 501(c)(3) nonprofit corporation headquartered in the District of Columbia.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, $3,000,000 for each of fiscal years 2007 through 2010.

42 USC 16986.

**SEC. 629. CHILDREN'S SAFETY ONLINE AWARENESS CAMPAIGNS.**

(a) AWARENESS CAMPAIGN FOR CHILDREN'S SAFETY ONLINE.—

(1) IN GENERAL.—The Attorney General, in consultation with the National Center for Missing and Exploited Children, is authorized to develop and carry out a public awareness campaign to demonstrate, explain, and encourage children, parents, and community leaders to better protect children when such children are on the Internet.

(2) REQUIRED COMPONENTS.—The public awareness campaign described under paragraph (1) shall include components that compliment and reinforce the campaign message in a variety of media, including the Internet, television, radio, and billboards.

(b) AWARENESS CAMPAIGN REGARDING THE ACCESSIBILITY AND UTILIZATION OF SEX OFFENDER REGISTRIES.—The Attorney General, in consultation with the National Center for Missing and Exploited Children, is authorized to develop and carry out a public awareness campaign to demonstrate, explain, and encourage parents and community leaders to better access and utilize the Federal and State sex offender registries.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2007 through 2011.

42 USC 16987.

**SEC. 630. GRANTS FOR ONLINE CHILD SAFETY PROGRAMS.**

(a) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to States, units of local government, and nonprofit organizations for the purposes of establishing and maintaining programs with respect to improving and educating children and parents in the best ways for children to be safe when on the Internet.

(b) DEFINITION OF STATE.—For purposes of this section, the term "State" means any State of the United States, the District

of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2007 through 2011.

**SEC. 631. JESSICA LUNSFORD ADDRESS VERIFICATION GRANT PROGRAM.** 42 USC 16988.

(a) ESTABLISHMENT.—There is established the Jessica Lunsford Address Verification Grant Program (hereinafter in this section referred to as the "Program").

(b) GRANTS AUTHORIZED.—Under the Program, the Attorney General is authorized to award grants to State, local governments, and Indian tribal governments to assist in carrying out programs requiring an appropriate official to verify, at appropriate intervals, the residence of all or some registered sex offenders.

(c) APPLICATION.—

(1) IN GENERAL.—Each State or local government seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

(d) INNOVATION.—In making grants under this section, the Attorney General shall ensure that different approaches to address verification are funded to allow an assessment of effectiveness.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for each of the fiscal years 2007 through 2009 such sums as may be necessary to carry out this section.

(2) REPORT.—Not later than April 1, 2009, the Attorney General shall report to Congress—

(A) assessing the effectiveness and value of this section;

(B) comparing the cost effectiveness of address verification to reduce sex offenses compared to other alternatives; and

(C) making recommendations for continuing funding and the appropriate levels for such funding.

**SEC. 632. FUGITIVE SAFE SURRENDER.** 42 USC 16989.

(a) FINDINGS.—Congress finds the following:

(1) Fugitive Safe Surrender is a program of the United States Marshals Service, in partnership with public, private, and faith-based organizations, which temporarily transforms a church into a courthouse, so fugitives can turn themselves in, in an atmosphere where they feel more comfortable to do so, and have nonviolent cases adjudicated immediately.

(2) In the 4-day pilot program in Cleveland, Ohio, over 800 fugitives turned themselves in. By contrast, a successful Fugitive Task Force sweep, conducted for 3 days after Fugitive Safe Surrender, resulted in the arrest of 65 individuals.

(3) Fugitive Safe Surrender is safer for defendants, law enforcement, and innocent bystanders than needing to conduct a sweep.

(4) Based upon the success of the pilot program, Fugitive Safe Surrender should be expanded to other cities throughout the United States.

(b) ESTABLISHMENT.—The United States Marshals Service shall establish, direct, and coordinate a program (to be known as the "Fugitive Safe Surrender Program"), under which the United States Marshals Service shall apprehend Federal, State, and local fugitives in a safe, secure, and peaceful manner to be coordinated with law enforcement and community leaders in designated cities throughout the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Marshals Service to carry out this section—

(1) $3,000,000 for fiscal year 2007;

(2) $5,000,000 for fiscal year 2008; and

(3) $8,000,000 for fiscal year 2009.

(d) OTHER EXISTING APPLICABLE LAW.—Nothing in this section shall be construed to limit any existing authority under any other provision of Federal or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

42 USC 16990.

**SEC. 633. NATIONAL REGISTRY OF SUBSTANTIATED CASES OF CHILD ABUSE.**

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Attorney General, shall create a national registry of substantiated cases of child abuse or neglect.

(b) INFORMATION.—

(1) COLLECTION.—The information in the registry described in subsection (a) shall be supplied by States and Indian tribes, or, at the option of a State, by political subdivisions of such State, to the Secretary of Health and Human Services.

(2) TYPE OF INFORMATION.—The registry described in subsection (a) shall collect in a central electronic registry information on persons reported to a State, Indian tribe, or political subdivision of a State as perpetrators of a substantiated case of child abuse or neglect.

(c) SCOPE OF INFORMATION.—

(1) IN GENERAL.—

(A) TREATMENT OF REPORTS.—The information to be provided to the Secretary of Health and Human Services under this section shall relate to substantiated reports of child abuse or neglect.

(B) EXCEPTION.—If a State, Indian tribe, or political subdivision of a State has an electronic register of cases of child abuse or neglect equivalent to the registry established under this section that it maintains pursuant to a requirement or authorization under any other provision of law, the information provided to the Secretary of Health and Human Services under this section shall be coextensive with that in such register.

(2) FORM.—Information provided to the Secretary of Health and Human Services under this section—

(A) shall be in a standardized electronic form determined by the Secretary of Health and Human Services; and

Electronic information.

(B) shall contain case-specific identifying information that is limited to the name of the perpetrator and the nature of the substantiated case of child abuse or neglect, and that complies with clauses (viii) and (ix) of section 106(b)(2)(A) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(A) (viii) and (ix)).

(d) CONSTRUCTION.—This section shall not be construed to require a State, Indian tribe, or political subdivision of a State to modify—

(1) an equivalent register of cases of child abuse or neglect that it maintains pursuant to a requirement or authorization under any other provision of law; or

(2) any other record relating to child abuse or neglect, regardless of whether the report of abuse or neglect was substantiated, unsubstantiated, or determined to be unfounded.

(e) ACCESSIBILITY.—Information contained in the national registry shall only be accessible to any Federal, State, Indian tribe, or local government entity, or any agent of such entities, that has a need for such information in order to carry out its responsibilities under law to protect children from child abuse and neglect.

(f) DISSEMINATION.—The Secretary of Health and Human Services shall establish standards for the dissemination of information in the national registry of substantiated cases of child abuse or neglect. Such standards shall comply with clauses (viii) and (ix) of section 106(b)(2)(A) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(A) (viii) and (ix)).

Regulations.

(g) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study on the feasibility of establishing data collection standards for a national child abuse and neglect registry with recommendations and findings concerning—

(A) costs and benefits of such data collection standards;

(B) data collection standards currently employed by each State, Indian tribe, or political subdivision of a State;

(C) data collection standards that should be considered to establish a model of promising practices; and

(D) a due process procedure for a national registry.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on the Judiciary in the House of Representatives and the United States Senate and the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and the Workforce a report containing the recommendations and findings of the study on data collection standards for a national child abuse registry authorized under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 for the period of fiscal years 2006 and 2007 to carry out the study required by this subsection.

**SEC. 634. COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES.**

(a) IN GENERAL.—The National Institute of Justice shall conduct a comprehensive study to examine the control, prosecution,

treatment, and monitoring of sex offenders, with a particular focus on—

(1) the effectiveness of the Sex Offender Registration and Notification Act in increasing compliance with sex offender registration and notification requirements, and the costs and burdens associated with such compliance;

(2) the effectiveness of sex offender registration and notification requirements in increasing public safety, and the costs and burdens associated with such requirements;

(3) the effectiveness of public dissemination of sex offender information on the Internet in increasing public safety, and the costs and burdens associated with such dissemination; and

(4) the effectiveness of treatment programs in reducing recidivism among sex offenders, and the costs and burdens associated with such programs.

(b) RECOMMENDATIONS.—The study described in subsection (a) shall include recommendations for reducing the number of sex crimes against children and adults and increasing the effectiveness of registration requirements.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the National Institute of Justice shall report the results of the study conducted under subsection (a) together with findings to Congress, through the Internet to the public, to each of the 50 governors, to the Mayor of the District of Columbia, to territory heads, and to the top official of the various Indian tribes.

(2) INTERIM REPORTS.—The National Institute of Justice shall submit yearly interim reports.

(d) APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 to carry out this section.

42 USC 16991.

**SEC. 635. ANNUAL REPORT ON ENFORCEMENT OF REGISTRATION REQUIREMENTS.**

Not later than July 1 of each year, the Attorney General shall submit a report to Congress describing—

(1) the use by the Department of Justice of the United States Marshals Service to assist jurisdictions in locating and apprehending sex offenders who fail to comply with sex offender registration requirements, as authorized by this Act;

(2) the use of section 2250 of title 18, United States Code (as added by section 151 of this Act), to punish offenders for failure to register;

(3) a detailed explanation of each jurisdiction's compliance with the Sex Offender Registration and Notification Act;

(4) a detailed description of Justice Department efforts to ensure compliance and any funding reductions, the basis for any decision to reduce funding or not to reduce funding under section 125; and

(5) the denial or grant of any extensions to comply with the Sex Offender Registration and Notification Act, and the reasons for such denial or grant.

**SEC. 636. GOVERNMENT ACCOUNTABILITY OFFICE STUDIES ON FEASIBILITY OF USING DRIVER'S LICENSE REGISTRATION PROCESSES AS ADDITIONAL REGISTRATION REQUIREMENTS FOR SEX OFFENDERS.**

For the purposes of determining the feasibility of using driver's license registration processes as additional registration requirements for sex offenders to improve the level of compliance with sex offender registration requirements for change of address upon relocation and other related updates of personal information, the Congress requires the following studies:

(1) Not later than 180 days after the date of the enactment of this Act, the Government Accountability Office shall complete a study for the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives to survey a majority of the States to assess the relative systems capabilities to comply with a Federal law that required all State driver's license systems to automatically access State and national databases of registered sex offenders in a form similar to the requirement of the Nevada law described in paragraph (2). The Government Accountability Office shall use the information drawn from this survey, along with other expert sources, to determine what the potential costs to the States would be if such a Federal law came into effect, and what level of Federal grants would be required to prevent an unfunded mandate. In addition, the Government Accountability Office shall seek the views of Federal and State law enforcement agencies, including in particular the Federal Bureau of Investigation, with regard to the anticipated effects of such a national requirement, including potential for undesired side effects in terms of actual compliance with this Act and related laws. Deadline.

(2) Not later than February 1, 2007, the Government Accountability Office shall complete a study to evaluate the provisions of Chapter 507 of Statutes of Nevada 2005 to determine— Deadline.

(A) if those provisions are effective in increasing the registration compliance rates of sex offenders;

(B) the aggregate direct and indirect costs for the State of Nevada to bring those provisions into effect; and

(C) how those provisions might be modified to improve compliance by registered sex offenders.

**SEC. 637. SEX OFFENDER RISK CLASSIFICATION STUDY.**

(a) STUDY.—The Attorney General shall conduct a study of risk-based sex offender classification systems, which shall include an analysis of—

(1) various risk-based sex offender classification systems;

(2) the methods and assessment tools available to assess the risks posed by sex offenders;

(3) the efficiency and effectiveness of risk-based sex offender classification systems, in comparison to offense-based sex offender classification systems, in—

(A) reducing threats to public safety posed by sex offenders; and

(B) assisting law enforcement agencies and the public in identifying the most dangerous sex offenders;

(4) the resources necessary to implement, and the legal implications of implementing, risk-based sex offender classification systems for sex offender registries; and

(5) any other information the Attorney General determines necessary to evaluate risk-based sex offender classification systems.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall report to the Congress the results of the study under this section.

(c) STUDY CONDUCTED BY TASK FORCE.—The Attorney General may establish a task force to conduct the study and prepare the report required under this section. Any task force established under this section shall be composed of members, appointed by the Attorney General, who—

(1) represent national, State, and local interests; and

(2) are especially qualified to serve on the task force by virtue of their education, training, or experience, particularly in the fields of sex offender management, community education, risk assessment of sex offenders, and sex offender victim issues.

**SEC. 638. STUDY OF THE EFFECTIVENESS OF RESTRICTING THE ACTIVITIES OF SEX OFFENDERS TO REDUCE THE OCCURRENCE OF REPEAT OFFENSES.**

(a) STUDY.—The Attorney General shall conduct a study to evaluate the effectiveness of monitoring and restricting the activities of sex offenders to reduce the occurrence of repeat offenses by such sex offenders, through conditions imposed as part of supervised release or probation conditions. The study shall evaluate—

(1) the effectiveness of methods of monitoring and restricting the activities of sex offenders, including restrictions—

(A) on the areas in which sex offenders can reside, work, and attend school;

(B) limiting access by sex offenders to the Internet or to specific Internet sites; and

(C) preventing access by sex offenders to pornography and other obscene materials;

(2) the ability of law enforcement agencies and courts to enforce such restrictions; and

(3) the efficacy of any other restrictions that may reduce the occurrence of repeat offenses by sex offenders.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the results of the study under this section.

Justice for Crime Victims Family Act.

**SEC. 639. THE JUSTICE FOR CRIME VICTIMS FAMILY ACT.**

(a) SHORT TITLE.—This section may be cited as the "Justice for Crime Victims Family Act".

Deadline. Reports.

(b) STUDY OF MEASURES NEEDED TO IMPROVE PERFORMANCE OF HOMICIDE INVESTIGATORS.—Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report—

(1) outlining what measures are needed to improve the performance of Federal, State, and local criminal investigators of homicide; and

(2) including an examination of—

(A) the benefits of increasing training and resources for such investigators, with respect to investigative techniques, best practices, and forensic services;

(B) the existence of any uniformity among State and local jurisdictions in the measurement of homicide rates and clearance of homicide cases;

(C) the coordination in the sharing of information among Federal, State, and local law enforcement and coroners and medical examiners; and

(D) the sources of funding that are in existence on the date of the enactment of this Act for State and local criminal investigators of homicide.

(c) IMPROVEMENTS NEEDED FOR SOLVING HOMICIDES INVOLVING MISSING PERSONS AND UNIDENTIFIED HUMAN REMAINS.—Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report— Deadline. Reports.

(1) evaluating measures to improve the ability of Federal, State, and local criminal investigators of homicide to solve homicides involving missing persons and unidentified human remains; and

(2) including an examination of—

(A) measures to expand national criminal records databases with accurate information relating to missing persons and unidentified human remains;

(B) the collection of DNA samples from potential "high-risk" missing persons;

(C) the benefits of increasing access to national criminal records databases for medical examiners and coroners;

(D) any improvement in the performance of post-mortem examinations, autopsies, and reporting procedures of unidentified persons or remains;

(E) any coordination between the National Center for Missing Children and the National Center for Missing Adults;

(F) website postings (or other uses of the Internet) of information of identifiable information such as physical features and characteristics, clothing, and photographs of missing persons and unidentified human remains; and

(G) any improvement with respect to—

(i) the collection of DNA information for missing persons and unidentified human remains; and

(ii) entering such information into the Combined DNA Index System of the Federal Bureau of Investigation and national criminal records databases.

# TITLE VII—INTERNET SAFETY ACT

**SEC. 701. CHILD EXPLOITATION ENTERPRISES.**

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

"(g) CHILD EXPLOITATION ENTERPRISES.—

Penalties.

"(1) Whoever engages in a child exploitation enterprise shall be fined under this title and imprisoned for any term of years not less than 20 or for life.

"(2) A person engages in a child exploitation enterprise for the purposes of this section if the person violates section 1591, section 1201 if the victim is a minor, or chapter 109A (involving a minor victim), 110 (except for sections 2257 and 2257A), or 117 (involving a minor victim), as a part of a series of felony violations constituting three or more separate incidents and involving more than one victim, and commits those offenses in concert with three or more other persons.".

**SEC. 702. INCREASED PENALTIES FOR REGISTERED SEX OFFENDERS.**

(a) OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

**"§ 2260A. Penalties for registered sex offenders**

"Whoever, being required by Federal or other law to register as a sex offender, commits a felony offense involving a minor under section 1201, 1466A, 1470, 1591, 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425, shall be sentenced to a term of imprisonment of 10 years in addition to the imprisonment imposed for the offense under that provision. The sentence imposed under this section shall be consecutive to any sentence imposed for the offense under that provision.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2260A. Increased penalties for registered sex offenders.".

**SEC. 703. DECEPTION BY EMBEDDED WORDS OR IMAGES.**

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2252B the following:

**"§ 2252C. Misleading words or digital images on the Internet**

Penalties.

"(a) IN GENERAL.—Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title and imprisoned for not more than 10 years.

Penalties.

"(b) MINORS.—Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a minor into viewing material harmful to minors on the Internet shall be fined under this title and imprisoned for not more than 20 years.

"(c) CONSTRUCTION.—For the purposes of this section, a word or digital image that clearly indicates the sexual content of the site, such as 'sex' or 'porn', is not misleading.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'material that is harmful to minors' and 'sex' have the meaning given such terms in section 2252B; and

"(2) the term 'source code' means the combination of text and other characters comprising the content, both viewable and nonviewable, of a web page, including any website publishing language, programming language, protocol or functional content, as well as any successor languages or protocols.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2252B the following:

"2252C. Misleading words or digital images on the Internet.".

**SEC. 704. ADDITIONAL PROSECUTORS FOR OFFENSES RELATING TO THE SEXUAL EXPLOITATION OF CHILDREN.**

(a) DEFINITION.—In this section, the term "offenses relating to the sexual exploitation of children" shall include any offense committed in violation of—

(1) chapter 71 of title 18, United States Code, involving an obscene visual depiction of a minor, or transfer of obscene materials to a minor;

(2) chapter 109A of title 18, United States Code, involving a victim who is a minor;

(3) chapter 109B of title 18, United States Code;

(4) chapter 110 of title 18, United States Code;

(5) chapter 117 of title 18, United States Code involving a victim who is a minor; and

(6) section 1591 of title 18, United States Code.

(b) ADDITIONAL PROSECUTORS.—In fiscal year 2007, the Attorney General shall, subject to the availability of appropriations for such purposes, increase by not less than 200 the number of attorneys in United States Attorneys' Offices. The additional attorneys shall be assigned to prosecute offenses relating to the sexual exploitation of children.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice for fiscal year 2007 such sums as may be necessary to carry out this section.

**SEC. 705. ADDITIONAL COMPUTER-RELATED RESOURCES.**

(a) DEPARTMENT OF JUSTICE RESOURCES.—In fiscal year 2007, the Attorney General shall, subject to the availability of appropriations for such purposes, increase by not less than 30 the number of computer forensic examiners within the Regional Computer Forensic Laboratories (RCFL). The additional computer forensic examiners shall be dedicated to investigating crimes involving the sexual exploitation of children and related offenses.

(b) DEPARTMENT OF HOMELAND SECURITY RESOURCES.—In fiscal year 2007, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purposes, increase by not less than 15 the number of computer forensic examiners within the Cyber Crimes Center (C3). The additional computer forensic examiners shall be dedicated to investigating crimes involving the sexual exploitation of children and related offenses.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice and the Department of Homeland Security for fiscal year 2007 such sums as may be necessary to carry out this section.

**SEC. 706. ADDITIONAL ICAC TASK FORCES.**

(a) ADDITIONAL TASK FORCES.—In fiscal year 2007, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall, subject to the availability of appropriations for such purpose, increase by not less than 10 the number of Internet Crimes Against Children Task Forces that are part of the Internet Crimes Against Children Task Force Program authorized and

funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.). These Task Forces shall be in addition to the ones authorized in section 143 of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Office of Juvenile Justice and Delinquency Prevention for fiscal year 2007 such sums as may be necessary to carry out this section.

Masha's Law.

18 USC 2251 note.

**SEC. 707. MASHA'S LAW.**

(a) SHORT TITLE.—This section may be cited as "Masha's Law".

(b) IN GENERAL.—Section 2255(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "(a) Any minor who is" and inserting the following:

"(a) IN GENERAL.—Any person who, while a minor, was";

(B) by inserting after "such violation" the following: ", regardless of whether the injury occurred while such person was a minor,"; and

(C) by striking "such minor" and inserting "such person"; and

(2) in the second sentence—

(A) by striking "Any minor" and inserting "Any person"; and

(B) by striking "$50,000" and inserting "$150,000".

(c) CONFORMING AMENDMENT.—Section 2255(b) of title 18, United States Code, is amended by striking "(b) Any action" and inserting the following:

"(b) STATUTE OF LIMITATIONS.—Any action".

Approved July 27, 2006.

---

LEGISLATIVE HISTORY—H.R. 4472:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 8, considered and passed House.
July 20, considered and passed Senate, amended.
July 25, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
July 27, Presidential remarks.

Public Law 109–249
109th Congress

# An Act

To exempt persons with disabilities from the prohibition against providing section 8 rental assistance to college students.

July 27, 2006
[H.R. 5117]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. EXEMPTION OF PERSONS WITH DISABILITIES FROM SECTION 8 RENTAL ASSISTANCE PROHIBITION.**

Housing.

Subsection (a) of section 327 of Public Law 109–115 (119 Stat. 2466) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and".

Approved July 27, 2006.

LEGISLATIVE HISTORY—H.R. 5117

HOUSE REPORTS: No. 109–500 (Comm. on Financial Services).
CONGRESSIONAL RECORD, Vol. 152 (2006):
June 13, considered and passed House.
July 18, considered and passed Senate.

# Public Law 109–250
# 109th Congress

## An Act

July 27, 2006
[H.R. 5865]

To amend section 1113 of the Social Security Act to temporarily increase funding for the program of temporary assistance for United States citizens returned from foreign countries, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. PAYMENTS FOR TEMPORARY ASSISTANCE TO UNITED STATES CITIZENS RETURNED FROM FOREIGN COUNTRIES.**

(a) INCREASE IN AGGREGATE PAYMENTS LIMIT FOR FISCAL YEAR 2006.—Section 1113(d) of the Social Security Act (42 U.S.C. 1313(d)) is amended by inserting ", except that, in the case of fiscal year 2006, the total amount of such assistance provided during that fiscal year shall not exceed $6,000,000" after "2003".

**SEC. 2. DISCLOSURE OF INFORMATION IN THE DIRECTORY OF NEW HIRES TO ASSIST ADMINISTRATION OF FOOD STAMP PROGRAMS.**

Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended—

(1) by redesignating the second paragraph (7) as paragraph (9); and

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

"(10) INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN ADMINISTRATION OF FOOD STAMP PROGRAMS.—

"(A) IN GENERAL.—If, for purposes of administering a food stamp program under the Food Stamp Act of 1977, a State agency responsible for the administration of the program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to the State agency information on the individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

"(B) CONDITION ON DISCLOSURE BY THE SECRETARY.—The Secretary shall make a disclosure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

"(C) USE AND DISCLOSURE OF INFORMATION BY STATE AGENCIES.—

"(i) IN GENERAL.—A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A).

"(ii) INFORMATION SECURITY.—The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.

"(iii) PENALTY FOR MISUSE OF INFORMATION.—An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if the officer or employee were an officer or employee of the United States.

"(D) PROCEDURAL REQUIREMENTS.—State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

"(E) REIMBURSEMENT OF COSTS.—The State agency shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.".

Approved July 27, 2006.

LEGISLATIVE HISTORY—H.R. 5865:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 25, considered and passed House.
July 26, considered and passed Senate, amended. House concurred in Senate amendment.

# Public Law 109–251
# 109th Congress

## Joint Resolution

Aug. 1, 2006
[H.J. Res. 86]

Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. AMENDMENT TO BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.**

Section 9(b)(3) of the Burmese Freedom and Democracy Act of 2003 (Public Law 108–61; 50 U.S.C. 1701 note) is amended by striking "three years" and inserting "six years".

50 USC 1701 note.

**SEC. 2. RENEWAL OF IMPORT RESTRICTIONS UNDER BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.**

(a) IN GENERAL.—Congress approves the renewal of import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

(b) RULE OF CONSTRUCTION.—This joint resolution shall be deemed to be a "renewal resolution" for purposes of section 9 of the Burmese Freedom and Democracy Act of 2003.

50 USC 1701 note.

**SEC. 3. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act or July 26, 2006, whichever occurs first.

Approved August 1, 2006.

---

LEGISLATIVE HISTORY—H.J. Res. 86:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 11, considered and passed House.
July 26, considered and passed Senate.

# Public Law 109–252
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the "Paul Kasten Post Office Building".

Aug. 1, 2006
[H.R. 2977]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, shall be known and designated as the "Paul Kasten Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Paul Kasten Post Office Building".

Approved August 1, 2006.

LEGISLATIVE HISTORY—H.R. 2977:

CONGRESSIONAL RECORD:
Vol. 151 (2005): July 25, 26, considered and passed House.
Vol. 152 (2006): July 20, considered and passed Senate.

# Public Law 109–253
# 109th Congress

## An Act

Aug. 1, 2006
[H.R. 3440]

To designate the facility of the United States Postal Service located at 100 Avenida RL Rodríguez in Bayamón, Puerto Rico, as the "Dr. José Celso Barbosa Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 100 Avenida RL Rodríguez in Bayamón, Puerto Rico, shall be known and designated as the "Dr. José Celso Barbosa Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Dr. José Celso Barbosa Post Office Building".

Approved August 1, 2006.

LEGISLATIVE HISTORY—H.R. 3440:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 28, considered and passed House.
July 20, considered and passed Senate.

# Public Law 109–254
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, as the "William F. Clinger, Jr. Post Office Building".

Aug. 1, 2006
[H.R. 3549]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, shall be known and designated as the "William F. Clinger, Jr. Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "William F. Clinger, Jr. Post Office Building".

Approved August 1, 2006.

LEGISLATIVE HISTORY—H.R. 3549:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 18, considered and passed House.
Vol. 152 (2006): July 20, considered and passed Senate.

# Public Law 109–255
# 109th Congress

## An Act

Aug. 1, 2006
[H.R. 3934]

To designate the facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, as the "Gerard A. Fiorenza Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, shall be known and designated as the "Gerard A. Fiorenza Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Gerard A. Fiorenza Post Office Building".

Approved August 1, 2006.

LEGISLATIVE HISTORY—H.R. 3934 (S. 2376):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 7, considered and passed House.
July 20, considered and passed Senate.

# Public Law 109–256
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 170 East Main Street in Patchogue, New York, as the "Lieutenant Michael P. Murphy Post Office Building".

Aug. 1, 2006
[H.R. 4101]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 170 East Main Street in Patchogue, New York, shall be known and designated as the "Lieutenant Michael P. Murphy Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Lieutenant Michael P. Murphy Post Office Building".

Approved August 1, 2006.

LEGISLATIVE HISTORY—H.R. 4101 (S. 2722):

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 2, considered and passed House.
July 20, considered and passed Senate.

# Public Law 109–257
# 109th Congress

## An Act

Aug. 1, 2006
[H.R. 4108]

To designate the facility of the United States Postal Service located at 3000 Homewood Avenue in Baltimore, Maryland, as the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. STATE SENATOR VERDA WELCOME AND DR. HENRY WELCOME POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 3000 Homewood Avenue in Baltimore, Maryland, shall be known and designated as the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building".

Approved August 1, 2006.

---

LEGISLATIVE HISTORY—H.R. 4108:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 18, considered and passed House.
Vol. 152 (2006): July 20, considered and passed Senate.

Public Law 109–258
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 2404 Race Street in Jonesboro, Arkansas, as the "Hattie W. Caraway Station".

Aug. 2, 2006
[H.R. 4456]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 2404 Race Street in Jonesboro, Arkansas, shall be known and designated as the "Hattie W. Caraway Station".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Hattie W. Caraway Station".

Approved August 2, 2006.

LEGISLATIVE HISTORY—H.R. 4456 (S. 2228):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 8, considered and passed House.
July 20, considered and passed Senate.

Public Law 109–259
109th Congress

# An Act

Aug. 2, 2006
[H.R. 4561]

To designate the facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, as the "Francisco 'Pancho' Medrano Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 8624 Ferguson Road in Dallas, Texas, shall be known and designated as the "Francisco 'Pancho' Medrano Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Francisco 'Pancho' Medrano Post Office Building".

Approved August 2, 2006.

LEGISLATIVE HISTORY—H.R. 4561:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 5, considered and passed House.
July 20, considered and passed Senate.

# Public Law 109–260
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, as the "Mayor John Thompson 'Tom' Garrison Memorial Post Office".

Aug. 2, 2006
[H.R. 4688]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 1 Boyden Street in Badin, North Carolina, shall be known and designated as the "Mayor John Thompson 'Tom' Garrison Memorial Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Mayor John Thompson 'Tom' Garrison Memorial Post Office".

Approved August 2, 2006.

LEGISLATIVE HISTORY—H.R. 4688:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 5, considered and passed House.
July 20, considered and passed Senate.

# Public Law 109–261
# 109th Congress

## An Act

Aug. 2, 2006
[H.R. 4786]

To designate the facility of the United States Postal Service located at 535 Wood Street in Bethlehem, Pennsylvania, as the "H. Gordon Payrow Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 535 Wood Street in Bethlehem, Pennsylvania, shall be known and designated as the "H. Gordon Payrow Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "H. Gordon Payrow Post Office Building".

Approved August 2, 2006.

LEGISLATIVE HISTORY—H.R. 4786:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 28, considered and passed House.
July 20, considered and passed Senate.

Public Law 109–262
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 7 Columbus Avenue in Tuckahoe, New York, as the "Ronald Bucca Post Office.

Aug. 2, 2006
[H.R. 4995]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. RONALD BUCCA POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 7 Columbus Avenue in Tuckahoe, New York, shall be known and designated as the "Ronald Bucca Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Ronald Bucca Post Office".

Approved August 2, 2006.

LEGISLATIVE HISTORY—H.R. 4995:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 2, considered and passed House.
July 20, considered and passed Senate.

Public Law 109–263
109th Congress

# An Act

Aug. 2, 2006
[H.R. 5245]

To designate the facility of the United States Postal Service located at 1 Marble Street in Fair Haven, Vermont, as the "Matthew Lyon Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. MATTHEW LYON POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1 Marble Street in Fair Haven, Vermont, shall be known and designated as the "Matthew Lyon Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Matthew Lyon Post Office Building".

Approved August 2, 2006.

LEGISLATIVE HISTORY—H.R. 5245:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 6, considered and passed House.
July 20, considered and passed Senate.

# Public Law 109–264
# 109th Congress

## An Act

To amend title 4 of the United States Code to clarify the treatment of self-employment for purposes of the limitation on State taxation of retirement income.

Aug. 3, 2006
[H.R. 4019]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. CLARIFICATION OF TREATMENT OF SELF-EMPLOYMENT FOR PURPOSES OF THE LIMITATION ON STATE TAXATION OF RETIREMENT INCOME.**

(a) IN GENERAL.—Section 114(b)(1)(I) of title 4, United States Code, is amended—

(1) by inserting "(or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins)" after "section 3121(v)(2)(C) of such Code",

(2) by inserting "which may include income described in subparagraphs (A) through (H)" after "(not less frequently than annually",

(3) by adding at the end the following:

"The fact that payments may be adjusted from time to time pursuant to such plan, program, or arrangement to limit total disbursements under a predetermined formula, or to provide cost of living or similar adjustments, will not cause the periodic payments provided under such plan, program, or arrangement to fail the 'substantially equal periodic payments' test.", and

(4) by adding at the end the following:

"(4) For purposes of this section, the term 'retired partner' is an individual who is described as a partner in section 7701(a)(2) of the Internal Revenue Code of 1986 and who is retired under such individual's partnership agreement.".

(b) APPLICATION.—The amendments made by this section apply to amounts received after December 31, 1995. 4 USC 114 note.

Approved August 3, 2006.

---

LEGISLATIVE HISTORY—H.R. 4019:

HOUSE REPORTS: No. 109–542 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 17, considered and passed House.
July 24, considered and passed Senate.

# Public Law 109–265
# 109th Congress

## An Act

Aug. 3, 2006

[S. 310]

To direct the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District in the State of Nevada.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Newlands Project Headquarters and Maintenance Yard Facility Transfer Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Newlands Project Headquarters and Maintenance Yard Facility Transfer Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term "Agreement" means the memorandum of agreement between the District and the Secretary identified as Contract No. 3–LC–20–805 and dated June 9, 2003.

(2) DISTRICT.—The term "District" means the Truckee-Carson Irrigation District in the State of Nevada.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. CONVEYANCE OF NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY.**

(a) CONVEYANCE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act and in accordance with the Agreement and any applicable laws, the Secretary shall convey to the District all right, title, and interest of the United States in and to the real property described in paragraph (2).

(2) DESCRIPTION OF PROPERTY.—The real property referred to in paragraph (1) is the real property within the Newlands Projects, Nevada, that is—

(A) known as "2666 Harrigan Road, Fallon, Nevada"; and

(B) identified for disposition on the map entitled "Newlands Project Headquarters and Maintenance Yard Facility".

(b) CONSIDERATION.—Notwithstanding any other provision of law, amounts received by the United States for the lease or sale of Newlands Project land comprising the Fallon Freight Yard shall, for purposes of this section, be treated as consideration for the real property conveyed under subsection (a).

(c) REPORT.—If the Secretary has not completed the conveyance under subsection (a) within 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—
I22 (1) explains the reasons why the conveyance has not been completed; and

(2) specifies the date by which the conveyance will be completed.

(d) ENVIRONMENTAL REVIEW, REMEDIATION, AND REMOVAL.—In accordance with the Agreement, the Secretary may not convey the real property under subsection (a) until—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any applicable requirements relating to cultural resources have been complied with for the real property to be conveyed under subsection (a); and

(2) any required environmental site assessment, remediation, or removal has been completed with respect to the real property to be conveyed under subsection (a).

(e) LIABILITY.—The United States shall not be liable for damages of any kind arising out of any act, omission by, or occurrence relating to, the District or any employee, agent, or contractor of the District with respect to the real property conveyed under subsection (a) that occurs before, on, or after the date of the conveyance.

Approved August 3, 2006.

---

LEGISLATIVE HISTORY—S. 310 (H.R. 540):

SENATE REPORTS: No. 109–188 (Comm. and Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): July 24, considered and passed House.

# Public Law 109–266
# 109th Congress

## An Act

Aug. 3, 2006
[S. 1496]

To direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Electronic Duck Stamp Act of 2005.
16 USC 718 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Electronic Duck Stamp Act of 2005".

16 USC 718 note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) on March 16, 1934, Congress passed and President Roosevelt signed the Act of March 16, 1934 (16 U.S.C. 718a et seq.) (popularly known as the "Duck Stamp Act"), which requires all migratory waterfowl hunters 16 years of age or older to buy a Federal migratory bird hunting and conservation stamp annually;

(2) the Federal Duck Stamp program has become one of the most popular and successful conservation programs ever initiated;

(3) because of that program, the United States again is teeming with migratory waterfowl and other wildlife that benefit from wetland habitats;

(4) as of the date of enactment of this Act, 1,700,000 migratory bird hunting and conservation stamps are sold each year;

(5) as of 2003, those stamps have generated more than $600,000,000 in revenue that has been used to preserve more than 5,000,000 acres of migratory waterfowl habitat in the United States; and

(6) many of the more than 540 national wildlife refuges have been paid for wholly or partially with that revenue.

16 USC 718 note.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ACTUAL STAMP.—The term "actual stamp" means a Federal migratory-bird hunting and conservation stamp required under the Act of March 16, 1934 (16 U.S.C. 718a et seq.) (popularly known as the "Duck Stamp Act"), that is printed on paper and sold through a means in use immediately before the date of enactment of this Act.

(2) AUTOMATED LICENSING SYSTEM.—

(A) IN GENERAL.—The term "automated licensing system" means an electronic, computerized licensing system

used by a State fish and wildlife agency to issue hunting, fishing, and other associated licenses and products.

(B) INCLUSION.—The term "automated licensing system" includes a point-of-sale, Internet, or telephonic system used for a purpose described in subparagraph (A).

(3) ELECTRONIC STAMP.—The term "electronic stamp" means an electronic version of an actual stamp that—

(A) is a unique identifier for the individual to whom it is issued;

(B) can be printed on paper;

(C) is issued through a State automated licensing system that is authorized, under State law and by the Secretary under this Act, to issue electronic stamps;

(D) is compatible with the hunting licensing system of the State that issues the electronic stamp; and

(E) is described in the State application approved by the Secretary under section 4(b).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 4. ELECTRONIC DUCK STAMP PILOT PROGRAM.** 16 USC 718 note.

(a) REQUIREMENT TO CONDUCT PROGRAM.—The Secretary shall conduct a 3-year pilot program under which up to 15 States authorized by the Secretary may issue electronic stamps.

(b) COMMENCEMENT AND DURATION OF PROGRAM.—The Secretary shall—

(1) use all means necessary to expeditiously implement this section by the date that is 1 year after the beginning of the first full Federal migratory waterfowl hunting season after the date of enactment of this Act; and Deadline.

(2) carry out the pilot program for 3 Federal migratory waterfowl hunting seasons.

(c) CONSULTATION.—The Secretary shall carry out the program in consultation with State management agencies.

**SEC. 5. STATE APPLICATION.** 16 USC 718 note.

(a) APPROVAL OF APPLICATION REQUIRED.—A State may not participate in the pilot program under this Act unless the Secretary has received and approved an application submitted by the State in accordance with this section.

(b) CONTENTS OF APPLICATION.—The Secretary may not approve a State application unless the application contains—

(1) a description of the format of the electronic stamp that the State will issue under the pilot program, including identifying features of the licensee that will be specified on the stamp;

(2) a description of any fee the State will charge for issuance of an electronic stamp;

(3) a description of the process the State will use to account for and transfer to the Secretary the amounts collected by the State that are required to be transferred to the Secretary under the program;

(4) the manner by which the State will transmit electronic stamp customer data to the Secretary;

(5) the manner by which actual stamps will be delivered;

(6) the policies and procedures under which the State will issue duplicate electronic stamps; and

(7) such other policies, procedures, and information as may be reasonably required by the Secretary.

(c) PUBLICATION OF DEADLINES, ELIGIBILITY REQUIREMENTS, AND SELECTION CRITERIA.—Not later than 30 days before the date on which the Secretary begins accepting applications for participation in the pilot program, the Secretary shall publish—

(1) deadlines for submission of applications to participate in the program;

(2) eligibility requirements for participation in the program; and

(3) criteria for selecting States to participate in the program.

16 USC 718 note.

**SEC. 6. STATE OBLIGATIONS AND AUTHORITIES.**

(a) DELIVERY OF ACTUAL STAMP.—The Secretary shall require that each individual to whom a State sells an electronic stamp under the pilot program shall receive an actual stamp—

Deadline.

(1) by not later than the date on which the electronic stamp expires under section 7(c); and

(2) in a manner agreed upon by the State and Secretary.

(b) COLLECTION AND TRANSFER OF ELECTRONIC STAMP REVENUE AND CUSTOMER INFORMATION.—

(1) REQUIREMENT TO TRANSMIT.—The Secretary shall require each State participating in the pilot program to collect and submit to the Secretary in accordance with this section—

(A) the first name, last name, and complete mailing address of each individual that purchases an electronic stamp from the State;

(B) the face value amount of each electronic stamp sold by the State; and

(C) the amount of the Federal portion of any fee required by the agreement for each stamp sold.

(2) TIME OF TRANSMITTAL.—The Secretary shall require the submission under paragraph (1) to be made with respect to sales of electronic stamps by a State occurring in a month—

Deadline.

(A) by not later than the 15th day of the subsequent month; or

(B) as otherwise specified in the application of the State approved by the Secretary under section 5.

(3) ADDITIONAL FEES NOT AFFECTED.—This section shall not apply to the State portion of any fee collected by a State under subsection (c).

(c) ELECTRONIC STAMP ISSUANCE FEE.—A State participating in the pilot program may charge a reasonable fee to cover costs incurred by the State and the Department of the Interior in issuing electronic stamps under the program, including costs of delivery of actual stamps.

(d) DUPLICATE ELECTRONIC STAMPS.—A State participating in the pilot program may issue a duplicate electronic stamp to replace an electronic stamp issued by the State that is lost or damaged.

(e) LIMITATION ON AUTHORITY TO REQUIRE PURCHASE OF STATE LICENSE.—A State may not require that an individual purchase a State hunting license as a condition of issuing an electronic stamp under the pilot program.

**SEC. 7. ELECTRONIC STAMP REQUIREMENTS; RECOGNITION OF ELECTRONIC STAMP.** 16 USC 718 note.

(a) STAMP REQUIREMENTS.—The Secretary shall require an electronic stamp issued by a State under the pilot program—

(1) to have the same format as any other license, validation, or privilege the State issues under the automated licensing system of the State; and

(2) to specify identifying features of the licensee that are adequate to enable Federal, State, and other law enforcement officers to identify the holder.

(b) RECOGNITION OF ELECTRONIC STAMP.—Any electronic stamp issued by a State under the pilot program shall, during the effective period of the electronic stamp—

(1) bestow upon the licensee the same privileges as are bestowed by an actual stamp;

(2) be recognized nationally as a valid Federal migratory bird hunting and conservation stamp; and

(3) authorize the licensee to hunt migratory waterfowl in any other State, in accordance with the laws of the other State governing that hunting.

(c) DURATION.—An electronic stamp issued by a State under the pilot program shall be valid for a period agreed to by the State and the Secretary, which shall not exceed 45 days.

**SEC. 8. TERMINATION OF STATE PARTICIPATION.** 16 USC 718 note.

Participation by a State in the pilot program may be terminated—

(1) by the Secretary, if the Secretary—

(A) finds that the State has violated any of the terms of the application of the State approved by the Secretary under section 5; and

(B) provides to the State written notice of the termination by not later than the date that is 30 days before the date of termination; or

(2) by the State, by providing written notice to the Secretary by not later than the date that is 30 days before the termination date.

**SEC. 9. EVALUATION.** 16 USC 718 note.

(a) EVALUATION.—The Secretary, in consultation with State fish and wildlife management agencies and appropriate stakeholders with expertise specific to the duck stamp program, shall evaluate the pilot program and determine whether the pilot program has provided a cost-effective and convenient means for issuing migratory-bird hunting and conservation stamps, including whether the program has—

(1) increased the availability of those stamps;

(2) assisted States in meeting the customer service objectives of the States with respect to those stamps;

(3) maintained actual stamps as an effective and viable conservation tool; and

(4) maintained adequate retail availability of the actual stamp.

(b) REPORT.—The Secretary shall submit to Congress a report on the findings of the Secretary under subsection (a).

**SEC. 10. TECHNICAL CORRECTIONS.**

(a) PROHIBITION ON TAKING.—The first section of the Act of March 16, 1934 (16 U.S.C. 718a) is amended by striking "That no person who has attained the age of sixteen years" and all that follows through the end of the section and inserting the following:

**"SECTION 1. PROHIBITION ON TAKING.**

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no individual who has attained the age of 16 years shall take any migratory waterfowl unless, at the time of the taking, the individual carries on the person of the individual a valid Migratory Bird Hunting and Conservation Stamp, validated by the signature of the individual written in ink across the face of the stamp prior to the time of the taking by the individual of the waterfowl.

"(2) EXCEPTION.—No stamp described in paragraph (1) shall be required for the taking of migratory waterfowl—

"(A) by Federal or State agencies;

"(B) for propagation; or

"(C) by the resident owner, tenant, or sharecropper of the property, or officially designated agencies of the Department of the Interior, for the killing, under such restrictions as the Secretary may by regulation prescribe, of such waterfowl when found damaging crops or other property.

"(b) DISPLAY OF STAMP.—Any individual to whom a stamp has been sold under this Act shall, upon request, display the stamp for inspection to—

"(1) any officer or employee of the Department of the Interior who is authorized to enforce this Act; or

"(2) any officer of any State or political subdivision of a State authorized to enforce State game laws.

"(c) OTHER LICENSES.—Nothing in this section requires any individual to affix the Migratory Bird Hunting and Conservation Stamp to any other license prior to taking 1 or more migratory waterfowl.".

(b) SALES; FUND DISPOSITION; UNSOLD STAMPS.—Section 2 of the Act of March 16, 1934 (16 U.S.C. 718b) is amended by striking "SEC. 2." and all that follows through the end of subsection (a) and inserting the following:

**"SEC. 2. SALES; FUND DISPOSITION; UNSOLD STAMPS.**

"(a) SALES.—

"(1) IN GENERAL.—The stamps required under section 1 shall be sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations promulgated jointly by the Postal Service and the Secretary, at—

"(A) any post office; and

"(B) such other establishments, facilities, or locations as the Postal Service or the Secretary (or a designee) may direct or authorize.

"(2) PROCEEDS.—The funds received from the sale of stamps under this Act by the Department of the Interior shall be deposited in the Migratory Bird Conservation Fund in accordance with section 4.

"(3) MINIMUM AND MAXIMUM VALUES.—Except as provided in subsection (b), the Postal Service shall collect the full face value of each stamp sold under this section for the applicable hunting year.

"(4) VALIDITY.—No stamp sold under this Act shall be valid under any circumstances to authorize the taking of migratory waterfowl except—

"(A) in compliance with Federal and State laws (including regulations);

"(B) on the condition that the individual so taking the waterfowl wrote the signature of the individual in ink across the face of the stamp prior to the taking; and

"(C) during the hunting year for which the stamp was issued.

"(5) UNUSED STAMPS.—

"(A) DEFINITION OF RETAIL DEALER.—In this paragraph, the term 'retail dealer' means—

"(i) any individual or entity that is regularly engaged in the business of retailing hunting or fishing equipment; and

"(ii) any individual or entity duly authorized to act as an agent of a State or political subdivision of a State for the sale of State or county hunting or fishing licenses.

"(B) REDEMPTION OF UNUSED STAMPS.—The Department of the Interior, pursuant to regulations promulgated by the Secretary, shall provide for the redemption, on or before the 30th day of June of each year, of unused stamps issued for the year under this Act that— Deadline.

"(i) were sold on consignment to any person authorized by the Secretary to sell stamps on consignment (including retail dealers for resale to customers); and

"(ii) have not been resold by any such person.

"(6) PROHIBITION ON CERTAIN STAMP SALES.—The Postal Service shall not—

"(A) sell on consignment any stamps issued under this Act to any individual, business, or organization; or

"(B) redeem stamps issued under this Act that are sold on consignment by the Secretary (or any agent of the Secretary).".

(c) COST OF STAMPS.—Section 2(b) of the Act of March 16, 1934 (16 U.S.C. 718b(b)) is amended—

(1) by striking "(b) The" and inserting the following:

"(b) COST OF STAMPS.—The";

(2) by striking "Secretary of the Interior" and inserting "Secretary";

(3) by striking "migratory bird conservation fund" and inserting "Migratory Bird Conservation Fund"; and

(4) in paragraph (2), by striking "For purposes" and all that follows through "of any such year.".

(d) AUTHORIZATION AND EXEMPTION.—Section 3 of the Act of March 16, 1934 (16 U.S.C. 718c) is amended by striking "SEC. 3. Nothing" and inserting the following:

**"SEC. 3. AUTHORIZATION AND EXEMPTION.**

"Nothing".

(e) EXPENDITURE OF FUNDS.—Section 4 of the Act of March 16, 1934 (16 U.S.C. 718d) is amended—

(1) by redesignating subsections (a) through (c) as paragraphs (1) through (3), respectively, and indenting appropriately;

(2) by striking "SEC. 4. All moneys" and all that follows through "expended:" and inserting the following:

**"SEC. 4. EXPENDITURE OF FUNDS.**

"(a) IN GENERAL.—All funds received for stamps sold under this Act shall be—

"(1) accounted for by the Postal Service or the Secretary, as appropriate;

"(2) paid into the Treasury of the United States; and

"(3) reserved and set aside as a special fund, to be known as the 'Migratory Bird Conservation Fund' (referred to in this section as the 'fund'), to be administered by the Secretary.

"(b) USE OF FUNDS.—All funds received into the fund are appropriated for the following purposes, to remain available until expended:";

(3) in subsection (b)(1) (as redesignated by paragraphs (1) and (2))—

(A) by striking "(1) So much" and all that follows through "for engraving" and inserting the following:

"(1) ADVANCE ALLOTMENTS.—So much as may be necessary shall be used by the Secretary for engraving";

(B) by striking "migratory bird hunting stamps" and inserting "Migratory Bird Hunting and Conservation Stamps";

(C) by striking "personal" and inserting "personnel"; and

(D) by striking "postal service" and inserting "Postal Service";

(4) in subsection (b)(2) (as so redesignated)—

(A) by striking "(2) Except as provided in subsections (c) and (d) of this section" and inserting the following:

"(2) AREAS FOR REFUGES.—Except as provided in paragraph (3) and subsection (c)"; and

(B) by inserting "(16 U.S.C. 715 et seq.)" after "Conservation Act";

(5) in subsection (b)(3) (as so redesignated)—

(A) by striking "(3) The Secretary of the Interior is authorized to utilize funds made available under subsection (b) of this section for the purposes of such subsection, and such other funds as may be appropriated for the purposes of such subsection, or of this subsection," and inserting the following:

"(3) CONDITIONS ON USE OF FUNDS.—The Secretary may use funds made available under paragraph (2) for the purposes of that paragraph, and such other funds as may be appropriated for the purposes of that paragraph or this paragraph,"; and

(B) in the second sentence—

(i) by inserting "(16 U.S.C. 715 et seq.)" after "Conservation Act"; and

(ii) by striking "this subsection" and inserting "this paragraph";

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

(7) in subsection (c) (as so redesignated)—

(A) in paragraph (1)—

(i) by striking "(1) The Secretary of the Interior may utilize" and inserting the following:

"(1) IN GENERAL.—The Secretary may use"; and

(ii) by striking "migratory bird hunting and conservation stamps" and inserting "Migratory Bird Hunting and Conservation Stamps"; and

(B) in paragraph (2), by striking "(2) The Secretary of the Interior" and inserting the following:

"(2) COMPONENTS OF REPORT.—The Secretary".

(f) LOANS AND TRANSFERS, ALTERATION, AND REPRODUCTION OF STAMPS.—Section 5 of the Act of March 16, 1934 (16 U.S.C. 718e) is amended—

(1) by striking "SEC. 5. (a) That no person to whom has been sold a migratory-bird hunting stamp," and inserting the following:

**"SEC. 5. LOANS AND TRANSFERS, ALTERATION, AND REPRODUCTION OF STAMPS.**

"(a) IN GENERAL.—No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp,";

(2) in subsection (b), by striking "(b)" and all that follows through "shall alter" and inserting the following:

"(b) ALTERATION.—Except as provided in clauses (i) and (ii) of section 504(l)(D) of title 18, United States Code, no person shall alter";

(3) in subsection (c)—

(A) by striking "(c) Notwithstanding" and inserting the following:

"(c) REPRODUCTION.—Notwithstanding";

(B) by striking "Secretary of the Interior" each place it appears and inserting "Secretary"; and

(C) in the matter following paragraph (2)—

(i) by striking "migratory bird hunting stamps" and inserting "Migratory Bird Hunting and Conservation Stamps"; and

(ii) by striking "shall be paid into the migratory bird conservation fund" and inserting "shall be paid, after deducting expenses for marketing, into the Migratory Bird Conservation Fund".

(g) ENFORCEMENT.—Section 6 of the Act of March 16, 1934 (16 U.S.C. 718f) is amended—

(1) by striking "SEC. 6. For the efficient" and inserting the following:

**"SEC. 6. ENFORCEMENT.**

"For the efficient"; and

(2) in the first sentence—

(A) by striking "Secretary of Agriculture" and inserting "Secretary";

(B) by striking "Department of Agriculture" and inserting "Department of the Interior"; and

(C) by inserting "(16 U.S.C. 703 et seq.)" after "Treaty Act".

(h) VIOLATIONS; COOPERATION; USE OF CONTEST FEES; DEFINITIONS; SHORT TITLE.—The Act of March 16, 1934 is amended by

striking sections 7 through 10 (16 U.S.C. 718g–718j) and inserting the following:

**"SEC. 7. VIOLATIONS.**

"Any person that violates or fails to comply with any provision of this Act (including a regulation promulgated under this Act) shall be subject to the penalties described in section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707).

**"SEC. 8. COOPERATION.**

"The Secretary is authorized to cooperate with the States and the territories and possessions of the United States in the enforcement of this Act.

**"SEC. 9. USE OF CONTEST FEES.**

"Notwithstanding any other provision of law, funds received by the United States Fish and Wildlife Service in the form of fees for entering any Migratory Bird Hunting and Conservation Stamp contest shall be credited—

"(1) first, to the appropriation account from which expenditures for the administration of the contest are made; and

"(2) second, to the extent any funds remain, to the Migratory Bird Conservation Fund.

**"SEC. 10. DEFINITIONS.**

"(a) IN GENERAL.—In this Act, the terms defined in the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) have the meanings given those terms in those Acts.

"(b) OTHER DEFINITIONS.—In this Act:

"(1) HUNTING YEAR.—The term 'hunting year' means the 1-year period beginning on July 1 of each year.

"(2) MIGRATORY WATERFOWL.—The term 'migratory waterfowl' means the species enumerated in paragraph (a) of subdivision 1 of article I of the Convention between the United States and Great Britain for the Protection of Migratory Birds, signed at Washington on August 16, 1916 (USTS 628) (16 U.S.C. 703 et seq.).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(4) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico;

"(D) Guam;

"(E) American Samoa;

"(F) the Commonwealth of the Northern Mariana Islands;

"(G) the Federated States of Micronesia;

"(H) the Republic of the Marshall Islands;

"(I) the Republic of Palau; and

"(J) the United States Virgin Islands.

"(5) TAKE.—The term 'take' means—

"(A) to pursue, hunt, shoot, capture, collect, or kill; or

"(B) to attempt to pursue, hunt, shoot, capture, collect, or kill.

16 USC 718, 718g–718i.
16 USC 718g.
16 USC 718h.
16 USC 718i.
16 USC 718j.

**"SEC. 11. SHORT TITLE.**

16 USC 718 note.

"This Act may be cited as the 'Migratory Bird Hunting and Conservation Stamp Act'.".

(i) DISPOSITION OF UNSOLD STAMPS.—Section 3 of the Act of July 30, 1956 (Public Law 84–838; 70 Stat. 722), is amended—

16 USC 718b, 718i.

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) in subsection (a) (16 U.S.C. 718b–1)—

(A) by striking "SEC. 3. (a) Hereafter" and all that follows through the end of the first sentence and inserting the following:

**"SEC. 3. DISPOSITION OF UNSOLD STAMPS.**

"(a) DISPOSITION OF UNSOLD STAMPS.—A Migratory Bird Hunting and Conservation Stamp shall be transferred to the Postal Service or the Secretary of the Interior (or a designee) for sale to a collector if the stamp—

"(1) has not been sold by the end of the hunting year (as that term is defined in section 10 of the Migratory Bird Hunting and Conservation Stamp Act) during which the stamp is issued; and

"(2) as determined by the Postal Service or the Secretary of the Interior—

"(A) is appropriate to supply a market for sale to collectors; and

"(B) is in suitable condition for sale to a collector."; and

(B) by striking the second sentence and inserting the following:

"(b) SURPLUS STOCK.—The Postal Service or the Secretary of the Interior may destroy any surplus stock of Migratory Bird Hunting and Conservation Stamps at such time and in such manner as the Postal Service or the Secretary of the Interior determines to be appropriate.".

Approved August 3, 2006.

---

LEGISLATIVE HISTORY—S. 1496:

HOUSE REPORTS: No. 109–556 (Comm. on Resources).
SENATE REPORTS: No. 109–187 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): July 24, considered and passed House.

# Public Law 109–267
# 109th Congress

## An Act

Aug. 4, 2006
[H.R. 5877]

To amend the Iran and Libya Sanctions Act of 1996 to extend the authorities provided in such Act until September 29, 2006.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. EXTENSION OF AUTHORITIES UNDER THE IRAN AND LIBYA SANCTIONS ACT OF 1996.**

Section 13(b) of the Iran and Libya Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended by striking "on the date that is 10 years after the date of the enactment of this Act" and inserting "on September 29, 2006".

Approved August 4, 2006.

LEGISLATIVE HISTORY—H.R. 5877:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 26, considered and passed House.
July 31, considered and passed Senate.

# Public Law 109–268
# 109th Congress

## An Act

To provide funding authority to facilitate the evacuation of persons from Lebanon, and for other purposes.

Aug. 4, 2006
[S. 3741]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FUNDING AUTHORITY.**

(a) INCREASE IN AVAILABLE FUNDS FOR EMERGENCY EVACUATIONS.—Notwithstanding the transfer restrictions under section 402 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108), the second proviso under the headings "DEPARTMENT OF STATE AND RELATED AGENCY – DEPARTMENT OF STATE – ADMINISTRATION OF FOREIGN AFFAIRS – DIPLOMATIC AND CONSULAR PROGRAMS" is amended by striking "$4,000,000" and inserting "$19,000,000". 119 Stat. 2319.

(b) USE OF CERTAIN FUNDS.—Amounts appropriated or otherwise made available by chapter 8 of title II of division B of Public Law 109–148 under the heading "EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE" and any other unobligated amounts in the "Emergencies in the Diplomatic and Consular Service" account may be made available to cover the costs of facilitating the evacuation under section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671) of persons from Lebanon on or after July 16, 2006.

Approved August 4, 2006.

---

LEGISLATIVE HISTORY—S. 3741:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 26, considered and passed Senate.
July 28, considered and passed House, amended.
July 31, Senate concurred in House amendment.

# Public Law 109–269
# 109th Congress

## An Act

Aug. 12, 2006
[H.R. 3682]

To redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

16 USC 668dd note.

**SECTION 1. ELIZABETH HARTWELL MASON NECK NATIONAL WILDLIFE REFUGE.**

(a) REDESIGNATION.—The Mason Neck National Wildlife Refuge in Virginia, is hereby redesignated and shall be known as the "Elizabeth Hartwell Mason Neck National Wildlife Refuge".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Wildlife Refuge in Virginia referred to in subsection (a) shall be deemed to be a reference to the "Elizabeth Hartwell Mason Neck National Wildlife Refuge".

Approved August 12, 2006.

LEGISLATIVE HISTORY—H.R. 3682 (S. 2127):

HOUSE REPORTS: No. 109–433 (Comm. on Resources).
SENATE REPORTS: No. 109–258 accompanying S. 2127 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 16, considered and passed House.
Aug. 1, considered and passed Senate.

# Public Law 109–270
# 109th Congress

## An Act

To amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

Aug. 12, 2006
[S. 250]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT.**

Carl D. Perkins Career and Technical Education Improvement Act of 2006.
20 USC 2301 note.

(a) SHORT TITLE.—This Act may be cited as the "Carl D. Perkins Career and Technical Education Improvement Act of 2006".

(b) AMENDMENT.—The Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.) is amended to read as follows:

**"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

20 USC 2301 note.

"(a) SHORT TITLE.—This Act may be cited as the 'Carl D. Perkins Career and Technical Education Act of 2006'.

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

"Sec. 1. Short title; table of contents.
"Sec. 2. Purpose.
"Sec. 3. Definitions.
"Sec. 4. Transition provisions.
"Sec. 5. Privacy.
"Sec. 6. Limitation.
"Sec. 7. Special rule.
"Sec. 8. Prohibitions.
"Sec. 9. Authorization of appropriations.

"TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"Sec. 111. Reservations and State allotment.
"Sec. 112. Within State allocation.
"Sec. 113. Accountability.
"Sec. 114. National activities.
"Sec. 115. Assistance for the outlying areas.
"Sec. 116. Native American programs.
"Sec. 117. Tribally controlled postsecondary career and technical institutions.
"Sec. 118. Occupational and employment information.

"PART B—STATE PROVISIONS

"Sec. 121. State administration.
"Sec. 122. State plan.
"Sec. 123. Improvement plans.
"Sec. 124. State leadership activities.

"PART C—LOCAL PROVISIONS

"Sec. 131. Distribution of funds to secondary education programs.
"Sec. 132. Distribution of funds for postsecondary education programs.

"Sec. 133. Special rules for career and technical education.
"Sec. 134. Local plan for career and technical education programs.
"Sec. 135. Local uses of funds.

"TITLE II—TECH PREP EDUCATION

"Sec. 201. State allotment and application.
"Sec. 202. Consolidation of funds.
"Sec. 203. Tech prep program.
"Sec. 204. Consortium applications.
"Sec. 205. Report.
"Sec. 206. Authorization of appropriations.

"TITLE III—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"Sec. 311. Fiscal requirements.
"Sec. 312. Authority to make payments.
"Sec. 313. Construction.
"Sec. 314. Voluntary selection and participation.
"Sec. 315. Limitation for certain students.
"Sec. 316. Federal laws guaranteeing civil rights.
"Sec. 317. Participation of private school personnel and children.
"Sec. 318. Limitation on Federal regulations.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"Sec. 321. Joint funding.
"Sec. 322. Prohibition on use of funds to induce out-of-state relocation of businesses.
"Sec. 323. State administrative costs.
"Sec. 324. Student assistance and other Federal programs.

20 USC 2301.

**"SEC. 2. PURPOSE.**

"The purpose of this Act is to develop more fully the academic and career and technical skills of secondary education students and postsecondary education students who elect to enroll in career and technical education programs, by—

"(1) building on the efforts of States and localities to develop challenging academic and technical standards and to assist students in meeting such standards, including preparation for high skill, high wage, or high demand occupations in current or emerging professions;

"(2) promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education for participating career and technical education students;

"(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve career and technical education, including tech prep education;

"(4) conducting and disseminating national research and disseminating information on best practices that improve career and technical education programs, services, and activities;

"(5) providing technical assistance that—

"(A) promotes leadership, initial preparation, and professional development at the State and local levels; and

"(B) improves the quality of career and technical education teachers, faculty, administrators, and counselors;

"(6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries; and

"(7) providing individuals with opportunities throughout their lifetimes to develop, in conjunction with other education

and training programs, the knowledge and skills needed to keep the United States competitive.

**"SEC. 3. DEFINITIONS.** 20 USC 2302.

"Unless otherwise specified, in this Act:

"(1) ADMINISTRATION.—The term 'administration', when used with respect to an eligible agency or eligible recipient, means activities necessary for the proper and efficient performance of the eligible agency or eligible recipient's duties under this Act, including the supervision of such activities. Such term does not include curriculum development activities, personnel development, or research activities.

"(2) ALL ASPECTS OF AN INDUSTRY.—The term 'all aspects of an industry' means strong experience in, and comprehensive understanding of, the industry that the individual is preparing to enter, including information as described in section 118.

"(3) AREA CAREER AND TECHNICAL EDUCATION SCHOOL.—The term 'area career and technical education school' means—

"(A) a specialized public secondary school used exclusively or principally for the provision of career and technical education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a public secondary school exclusively or principally used for providing career and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a public or nonprofit technical institution or career and technical education school used exclusively or principally for the provision of career and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits, as regular students, individuals who have completed secondary school and individuals who have left secondary school; or

"(D) the department or division of an institution of higher education, that operates under the policies of the eligible agency and that provides career and technical education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits, as regular students, both individuals who have completed secondary school and individuals who have left secondary school.

"(4) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment—

"(A) that is agreed upon at the State level or approved annually by the lead administrators of—

"(i) a secondary institution and a postsecondary educational institution; or

"(ii) a subbaccalaureate degree granting postsecondary educational institution and a baccalaureate degree granting postsecondary educational institution; and

"(B) to a program that is—

"(i) designed to provide students with a non-duplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree; and

"(ii) linked through credit transfer agreements between the 2 institutions described in clause (i) or (ii) of subparagraph (A) (as the case may be).

"(5) CAREER AND TECHNICAL EDUCATION.—The term 'career and technical education' means organized educational activities that—

"(A) offer a sequence of courses that—

"(i) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

"(ii) provides technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

"(iii) may include prerequisite courses (other than a remedial course) that meet the requirements of this subparagraph; and

"(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

"(6) CAREER AND TECHNICAL STUDENT ORGANIZATION.—

"(A) IN GENERAL.—The term 'career and technical student organization' means an organization for individuals enrolled in a career and technical education program that engages in career and technical education activities as an integral part of the instructional program.

"(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in career and technical education at the local level.

"(7) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means guidance and counseling that—

"(A) provides access for students (and parents, as appropriate) to information regarding career awareness and planning with respect to an individual's occupational and academic future; and

"(B) provides information with respect to career options, financial aid, and postsecondary options, including baccalaureate degree programs.

"(8) CHARTER SCHOOL.—The term 'charter school' has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965.

"(9) COOPERATIVE EDUCATION.—The term 'cooperative education' means a method of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required rigorous

and challenging academic courses and related career and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation—

"(A) shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual; and

"(B) may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(10) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(A)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on the income of another family member but is no longer supported by that income; or

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under such title; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(11) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(12) ELIGIBLE AGENCY.—The term 'eligible agency' means a State board designated or created consistent with State law as the sole State agency responsible for the administration of career and technical education in the State or for the supervision of the administration of career and technical education in the State.

"(13) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) a public or nonprofit private institution of higher education that offers career and technical education courses that lead to technical skill proficiency, an industry-recognized credential, a certificate, or a degree;

"(B) a local educational agency providing education at the postsecondary level;

"(C) an area career and technical education school providing education at the postsecondary level;

"(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

"(E) an educational service agency; or

"(F) a consortium of 2 or more of the entities described in subparagraphs (A) through (E).

"(14) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a local educational agency (including a public charter school that operates as a local educational agency), an area career and technical education school, an educational service agency, or a consortium, eligible to receive assistance under section 131; or

"(B) an eligible institution or consortium of eligible institutions eligible to receive assistance under section 132.

"(15) GOVERNOR.—The term 'Governor' means the chief executive officer of a State.

"(16) INDIVIDUAL WITH LIMITED ENGLISH PROFICIENCY.—The term 'individual with limited English proficiency' means a secondary school student, an adult, or an out-of-school youth, who has limited ability in speaking, reading, writing, or understanding the English language, and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment in which a language other than English is the dominant language.

"(17) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'individual with a disability' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(18) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965.

"(19) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(20) NON-TRADITIONAL FIELDS.—The term 'non-traditional fields' means occupations or fields of work, including careers in computer science, technology, and other current and emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

"(21) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

"(22) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term 'postsecondary educational institution' means—

"(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

"(B) a tribally controlled college or university; or

"(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

"(23) POSTSECONDARY EDUCATION TECH PREP STUDENT.—The term 'postsecondary education tech prep student' means a student who—

"(A) has completed the secondary education component of a tech prep program; and

"(B) has enrolled in the postsecondary education component of a tech prep program at an institution of higher education described in clause (i) or (ii) of section 203(a)(1)(B).

"(24) SCHOOL DROPOUT.—The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

"(25) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' means research that is carried out using scientifically based research standards, as defined in section 102 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9501).

"(26) SECONDARY EDUCATION TECH PREP STUDENT.—The term 'secondary education tech prep student' means a secondary education student who has enrolled in 2 courses in the secondary education component of a tech prep program.

"(27) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(28) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(29) SPECIAL POPULATIONS.—The term 'special populations' means—

"(A) individuals with disabilities;

"(B) individuals from economically disadvantaged families, including foster children;

"(C) individuals preparing for non-traditional fields;

"(D) single parents, including single pregnant women;

"(E) displaced homemakers; and

"(F) individuals with limited English proficiency.

"(30) STATE.—The term 'State', unless otherwise specified, means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

"(31) SUPPORT SERVICES.—The term 'support services' means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(32) TECH PREP PROGRAM.—The term 'tech prep program' means a tech prep program described in section 203(c).

"(33) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term 'tribally controlled college or university' has the meaning given the term in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

"(34) TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTION.—The term 'tribally controlled postsecondary career and technical institution' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965, except that subsection (a)(2) of such section shall not be applicable and the reference to Secretary in subsection (a)(5) of such section shall be deemed to refer to the Secretary of the Interior) that—

"(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

"(B) offers a technical degree or certificate granting program;

"(C) is governed by a board of directors or trustees, a majority of whom are Indians;

"(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

"(E) has been in operation for at least 3 years;

"(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary career and technical education; and

"(G) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

20 USC 2303.

**"SEC. 4. TRANSITION PROVISIONS.**

"The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act (as amended by the Carl D. Perkins Career and Technical Education Improvement Act of 2006) from any authority under the provisions of the Carl D. Perkins Vocational and Technical Education Act of 1998, as in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006. The Secretary shall give each eligible agency the opportunity to submit a transition plan for the first fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006.

20 USC 2304.

**"SEC. 5. PRIVACY.**

"(a) GEPA.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

"(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under this Act.

20 USC 2305.

**"SEC. 6. LIMITATION.**

"All of the funds made available under this Act shall be used in accordance with the requirements of this Act.

20 USC 2306.

**"SEC. 7. SPECIAL RULE.**

"In the case of a local community in which no employees are represented by a labor organization, for purposes of this Act, the term 'representatives of employees' shall be substituted for 'labor organization'.

20 USC 2306a.

**"SEC. 8. PROHIBITIONS.**

"(a) LOCAL CONTROL.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof

to spend any funds or incur any costs not paid for under this Act, except as required under sections 112(b), 311(b), and 323.

"(b) NO PRECLUSION OF OTHER ASSISTANCE.—Any State that declines to submit an application to the Secretary for assistance under this Act shall not be precluded from applying for assistance under any other program administered by the Secretary.

"(c) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.—Notwithstanding any other provision of Federal law, no State shall be required to have academic and career and technical content standards or student academic and career and technical achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the requirements under section 113.

"(e) COHERENT AND RIGOROUS CONTENT.—For the purposes of this Act, coherent and rigorous content shall be determined by the State consistent with section 1111(b)(1)(D) of the Elementary and Secondary Education Act of 1965.

**"SEC. 9. AUTHORIZATION OF APPROPRIATIONS.** 20 USC 2307.

"There is authorized to be appropriated to carry out this Act (other than sections 114, 117, and 118, and title II) such sums as may be necessary for each of the fiscal years 2007 through 2012.

# "TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

## "PART A—ALLOTMENT AND ALLOCATION

**"SEC. 111. RESERVATIONS AND STATE ALLOTMENT.** 20 USC 2321.

"(a) RESERVATIONS AND STATE ALLOTMENT.—

"(1) RESERVATIONS.—From the sum appropriated under section 9 for each fiscal year, the Secretary shall reserve—

"(A) 0.13 percent to carry out section 115; and

"(B) 1.50 percent to carry out section 116, of which—

"(i) 1.25 percent of the sum shall be available to carry out section 116(b); and

"(ii) 0.25 percent of the sum shall be available to carry out section 116(h).

"(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3), (4), and (5), from the remainder of the sum appropriated under section 9 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

"(A) an amount that bears the same ratio to 50 percent of the sum being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount that bears the same ratio to 20 percent of the sum being allotted as the product of the population

aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount that bears the same ratio to 15 percent of the sum being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount that bears the same ratio to 15 percent of the sum being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

"(3) MINIMUM ALLOTMENT FOR YEARS WITH NO ADDITIONAL FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (5), for a fiscal year for which there are no additional funds (as such term is defined in paragraph (4)(D)), no State shall receive for such fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 9 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

"(B) REQUIREMENT.—No State, by reason of the application of subparagraph (A), shall receive for a fiscal year more than 150 percent of the amount the State received under this subsection for the preceding fiscal year.

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Subject to paragraph (5), no State, by reason of the application of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

"(I) 150 percent of the amount that the State received in the preceding fiscal year; and

"(II) the amount calculated under clause (ii).

"(ii) AMOUNT.—The amount calculated under this clause shall be determined by multiplying—

"(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

"(II) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(4) MINIMUM ALLOTMENT FOR YEARS WITH ADDITIONAL FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (5), for a fiscal year for which there are additional funds, no State shall receive for such fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 9 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply

with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

"(B) SPECIAL RULE.—In the case of a qualifying State, the minimum allotment under subparagraph (A) for a fiscal year for the qualifying State shall be the lesser of—

"(i) ½ of 1 percent of the amount appropriated under section 9 and not reserved under paragraph (1) for such fiscal year; and

"(ii) the sum of—

"(I) the amount the qualifying State was allotted under paragraph (2) for fiscal year 2006 (as such paragraph was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006); and

"(II) the product of—

"(aa) ⅓ of the additional funds; multiplied by

"(bb) the quotient of—

"(AA) the qualifying State's ratio described in subparagraph (C) for the fiscal year for which the determination is made; divided by

"(BB) the sum of all such ratios for all qualifying States for the fiscal year for which the determination is made.

"(C) RATIO.—For purposes of subparagraph (B)(ii)(II)(bb)(AA), the ratio for a qualifying State for a fiscal year shall be 1.00 less the quotient of—

"(i) the amount the qualifying State was allotted under paragraph (2) for fiscal year 2006 (as such paragraph was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006); divided by

"(ii) ½ of 1 percent of the amount appropriated under section 9 and not reserved under paragraph (1) for the fiscal year for which the determination is made.

"(D) DEFINITIONS.—In this paragraph:

"(i) ADDITIONAL FUNDS.—The term 'additional funds' means the amount by which—

"(I) the sum appropriated under section 9 and not reserved under paragraph (1) for a fiscal year; exceeds

"(II) the sum of—

"(aa) the amount allotted under paragraph (2) for fiscal year 2006 (as such paragraph (2) was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006);

"(bb) the amount reserved under paragraph (1)(C) for fiscal year 2006 (as such paragraph (1)(C) was so in effect); and

"(cc) $827,671.

"(ii) QUALIFYING STATE.—The term 'qualifying State' means a State (except the United States Virgin

Islands) that, for the fiscal year for which a determination under this paragraph is made, would receive, under the allotment formula under paragraph (2) (without the application of this paragraph and paragraphs (3) and (5)), an amount that would be less than the amount the State would receive under subparagraph (A) for such fiscal year.

"(5) HOLD HARMLESS.—

"(A) IN GENERAL.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998) for fiscal year 1998.

"(B) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

"(b) REALLOTMENT.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

Regulations.

"(c) ALLOTMENT RATIO.—

"(1) IN GENERAL.—The allotment ratio for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

"(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

"(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

"(2) PROMULGATION.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

"(3) DEFINITION OF PER CAPITA INCOME.—For the purpose of this section, the term 'per capita income' means, with respect

to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) POPULATION DETERMINATION.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

"(d) DEFINITION OF STATE.—For the purpose of this section, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

**"SEC. 112. WITHIN STATE ALLOCATION.** 20 USC 2322.

"(a) IN GENERAL.—From the amount allotted to each State under section 111 for a fiscal year, the eligible agency shall make available—

"(1) not less than 85 percent for distribution under section 131 or 132, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c);

"(2) not more than 10 percent to carry out State leadership activities described in section 124, of which—

"(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 111 for the fiscal year shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

"(B) not less than $60,000 and not more than $150,000 shall be available for services that prepare individuals for non-traditional fields; and

"(3) an amount equal to not more than 5 percent, or $250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

"(A) developing the State plan;

"(B) reviewing a local plan;

"(C) monitoring and evaluating program effectiveness;

"(D) assuring compliance with all applicable Federal laws;

"(E) providing technical assistance; and

"(F) supporting and developing State data systems relevant to the provisions of this Act.

"(b) MATCHING REQUIREMENT.—Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3).

"(c) RESERVE.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may award grants to eligible recipients for career and technical education activities described in section 135 in—

"(1) rural areas;

"(2) areas with high percentages of career and technical education students; and

"(3) areas with high numbers of career and technical education students.

20 USC 2323.

**"SEC. 113. ACCOUNTABILITY.**

"(a) PURPOSE.—The purpose of this section is to establish and support State and local performance accountability systems, comprised of the activities described in this section, to assess the effectiveness of the State and the eligible recipients of the State in achieving statewide progress in career and technical education, and to optimize the return of investment of Federal funds in career and technical education activities.

"(b) STATE PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

"(A) the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2);

"(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(C); and

"(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

"(2) INDICATORS OF PERFORMANCE.—

"(A) CORE INDICATORS OF PERFORMANCE FOR CAREER AND TECHNICAL EDUCATION STUDENTS AT THE SECONDARY LEVEL.—Each eligible agency shall identify in the State plan core indicators of performance for career and technical education students at the secondary level that are valid and reliable, and that include, at a minimum, measures of each of the following:

"(i) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by a State in accordance with section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and measured by the State determined proficient levels on the academic assessments described in section 1111(b)(3) of such Act.

"(ii) Student attainment of career and technical skill proficiencies, including student achievement on technical assessments, that are aligned with industry-recognized standards, if available and appropriate.

"(iii) Student rates of attainment of each of the following:

"(I) A secondary school diploma.

"(II) A General Education Development (GED) credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities).

"(III) A proficiency credential, certificate, or degree, in conjunction with a secondary school diploma (if such credential, certificate, or degree is offered by the State in conjunction with a secondary school diploma).

"(iv) Student graduation rates (as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965).

"(v) Student placement in postsecondary education or advanced training, in military service, or in employment.

"(vi) Student participation in and completion of career and technical education programs that lead to non-traditional fields.

"(B) CORE INDICATORS OF PERFORMANCE FOR CAREER AND TECHNICAL EDUCATION STUDENTS AT THE POSTSECONDARY LEVEL.—Each eligible agency shall identify in the State plan core indicators of performance for career and technical education students at the postsecondary level that are valid and reliable, and that include, at a minimum, measures of each of the following:

"(i) Student attainment of challenging career and technical skill proficiencies, including student achievement on technical assessments, that are aligned with industry-recognized standards, if available and appropriate.

"(ii) Student attainment of an industry-recognized credential, a certificate, or a degree.

"(iii) Student retention in postsecondary education or transfer to a baccalaureate degree program.

"(iv) Student placement in military service or apprenticeship programs or placement or retention in employment, including placement in high skill, high wage, or high demand occupations or professions.

"(v) Student participation in, and completion of, career and technical education programs that lead to employment in non-traditional fields.

"(C) ADDITIONAL INDICATORS OF PERFORMANCE.—An eligible agency, with input from eligible recipients, may identify in the State plan additional indicators of performance for career and technical education activities authorized under this title, such as attainment of self-sufficiency.

"(D) EXISTING INDICATORS.—If a State has developed, prior to the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, State career and technical education performance measures that meet the requirements of this section (as amended by such Act), the State may use such performance measures to measure the progress of career and technical education students.

"(E) STATE ROLE.—Indicators of performance described in this paragraph shall be established solely by each eligible agency with input from eligible recipients.

"(F) ALIGNMENT OF PERFORMANCE INDICATORS.—In the course of developing core indicators of performance and additional indicators of performance, an eligible agency shall, to the greatest extent possible, align the indicators so that substantially similar information gathered for other State and Federal programs, or for any other purpose, is used to meet the requirements of this section.

"(3) STATE LEVELS OF PERFORMANCE.—

"(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

"(i) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish in the State

plan submitted under section 122, levels of performance for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

"(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

"(II) require the State to continually make progress toward improving the performance of career and technical education students.

"(ii) IDENTIFICATION IN THE STATE PLAN.—Subject to section 4, each eligible agency shall identify, in the State plan submitted under section 122, levels of performance for each of the core indicators of performance for the first 2 program years covered by the State plan.

"(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The Secretary and each eligible agency shall reach agreement on the levels of performance for each of the core indicators of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (vi). The levels of performance agreed to under this clause shall be considered to be the State adjusted level of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

"(iv) ROLE OF THE SECRETARY.—The role of the Secretary in the agreement described in clauses (iii) and (v) is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance.

"(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR SUBSEQUENT YEARS.—Prior to the third and fifth program years covered by the State plan, the Secretary and each eligible agency shall reach agreement on the State adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the State plan, taking into account the factors described in clause (vi). The State adjusted levels of performance agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

"(vi) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

"(I) how the levels of performance involved compare with the State adjusted levels of performance established for other States, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

"(II) the extent to which such levels of performance promote continuous improvement on the indicators of performance by such State.

"(vii) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (vi), the eligible agency may request that the State adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary shall issue objective criteria and methods for making such revisions.

Criteria.

"(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible agency shall identify in the State plan State levels of performance for each of the additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the State levels of performance for purposes of this title.

"(4) LOCAL LEVELS OF PERFORMANCE.—

"(A) LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

"(i) IN GENERAL.—Each eligible recipient shall agree to accept the State adjusted levels of performance established under paragraph (3) as local adjusted levels of performances, or negotiate with the State to reach agreement on new local adjusted levels of performance, for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

"(I) be expressed in a percentage or numerical form, consistent with the State levels of performance established under paragraph (3), so as to be objective, quantifiable, and measurable; and

"(II) require the eligible recipient to continually make progress toward improving the performance of career and technical education students.

"(ii) IDENTIFICATION IN THE LOCAL PLAN.—Each eligible recipient shall identify, in the local plan submitted under section 134, levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan.

"(iii) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The eligible agency and each eligible recipient shall reach agreement, as described in clause (i), on the eligible recipient's levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan, taking into account the levels identified in the local plan under clause (ii) and the factors described in clause (v). The levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan prior to the approval of such plan.

"(iv) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR SUBSEQUENT YEARS.—Prior to the third and fifth program years covered by the local plan, the eligible agency and each eligible recipient shall reach agreement on the local adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the local plan, taking into account the factors described in clause (v). The local adjusted levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan.

"(v) FACTORS.—The agreement described in clause (iii) or (iv) shall take into account—

"(I) how the levels of performance involved compare with the local adjusted levels of performance established for other eligible recipients in the State, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

"(II) the extent to which the local adjusted levels of performance promote continuous improvement on the core indicators of performance by the eligible recipient.

"(vi) REVISIONS.—If unanticipated circumstances arise with respect to an eligible recipient resulting in a significant change in the factors described in clause (v), the eligible recipient may request that the local adjusted levels of performance agreed to under clause (iii) or (iv) be revised. The eligible agency shall issue objective criteria and methods for making such revisions.

Criteria.

"(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible recipient may identify, in the local plan, local levels of performance for any additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the local levels of performance for purposes of this title.

"(C) LOCAL REPORT.—

"(i) CONTENT OF REPORT.—Each eligible recipient that receives an allocation described in section 112 shall annually prepare and submit to the eligible agency a report, which shall include the data described in clause (ii)(I), regarding the progress of such recipient in achieving the local adjusted levels of performance on the core indicators of performance.

"(ii) DATA.—Except as provided in clauses (iii) and (iv), each eligible recipient that receives an allocation described in section 112 shall—

"(I) disaggregate data for each of the indicators of performance under paragraph (2) for the categories of students described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 and section 3(29) that are served under this Act; and

"(II) identify and quantify any disparities or gaps in performance between any such category of students and the performance of all students served by the eligible recipient under this Act.

"(iii) NONDUPLICATION.—The eligible agency shall ensure, in a manner that is consistent with the actions of the Secretary under subsection (c)(3), that each eligible recipient does not report duplicative information under this section.

"(iv) RULES FOR REPORTING OF DATA.—The disaggregation of data under clause (ii) shall not be required when the number of students in a category is insufficient to yield statistically reliable information or when the results would reveal personally identifiable information about an individual student.

"(v) AVAILABILITY.—The report described in clause (i) shall be made available to the public through a variety of formats, including electronically through the Internet.

Public information.

"(c) REPORT.—

"(1) IN GENERAL.—Each eligible agency that receives an allotment under section 111 shall annually prepare and submit to the Secretary a report regarding—

"(A) the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance; and

"(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance for special populations.

"(2) DATA.—Except as provided in paragraphs (3) and (4), each eligible agency that receives an allotment under section 111 or 201 shall—

"(A) disaggregate data for each of the indicators of performance under subsection (b)(2) for the categories of students described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 and section 3(29) that are served under this Act; and

"(B) identify and quantify any disparities or gaps in performance between any such category of students and the performance of all students served by the eligible agency under this Act, which shall include a quantifiable description of the progress each such category of students served by the eligible agency under this Act has made in meeting the State adjusted levels of performance.

"(3) NONDUPLICATION.—The Secretary shall ensure that each eligible agency does not report duplicative information under this section.

"(4) RULES FOR REPORTING OF DATA.—The disaggregation of data under paragraph (2) shall not be required when the number of students in a category is insufficient to yield statistically reliable information or when the results would reveal personally identifiable information about an individual student.

"(5) INFORMATION DISSEMINATION.—The Secretary—

"(A) shall make the information contained in such reports available to the general public through a variety of formats, including electronically through the Internet;

"(B) shall disseminate State-by-State comparisons of the information; and

"(C) shall provide the appropriate committees of Congress with copies of such reports.

20 USC 2324.

**"SEC. 114. NATIONAL ACTIVITIES.**

"(a) PROGRAM PERFORMANCE INFORMATION.—

Reports.

"(1) IN GENERAL.—The Secretary shall collect performance information about, and report on, the condition of career and technical education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of career and technical education. The Secretary shall report annually to Congress on the Secretary's aggregate analysis of performance information collected each year pursuant to this title, including an analysis of performance data regarding special populations.

"(2) COMPATIBILITY.—The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.

Reports.

"(3) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on career and technical education for a nationally representative sample of students. Such assessment may include international comparisons in the aggregate.

"(b) MISCELLANEOUS PROVISIONS.—

"(1) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this title. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Vocational and Adult Education, and an entity assisted under section 118 (if applicable), shall determine the methodology to be used and the frequency with which information is to be collected.

"(2) COOPERATION OF STATES.—All eligible agencies receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this Act.

"(c) SINGLE PLAN FOR RESEARCH, DEVELOPMENT, DISSEMINATION, EVALUATION, AND ASSESSMENT.—

"(1) IN GENERAL.—The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to the career and technical education programs under this Act. The Secretary shall develop a single plan for such activities.

"(2) PLAN.—Such plan shall—

"(A) identify the career and technical education activities described in paragraph (1) that the Secretary will carry out under this section;

"(B) describe how the Secretary will evaluate such career and technical education activities in accordance with subsection (d)(2); and

"(C) include such other information as the Secretary determines to be appropriate.

"(d) ADVISORY PANEL; EVALUATION; REPORTS.—

"(1) INDEPENDENT ADVISORY PANEL.—

"(A) IN GENERAL.—The Secretary shall appoint an independent advisory panel to advise the Secretary on the implementation of the assessment described in paragraph (2), including the issues to be addressed and the methodology of the studies involved to ensure that the assessment adheres to the highest standards of quality.

"(B) MEMBERS.—The advisory panel shall consist of—

"(i) educators, administrators, State directors of career and technical education, and chief executives, including those with expertise in the integration of academic and career and technical education;

"(ii) experts in evaluation, research, and assessment;

"(iii) representatives of labor organizations and businesses, including small businesses, economic development entities, and workforce investment entities;

"(iv) parents;

"(v) career guidance and academic counseling professionals; and

"(vi) other individuals and intermediaries with relevant expertise.

"(C) INDEPENDENT ANALYSIS.—The advisory panel shall transmit to the Secretary, the relevant committees of Congress, and the Library of Congress an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (2).

"(D) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this paragraph.

"(2) EVALUATION AND ASSESSMENT.—

"(A) IN GENERAL.—From amounts made available under subsection (e), the Secretary shall provide for the conduct of an independent evaluation and assessment of career and technical education programs under this Act, including the implementation of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, to the extent practicable, through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.

"(B) CONTENTS.—The assessment required under subparagraph (A) shall include descriptions and evaluations of—

"(i) the extent to which State, local, and tribal entities have developed, implemented, or improved State and local career and technical education programs assisted under this Act;

"(ii) the preparation and qualifications of teachers and faculty of career and technical education (such as meeting State established teacher certification or licensing requirements), as well as shortages of such teachers and faculty;

"(iii) academic and career and technical education achievement and employment outcomes of career and technical education, including analyses of—

"(I) the extent and success of the integration of rigorous and challenging academic and career and technical education for students participating in career and technical education programs, including a review of the effect of such integration on the academic and technical proficiency achievement of such students (including the number of such students receiving a secondary school diploma); and

"(II) the extent to which career and technical education programs prepare students, including special populations, for subsequent employment in high skill, high wage occupations (including those in which mathematics and science skills are critical), or for participation in postsecondary education;

"(iv) employer involvement in, and satisfaction with, career and technical education programs and career and technical education students' preparation for employment;

"(v) the participation of students in career and technical education programs;

"(vi) the use of educational technology and distance learning with respect to career and technical education and tech prep programs; and

"(vii) the effect of State and local adjusted levels of performance and State and local levels of performance on the delivery of career and technical education services, including the percentage of career and technical education and tech prep students meeting the adjusted levels of performance described in section 113.

"(C) REPORTS.—

"(i) IN GENERAL.—The Secretary shall submit to the relevant committees of Congress—

"(I) an interim report regarding the assessment on or before January 1, 2010; and

"(II) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the interim report, on or before July 1, 2011.

"(ii) PROHIBITION.—Notwithstanding any other provision of law, the reports required by this subsection shall not be subject to any review outside the Department of Education before their transmittal to the relevant committees of Congress and the Secretary, but the President, the Secretary, and the independent advisory panel established under paragraph (1) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

"(3) COLLECTION OF STATE INFORMATION AND REPORT.—

"(A) IN GENERAL.—The Secretary may collect and disseminate information from States regarding State efforts

to meet State adjusted levels of performance described in section 113(b).

"(B) REPORT.—The Secretary shall gather any information collected pursuant to subparagraph (A) and submit a report to the relevant committees in Congress.

"(4) RESEARCH.—

Grants. Contracts. Establishment.

"(A) IN GENERAL.—From amounts made available under subsection (e), the Secretary, after consulting with the States, shall award a grant, contract, or cooperative agreement, on a competitive basis, to an institution of higher education, a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center—

"(i) to carry out scientifically based research and evaluation for the purpose of developing, improving, and identifying the most successful methods for addressing the education, employment, and training needs of participants, including special populations, in career and technical education programs, including research and evaluation in such activities as—

"(I) the integration of—

"(aa) career and technical instruction; and

"(bb) academic, secondary and postsecondary instruction;

"(II) education technology and distance learning approaches and strategies that are effective with respect to career and technical education;

"(III) State adjusted levels of performance and State levels of performance that serve to improve career and technical education programs and student achievement;

"(IV) academic knowledge and career and technical skills required for employment or participation in postsecondary education; and

"(V) preparation for occupations in high skill, high wage, or high demand business and industry, including examination of—

"(aa) collaboration between career and technical education programs and business and industry; and

"(bb) academic and technical skills required for a regional or sectoral workforce, including small business;

"(ii) to carry out scientifically based research and evaluation to increase the effectiveness and improve the implementation of career and technical education programs that are integrated with coherent and rigorous content aligned with challenging academic standards, including conducting research and development, and studies, that provide longitudinal information or formative evaluation with respect to career and technical education programs and student achievement;

"(iii) to carry out scientifically based research and evaluation that can be used to improve the preparation and professional development of teachers, faculty, and administrators, and to improve student learning in

the career and technical education classroom, including—

"(I) effective in-service and preservice teacher and faculty education that assists career and technical education programs in—

"(aa) integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

"(bb) coordinating technical education with industry-recognized certification requirements;

"(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on career and technical skills, State academic standards, and related materials; and

"(III) the recruitment and retention of career and technical education teachers, faculty, counselors, and administrators, including individuals in groups underrepresented in the teaching profession; and

"(iv) to carry out such other research and evaluation, consistent with the purposes of this Act, as the Secretary determines appropriate to assist State and local recipients of funds under this Act.

"(B) REPORT.—The center conducting the activities described in subparagraph (A) shall annually prepare a report of the key research findings of such center and shall submit copies of the report to the Secretary, the relevant committees of Congress, the Library of Congress, and each eligible agency.

"(C) DISSEMINATION.—The center shall conduct dissemination and training activities based upon the research described in subparagraph (A).

"(5) DEMONSTRATIONS AND DISSEMINATION.—The Secretary is authorized to carry out demonstration career and technical education programs, to replicate model career and technical education programs, to disseminate best practices information, and to provide technical assistance upon request of a State, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing career and technical education programs assisted under this Act.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007 through 2012.

Grants.
20 USC 2325.

**"SEC. 115. ASSISTANCE FOR THE OUTLYING AREAS.**

"(a) OUTLYING AREAS.—From funds reserved pursuant to section 111(a)(1)(A), the Secretary shall—

"(1) make a grant in the amount of $660,000 to Guam;

"(2) make a grant in the amount of $350,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands; and

"(3) make a grant of $160,000 to the Republic of Palau, subject to subsection (d).

"(b) REMAINDER.—

"(1) FIRST YEAR.—Subject to subsection (a), for the first fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for career and technical education and training in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, for the purpose of providing direct career and technical educational services, including—

"(A) teacher and counselor training and retraining;

"(B) curriculum development; and

"(C) the improvement of career and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving secondary schools and institutions of higher education.

"(2) SUBSEQUENT YEARS.—Subject to subsection (a), for the second fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006, and each subsequent year, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) and subject to subsection (a), in equal proportion, to each of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be used to provide direct career and technical educational services as described in subparagraphs (A) through (C) of paragraph (1).

"(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b)(1) for administrative costs.

"(d) RESTRICTION.—The Republic of Palau shall cease to be eligible to receive funding under this section upon entering into an agreement for an extension of United States educational assistance under the Compact of Free Association, unless otherwise provided in such agreement.

**"SEC. 116. NATIVE AMERICAN PROGRAMS.** 20 USC 2326.

"(a) DEFINITIONS.—In this section:

"(1) ALASKA NATIVE.—The term 'Alaska Native' means a Native as such term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(2) BUREAU-FUNDED SCHOOL.—The term 'Bureau-funded school' has the meaning given the term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).

"(3) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms 'Indian', 'Indian tribe', and 'tribal organization' have the meanings given the terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(4) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' has the meaning given the term in

section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517).

"(b) PROGRAM AUTHORIZED.—

Grants.
Contracts.

"(1) AUTHORITY.—From funds reserved under section 111(a)(1)(B)(i), the Secretary shall make grants to or enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to carry out the authorized programs described in subsection (c), except that such grants or contracts shall not be awarded to secondary school programs in Bureau-funded schools.

"(2) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The grants or contracts described in this section that are awarded to any Indian tribe or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934 (25 U.S.C. 455–457), which are relevant to the programs administered under this subsection.

"(3) SPECIAL AUTHORITY RELATING TO SECONDARY SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out career and technical education programs.

"(4) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend not less than the amount expended during the prior fiscal year on career and technical education programs, services, and technical activities administered directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

Plan.

"(5) REGULATIONS.—If the Secretary promulgates any regulations applicable to paragraph (2), the Secretary shall—

"(A) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

"(B) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the 'Negotiated Rulemaking Act of 1990'.

"(6) APPLICATION.—Any Indian tribe, tribal organization, or Bureau-funded school eligible to receive assistance under

this subsection may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau-funded school.

"(c) AUTHORIZED ACTIVITIES.—

"(1) AUTHORIZED PROGRAMS.—Funds made available under this section shall be used to carry out career and technical education programs consistent with the purpose of this Act.

"(2) STIPENDS.—

"(A) IN GENERAL.—Funds received pursuant to grants or contracts awarded under subsection (b) may be used to provide stipends to students who are enrolled in career and technical education programs and who have acute economic needs which cannot be met through work-study programs.

"(B) AMOUNT.—Stipends described in subparagraph (A) shall not exceed reasonable amounts as prescribed by the Secretary.

"(d) GRANT OR CONTRACT APPLICATION.—In order to receive a grant or contract under this section, an organization, tribe, or entity described in subsection (b) shall submit an application to the Secretary that shall include an assurance that such organization, tribe, or entity shall comply with the requirements of this section.

"(e) RESTRICTIONS AND SPECIAL CONSIDERATIONS.—The Secretary may not place upon grants awarded or contracts entered into under subsection (b) any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this section, shall ensure that the grants and contracts will improve career and technical education programs, and shall give special consideration to—

"(1) programs that involve, coordinate with, or encourage tribal economic development plans; and

"(2) applications from tribally controlled colleges or universities that—

"(A) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary career and technical education; or

"(B) operate career and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of career and technical education programs.

"(f) CONSOLIDATION OF FUNDS.—Each organization, tribe, or entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

"(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

"(1) to limit the eligibility of any organization, tribe, or entity described in subsection (b) to participate in any activity offered by an eligible agency or eligible recipient under this title; or

"(2) to preclude or discourage any agreement, between any organization, tribe, or entity described in subsection (b) and any eligible agency or eligible recipient, to facilitate the provision of services by such eligible agency or eligible recipient to the population served by such eligible agency or eligible recipient.

Grants. Contracts.

"(h) NATIVE HAWAIIAN PROGRAMS.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants to or enter into contracts with community-based organizations primarily serving and representing Native Hawaiians to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Native Hawaiians.

20 USC 2327.

**"SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.**

"(a) GRANTS AUTHORIZED.—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary career and technical institutions that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) to provide basic support for the education and training of Indian students.

"(b) USES OF GRANTS.—Amounts made available under this section shall be used for career and technical education programs for Indian students and for the institutional support costs of the grant, including the expenses described in subsection (e).

"(c) AMOUNT OF GRANTS.—

"(1) IN GENERAL.—If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

"(2) PER CAPITA DETERMINATION.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary career and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

"(3) INDIRECT COSTS.—Notwithstanding any other provision of law or regulation, the Secretary shall not require the use of a restricted indirect cost rate for grants issued under this section.

"(d) APPLICATIONS.—Any tribally controlled postsecondary career and technical institution that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form as the Secretary may require.

"(e) EXPENSES.—

"(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary career and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

"(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

"(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

"(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment; and

"(D) institutional support of career and technical education.

"(2) ACCOUNTING.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

"(f) OTHER PROGRAMS.—

"(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary career and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or under any other applicable program for the benefit of institutions of higher education or career and technical education.

"(2) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary career and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the 'Snyder Act') (25 U.S.C. 13).

"(3) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary career and technical institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied

appropriate contract support to administer such portion of the appropriated funds.

"(g) COMPLAINT RESOLUTION PROCEDURE.—The Secretary shall establish (after consultation with tribally controlled postsecondary career and technical institutions) a complaint resolution procedure for grant determinations and calculations under this section for tribally controlled postsecondary career and technical institutions.

"(h) DEFINITIONS.—In this section:

"(1) INDIAN; INDIAN TRIBE.—The terms 'Indian' and 'Indian tribe' have the meanings given the terms in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

"(2) INDIAN STUDENT COUNT.—

"(A) IN GENERAL.—The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary career and technical institution, as determined in accordance with subparagraph (B).

"(B) DETERMINATION.—

"(i) ENROLLMENT.—For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

"(I) in the case of the fall term, the third week of the fall term; and

"(II) in the case of the spring term, the third week of the spring term.

"(ii) CALCULATION.—For each academic year, the Indian student count for a tribally controlled postsecondary career and technical institution shall be the quotient obtained by dividing—

"(I) the sum of the credit hours of all Indian students enrolled in the tribally controlled postsecondary career and technical institution (as determined under clause (i)); by

"(II) 12.

"(iii) SUMMER TERM.—Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.

"(iv) STUDENTS WITHOUT SECONDARY SCHOOL DEGREES.—

"(I) IN GENERAL.—A credit earned at a tribally controlled postsecondary career and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

"(II) PRESUMPTION.—The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or

testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.

"(III) CREDITS TOWARD SECONDARY SCHOOL DEGREE.—No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.

"(v) CONTINUING EDUCATION PROGRAMS.—Any credit earned by an Indian student in a continuing education program of a tribally controlled postsecondary career and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit hour basis in accordance with the system of the institution for providing credit for participation in the program.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007 through 2012.

**"SEC. 118. OCCUPATIONAL AND EMPLOYMENT INFORMATION.** 20 USC 2328.

"(a) NATIONAL ACTIVITIES.—From funds appropriated under subsection (g), the Secretary, in consultation with appropriate Federal agencies, is authorized—

"(1) to provide assistance to an entity to enable the entity—

"(A) to provide technical assistance to State entities designated under subsection (c) to enable the State entities to carry out the activities described in such subsection;

"(B) to disseminate information that promotes the replication of high quality practices described in subsection (c); and

"(C) to develop and disseminate products and services related to the activities described in subsection (c); and

"(2) to award grants to States that designate State entities in accordance with subsection (c) to enable the State entities to carry out the State level activities described in such subsection. Grants.

"(b) STATE APPLICATION.—

"(1) IN GENERAL.—A jointly designated State entity described in subsection (c) that desires to receive a grant under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 122, in such manner, and accompanied by such additional information, as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of how the jointly designated State entity described in subsection (c) will provide information based on trends provided pursuant to section 15 of the Wagner-Peyser Act to inform program development.

"(c) STATE LEVEL ACTIVITIES.—In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State—

"(1) to provide support for career guidance and academic counseling programs designed to promote improved career and

education decision making by students (and parents, as appropriate) regarding education (including postsecondary education) and training options and preparations for high skill, high wage, or high demand occupations and non-traditional fields;

"(2) to make available to students, parents, teachers, administrators, faculty, and career guidance and academic counselors, and to improve accessibility with respect to, information and planning resources that relate academic and career and technical educational preparation to career goals and expectations;

"(3) to provide academic and career and technical education teachers, faculty, administrators, and career guidance and academic counselors with the knowledge, skills, and occupational information needed to assist parents and students, especially special populations, with career exploration, educational opportunities, education financing, and exposure to high skill, high wage, or high demand occupations and non-traditional fields, including occupations and fields requiring a baccalaureate degree;

"(4) to assist appropriate State entities in tailoring career related educational resources and training for use by such entities, including information on high skill, high wage, or high demand occupations in current or emerging professions and on career ladder information;

"(5) to improve coordination and communication among administrators and planners of programs authorized by this Act and by section 15 of the Wagner-Peyser Act at the Federal, State, and local levels to ensure nonduplication of efforts and the appropriate use of shared information and data;

"(6) to provide ongoing means for customers, such as students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements; and

"(7) to provide readily available occupational information such as—

"(A) information relative to employment sectors;

"(B) information on occupation supply and demand; and

"(C) other information provided pursuant to section 15 of the Wagner-Peyser Act as the jointly designated State entity considers relevant.

"(d) NONDUPLICATION.—

"(1) WAGNER-PEYSER ACT.—The jointly designated State entity described under subsection (c) may use funds provided under subsection (a)(2) to supplement activities under section 15 of the Wagner-Peyser Act to the extent such activities do not duplicate activities assisted under such section.

"(2) PUBLIC LAW 105–220.—None of the functions and activities assisted under this section shall duplicate the functions and activities carried out under Public Law 105–220.

"(e) FUNDING RULE.—Of the amounts appropriated to carry out this section, the Federal entity designated under subsection (a) shall use—

"(1) not less than 85 percent to carry out subsection (c); and

"(2) not more than 15 percent to carry out subsection (a).

"(f) REPORT.—The Secretary, in consultation with appropriate Federal agencies, shall prepare and submit to the appropriate committees of Congress, an annual report that includes—

"(1) a description of activities assisted under this section during the prior program year;

"(2) a description of the specific products and services assisted under this section that were delivered in the prior program year; and

"(3) an assessment of the extent to which States have effectively coordinated activities assisted under this section with activities authorized under section 15 of the Wagner-Peyser Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2007 through 2012.

## "PART B—STATE PROVISIONS

**"SEC. 121. STATE ADMINISTRATION.** 20 USC 2341.

"(a) ELIGIBLE AGENCY RESPONSIBILITIES.—The responsibilities of an eligible agency under this title shall include—

"(1) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this title, including preparation for non-traditional fields;

"(2) consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, teacher and faculty preparation programs, representatives of businesses (including small businesses), labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination of programs funded under this title;

"(3) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this title, but not less than 4 times annually; and

"(4) the adoption of such procedures as the eligible agency considers necessary to—

"(A) implement State level coordination with the activities undertaken by the State boards under section 111 of Public Law 105–220; and

"(B) make available to the service delivery system under section 121 of Public Law 105–220 within the State a listing of all school dropout, postsecondary education, and adult programs assisted under this title.

"(b) EXCEPTION.—Except with respect to the responsibilities set forth in subsection (a), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, or supervision of activities assisted under this title, in whole or in part, to 1 or more appropriate State agencies.

**"SEC. 122. STATE PLAN.** 20 USC 2342.

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each eligible agency desiring assistance under this title for any fiscal year shall prepare and submit to the Secretary a State plan for a 6-year period, together with such annual revisions as the eligible agency determines to be necessary, except that, during the period described in section 4, each eligible agency may submit a transition plan that shall fulfill the eligible agency's obligation to submit a State plan under this section for the first fiscal year following the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2006.

"(2) REVISIONS.—Each eligible agency—

"(A) may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and

"(B) shall, after the second year of the 6-year period, conduct a review of activities assisted under this title and submit any revisions of the State plan that the eligible agency determines necessary to the Secretary.

"(3) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including charter school authorizers and organizers consistent with State law, employers, labor organizations, parents, students, and community organizations), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included in the State plan.

"(b) PLAN DEVELOPMENT.—

"(1) IN GENERAL.—The eligible agency shall—

"(A) develop the State plan in consultation with—

"(i) academic and career and technical education teachers, faculty, and administrators;

"(ii) career guidance and academic counselors;

"(iii) eligible recipients;

"(iv) charter school authorizers and organizers consistent with State law;

"(v) parents and students;

"(vi) institutions of higher education;

"(vii) the State tech prep coordinator and representatives of tech prep consortia (if applicable);

"(viii) entities participating in activities described in section 111 of Public Law 105–220;

"(ix) interested community members (including parent and community organizations);

"(x) representatives of special populations;

"(xi) representatives of business and industry (including representatives of small business); and

"(xii) representatives of labor organizations in the State; and

"(B) consult the Governor of the State with respect to such development.

"(2) ACTIVITIES AND PROCEDURES.—The eligible agency shall develop effective activities and procedures, including access to information needed to use such procedures, to allow the individuals and entities described in paragraph (1) to

participate in State and local decisions that relate to development of the State plan.

"(c) PLAN CONTENTS.—The State plan shall include information that—

"(1) describes the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

"(A) the career and technical programs of study, which may be adopted by local educational agencies and postsecondary institutions to be offered as an option to students (and their parents as appropriate) when planning for and completing future coursework, for career and technical content areas that—

"(i) incorporate secondary education and postsecondary education elements;

"(ii) include coherent and rigorous content aligned with challenging academic standards and relevant career and technical content in a coordinated, nonduplicative progression of courses that align secondary education with postsecondary education to adequately prepare students to succeed in postsecondary education;

"(iii) may include the opportunity for secondary education students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary education credits; and

"(iv) lead to an industry-recognized credential or certificate at the postsecondary level, or an associate or baccalaureate degree;

"(B) how the eligible agency, in consultation with eligible recipients, will develop and implement the career and technical programs of study described in subparagraph (A);

"(C) how the eligible agency will support eligible recipients in developing and implementing articulation agreements between secondary education and postsecondary education institutions;

"(D) how the eligible agency will make available information about career and technical programs of study offered by eligible recipients;

"(E) the secondary and postsecondary career and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to appropriate technology in career and technical education programs;

"(F) the criteria that will be used by the eligible agency to approve eligible recipients for funds under this Act, including criteria to assess the extent to which the local plan will—

"(i) promote continuous improvement in academic achievement;

"(ii) promote continuous improvement of technical skill attainment; and

"(iii) identify and address current or emerging occupational opportunities;

"(G) how programs at the secondary level will prepare career and technical education students, including special

populations, to graduate from secondary school with a diploma;

"(H) how such programs will prepare career and technical education students, including special populations, academically and technically for opportunities in postsecondary education or entry into high skill, high wage, or high demand occupations in current or emerging occupations, and how participating students will be made aware of such opportunities;

"(I) how funds will be used to improve or develop new career and technical education courses—

"(i) at the secondary level that are aligned with rigorous and challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965;

"(ii) at the postsecondary level that are relevant and challenging; and

"(iii) that lead to employment in high skill, high wage, or high demand occupations;

"(J) how the eligible agency will facilitate and coordinate communication on best practices among successful recipients of tech prep program grants under title II and eligible recipients to improve program quality and student achievement;

"(K) how funds will be used effectively to link academic and career and technical education at the secondary level and at the postsecondary level in a manner that increases student academic and career and technical achievement; and

"(L) how the eligible agency will report on the integration of coherent and rigorous content aligned with challenging academic standards in career and technical education programs in order to adequately evaluate the extent of such integration;

"(2) describes how comprehensive professional development (including initial teacher preparation and activities that support recruitment) for career and technical education teachers, faculty, administrators, and career guidance and academic counselors will be provided, especially professional development that—

"(A) promotes the integration of coherent and rigorous academic content standards and career and technical education curricula, including through opportunities for the appropriate academic and career and technical education teachers to jointly develop and implement curricula and pedagogical strategies, as appropriate;

"(B) increases the percentage of teachers that meet teacher certification or licensing requirements;

"(C) is high quality, sustained, intensive, and focused on instruction, and increases the academic knowledge and understanding of industry standards, as appropriate, of career and technical education teachers;

"(D) encourages applied learning that contributes to the academic and career and technical knowledge of the student;

"(E) provides the knowledge and skills needed to work with and improve instruction for special populations;

"(F) assists in accessing and utilizing data, including data provided under section 118, student achievement data, and data from assessments; and

"(G) promotes integration with professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965;

"(3) describes efforts to improve—

"(A) the recruitment and retention of career and technical education teachers, faculty, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

"(B) the transition to teaching from business and industry, including small business;

"(4) describes efforts to facilitate the transition of subbaccalaureate career and technical education students into baccalaureate degree programs at institutions of higher education;

"(5) describes how the eligible agency will actively involve parents, academic and career and technical education teachers, administrators, faculty, career guidance and academic counselors, local business (including small businesses), and labor organizations in the planning, development, implementation, and evaluation of such career and technical education programs;

"(6) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

"(A) among career and technical education at the secondary level, or career and technical education at the postsecondary and adult level, or both, including the rationale for such allocation; and

"(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

"(7) describes how the eligible agency will—

"(A) improve the academic and technical skills of students participating in career and technical education programs, including strengthening the academic and career and technical components of career and technical education programs through the integration of academics with career and technical education to ensure learning in—

"(i) the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and

"(ii) career and technical education subjects;

"(B) provide students with strong experience in, and understanding of, all aspects of an industry; and

"(C) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students;

"(8) describes how the eligible agency will annually evaluate the effectiveness of such career and technical education programs, and describe, to the extent practicable, how

the eligible agency is coordinating such programs to ensure nonduplication with other Federal programs;

"(9) describes the eligible agency's program strategies for special populations, including a description of how individuals who are members of the special populations—

"(A) will be provided with equal access to activities assisted under this Act;

"(B) will not be discriminated against on the basis of their status as members of the special populations; and

"(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage, or high demand occupations;

"(10) describes—

"(A) the eligible agency's efforts to ensure that eligible recipients are given the opportunity to provide input in determining the State adjusted levels of performance described in section 113; and

"(B) how the eligible agency, in consultation with eligible recipients, will develop a process for the negotiation of local adjusted levels of performance under section 113(b)(4) if an eligible recipient does not accept the State adjusted levels of performance under section 113(b)(3);

"(11) provides assurances that the eligible agency will comply with the requirements of this Act and the provisions of the State plan, including the provision of a financial audit of funds received under this Act which may be included as part of an audit of other Federal or State programs;

"(12) provides assurances that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the acquiring entity or the employees of the acquiring entity, or any affiliate of such an organization;

"(13) describes how the eligible agency will report data relating to students participating in career and technical education in order to adequately measure the progress of the students, including special populations, and how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

"(14) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

"(15) describes how the eligible agency will provide local educational agencies, area career and technical education schools, and eligible institutions in the State with technical assistance;

"(16) describes how career and technical education relates to State and regional occupational opportunities;

"(17) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

"(18) describes how funds will be used to promote preparation for high skill, high wage, or high demand occupations and non-traditional fields;

"(19) describes how funds will be used to serve individuals in State correctional institutions; and

"(20) contains the description and information specified in sections 112(b)(8) and 121(c) of Public Law 105–220 concerning the provision of services only for postsecondary students and school dropouts.

"(d) PLAN OPTIONS.—

"(1) SINGLE PLAN.—An eligible agency not choosing to consolidate funds under section 202 shall fulfill the plan or application submission requirements of this section, and section 201(c), by submitting a single State plan. In such plan, the eligible agency may allow recipients to fulfill the plan or application submission requirements of section 134 and subsections (a) and (b) of section 204 by submitting a single local plan.

"(2) PLAN SUBMITTED AS PART OF 501 PLAN.—The eligible agency may submit the plan required under this section as part of the plan submitted under section 501 of Public Law 105–220, if the plan submitted pursuant to the requirement of this section meets the requirements of this Act.

"(e) PLAN APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, unless the Secretary determines that—

"(A) the State plan, or revision, respectively, does not meet the requirements of this Act; or

"(B) the State's levels of performance on the core indicators of performance consistent with section 113 are not sufficiently rigorous to meet the purpose of this Act.

"(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

"(3) CONSULTATION.—The eligible agency shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult career and technical education, postsecondary career and technical education, tech prep education, and secondary career and technical education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary career and technical education, and the State agency responsible for secondary education. If a State agency finds that a portion of the final State plan is objectionable, the State agency shall file such objections with the eligible agency. The eligible agency shall respond to any objections of the State agency in the State plan submitted to the Secretary.

"(4) TIMEFRAME.—A State plan shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency regarding the State plan within 90 days of the date the Secretary receives the State plan.

**"SEC. 123. IMPROVEMENT PLANS.** 20 USC 2343.

"(a) STATE PROGRAM IMPROVEMENT.—

"(1) PLAN.—If a State fails to meet at least 90 percent of an agreed upon State adjusted level of performance for any of the core indicators of performance described in section 113(b)(3), the eligible agency shall develop and implement a program improvement plan (with special consideration to performance gaps identified under section 113(c)(2)) in consultation with the appropriate agencies, individuals, and organizations during the first program year succeeding the program year for which the eligible agency failed to so meet the State adjusted level of performance for any of the core indicators of performance.

"(2) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purposes of this Act, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement the improvement activities consistent with the requirements of this Act.

"(3) SUBSEQUENT ACTION.—

"(A) IN GENERAL.—The Secretary may, after notice and opportunity for a hearing, withhold from an eligible agency all, or a portion, of the eligible agency's allotment under paragraphs (2) and (3) of section 112(a) if the eligible agency—

"(i) fails to implement an improvement plan as described in paragraph (1);

"(ii) fails to make any improvement in meeting any of the State adjusted levels of performance for the core indicators of performance identified under paragraph (1) within the first program year of implementation of its improvement plan described in paragraph (1); or

"(iii) fails to meet at least 90 percent of an agreed upon State adjusted level of performance for the same core indicator of performance for 3 consecutive years.

"(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(4) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency to provide technical assistance, to assist in the development of an improved State improvement plan, or for other improvement activities consistent with the requirements of this Act for such State.

"(b) LOCAL PROGRAM IMPROVEMENT.—

"(1) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the local adjusted levels of performance described in section 113(b)(4), the career and technical education activities of each eligible recipient receiving funds under this title.

"(2) PLAN.—If, after reviewing the evaluation in paragraph (1), the eligible agency determines that an eligible recipient failed to meet at least 90 percent of an agreed upon local adjusted level of performance for any of the core indicators of performance described in section 113(b)(4), the eligible

recipient shall develop and implement a program improvement plan (with special consideration to performance gaps identified under section 113(b)(4)(C)(ii)(II)) in consultation with the eligible agency, appropriate agencies, individuals, and organizations during the first program year succeeding the program year for which the eligible recipient failed to so meet any of the local adjusted levels of performance for any of the core indicators of performance.

"(3) TECHNICAL ASSISTANCE.—If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 134, or is not making substantial progress in meeting the purposes of this Act, based on the local adjusted levels of performance, the eligible agency shall work with the eligible recipient to implement improvement activities consistent with the requirements of this Act.

"(4) SUBSEQUENT ACTION.—

"(A) IN GENERAL.—The eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion, of the eligible recipient's allotment under this title if the eligible recipient—

"(i) fails to implement an improvement plan as described in paragraph (2);

"(ii) fails to make any improvement in meeting any of the local adjusted levels of performance for the core indicators of performance identified under paragraph (2) within the first program year of implementation of its improvement plan described in paragraph (2); or

"(iii) fails to meet at least 90 percent of an agreed upon local adjusted level of performance for the same core indicator of performance for 3 consecutive years.

"(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—In determining whether to impose sanctions under subparagraph (A), the eligible agency may waive imposing sanctions—

"(i) due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the eligible recipient; or

"(ii) based on the impact on the eligible recipient's reported performance of the small size of the career and technical education program operated by the eligible recipient.

"(5) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The eligible agency shall use funds withheld under paragraph (4) from an eligible recipient to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purposes of this Act.

**"SEC. 124. STATE LEADERSHIP ACTIVITIES.** 20 USC 2344.

"(a) GENERAL AUTHORITY.—From amounts reserved under section 112(a)(2), each eligible agency shall conduct State leadership activities.

"(b) REQUIRED USES OF FUNDS.—The State leadership activities described in subsection (a) shall include—

"(1) an assessment of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met and how the career and technical education programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further education, further training, or for high skill, high wage, or high demand occupations;

"(2) developing, improving, or expanding the use of technology in career and technical education that may include—

"(A) training of career and technical education teachers, faculty, career guidance and academic counselors, and administrators to use technology, including distance learning;

"(B) providing career and technical education students with the academic and career and technical skills (including the mathematics and science knowledge that provides a strong basis for such skills) that lead to entry into technology fields, including non-traditional fields; or

"(C) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs;

"(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for career and technical education teachers, faculty, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 122 and—

"(A) provide in-service and preservice training in career and technical education programs—

"(i) on effective integration and use of challenging academic and career and technical education provided jointly with academic teachers to the extent practicable;

"(ii) on effective teaching skills based on research that includes promising practices;

"(iii) on effective practices to improve parental and community involvement; and

"(iv) on effective use of scientifically based research and data to improve instruction;

"(B) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom, and are not 1-day or short-term workshops or conferences;

"(C) will help teachers and personnel to improve student achievement in order to meet the State adjusted levels of performance established under section 113;

"(D) will support education programs for teachers of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students to ensure that teachers and personnel—

"(i) stay current with the needs, expectations, and methods of industry;

"(ii) can effectively develop rigorous and challenging, integrated academic and career and technical

education curricula jointly with academic teachers, to the extent practicable;

"(iii) develop a higher level of academic and industry knowledge and skills in career and technical education; and

"(iv) effectively use applied learning that contributes to the academic and career and technical knowledge of the student; and

"(E) are coordinated with the teacher certification or licensing and professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965;

"(4) supporting career and technical education programs that improve the academic and career and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical components of such career and technical education programs, through the integration of coherent and relevant content aligned with challenging academic standards and relevant career and technical education, to ensure achievement in—

"(A) the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and

"(B) career and technical education subjects;

"(5) providing preparation for non-traditional fields in current and emerging professions, and other activities that expose students, including special populations, to high skill, high wage occupations;

"(6) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, intermediaries, parents, and local partnerships, to enable students to achieve State academic standards, and career and technical skills, or complete career and technical programs of study, as described in section 122(c)(1)(A);

"(7) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities;

"(8) support for programs for special populations that lead to high skill, high wage, or high demand occupations; and

"(9) technical assistance for eligible recipients.

"(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

"(1) improvement of career guidance and academic counseling programs that assist students in making informed academic and career and technical education decisions, including—

"(A) encouraging secondary and postsecondary students to graduate with a diploma or degree; and

"(B) exposing students to high skill, high wage occupations and non-traditional fields;

"(2) establishment of agreements, including articulation agreements, between secondary school and postsecondary career and technical education programs in order to provide postsecondary education and training opportunities for students participating in such career and technical education programs, such as tech prep programs;

"(3) support for initiatives to facilitate the transition of subbaccalaureate career and technical education students into baccalaureate degree programs, including—

"(A) statewide articulation agreements between associate degree granting career and technical postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

"(B) postsecondary dual and concurrent enrollment programs;

"(C) academic and financial aid counseling; and

"(D) other initiatives—

"(i) to encourage the pursuit of a baccalaureate degree; and

"(ii) to overcome barriers to participation in baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

"(4) support for career and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

"(5) support for public charter schools operating career and technical education programs;

"(6) support for career and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

"(7) support for family and consumer sciences programs;

"(8) support for partnerships between education and business or business intermediaries, including cooperative education and adjunct faculty arrangements at the secondary and postsecondary levels;

"(9) support to improve or develop new career and technical education courses and initiatives, including career clusters, career academies, and distance education, that prepare individuals academically and technically for high skill, high wage, or high demand occupations;

"(10) awarding incentive grants to eligible recipients—

"(A) for exemplary performance in carrying out programs under this Act, which awards shall be based on—

"(i) eligible recipients exceeding the local adjusted levels of performance established under section 113(b) in a manner that reflects sustained or significant improvement;

"(ii) eligible recipients effectively developing connections between secondary education and postsecondary education and training;

"(iii) the adoption and integration of coherent and rigorous content aligned with challenging academic standards and technical coursework;

"(iv) eligible recipients' progress in having special populations who participate in career and technical education programs meet local adjusted levels of performance; or

"(v) other factors relating to the performance of eligible recipients under this Act as the eligible agency determines are appropriate; or

"(B) if an eligible recipient elects to use funds as permitted under section 135(c)(19);

"(11) providing for activities to support entrepreneurship education and training;

"(12) providing career and technical education programs for adults and school dropouts to complete their secondary school education, in coordination, to the extent practicable, with activities authorized under the Adult Education and Family Literacy Act;

"(13) providing assistance to individuals, who have participated in services and activities under this title, in continuing the individuals' education or training or finding appropriate jobs, such as through referral to the system established under section 121 of Public Law 105–220;

"(14) developing valid and reliable assessments of technical skills;

"(15) developing and enhancing data systems to collect and analyze data on secondary and postsecondary academic and employment outcomes;

"(16) improving—

"(A) the recruitment and retention of career and technical education teachers, faculty, administrators, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

"(B) the transition to teaching from business and industry, including small business; and

"(17) support for occupational and employment information resources, such as those described in section 118.

"(d) RESTRICTION ON USES OF FUNDS.—An eligible agency that receives funds under section 112(a)(2) may not use any of such funds for administrative costs.

## "PART C—LOCAL PROVISIONS

**"SEC. 131. DISTRIBUTION OF FUNDS TO SECONDARY EDUCATION PROGRAMS.** 20 USC 2351.

"(a) DISTRIBUTION RULES.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 112(a)(1) to carry out this section to local educational agencies within the State as follows:

"(1) THIRTY PERCENT.—Thirty percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all local educational agencies in the State for such preceding fiscal year, as determined on the basis of the most recent satisfactory—

"(A) data provided to the Secretary by the Bureau of the Census for the purpose of determining eligibility under title I of the Elementary and Secondary Education Act of 1965; or

"(B) student membership data collected by the National Center for Education Statistics through the Common Core of Data survey system.

"(2) SEVENTY PERCENT.—Seventy percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 5 through 17, inclusive, who reside in the school district served by such local educational agency and are from families below the poverty level for the preceding fiscal year, as determined on the basis of the most recent satisfactory data used under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965, compared to the total number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

"(3) ADJUSTMENTS.—Each eligible agency, in making the allocations under paragraphs (1) and (2), shall adjust the data used to make the allocations to—

"(A) reflect any change in school district boundaries that may have occurred since the data were collected; and

"(B) include local educational agencies without geographical boundaries, such as charter schools and secondary schools funded by the Bureau of Indian Affairs.

"(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

"(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) to local educational agencies within the State than the formula described in subsection (a); and

"(2) includes a proposal for such an alternative formula.

"(c) MINIMUM ALLOCATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is greater than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

"(2) WAIVER.—The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

"(A)(i) is located in a rural, sparsely populated area; or

"(ii) is a public charter school operating secondary school career and technical education programs; and

"(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

"(3) REDISTRIBUTION.—Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

"(d) LIMITED JURISDICTION AGENCIES.—

"(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this title

shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

"(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

"(e) ALLOCATIONS TO AREA CAREER AND TECHNICAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

"(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available under section 112(a)(1) for any fiscal year by such eligible agency for career and technical education activities at the secondary level under this section to the appropriate area career and technical education school or educational service agency in any case in which the area career and technical education school or educational service agency, and the local educational agency concerned—

"(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

"(B) have entered into or will enter into a cooperative arrangement for such purpose.

"(2) ALLOCATION BASIS.—If an area career and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area career and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity's relative share of students who are attending career and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years).

"(3) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area career and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

"(f) CONSORTIUM REQUIREMENTS.—

"(1) ALLIANCE.—Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 135 is encouraged to—

"(A) form a consortium or enter into a cooperative agreement with an area career and technical education school or educational service agency offering programs that meet the requirements of section 135;

"(B) transfer such allocation to the area career and technical education school or educational service agency; and

"(C) operate programs that are of sufficient size, scope, and quality to be effective.

"(2) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this subsection shall be used only for purposes and programs that are mutually

beneficial to all members of the consortium and can be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefitting only 1 member of the consortium.

"(g) DATA.—The Secretary shall collect information from eligible agencies regarding the specific dollar allocations made available by the eligible agency for career and technical education programs under subsections (a), (b), (c), (d), and (e) and how these allocations are distributed to local educational agencies, area career and technical education schools, and educational service agencies, within the State in accordance with this section.

"(h) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

20 USC 2352.

**"SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY EDUCATION PROGRAMS.**

"(a) ALLOCATION.—

"(1) IN GENERAL.—Except as provided in subsections (b) and (c) and section 133, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

"(2) FORMULA.—Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 112(a)(1) to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 135 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

"(3) CONSORTIUM REQUIREMENTS.—

"(A) IN GENERAL.—In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that—

"(i) provide services to all postsecondary institutions participating in the consortium; and

"(ii) are of sufficient size, scope, and quality to be effective.

"(B) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefitting only 1 member of the consortium.

"(4) WAIVER.—The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

"(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) if an eligible agency submits to the Secretary an application for such a waiver that—

"(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and

"(2) includes a proposal for such an alternative formula.

"(c) MINIMUM GRANT AMOUNT.—

"(1) IN GENERAL.—No institution or consortium shall receive an allocation under this section in an amount that is less than $50,000.

"(2) REDISTRIBUTION.—Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

**"SEC. 133. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.** 20 USC 2353.

"(a) SPECIAL RULE FOR MINIMAL ALLOCATION.—

"(1) GENERAL AUTHORITY.—Notwithstanding the provisions of sections 131 and 132 and in order to make a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 131 or 132, such eligible agency may distribute such minimal amount for such year—

"(A) on a competitive basis; or

"(B) through any alternative method determined by the eligible agency.

"(2) MINIMAL AMOUNT.—For purposes of this section, the term 'minimal amount' means not more than 15 percent of the total amount made available for distribution under section 112(a)(1).

"(b) REDISTRIBUTION.—

"(1) IN GENERAL.—In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 131 or 132, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 131 or 132, as appropriate.

"(2) REDISTRIBUTION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.—In any academic year in which amounts are returned to the eligible agency under section 131 or 132 and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 112(a)(1) for the following academic year.

"(c) CONSTRUCTION.—Nothing in section 131 or 132 shall be construed—

"(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 131, from working with an eligible institution or consortium thereof that receives assistance under section 132, to carry out career and technical

education programs at the secondary level in accordance with this title;

"(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 132, from working with a local educational agency or consortium thereof that receives assistance under section 131, to carry out postsecondary and adult career and technical education programs in accordance with this title; or

"(3) to require a charter school, that provides career and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school's eligibility for assistance under this title unless the charter school is explicitly permitted to do so under the State's charter school statute.

"(d) CONSISTENT APPLICATION.—For purposes of this section, the eligible agency shall provide funds to charter schools offering career and technical education programs in the same manner as the eligible agency provides those funds to other schools. Such career and technical education programs within a charter school shall be of sufficient size, scope, and quality to be effective.

20 USC 2354.

**"SEC. 134. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.**

"(a) LOCAL PLAN REQUIRED.—Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible agency (in consultation with such other educational training entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 122.

Requirements.

"(b) CONTENTS.—The eligible agency shall determine the requirements for local plans, except that each local plan shall—

"(1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;

"(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;

"(3) describe how the eligible recipient will—

"(A) offer the appropriate courses of not less than 1 of the career and technical programs of study described in section 122(c)(1)(A);

"(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education programs to ensure learning in—

"(i) the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and

"(ii) career and technical education subjects;

"(C) provide students with strong experience in, and understanding of, all aspects of an industry;

"(D) ensure that students who participate in such career and technical education programs are taught to the same coherent and rigorous content aligned with challenging academic standards as are taught to all other students; and

"(E) encourage career and technical education students at the secondary level to enroll in rigorous and challenging courses in core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965);

"(4) describe how comprehensive professional development (including initial teacher preparation) for career and technical education, academic, guidance, and administrative personnel will be provided that promotes the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education (including curriculum development);

"(5) describe how parents, students, academic and career and technical education teachers, faculty, administrators, career guidance and academic counselors, representatives of tech prep consortia (if applicable), representatives of the entities participating in activities described in section 117 of Public Law 105–220 (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this title, including career and technical programs of study;

"(6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;

"(7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;

"(8) describe how the eligible recipient will—

"(A) review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations;

"(B) provide programs that are designed to enable the special populations to meet the local adjusted levels of performance; and

"(C) provide activities to prepare special populations, including single parents and displaced homemakers, for high skill, high wage, or high demand occupations that will lead to self-sufficiency;

"(9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;

"(10) describe how funds will be used to promote preparation for non-traditional fields;

"(11) describe how career guidance and academic counseling will be provided to career and technical education students,

including linkages to future education and training opportunities; and

"(12) describe efforts to improve—

"(A) the recruitment and retention of career and technical education teachers, faculty, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

"(B) the transition to teaching from business and industry.

20 USC 2355.

**"SEC. 135. LOCAL USES OF FUNDS.**

"(a) GENERAL AUTHORITY.—Each eligible recipient that receives funds under this part shall use such funds to improve career and technical education programs.

"(b) REQUIREMENTS FOR USES OF FUNDS.—Funds made available to eligible recipients under this part shall be used to support career and technical education programs that—

"(1) strengthen the academic and career and technical skills of students participating in career and technical education programs, by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career and technical programs of study described in section 122(c)(1)(A), to ensure learning in—

"(A) the core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and

"(B) career and technical education subjects;

"(2) link career and technical education at the secondary level and career and technical education at the postsecondary level, including by offering the relevant elements of not less than 1 career and technical program of study described in section 122(c)(1)(A);

"(3) provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences;

"(4) develop, improve, or expand the use of technology in career and technical education, which may include—

"(A) training of career and technical education teachers, faculty, and administrators to use technology, which may include distance learning;

"(B) providing career and technical education students with the academic and career and technical skills (including the mathematics and science knowledge that provides a strong basis for such skills) that lead to entry into the technology fields; or

"(C) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs, including programs that improve the mathematics and science knowledge of students;

"(5) provide professional development programs that are consistent with section 122 to secondary and postsecondary teachers, faculty, administrators, and career guidance and academic counselors who are involved in integrated career and technical education programs, including—

"(A) in-service and preservice training on—

"(i) effective integration and use of challenging academic and career and technical education provided jointly with academic teachers to the extent practicable;

"(ii) effective teaching skills based on research that includes promising practices;

"(iii) effective practices to improve parental and community involvement; and

"(iv) effective use of scientifically based research and data to improve instruction;

"(B) support of education programs for teachers of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students, to ensure that such teachers and personnel stay current with all aspects of an industry;

"(C) internship programs that provide relevant business experience; and

"(D) programs designed to train teachers specifically in the effective use and application of technology to improve instruction;

"(6) develop and implement evaluations of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

"(7) initiate, improve, expand, and modernize quality career and technical education programs, including relevant technology;

"(8) provide services and activities that are of sufficient size, scope, and quality to be effective; and

"(9) provide activities to prepare special populations, including single parents and displaced homemakers who are enrolled in career and technical education programs, for high skill, high wage, or high demand occupations that will lead to self-sufficiency.

"(c) PERMISSIVE.—Funds made available to an eligible recipient under this title may be used—

"(1) to involve parents, businesses, and labor organizations as appropriate, in the design, implementation, and evaluation of career and technical education programs authorized under this title, including establishing effective programs and procedures to enable informed and effective participation in such programs;

"(2) to provide career guidance and academic counseling, which may include information described in section 118, for students participating in career and technical education programs, that—

"(A) improves graduation rates and provides information on postsecondary and career options, including baccalaureate degree programs, for secondary students, which activities may include the use of graduation and career plans; and

"(B) provides assistance for postsecondary students, including for adult students who are changing careers or updating skills;

"(3) for local education and business (including small business) partnerships, including for—

"(A) work-related experiences for students, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to career and technical education programs;

"(B) adjunct faculty arrangements for qualified industry professionals; and

"(C) industry experience for teachers and faculty;

"(4) to provide programs for special populations;

"(5) to assist career and technical student organizations;

"(6) for mentoring and support services;

"(7) for leasing, purchasing, upgrading or adapting equipment, including instructional aids and publications (including support for library resources) designed to strengthen and support academic and technical skill achievement;

"(8) for teacher preparation programs that address the integration of academic and career and technical education and that assist individuals who are interested in becoming career and technical education teachers and faculty, including individuals with experience in business and industry;

"(9) to develop and expand postsecondary program offerings at times and in formats that are accessible for students, including working students, including through the use of distance education;

"(10) to develop initiatives that facilitate the transition of subbaccalaureate career and technical education students into baccalaureate degree programs, including—

"(A) articulation agreements between sub-baccalaureate degree granting career and technical education postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

"(B) postsecondary dual and concurrent enrollment programs;

"(C) academic and financial aid counseling for sub-baccalaureate career and technical education students that informs the students of the opportunities for pursuing a baccalaureate degree and advises the students on how to meet any transfer requirements; and

"(D) other initiatives—

"(i) to encourage the pursuit of a baccalaureate degree; and

"(ii) to overcome barriers to enrollment in and completion of baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

"(11) to provide activities to support entrepreneurship education and training;

"(12) for improving or developing new career and technical education courses, including the development of new proposed career and technical programs of study for consideration by the eligible agency and courses that prepare individuals academically and technically for high skill, high wage, or high demand occupations and dual or concurrent enrollment opportunities by which career and technical education students at the secondary level could obtain postsecondary credit to count towards an associate or baccalaureate degree;

"(13) to develop and support small, personalized career-themed learning communities;

"(14) to provide support for family and consumer sciences programs;

"(15) to provide career and technical education programs for adults and school dropouts to complete the secondary school education, or upgrade the technical skills, of the adults and school dropouts;

"(16) to provide assistance to individuals who have participated in services and activities under this Act in continuing their education or training or finding an appropriate job, such as through referral to the system established under section 121 of Public Law 105–220 (29 U.S.C. 2801 et seq.);

"(17) to support training and activities (such as mentoring and outreach) in non-traditional fields;

"(18) to provide support for training programs in automotive technologies;

"(19) to pool a portion of such funds with a portion of funds available to not less than 1 other eligible recipient for innovative initiatives, which may include—

"(A) improving the initial preparation and professional development of career and technical education teachers, faculty, administrators, and counselors;

"(B) establishing, enhancing, or supporting systems for—

"(i) accountability data collection under this Act; or

"(ii) reporting data under this Act;

"(C) implementing career and technical programs of study described in section 122(c)(1)(A); or

"(D) implementing technical assessments; and

"(20) to support other career and technical education activities that are consistent with the purpose of this Act.

"(d) ADMINISTRATIVE COSTS.—Each eligible recipient receiving funds under this part shall not use more than 5 percent of the funds for administrative costs associated with the administration of activities assisted under this section.

# "TITLE II—TECH PREP EDUCATION

**"SEC. 201. STATE ALLOTMENT AND APPLICATION.** 20 USC 2371.

"(a) IN GENERAL.—For any fiscal year, the Secretary shall allot the amount made available under section 206 among the States in the same manner as funds are allotted to States under paragraph (2) of section 111(a).

"(b) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under subsection (a) to the eligible agency that serves the State and has an application approved under subsection (c).

"(c) STATE APPLICATION.—Each eligible agency desiring an allotment under this title shall submit, as part of its State plan under section 122, an application that—

"(1) describes how activities under this title will be coordinated, to the extent practicable, with activities described in the State plan submitted under section 122; and

"(2) contains such information as the Secretary may require.

20 USC 2372.

**"SEC. 202. CONSOLIDATION OF FUNDS.**

"(a) IN GENERAL.—An eligible agency receiving an allotment under sections 111 and 201 may choose to consolidate all, or a portion of, funds received under section 201 with funds received under section 111 in order to carry out the activities described in the State plan submitted under section 122.

"(b) NOTIFICATION REQUIREMENT.—Each eligible agency that chooses to consolidate funds under this section shall notify the Secretary, in the State plan submitted under section 122, of the eligible agency's decision to consolidate funds under this section.

"(c) TREATMENT OF CONSOLIDATED FUNDS.—Funds consolidated under this section shall be considered as funds allotted under section 111 and shall be distributed in accordance with section 112.

20 USC 2373.

**"SEC. 203. TECH PREP PROGRAM.**

"(a) GRANT PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available to each eligible agency under section 201, the eligible agency, in accordance with the provisions of this title, shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech prep programs described in subsection (c). The grants shall be awarded to consortia between or among—

"(A) a local educational agency, an intermediate educational agency, educational service agency, or area career and technical education school, serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

"(B)(i) a nonprofit institution of higher education that—

"(I)(aa) offers a 2-year associate degree program or a 2-year certificate program; and

"(bb) is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965, including—

"(AA) an institution receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.); and

"(BB) a tribally controlled postsecondary career and technical institution; or

"(II) offers a 2-year apprenticeship program that follows secondary education instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 pursuant to the provisions of section 435(a)(2) of such Act; or

"(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965, if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

"(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

"(A) institutions of higher education that award a baccalaureate degree; and

"(B) employers (including small businesses), business intermediaries, or labor organizations.

"(b) DURATION.—Each consortium receiving a grant under this title shall use amounts provided under the grant to develop and operate a 4- or 6-year tech prep program described in subsection (c).

"(c) CONTENTS OF TECH PREP PROGRAM.—Each tech prep program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of a program of study that—

"(A) combines—

"(i) a minimum of 2 years of secondary education (as determined under State law); with

"(ii)(I) a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study; or

"(II) an apprenticeship program of not less than 2 years following secondary education instruction; and

"(B) integrates academic and career and technical education instruction, and utilizes work-based and worksite learning experiences where appropriate and available;

"(C) provides technical preparation in a career field, including high skill, high wage, or high demand occupations;

"(D) builds student competence in technical skills and in core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965), as appropriate, through applied, contextual, and integrated instruction, in a coherent sequence of courses;

"(E) leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree, in a specific career field;

"(F) leads to placement in high skill or high wage employment, or to further education; and

"(G) utilizes career and technical education programs of study, to the extent practicable;

"(3) include the development of tech prep programs for secondary education and postsecondary education that—

"(A) meet academic standards developed by the State;

"(B) link secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education, through—

"(i) nonduplicative sequences of courses in career fields;

"(ii) the use of articulation agreements; and

"(iii) the investigation of opportunities for tech prep secondary education students to enroll concurrently in secondary education and postsecondary education coursework;

"(C) use, if appropriate and available, work-based or worksite learning experiences in conjunction with business and all aspects of an industry; and

"(D) use educational technology and distance learning, as appropriate, to involve all the participants in the consortium more fully in the development and operation of programs;

"(4) include in-service professional development for teachers, faculty, and administrators that—

"(A) supports effective implementation of tech prep programs;

"(B) supports joint training in the tech prep consortium;

"(C) supports the needs, expectations, and methods of business and all aspects of an industry;

"(D) supports the use of contextual and applied curricula, instruction, and assessment;

"(E) supports the use and application of technology; and

"(F) assists in accessing and utilizing data, information available pursuant to section 118, and information on student achievement, including assessments;

"(5) include professional development programs for counselors designed to enable counselors to more effectively—

"(A) provide information to students regarding tech prep programs;

"(B) support student progress in completing tech prep programs, which may include the use of graduation and career plans;

"(C) provide information on related employment opportunities;

"(D) ensure that students are placed in appropriate employment or further postsecondary education;

"(E) stay current with the needs, expectations, and methods of business and all aspects of an industry; and

"(F) provide comprehensive career guidance and academic counseling to participating students, including special populations;

"(6) provide equal access, to the full range of technical preparation programs (including preapprenticeship programs), to individuals who are members of special populations, including the development of tech prep program services appropriate to the needs of special populations;

"(7) provide for preparatory services that assist participants in tech prep programs; and

"(8) coordinate with activities conducted under title I.

"(d) ADDITIONAL AUTHORIZED ACTIVITIES.—Each tech prep program may—

"(1) provide for the acquisition of tech prep program equipment;

"(2) acquire technical assistance from State or local entities that have designed, established, and operated tech prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services;

"(3) establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs;

"(4) improve career guidance and academic counseling for participating students through the development and implementation of graduation and career plans; and

"(5) develop curriculum that supports effective transitions between secondary and postsecondary career and technical education programs.

"(e) INDICATORS OF PERFORMANCE AND ACCOUNTABILITY.—

"(1) IN GENERAL.—Each consortium shall establish and report to the eligible agency indicators of performance for each tech prep program for which the consortium receives a grant under this title. The indicators of performance shall include the following: Reports.

"(A) The number of secondary education tech prep students and postsecondary education tech prep students served.

"(B) The number and percent of secondary education tech prep students enrolled in the tech prep program who—

"(i) enroll in postsecondary education;

"(ii) enroll in postsecondary education in the same field or major as the secondary education tech prep students were enrolled at the secondary level;

"(iii) complete a State or industry-recognized certification or licensure;

"(iv) successfully complete, as a secondary school student, courses that award postsecondary credit at the secondary level; and

"(v) enroll in remedial mathematics, writing, or reading courses upon entering postsecondary education.

"(C) The number and percent of postsecondary education tech prep students who—

"(i) are placed in a related field of employment not later than 12 months after graduation from the tech prep program;

"(ii) complete a State or industry-recognized certification or licensure;

"(iii) complete a 2-year degree or certificate program within the normal time for completion of such program; and

"(iv) complete a baccalaureate degree program within the normal time for completion of such program.

"(2) NUMBER AND PERCENT.—For purposes of subparagraphs (B) and (C) of paragraph (1), the numbers and percentages shall be determined separately with respect to each clause of each such subparagraph.

**"SEC. 204. CONSORTIUM APPLICATIONS.** 20 USC 2374.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this title shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall require.

"(b) PLAN.—Each application submitted under this section shall contain a 6-year plan for the development and implementation of tech prep programs under this title, which plan shall be reviewed after the second year of the plan.

"(c) APPROVAL.—The eligible agency shall approve applications under this title based on the potential of the activities described in the application to create an effective tech prep program.

"(d) SPECIAL CONSIDERATION.—The eligible agency, as appropriate, shall give special consideration to applications that—

"(1) provide for effective employment placement activities or the transfer of students to baccalaureate or advanced degree programs;

"(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;

"(3) address effectively the issues of school dropout prevention and reentry, and the needs of special populations;

"(4) provide education and training in an area or skill, including an emerging technology, in which there is a significant workforce shortage based on the data provided by the eligible entity in the State under section 118;

"(5) demonstrate how tech prep programs will help students meet high academic and employability competencies; and

"(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C of title I.

"(e) PERFORMANCE LEVELS.—

"(1) IN GENERAL.—Each consortium receiving a grant under this title shall enter into an agreement with the eligible agency to meet a minimum level of performance for each of the performance indicators described in sections 113(b) and 203(e).

"(2) RESUBMISSION OF APPLICATION; TERMINATION OF FUNDS.—An eligible agency—

"(A) shall require consortia that do not meet the performance levels described in paragraph (1) for 3 consecutive years to resubmit an application to the eligible agency for a tech prep program grant; and

"(B) may choose to terminate the funding for the tech prep program for a consortium that does not meet the performance levels described in paragraph (1) for 3 consecutive years, including when the grants are made on the basis of a formula determined by the eligible agency.

"(f) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this title, the eligible agency shall ensure an equitable distribution of assistance between or among urban and rural participants in the consortium.

20 USC 2375.

**"SEC. 205. REPORT.**

"Each eligible agency that receives an allotment under this title annually shall prepare and submit to the Secretary a report on the effectiveness of the tech prep programs assisted under this title, including a description of how grants were awarded within the State.

20 USC 2376.

**"SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 2007 and each of the 5 succeeding fiscal years.

# "TITLE III—GENERAL PROVISIONS

## "PART A—FEDERAL ADMINISTRATIVE PROVISIONS

20 USC 2391.

**"SEC. 311. FISCAL REQUIREMENTS.**

"(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this Act for career and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out career and technical education activities and tech prep program activities.

"(b) MAINTENANCE OF EFFORT.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for career and technical education programs or tech prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs for the second fiscal year preceding the fiscal year for which the determination is made.

"(B) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special 1-time project costs, and the cost of pilot programs.

"(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for career and technical education programs under this Act for a fiscal year is less than the amount made available for career and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

"(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

**"SEC. 312. AUTHORITY TO MAKE PAYMENTS.** 20 USC 2392.

"Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

**"SEC. 313. CONSTRUCTION.** 20 USC 2393.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

**"SEC. 314. VOLUNTARY SELECTION AND PARTICIPATION.** 20 USC 2394.

"No funds made available under this Act shall be used—

"(1) to require any secondary school student to choose or pursue a specific career path or major; or

"(2) to mandate that any individual participate in a career and technical education program, including a career and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

20 USC 2395.

**"SEC. 315. LIMITATION FOR CERTAIN STUDENTS.**

"No funds received under this Act may be used to provide career and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds under this Act may be used by such students.

20 USC 2396.

**"SEC. 316. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS.**

"Nothing in this Act shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Federal programs or services.

20 USC 2397.

**"SEC. 317. PARTICIPATION OF PRIVATE SCHOOL PERSONNEL AND CHILDREN.**

"(a) PERSONNEL.—An eligible agency or eligible recipient that uses funds under this Act for in-service and preservice career and technical education professional development programs for career and technical education teachers, administrators, and other personnel shall, to the extent practicable, upon written request, permit the participation in such programs of career and technical education secondary school teachers, administrators, and other personnel in nonprofit private schools offering career and technical secondary education programs located in the geographical area served by such eligible agency or eligible recipient.

"(b) STUDENT PARTICIPATION.—

"(1) STUDENT PARTICIPATION.—Except as prohibited by State or local law, an eligible recipient may, upon written request, use funds made available under this Act to provide for the meaningful participation, in career and technical education programs and activities receiving funding under this Act, of secondary school students attending nonprofit private schools who reside in the geographical area served by the eligible recipient.

"(2) CONSULTATION.—An eligible recipient shall consult, upon written request, in a timely and meaningful manner with representatives of nonprofit private schools in the geographical area served by the eligible recipient described in paragraph (1) regarding the meaningful participation, in career and technical education programs and activities receiving funding under this Act, of secondary school students attending nonprofit private schools.

20 USC 2398.

**"SEC. 318. LIMITATION ON FEDERAL REGULATIONS.**

"The Secretary may issue regulations under this Act only to the extent necessary to administer and ensure compliance with the specific requirements of this Act.

## "PART B—STATE ADMINISTRATIVE PROVISIONS

**"SEC. 321. JOINT FUNDING.** 20 USC 2411.

"(a) GENERAL AUTHORITY.—Funds made available to eligible agencies under this Act may be used to provide additional funds under an applicable program if—

"(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(2) such program serves the same individuals that are served under this Act;

"(3) such program provides services in a coordinated manner with services provided under this Act; and

"(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.

"(b) APPLICABLE PROGRAM.—For the purposes of this section, the term 'applicable program' means any program under any of the following provisions of law:

"(1) Chapters 4 and 5 of subtitle B of title I of Public Law 105–220.

"(2) The Wagner-Peyser Act.

"(c) USE OF FUNDS AS MATCHING FUNDS.—For the purposes of this section, the term 'additional funds' does not include funds used as matching funds.

**"SEC. 322. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.** 20 USC 2412.

"No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if such relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

**"SEC. 323. STATE ADMINISTRATIVE COSTS.** 20 USC 2413.

"(a) GENERAL RULE.—Except as provided in subsection (b), for each fiscal year for which an eligible agency receives assistance under this Act, the eligible agency shall provide, from non-Federal sources for the costs the eligible agency incurs for the administration of programs under this Act, an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such costs for the preceding fiscal year.

"(b) EXCEPTION.—If the amount made available from Federal sources for the administration of programs under this Act for a fiscal year (referred to in this section as the 'determination year') is less than the amount made available from Federal sources for the administration of programs under this Act for the preceding fiscal year, then the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for the administration of programs under this Act for the determination year under subsection (a) shall bear the same ratio to the amount the eligible agency provided from non-Federal sources for such costs for the preceding fiscal year, as the amount made available from Federal sources for the administration of programs under this Act for the determination year bears to the amount made available from Federal sources for the administration of programs under this Act for the preceding fiscal year.

20 USC 2414.

**"SEC. 324. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.**

"(a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and

"(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"(c) COSTS OF CAREER AND TECHNICAL EDUCATION SERVICES.—Funds made available under this Act may be used to pay for the costs of career and technical education services required in an individualized education program developed pursuant to section 614(d) of the Individuals with Disabilities Education Act and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to career and technical education.".

**SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS.**

(a) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "The Carl D. Perkins Career and Technical Education Act of 2006".

(b) TRADE ACT OF 1974.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended—

(1) in section 231(c)(1)(F) (19 U.S.C. 2291(c)(1)(F))—

(A) by striking "area vocational education schools" and inserting "area career and technical education schools"; and

(B) by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006"; and

(2) in section 236(a)(1)(D) (19 U.S.C. 2296(a)(1)(D)), by striking "area vocational" and all that follows through "Act of 1963" and inserting "area career and technical education schools, as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006".

(c) HIGHER EDUCATION ACT OF 1965.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 102(a)(3)(A) (20 U.S.C. 1002(a)(3)(A))—

(A) by striking "section 521(4)(C)" and inserting "section 3(3)(C)"; and

(B) by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006"; and

(2) in section 484(l)(1)(B)(i) (20 U.S.C. 1091(l)(1)(B)(i)), by striking "section 521(4)(C) of the Carl D. Perkins Vocational

and Technical Education Act of 1998" and inserting "section 3(C) of the Carl D. Perkins Career and Technical Education Act of 2006".

(d) EDUCATION FOR ECONOMIC SECURITY ACT.—Section 3(1) of the Education for Economic Security Act (20 U.S.C. 3902(1)) is amended—

(1) by striking "area vocational education school" and inserting "area career and technical education school"; and

(2) by striking "section 521(3) of the Carl D. Perkins Vocational Educational Act.." and inserting "section 3(3) of the Carl D. Perkins Career and Technical Education Act of 2006.".

(e) EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999.—Section 4(b)(2) of the Education Flexibility Partnership Act of 1999 (20 U.S.C. 5891b(b)(2)) is amended by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

(f) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(a)(1) (20 U.S.C. 6311(a)(1)), by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(2) in section 1112(a)(1) (20 U.S.C. 6312(a)(1)), by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(3) in section 1114(b)(2)(B)(v) (20 U.S.C. 6314(b)(2)(B)(v)), by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "the Carl D. Perkins Career and Technical Education Act of 2006"; and

(4) in section 7115(b)(5) (20 U.S.C. 7425(b)(5)), by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

(g) WAGNER-PEYSER ACT.—Section 15(f) of the Wagner-Peyser Act (29 U.S.C. 49l–2(f)) is amended by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

(h) PUBLIC LAW 105–220.—Public Law 105–220 is amended—

(1) in section 101(3) (29 U.S.C. 2801(3))—

(A) by striking "given the term" and inserting "given the term 'area career and technical education school'"; and

(B) by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(2) in section 101(50) (29 U.S.C. 2801(50)), by striking "given" and all that follows through the period at the end and inserting "given the term 'career and technical education' in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006.";

(3) in section 111(d)(3) (29 U.S.C. 2821(d)(3)), by striking "section 113(b)(14) of the Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "section 113(b)(3) of the Carl D. Perkins Career and Technical Education Act of 2006";

(4) in section 112(b)(8)(A)(iii) (29 U.S.C. 2822(b)(8)(A)(iii))—

(A) by striking "postsecondary vocational education activities" and inserting "career and technical education activities at the postsecondary level"; and

(B) by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(5) in section 121(b)(1)(B)(vii) (29 U.S.C. 2841(b)(1)(B)(vii))—

(A) by striking "postsecondary vocational education activities" and inserting "career and technical education activities at the postsecondary level"; and

(B) by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(6) in section 134(d)(2)(F) (29 U.S.C. 2864(d)(2)(F)), by striking "postsecondary vocational" and all that follows through "Education Act" and inserting "career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006";

(7) in section 501(b)(2)(A) (20 U.S.C. 9271(b)(2)(A))—

(A) by striking "secondary vocational education programs" and inserting "career and technical education programs at the secondary level"; and

(B) by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(8) in section 501(b)(2)(B) (20 U.S.C. 9271(b)(2)(B))—

(A) by striking "postsecondary vocational education programs" and inserting "career and technical education programs at the postsecondary level"; and

(B) by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006"; and

(9) in section 501(d)(2)(B) (20 U.S.C. 9271(d)(2)(B)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

(i) TITLE 31.—Section 6703(a)(12) of title 31, United States Code, is amended by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

(j) TITLE 40.—Section 14507(a)(1)(A)(iv) of title 40, United States Code, is amended by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

(k) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006";

(2) in section 503(b)(2) (42 U.S.C. 3056a(b)(2)), by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" each place that term appears and inserting "Carl D. Perkins Career and Technical Education Act of 2006"; and

(3) in section 505(c)(2) (42 U.S.C. 3056c(c)(2)), by striking "Vocational and Technical Education Act of 1998" and inserting "Career and Technical Education Act of 2006".

(l) COMPACT OF FREE ASSOCIATION AMENDMENTS ACT OF 2003.—Section 105(f)(1)(B)(iii) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(iii)) is amended by striking "Carl D. Perkins Vocational and Technical Education Act of 1998" and inserting "Carl D. Perkins Career and Technical Education Act of 2006".

Approved August 12, 2006.

LEGISLATIVE HISTORY—S. 250 (H.R. 366):

HOUSE REPORTS: Nos. 109–25 accompanying H.R. 366 (Comm. on Education and the Workforce) and 109–597 (Comm. of Conference).

SENATE REPORTS: No. 109–65 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD:

Vol. 151 (2005): Mar. 10, considered and passed Senate.

Vol. 152 (2006): July 12, considered and passed House, amended, in lieu of H.R. 366.

July 26, Senate agreed to conference report.

July 27, 28, House considered and agreed to conference report.

# Public Law 109–271
# 109th Congress

## An Act

Aug. 12, 2006
[S. 3693]

To make technical corrections to the Violence Against Women and Department of Justice Reauthorization Act of 2005.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

42 USC 13701 note.

**SECTION 1. UNIVERSAL GRANT CONDITIONS AND DEFINITIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 2005.**

(a) SHORT TITLE.—Section 1 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by—

(1) inserting "(a) IN GENERAL.—" before "This"; and

(2) adding at the end the following:

"(b) SEPARATE SHORT TITLES.—Section 3 and titles I through IX of this Act may be cited as the 'Violence Against Women Reauthorization Act of 2005'. Title XI of this Act may be cited as the 'Department of Justice Appropriations Authorization Act of 2005'.".

(b) CLARIFY EFFECTIVE DATES.—The Violence Against Women Act and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by adding after section 3 the following new section:

42 USC 3793 note.

**"SEC. 4. EFFECTIVE DATE OF SPECIFIC SECTIONS.**

"Notwithstanding any other provision of this Act or any other law, sections 101, 102 (except the amendment to section 2101(d) of the Omnibus Crime Control and Safe Streets Act of 1968 included in that section), 103, 121, 203, 204, 205, 304, 306, 602, 906, and 907 of this Act shall not take effect until the beginning of fiscal year 2007.".

(c) ENSURE COMPREHENSIVE DEFINITIONAL SECTION.—

(1) CRIMES ON CAMPUSES.—Section 304 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by adding at the end the following:

42 USC 14045b.

Applicability.

"(g) DEFINITIONS AND GRANT CONDITIONS.—In this section the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.".

(2) OUTREACH TO UNDERSERVED POPULATIONS.—Section 120 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by adding at the end the following:

42 USC 14045.

Applicability.

"(i) DEFINITIONS AND GRANT CONDITIONS.—In this section the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.".

(3) CULTURAL SERVICES.—Section 121 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by adding at the end the following: 42 USC 14045a.

"(h) DEFINITIONS AND GRANT CONDITIONS.—In this section the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.".

(d) CORRECT DEFINITION OF SEXUAL ASSAULT.—Section 40002(a)(23) of the Violence Against Women Act of 1994, as added by section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162), is amended by striking "prescribed" and inserting "proscribed". 42 USC 13925.

(e) TRIBAL DEFINITIONS.—Section 40002(a) of the Violence Against Women Act of 1994, as added by section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162), is amended— 42 USC 13925.

(1) in paragraph (1), by striking "Alaskan" and inserting "Alaska Native";

(2) by redesignating paragraphs (31) through (36) as paragraphs (32) through (37), respectively; and

(3) by adding after paragraph (30) the following:

"(31) TRIBAL NONPROFIT ORGANIZATION.—The term 'tribal nonprofit organization' means—

"(A) a victim services provider that has as its primary purpose to assist Native victims of domestic violence, dating violence, sexual assault, or stalking; and

"(B) staff and leadership of the organization must include persons with a demonstrated history of assisting American Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, or stalking.".

(f) CLARIFY MATCHING PROVISION IN THE UNIVERSAL GRANT CONDITION.—Section 40002(b) of the Violence Against Women Act of 1994, as added by section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162), is amended by striking paragraph (1) and inserting the following: 42 USC 13925.

"(1) MATCH.—No matching funds shall be required for any grant or subgrant made under this Act for—

"(A) any tribe, territory, or victim service provider; or

"(B) any other entity, including a State, that—

"(i) petitions for a waiver of any match condition imposed by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development; and

"(ii) whose petition for waiver is determined by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development to have adequately demonstrated the financial need of the petitioning entity.".

**SEC. 2. TITLE I—LAW ENFORCEMENT TOOLS.**

(a) DUPLICATE PROVISION.—Title I of the Violence Against Women Act of 2005 (Public Law 109–162) is amended by striking section 108. 42 USC 13941.

42 USC 13941.

(b) AUTHORIZATION PERIOD.—Section 1167 of the Violence Against Women Act of 2005 is amended by striking "2006 through 2010" and inserting "2007 through 2011".

(c) DEFINITION OF SPOUSE OF INTIMATE PARTNER.—Section 2266(7)(A) of title 18, United States Code, is amended by striking clause (ii) and inserting the following:

"(ii) section 2261A—

"(I) a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; or

"(II) a person who is or has been in a social relationship of a romantic or intimate nature with the target of the stalking, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.".

(d) STRIKE REPEATED SECTIONS.—The Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by striking sections 1134 and 1135.

20 USC 1152; 42 USC 3796gg–1, 3796gg–3, 10420, 13975, 14039.
42 USC 13925.

(e) CONDITIONS ON TECHNICAL ASSISTANCE.—Section 40002(b)(11) of the Violence Against Women Act of 1994 is amended by inserting before "If there" the following: "Of the total amounts appropriated under this title, not less than 3 percent and up to 8 percent, unless otherwise noted, shall be available for providing training and technical assistance relating to the purposes of this title to improve the capacity of the grantees, subgrantees, and other entities.".

(f) REMOVE THE TECHNICAL ASSISTANCE PROVISION IN STOP AND GRANTS TO ENCOURAGE ARREST.—The Omnibus Crime Control and Safe Streets Act of 1968 is amended—

42 USC 3796gg–1.

(1) in section 2007, by striking subsection (i), as added by section 101 of the Violence Against Women and Department of Justice Reauthorization Act of 2005; and

42 USC 3796hh–5.

(2) by striking section 2106, as added by section 102 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

(g) CORRECT STOP GRANT ALLOCATION.—Section 2007 (b)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1), as amended by section 101 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended by striking "and the coalitions for combined Territories of the United States" and inserting "the coalition for Guam, the coalition for American Samoa, the coalition for the United States Virgin Islands, and the coalition for the Commonwealth of the Northern Mariana Islands.".

42 USC 14045.

(h) UNDERSERVED POPULATIONS REPORT.—Section 120(g) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by striking ", every 18 months,".

(i) CORRECT DEFINITION OF DATING PARTNER.—Section 2266(10) of title 18, United States Code, as amended by section 116 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is further amended by striking "and the existence of such a relationship" and inserting ". The existence of such a relationship is".

(j) ALTER COMPLIANCE TIME FOR FORENSIC EXAM CERTIFICATION.—Section 2010(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4(d)) as added by section 101 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended by—

(1) striking "Nothing" and inserting "(1) IN GENERAL.—"; and

(2) inserting at the end the following:

"(2) COMPLIANCE PERIOD.—States, territories, and Indian tribal governments shall have 3 years from the date of enactment of the Violence Against Women and Department of Justice Reauthorization Act of 2005 to come into compliance with this subsection.". Deadline.

(k) CORRECT UNDERSERVED POPULATIONS GRANT PROGRAM.—Section 121 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended— 42 USC 14045a.

(1) in subsection (a)(1), by inserting at the end the following: "The requirements of the grant programs identified in paragraph (2) shall not apply to this new grant program."; and

(2) in subsection (b)(2) by striking the period and inserting ", including—

"(A) working with State and local governments and social service agencies to develop and enhance effective strategies to provide culturally and linguistically specific services to victims of domestic violence, dating violence, sexual assault, and stalking;

"(B) increasing communities' capacity to provide culturally and linguistically specific resources and support for victims of domestic violence, dating violence, sexual assault, and stalking crimes and their families;

"(C) strengthening criminal justice interventions, by providing training for law enforcement, prosecution, courts, probation, and correctional facilities on culturally and linguistically specific responses to domestic violence, dating violence, sexual assault, and stalking;

"(D) enhancing traditional services to victims of domestic violence, dating violence, sexual assault, and stalking through the leadership of culturally and linguistically specific programs offering services to victims of domestic violence, dating violence, sexual assault, and stalking;

"(E) working in cooperation with the community to develop education and prevention strategies highlighting culturally and linguistically specific issues and resources regarding victims of domestic violence, dating violence, sexual assault, and stalking;

"(F) providing culturally and linguistically specific programs for children exposed to domestic violence, dating violence, sexual assault, and stalking;

"(G) providing culturally and linguistically specific resources and services that address the safety, economic, housing, and workplace needs of victims of domestic violence, dating violence, sexual assault, or stalking, including emergency assistance; or

"(H) examining the dynamics of culture and its impact on victimization and healing.".

(l) FIX ALLOCATION ISSUE IN STOP GRANTS.—Subparagraphs (A) and (B) of section 2007(c)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(c)(3)(A) and (B)) are amended to read as follows:

"(A) not less than 25 percent shall be allocated for law enforcement and not less than 25 percent shall be allocated for prosecutors;

"(B) not less than 30 percent shall be allocated for victims services of which at least 10 percent shall be distributed to culturally specific community-based organizations; and".

(m) CORRECT GAO STUDY.—Section 119(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by striking "of domestic violence." and inserting "of these respective crimes.".

119 Stat. 2989.

(n) PROTECTION ORDER CORRECTION.—Section 106(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by striking "the registration or filing of a protection order" and inserting "the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction".

18 USC 2265.

**SEC. 3. TITLE II—IMPROVED SERVICES.**

(a) SEXUAL ASSAULT SERVICES INTO VAWA.—Section 202 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is repealed.

42 USC 3796gg–9.

(b) SEXUAL ASSAULT SERVICES PROGRAM.—The Violence Against Women Act of 1994 (Public Law 103–322) is amended by adding at the end the following:

# "Subtitle P—Sexual Assault Services

42 USC 14043g.

**"SEC. 41601. SEXUAL ASSAULT SERVICES PROGRAM.**

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

"(1) to assist States, Indian tribes, and territories in providing intervention, advocacy, accompaniment, support services, and related assistance for—

"(A) adult, youth, and child victims of sexual assault;

"(B) family and household members of such victims; and

"(C) those collaterally affected by the victimization, except for the perpetrator of such victimization; and

"(2) to provide for technical assistance and training relating to sexual assault to—

"(A) Federal, State, tribal, territorial and local governments, law enforcement agencies, and courts;

"(B) professionals working in legal, social service, and health care settings;

"(C) nonprofit organizations;

"(D) faith-based organizations; and

"(E) other individuals and organizations seeking such assistance.

"(b) GRANTS TO STATES AND TERRITORIES.—

"(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States and territories to support the establishment, maintenance, and expansion of rape crisis centers and other programs and projects to assist those victimized by sexual assault.

"(2) ALLOCATION AND USE OF FUNDS.—

"(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by a State or territory governmental agency under this subsection for any fiscal year may be used for administrative costs.

"(B) GRANT FUNDS.—Any funds received by a State or territory under this subsection that are not used for administrative costs shall be used to provide grants to rape crisis centers and other nonprofit, nongovernmental organizations for programs and activities within such State or territory that provide direct intervention and related assistance.

"(C) INTERVENTION AND RELATED ASSISTANCE.—Intervention and related assistance under subparagraph (B) may include—

"(i) 24-hour hotline services providing crisis intervention services and referral;

"(ii) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

"(iii) crisis intervention, short-term individual and group support services, and comprehensive service coordination and supervision to assist sexual assault victims and family or household members;

"(iv) information and referral to assist the sexual assault victim and family or household members;

"(v) community-based, linguistically and culturally specific services and support mechanisms, including outreach activities for underserved communities; and

"(vi) the development and distribution of materials on issues related to the services described in clauses (i) through (v).

"(3) APPLICATION.—

"(A) IN GENERAL.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time and in such manner as the Attorney General may reasonably require.

"(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

"(i) set forth procedures designed to ensure meaningful involvement of the State or territorial sexual assault coalition and representatives from underserved communities in the development of the application and the implementation of the plans;

"(ii) set forth procedures designed to ensure an equitable distribution of grants and grant funds within the State or territory and between urban and rural areas within such State or territory;

"(iii) identify the State or territorial agency that is responsible for the administration of programs and activities; and

"(iv) meet other such requirements as the Attorney General reasonably determines are necessary to carry out the purposes and provisions of this section.

"(4) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 1.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, the District of Columbia, Puerto Rico, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriations. The remaining funds shall be allotted to each State and each territory in an amount that bears the same ratio to such remaining funds as the population of such State and such territory bears to the population of all the States and the territories. The District of Columbia shall be treated as a territory for purposes of calculating its allocation under the preceding formula.

"(c) GRANTS FOR CULTURALLY SPECIFIC PROGRAMS ADDRESSING SEXUAL ASSAULT.—

"(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to eligible entities to support the establishment, maintenance, and expansion of culturally specific intervention and related assistance for victims of sexual assault.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

"(A) be a private nonprofit organization that focuses primarily on culturally specific communities;

"(B) must have documented organizational experience in the area of sexual assault intervention or have entered into a partnership with an organization having such expertise;

"(C) have expertise in the development of community-based, linguistically and culturally specific outreach and intervention services relevant for the specific communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of culturally specific populations; and

"(D) have an advisory board or steering committee and staffing which is reflective of the targeted culturally specific community.

"(3) AWARD BASIS.—The Attorney General shall award grants under this section on a competitive basis.

"(4) DISTRIBUTION.—

"(A) The Attorney General shall not use more than 2.5 percent of funds appropriated under this subsection in any year for administration, monitoring, and evaluation of grants made available under this subsection.

"(B) Up to 5 percent of funds appropriated under this subsection in any year shall be available for technical assistance by a national, nonprofit, nongovernmental organization or organizations whose primary focus and expertise is in addressing sexual assault within underserved culturally specific populations.

"(5) TERM.—The Attorney General shall make grants under this section for a period of no less than 2 fiscal years.

"(6) REPORTING.—Each entity receiving a grant under this subsection shall submit a report to the Attorney General that describes the activities carried out with such grant funds.

"(d) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

"(1) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Attorney General shall award grants to State, territorial, and tribal sexual assault coalitions to assist in supporting the establishment, maintenance, and expansion of such coalitions.

"(B) MINIMUM AMOUNT.—Not less than 10 percent of the total amount appropriated to carry out this section shall be used for grants under subparagraph (A).

"(C) ELIGIBLE APPLICANTS.—Each of the State, territorial, and tribal sexual assault coalitions.

"(2) USE OF FUNDS.—Grant funds received under this subsection may be used to—

"(A) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or tribe;

"(B) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

"(C) work with courts, child protective services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

"(D) design and conduct public education campaigns;

"(E) plan and monitor the distribution of grants and grant funds to their State, territory, or tribe; or

"(F) collaborate with and inform Federal, State, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

"(3) ALLOCATION AND USE OF FUNDS.—From amounts appropriated for grants under this subsection for each fiscal year—

"(A) not less than 10 percent of the funds shall be available for grants to tribal sexual assault coalitions; and

"(B) the remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to 1/56 of the amounts so appropriated to each of those State and territorial coalitions.

"(4) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

"(5) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection during any fiscal year for which funds are available under this subsection because such entity has not previously applied or received funding under this subsection.

"(e) GRANTS TO TRIBES.—

"(1) GRANTS AUTHORIZED.—The Attorney General may award grants to Indian tribes, tribal organizations, and nonprofit tribal organizations for the operation of sexual assault programs or projects in Indian tribal lands and Alaska Native villages to support the establishment, maintenance, and expansion of programs and projects to assist those victimized by sexual assault.

"(2) ALLOCATION AND USE OF FUNDS.—

"(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by an Indian tribe, tribal organization, and nonprofit tribal organization under this subsection for any fiscal year may be used for administrative costs.

"(B) GRANT FUNDS.—Any funds received under this subsection that are not used for administrative costs shall be used to provide grants to tribal organizations and nonprofit tribal organizations for programs and activities within Indian country and Alaskan native villages that provide direct intervention and related assistance.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 to remain available until expended for each of the fiscal years 2007 through 2011 to carry out the provisions of this section.

"(2) ALLOCATIONS.—Of the total amounts appropriated for each fiscal year to carry out this section—

"(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring, and other administrative costs under this section;

"(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and subgrantees under this section;

"(C) not less than 65 percent shall be used for grants to States and territories under subsection (b);

"(D) not less than 10 percent shall be used for making grants to State, territorial, and tribal sexual assault coalitions under subsection (d);

"(E) not less than 10 percent shall be used for grants to tribes under subsection (e); and

"(F) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c).".

**SEC. 4. TITLE III—YOUNG VICTIMS.**

(a) CORRECT CITATION IN SECTION 41204.—Section 41204(f)(2) of the Violence Against Women Act of 1994 (42 U.S.C. 14043c–3) is amended by striking "(b)(4)(D)" and inserting "(b)(4)".

(b) CORRECT CAMPUS GRANT PROGRAM'S PURPOSE AREAS.—Section 304(b)(2) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended by striking the first sentence and inserting "To develop and implement campus policies, protocols, and services that more effectively identify and respond to the crimes of domestic violence, dating violence, sexual assault and stalking, and to train campus administrators, campus security personnel, and personnel serving on campus disciplinary or judicial boards on such policies, protocols, and services.".

42 USC 14045b.

(c) CORRECTION.—In section 758(c)(1)(A) of the Public Health Services Act (42 U.S.C. 294h(c)(1)(A)), insert "experiencing" after "to individuals who are" and before "or who have experienced".

(d) CAMPUS REPORTING REQUIREMENT.—Section 304(d)(2)(A) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by striking "biennial".

**SEC. 5. TILE VI—HOUSING AMENDMENTS.**

(a) AMENDMENTS TO COLLABORATIVE GRANT PROGRAM.—Section 41404 of the Violence Against Women Act of 1994 (as added by Public Law 109–162; 119 Stat. 3033) is amended— 42 USC 14043e–3.

(1) in subsection (a)(1) by striking "of Children" and inserting "for Children"; and

(2) in subsection (d)—

(A) in paragraph (1)—

(i) in the heading, by striking "(1) IN GENERAL.—"; and

(ii) by adding at the end "Such activities, services, or programs—";

(B) in paragraph (2), by striking "(2) ACTIVITIES, SERVICES, PROGRAMS.—Such activities, services, or programs described in paragraph (1)" and inserting "(1)";

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(D) in paragraph (3), as so redesignated, by striking "paragraph (3)" and inserting "paragraph (2)".

(b) TECHNICAL AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Section 423(a)(8) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(8)) is amended—

(1) in the first sentence of subparagraph (A), by striking "subsection" and inserting "section"; and

(2) in subparagraph (B)(ii), by striking "or 'victim service providers'".

(c) TECHNICAL AMENDMENT TO VIOLENCE AGAINST WOMEN ACT OF 2005.—Section 606 of the Violence Against Women Act of 2005 (Public Law 104–162; 119 Stat. 3041) is amended in the heading by striking "**VOUCHER**".

(d) SELECTION OF TENANTS.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A (42 U.S.C. 1437c–1) by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission;".

(e) TECHNICAL AMENDMENTS TO HOUSING ASSISTANCE PROGRAM.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (c)(9)(C), by striking clause (ii) and inserting the following:

"(ii) Notwithstanding clause (i) or any Federal, State, or local law to the contrary, an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate

occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.";

(2) in subsection (d)(1)(B)(iii), by striking subclause (II) and inserting the following:

"(II) Notwithstanding subclause (I) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.";

(3) in subsection (f)—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) in paragraph (10)(A)(i), by striking "; and" and inserting "; or"; and

(C) in paragraph (11)(B), by striking "blood and marriage" and inserting "blood or marriage";

(4) in subsection (o)—

(A) in the second sentence of paragraph (6)(B)—

(i) by striking "by" after "denial of program assistance";

(ii) by striking "for admission for" and inserting "for admission or"; and

(iii) by striking "admission, and that nothing" and inserting "admission. Nothing";

(B) in paragraph (7)(D)—

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

"(ii) LIMITATION.—Notwithstanding clause (i) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others,

without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.";

(ii) in clause (iii), by striking "access to control" and inserting "access or control"; and

(iii) in clause (v), by striking "terminate," and inserting "terminate"; and

(C) in paragraph (20)(D)(ii), by striking "distribution" and inserting "distribution or"; and

(5) in subsection (ee)(1)—

(A) in subparagraph (A), by striking "the owner, manager, or public housing agency requests such certification" and inserting "the individual receives a request for such certification from the owner, manager, or public housing agency";

(B) in subparagraph (B)—

(i) by striking "the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing" and inserting "the individual has received a request in writing for such certification for the owner, manager, or public housing agency";

(ii) by striking "manager, public housing" and inserting "manager or public housing" each place that term appears; and

(iii) by striking ", or assisted housing provider" each place that term appears;

(C) in subparagraph (C), by striking "sexual assault,";

(D) in subparagraph (D), by striking "sexual assault,"; and

(E) in subparagraph (E)—

(i) by striking "manager, public housing" and inserting "manager or public housing" each place that term appears; and

(ii) by striking ", or assisted housing provider" each place that term appears.

(f) TECHNICAL AMENDMENT TO SECTION 6 OF UNITED STATES HOUSING ACT OF 1937.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (l)(6), by striking subparagraph (B) and inserting the following: "(B) notwithstanding subparagraph (A) or any Federal, State, or local law to the contrary, a public housing agency may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant and such eviction, removal, termination of occupancy

rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing;"; and

(2) in subsection (u)—

(A) in paragraph (1)(A), by striking "the public housing agency requests such certification" and inserting "the individual receives a request for such certification from the public housing agency";

(B) in paragraph (1)(B), by striking "the public housing agency has requested such certification in writing" and inserting "the individual has received a request in writing for such certification from the public housing agency"; and

(C) in paragraph (3)(D)(ii), by striking "blood and marriage" and inserting "blood or marriage".

**SEC. 6. TITLE VIII—IMMIGRATION AND NATIONALITY ACT.**

(a) PETITIONS FOR IMMIGRANT STATUS.—Section 204(a)(1)(D)(v) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)(v)) is amended by inserting "or (B)(iii)" after "(A)(iv)".

(b) INADMISSIBLE ALIENS.—Section 212 of such Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(C)(i)—

(i) in subclause (II), by striking ", or" at the end and inserting a semicolon; and

(ii) by adding at the end the following:

"(III) classification or status as a VAWA self-petitioner; or";

(B) in paragraph (6)(A)(ii), by amending subclause (I) to read as follows:

"(I) the alien is a VAWA self-petitioner;"; and

(C) in paragraph (9)(C)(ii), by striking "the Attorney General has consented" and all that follows through "United States." and inserting the following: "the Secretary of Homeland Security has consented to the alien's reapplying for admission.

"(iii) WAIVER.—The Secretary of Homeland Security may waive the application of clause (i) in the case of an alien who is a VAWA self-petitioner if there is a connection between—

"(I) the alien's battering or subjection to extreme cruelty; and

"(II) the alien's removal, departure from the United States, reentry or reentries into the United States; or attempted reentry into the United States.";

(2) in subsection (g)(1), by amending subparagraph (C) to read as follows:

"(C) is a VAWA self-petitioner,";

(3) in subsection (h)(1), by amending subparagraph (C) to read as follows:

"(C) the alien is a VAWA self-petitioner; and"; and

(4) in subsection (i)(1), by striking "an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)" and inserting "a VAWA self-petitioner".

(c) DEPORTABLE ALIENS.—Section 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended to read as follows:

"(ii) is a VAWA self-petitioner.".

(d) REMOVAL.—Section 239(e)(2)(B) of such Act (8 U.S.C. 1229(e)(2)(B)) is amended by striking "(V)" and inserting "(U)".

(e) CANCELLATION OF REMOVAL.—Section 240A(b)(4)(B) of such Act (8 U.S.C. 1229b(b)(4)(B)) is amended by striking "they were applications filed under section 204(a)(1)(A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c)." and inserting "the applicants were VAWA self-petitioners.".

(f) ADJUSTMENT OF STATUS.—Section 245 of such Act (8 U.S.C. 1255) is amended—

(1) in subsection (a), by striking "under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" and inserting "as a VAWA self-petitioner"; and

(2) in subsection (c), by striking "under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1)" and inserting "as a VAWA self-petitioner".

(g) IMMIGRATION OFFICERS.—Section 287 of such Act (8 U.S.C. 1357) is amended by redesignating subsection (i) as subsection (h).

(h) PENALTIES FOR DISCLOSURE OF INFORMATION.—Section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)) is amended by striking "clause (iii) or (iv)" and all that follows and inserting "paragraph (15)(T), (15)(U), or (51) of section 101(a) of the Immigration and Nationality Act or section 240A(b)(2) of such Act.".

**SEC. 7. TITLE IX—INDIAN WOMEN.**

(a) OMNIBUS CRIME CONTROL AND SAFE STREETS.—

(1) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) by redesignating the second section 2007 (42 U.S.C. 3796gg–10) (relating to grants to Indian tribal governments), as added by section 906 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as section 2015;

(B) by redesignating the second section 2008 (42 U.S.C. 3796gg–11) (relating to a tribal deputy), as added by section 907 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as section 2016; and

(C) by moving those sections so as to appear at the end of the part.

(2) STATE GRANT AMOUNTS.—Section 2007(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(b)), as amended by section 906(b) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended by striking paragraph (1) and inserting the following:

"(1) 10 percent shall be available for grants under the program authorized by section 2015, which shall not otherwise be subject to the requirements of this part (other than section 2008);".

(3) GRANTS TO INDIAN TRIBAL GOVERNMENTS.—Section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 906 of the Violence Against Women and

42 USC 3796gg–10.

Department of Justice Reauthorization Act of 2005 (as redesignated by paragraph (1)(A)), is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "and tribal organizations" and inserting "or authorized designees of Indian tribal governments";

(ii) in paragraph (6), by striking "and" at the end;

(iii) in paragraph (7), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(8) provide legal assistance necessary to provide effective aid to victims of domestic violence, dating violence, stalking, or sexual assault who are seeking relief in legal matters arising as a consequence of that abuse or violence, at minimal or no cost to the victims."; and

(B) by striking subsection (c).

42 USC 3796gg–11.

(4) TRIBAL DEPUTY RESPONSIBILITIES.—Section 2016(b)(1)(I) of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by paragraph (1)(B)) is amended by inserting after "technical assistance" the following: "that is developed and provided by entities having expertise in tribal law, customary practices, and Federal Indian law".

(5) GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended by striking subsection (e) and inserting the following:

"(e) ALLOTMENT FOR INDIAN TRIBES.—

"(1) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 2015.

"(2) APPLICABILITY OF PART.—The requirements of this part shall not apply to funds allocated for the program described in paragraph (1).".

(b) RURAL DOMESTIC VIOLENCE.—

(1) IN GENERAL.—Section 40295(d) of the Safe Homes for Women Act of 1994 (42 U.S.C. 13971(d)), as amended by section 306 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended by striking paragraph (1) and inserting the following:

"(1) ALLOTMENT FOR INDIAN TRIBES.—

"(A) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10).

"(B) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in subparagraph (A).".

(2) CONFORMING AMENDMENT.—Section 906 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by—

42 USC 13971.

(A) striking subsection (d); and

42 USC 3796gg–6, 10420, 13975.

(B) redesignating subsections (e) through (g) as subsections (d) through (f), respectively.

(c) VIOLENCE AGAINST WOMEN ACT OF 1994.—

(1) TRANSITIONAL HOUSING ASSISTANCE.—Section 40299(g) of the Violence Against Women Act of 1994 (42 U.S.C. 13975(g)), as amended by sections 602 and 906 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended—

(A) in paragraph (3)(C), by striking clause (i) and inserting the following:

"(i) INDIAN TRIBES.—

"(I) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10).

"(II) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in subclause (I).";

and

(B) by striking paragraph (4).

(2) COURT TRAINING AND IMPROVEMENTS.—Section 41006 of the Violence Against Women Act of 1994 (42 U.S.C. 14043a–3), as added by section 105 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended by striking subsection (c) and inserting the following:

"(c) SET ASIDE.—

"(1) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10).

"(2) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in paragraph (1).".

(d) VIOLENCE AGAINST WOMEN ACT OF 2000.—

(1) LEGAL ASSISTANCE FOR VICTIMS.—Section 1201(f) of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6(f)), as amended by sections 103 and 906 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "10 percent" and inserting "3 percent";

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

(iii) by inserting after subparagraph (A) the following:

"(B) TRIBAL GOVERNMENT PROGRAM.—

"(i) IN GENERAL.—Not less than 7 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10).

"(ii) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in clause (i).";

and

(B) by striking paragraph (4).

(2) SAFE HAVENS FOR CHILDREN.—Section 1301 of the Violence Against Women Act of 2000 (42 U.S.C. 10420), as amended by sections 906 and 306 of the Violence Against Women and Department of Justice Reauthorization Act of 2005, is amended—

(A) in subsection (e)(2)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) by striking subsection (f) and inserting the following:

"(f) ALLOTMENT FOR INDIAN TRIBES.—

Grants.

"(1) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10).

"(2) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in paragraph (1).".

**SEC. 8. TITLE XI—DEPARTMENT OF JUSTICE.**

(a) ORGANIZED RETAIL THEFT.—Section 1105(a)(3) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (28 U.S.C. 509 note) is amended by striking "The Attorney General through the Bureau of Justice Assistance in the Office of Justice may" and inserting "The Director of the Bureau of Justice Assistance of the Office of Justice Programs may".

(b) FORMULAS AND REPORTING.—Sections 1134 and 1135 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 3108), and the amendments made by such sections, are repealed.

20 USC 1152; 42 USC 3796gg–1, 3796gg–3, 10420, 13975, 14039.

(c) GRANTS FOR YOUNG WITNESS ASSISTANCE.—Section 1136(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3743(a)) is amended by striking "The Attorney General, acting through the Bureau of Justice Assistance, may" and inserting "The Director of the Bureau of Justice Assistance of the Office of Justice Programs may".

(d) USE OF FEDERAL TRAINING FACILITIES.—Section 1173 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (28 U.S.C. 530c note) is amended—

(1) in subsection (a), by inserting "or for meals, lodging, or other expenses related to such internal training or conference meeting" before the period; and

(2) in subsection (b), by striking "that requires specific authorization" and inserting "authorized".

(e) OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by redesignating the section 105 titled "**OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT**" as section 109 and transferring such section to the end of such part A.

42 USC 3712d, 3712h.

(f) COMMUNITY CAPACITY DEVELOPMENT OFFICE.—Section 106 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712e) is amended by striking "section 105(b)" each place such term appears and inserting "section 103(b)".

(g) AVAILABILITY OF FUNDS.—Section 108(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712g(b)) is amended by striking "revert to the Treasury" and inserting "be deobligated".

(h) DELETION OF DUPLICATIVE REFERENCE TO TRIBAL GOVERNMENTS.—Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b) is amended—

(1) in paragraph (1), by inserting "or" after the semicolon;

(2) in paragraph (2), by striking "; or" and inserting a period; and

(3) by striking paragraph (3).

(i) APPLICATIONS FOR BYRNE GRANTS.—Section 502 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3752) is amended in the matter preceding paragraph (1), by striking "90 days" and inserting "120 days".

(j) MATCHING GRANT PROGRAM FOR SCHOOL SECURITY.—Part AA of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797a et seq.) is amended—

(1) in section 2701(a), by striking "The Attorney General, acting through the Office of Community Oriented Policing Services," and inserting "The Director of the Office of Community Oriented Policing Services (in this section referred to as the 'Director')"; and 42 USC 3797a.

(2) by striking "Attorney General" each place such term appears and inserting "Director". 42 USC 3797a–3797c.

(k) FUNDING.—Section 1101 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162) is amended— 119 Stat. 1086.

(1) in paragraph (8), by striking "$800,255,000" and inserting "$809,372,000";

(2) in paragraph (11), by striking "$923,613,000" and inserting "$935,817,000";

(3) in paragraph (12), by striking "$8,000,000" and inserting "$10,000,000"; and

(4) in paragraph (14), by striking "$1,270,000" and inserting "$1,303,000".

(l) DRUG COURTS TECHNICAL ASSISTANCE AND TRAINING.—Section 2957(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–6(b)) is amended by striking "Community Capacity Development Office" each place such term appears and inserting "Bureau of Justice Assistance".

(m) AIMEE'S LAW.—Section 2001(e)(1) of division C of Public Law 106–386 (42 U.S.C. 13713(e)(1)) is amended by striking "section 506 of the Omnibus Crime Control and Safe Streets Act of 1968" and inserting "section 505 of the Omnibus Crime Control and Safe Streets Act of 1968".

(n) EFFECTIVE DATES.—

(1) OFFICE OF WEED AND FEED STRATEGIES.—Section 1121(c) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3712a note) is amended by striking "90 days after the date of the enactment of this Act" and inserting "with respect to appropriations for fiscal year 2007 and for each fiscal year thereafter".

(2) SUBSTANCE ABUSE TREATMENT.—

(A) IN GENERAL.—Chapter 4 of subtitle B of title XI of the Violence Against Women and Department of Justice

119 Stat. 3110.

Reauthorization Act of 2005 (Public Law 109–162; 3110) is amended by adding at the end the following:

**"SEC. 1147. EFFECTIVE DATE.**

"The amendments made by sections 1144 and 1145 shall take effect on October 1, 2006.".

(B) CONFORMING AMENDMENT.—The table of contents in section 2 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 106–162; 119 Stat. 2960) is amended by inserting after the item relating to section 1146 the following:

"Sec. 1147. Effective date.".

(3) OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.—Section 1158(b) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3712d note) is amended to read as follows:

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), section 109 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712d) shall take effect on April 5, 2006.

"(2) CERTAIN PROVISIONS.—Subsections (c), (d), and (e) of section 109 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712d) shall take effect on October 1, 2006.".

(4) OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.—

(A) IN GENERAL.—Section 1160(b) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3712f note) is amended by striking "90 days after the date of the enactment of this Act" and inserting "on October 1, 2006".

(B) AVAILABILITY OF FUNDS.—Section 1161(b) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3712g note) is amended by striking "90 days after the date of the enactment of this Act" and inserting "on October 1, 2006".

(5) EVIDENCE-BASED APPROACHES.—Section 1168 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 3122) is amended—

42 USC 3796ee–2.

(A) by striking "Section 1802" and inserting the following:

"(a) IN GENERAL.—Section 1802"; and

(B) by adding at the end the following:

42 USC 3796ee–2 note.

"(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.".

(6) STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.—Section 1196 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 3130) is amended by adding at the end the following:

8 USC 1231 note.

"(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2006.".

Approved August 12, 2006.

LEGISLATIVE HISTORY—S. 3693:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 19, considered and passed Senate.
July 28, considered and passed House.

# Public Law 109–272
# 109th Congress

## An Act

Aug. 14, 2006
[H.R. 5683]

To preserve the Mt. Soledad Veterans Memorial in San Diego, California, by providing for the immediate acquisition of the memorial by the United States.

16 USC 431 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. FINDINGS.**

Congress makes the following findings:

(1) The Mt. Soledad Veterans Memorial has proudly stood overlooking San Diego, California, for over 52 years as a tribute to the members of the United States Armed Forces who sacrificed their lives in the defense of the United States.

(2) The Mt. Soledad Veterans Memorial was dedicated on April 18, 1954, as "a lasting memorial to the dead of the First and Second World Wars and the Korean conflict" and now serves as a memorial to American veterans of all wars, including the War on Terrorism.

(3) The United States has a long history and tradition of memorializing members of the Armed Forces who die in battle with a cross or other religious emblem of their faith, and a memorial cross is fully integrated as the centerpiece of the multi-faceted Mt. Soledad Veterans Memorial that is replete with secular symbols.

(4) The patriotic and inspirational symbolism of the Mt. Soledad Veterans Memorial provides solace to the families and comrades of the veterans it memorializes.

(5) The Mt. Soledad Veterans Memorial has been recognized by Congress as a National Veterans Memorial and is considered a historically significant national memorial.

(6) 76 percent of the voters of San Diego supported donating the Mt. Soledad Memorial to the Federal Government only to have a superior court judge of the State of California invalidate that election.

(7) The City of San Diego has diligently pursued every possible legal recourse in order to preserve the Mt. Soledad Veterans Memorial in its entirety for persons who have served in the Armed Forces and those persons who will serve and sacrifice in the future.

**SEC. 2. ACQUISITION OF MT. SOLEDAD VETERANS MEMORIAL, SAN DIEGO, CALIFORNIA.**

(a) ACQUISITION.—To effectuate the purpose of section 116 of division E of Public Law 108–447 (118 Stat. 3346; 16 U.S.C. 431 note), which, in order to preserve a historically significant war memorial, designated the Mt. Soledad Veterans Memorial in San

Diego, California, as a national memorial honoring veterans of the United States Armed Forces, there is hereby vested in the United States all right, title, and interest in and to, and the right to immediate possession of, the Mt. Soledad Veterans Memorial in San Diego, California, as more fully described in subsection (d).

(b) COMPENSATION.—The United States shall pay just compensation to any owner of the property for the property taken pursuant to this section, and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of the property. Payment shall be in the amount of the agreed negotiated value of the property or the valuation of the property awarded by judgment and shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code. If the parties do not reach a negotiated settlement within one year after the date of the enactment of this Act, the Secretary of Defense may initiate a proceeding in a court of competent jurisdiction to determine the just compensation with respect to the taking of such property.

Memorandum.

(c) MAINTENANCE.—Upon acquisition of the Mt. Soledad Veterans Memorial by the United States, the Secretary of Defense shall manage the property and shall enter into a memorandum of understanding with the Mt. Soledad Memorial Association for the continued maintenance of the Mt. Soledad Veterans Memorial by the Association.

(d) LEGAL DESCRIPTION.—The Mt. Soledad Veterans Memorial referred to in this section is all that portion of Pueblo lot 1265 of the Pueblo Lands of San Diego in the City and County of San Diego, California, according to the map thereof prepared by James Pascoe in 1879, a copy of which was filed in the office of the County Recorder of San Diego County on November 14, 1921, and is known as miscellaneous map No. 36, more particularly described as follows: The area bounded by the back of the existing inner sidewalk on top of Mt. Soledad, being also a circle with radius of 84 feet, the center of which circle is located as follows: Beginning at the Southwesterly corner of such Pueblo Lot 1265, such corner being South 17 degrees 14′33″ East (Record South 17 degrees 14′09″ East) 607.21 feet distant along the westerly line of such Pueblo lot 1265 from the intersection with the North line of La Jolla Scenic Drive South as described and dedicated as parcel 2 of City Council Resolution No. 216644 adopted August 25, 1976; thence North 39 degrees 59′24″ East 1147.62 feet to the center of such circle. The exact boundaries and legal description of the Mt. Soledad Veterans Memorial shall be determined by survey prepared by the Secretary of Defense. Upon acquisition

of the Mt. Soledad Veterans Memorial by the United States, the boundaries of the Memorial may not be expanded.

Approved August 14, 2006.

LEGISLATIVE HISTORY—H.R. 5683:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 19, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 109–273
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John Wooden Post Office Building".

Aug. 17, 2006
[H.R. 4646]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, shall be known and designated as the "Coach John Wooden Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Coach John Wooden Post Office Building".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 4646:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 5, considered and passed House.
Aug. 2, considered and passed Senate.

# Public Law 109–274
# 109th Congress

## An Act

Aug. 17, 2006
[H.R. 4811]

To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the "John Paul Hammerschmidt Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, shall be known and designated as the "John Paul Hammerschmidt Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "John Paul Hammerschmidt Post Office Building".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 4811:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 2, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 109–275
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the "Captain George A. Wood Post Office Building".

Aug. 17, 2006
[H.R. 4962]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CAPTAIN GEORGE A. WOOD POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, shall be known and designated as the "Captain George A. Wood Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Captain George A. Wood Post Office Building".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 4962:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 18, considered and passed House.
Aug. 2, considered and passed Senate.

# Public Law 109–276
# 109th Congress

## An Act

Aug. 17, 2006
[H.R. 5104]

To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the "Morris W. Milton Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MORRIS W. MILTON POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, shall be known and designated as the "Morris W. Milton Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Morris W. Milton Post Office".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 5104:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 19, considered and passed House.
Aug. 2, considered and passed Senate.

# Public Law 109–277
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the "Earl D. Hutto Post Office Building".

Aug. 17, 2006
[H.R. 5107]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, shall be known and designated as the "Earl D. Hutto Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Earl D. Hutto Post Office Building".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 5107 (S. 2719):

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 2, considered and passed House.
Aug. 2, considered and passed Senate.

# Public Law 109–278
# 109th Congress

## An Act

Aug. 17, 2006
[H.R. 5169]

To designate the facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, as the "Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WILFRED EDWARD "COUSIN WILLIE" SIEG, SR. POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1310 Highway 64 NW. in Ramsey, Indiana, shall be known and designated as the "Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 5169:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 12, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 109–279
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the "Sergeant Jacob Dan Dones Post Office".

Aug. 17, 2006
[H.R. 5540]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT JACOB DAN DONES POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, shall be known and designated as the "Sergeant Jacob Dan Dones Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sergeant Jacob Dan Dones Post Office".

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 5540:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 19, considered and passed House.
Aug. 2, considered and passed Senate.

# Public Law 109–280
# 109th Congress

## An Act

Aug. 17, 2006
[H.R. 4]

To provide economic security for all Americans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pension Protection Act of 2006.
29 USC 1001 note.

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Pension Protection Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act (other than so much of title XIV as follows section 1401) is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 101. Minimum funding standards.
Sec. 102. Funding rules for single-employer defined benefit pension plans.
Sec. 103. Benefit limitations under single-employer plans.
Sec. 104. Special rules for multiple employer plans of certain cooperatives.
Sec. 105. Temporary relief for certain PBGC settlement plans.
Sec. 106. Special rules for plans of certain government contractors.
Sec. 107. Technical and conforming amendments.

Subtitle B—Amendments to Internal Revenue Code of 1986

Sec. 111. Minimum funding standards.
Sec. 112. Funding rules for single-employer defined benefit pension plans.
Sec. 113. Benefit limitations under single-employer plans.
Sec. 114. Technical and conforming amendments.
Sec. 115. Modification of transition rule to pension funding requirements.
Sec. 116. Restrictions on funding of nonqualified deferred compensation plans by employers maintaining underfunded or terminated single-employer plans.

TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 201. Funding rules for multiemployer defined benefit plans.
Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.
Sec. 203. Measures to forestall insolvency of multiemployer plans.
Sec. 204. Withdrawal liability reforms.
Sec. 205. Prohibition on retaliation against employers exercising their rights to petition the Federal Government.
Sec. 206. Special rule for certain benefits funded under an agreement approved by the Pension Benefit Guaranty Corporation.

Subtitle B—Amendments to Internal Revenue Code of 1986

Sec. 211. Funding rules for multiemployer defined benefit plans.
Sec. 212. Additional funding rules for multiemployer plans in endangered or critical status.

Sec. 213. Measures to forestall insolvency of multiemployer plans.
Sec. 214. Exemption from excise taxes for certain multiemployer pension plans.

Subtitle C—Sunset of Additional Funding Rules

Sec. 221. Sunset of additional funding rules.

TITLE III—INTEREST RATE ASSUMPTIONS

Sec. 301. Extension of replacement of 30-year Treasury rates.
Sec. 302. Interest rate assumption for determination of lump sum distributions.
Sec. 303. Interest rate assumption for applying benefit limitations to lump sum distributions.

TITLE IV—PBGC GUARANTEE AND RELATED PROVISIONS

Sec. 401. PBGC premiums.
Sec. 402. Special funding rules for certain plans maintained by commercial airlines.
Sec. 403. Limitation on PBGC guarantee of shutdown and other benefits.
Sec. 404. Rules relating to bankruptcy of employer.
Sec. 405. PBGC premiums for small plans.
Sec. 406. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 407. Rules for substantial owner benefits in terminated plans.
Sec. 408. Acceleration of PBGC computation of benefits attributable to recoveries from employers.
Sec. 409. Treatment of certain plans where cessation or change in membership of a controlled group.
Sec. 410. Missing participants.
Sec. 411. Director of the Pension Benefit Guaranty Corporation.
Sec. 412. Inclusion of information in the PBGC annual report.

TITLE V—DISCLOSURE

Sec. 501. Defined benefit plan funding notice.
Sec. 502. Access to multiemployer pension plan information.
Sec. 503. Additional annual reporting requirements.
Sec. 504. Electronic display of annual report information.
Sec. 505. Section 4010 filings with the PBGC.
Sec. 506. Disclosure of termination information to plan participants.
Sec. 507. Notice of freedom to divest employer securities.
Sec. 508. Periodic pension benefit statements.
Sec. 509. Notice to participants or beneficiaries of blackout periods.

TITLE VI—INVESTMENT ADVICE, PROHIBITED TRANSACTIONS, AND FIDUCIARY RULES

Subtitle A—Investment Advice

Sec. 601. Prohibited transaction exemption for provision of investment advice.

Subtitle B—Prohibited Transactions

Sec. 611. Prohibited transaction rules relating to financial investments.
Sec. 612. Correction period for certain transactions involving securities and commodities.

Subtitle C—Fiduciary and Other Rules

Sec. 621. Inapplicability of relief from fiduciary liability during suspension of ability of participant or beneficiary to direct investments.
Sec. 622. Increase in maximum bond amount.
Sec. 623. Increase in penalties for coercive interference with exercise of ERISA rights.
Sec. 624. Treatment of investment of assets by plan where participant fails to exercise investment election.
Sec. 625. Clarification of fiduciary rules.

TITLE VII—BENEFIT ACCRUAL STANDARDS

Sec. 701. Benefit accrual standards.
Sec. 702. Regulations relating to mergers and acquisitions.

TITLE VIII—PENSION RELATED REVENUE PROVISIONS

Subtitle A—Deduction Limitations

Sec. 801. Increase in deduction limit for single-employer plans.
Sec. 802. Deduction limits for multiemployer plans.

Sec. 803. Updating deduction rules for combination of plans.

Subtitle B—Certain Pension Provisions Made Permanent

Sec. 811. Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent.
Sec. 812. Saver's credit.

Subtitle C—Improvements in Portability, Distribution, and Contribution Rules

Sec. 821. Clarifications regarding purchase of permissive service credit.
Sec. 822. Allow rollover of after-tax amounts in annuity contracts.
Sec. 823. Clarification of minimum distribution rules for governmental plans.
Sec. 824. Allow direct rollovers from retirement plans to Roth IRAs.
Sec. 825. Eligibility for participation in retirement plans.
Sec. 826. Modifications of rules governing hardships and unforseen financial emergencies.
Sec. 827. Penalty-free withdrawals from retirement plans for individuals called to active duty for at least 179 days.
Sec. 828. Waiver of 10 percent early withdrawal penalty tax on certain distributions of pension plans for public safety employees.
Sec. 829. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.
Sec. 830. Direct payment of tax refunds to individual retirement plans.
Sec. 831. Allowance of additional IRA payments in certain bankruptcy cases.
Sec. 832. Determination of average compensation for section 415 limits.
Sec. 833. Inflation indexing of gross income limitations on certain retirement savings incentives.

Subtitle D—Health and Medical Benefits

Sec. 841. Use of excess pension assets for future retiree health benefits and collectively bargained retiree health benefits.
Sec. 842. Transfer of excess pension assets to multiemployer health plan.
Sec. 843. Allowance of reserve for medical benefits of plans sponsored by bona fide associations.
Sec. 844. Treatment of annuity and life insurance contracts with a long-term care insurance feature.
Sec. 845. Distributions from governmental retirement plans for health and long-term care insurance for public safety officers.

Subtitle E—United States Tax Court Modernization

Sec. 851. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 852. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 853. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 854. Annuities to surviving spouses and dependent children of special trial judges of the Tax Court.
Sec. 855. Jurisdiction of Tax Court over collection due process cases.
Sec. 856. Provisions for recall.
Sec. 857. Authority for special trial judges to hear and decide certain employment status cases.
Sec. 858. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 859. Tax Court filing fee in all cases commenced by filing petition.
Sec. 860. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle F—Other Provisions

Sec. 861. Extension to all governmental plans of current moratorium on application of certain nondiscrimination rules applicable to State and local plans.
Sec. 862. Elimination of aggregate limit for usage of excess funds from black lung disability trusts.
Sec. 863. Treatment of death benefits from corporate-owned life insurance.
Sec. 864. Treatment of test room supervisors and proctors who assist in the administration of college entrance and placement exams.
Sec. 865. Grandfather rule for church plans which self-annuitize.
Sec. 866. Exemption for income from leveraged real estate held by church plans.
Sec. 867. Church plan rule.
Sec. 868. Gratuitous transfer for benefits of employees.

TITLE IX—INCREASE IN PENSION PLAN DIVERSIFICATION AND PARTICIPATION AND OTHER PENSION PROVISIONS

Sec. 901. Defined contribution plans required to provide employees with freedom to invest their plan assets.

Sec. 902. Increasing participation through automatic contribution arrangements.
Sec. 903. Treatment of eligible combined defined benefit plans and qualified cash or deferred arrangements.
Sec. 904. Faster vesting of employer nonelective contributions.
Sec. 905. Distributions during working retirement.
Sec. 906. Treatment of certain pension plans of Indian tribal governments.

TITLE X—PROVISIONS RELATING TO SPOUSAL PENSION PROTECTION

Sec. 1001. Regulations on time and order of issuance of domestic relations orders.
Sec. 1002. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
Sec. 1003. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
Sec. 1004. Requirement for additional survivor annuity option.

TITLE XI—ADMINISTRATIVE PROVISIONS

Sec. 1101. Employee plans compliance resolution system.
Sec. 1102. Notice and consent period regarding distributions.
Sec. 1103. Reporting simplification.
Sec. 1104. Voluntary early retirement incentive and employment retention plans maintained by local educational agencies and other entities.
Sec. 1105. No reduction in unemployment compensation as a result of pension rollovers.
Sec. 1106. Revocation of election relating to treatment as multiemployer plan.
Sec. 1107. Provisions relating to plan amendments.

TITLE XII—PROVISIONS RELATING TO EXEMPT ORGANIZATIONS

Subtitle A—Charitable Giving Incentives

Sec. 1201. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 1202. Extension of modification of charitable deduction for contributions of food inventory.
Sec. 1203. Basis adjustment to stock of S corporation contributing property.
Sec. 1204. Extension of modification of charitable deduction for contributions of book inventory.
Sec. 1205. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 1206. Encouragement of contributions of capital gain real property made for conservation purposes.
Sec. 1207. Excise taxes exemption for blood collector organizations.

Subtitle B—Reforming Exempt Organizations

PART 1—GENERAL REFORMS

Sec. 1211. Reporting on certain acquisitions of interests in insurance contracts in which certain exempt organizations hold an interest.
Sec. 1212. Increase in penalty excise taxes relating to public charities, social welfare organizations, and private foundations.
Sec. 1213. Reform of charitable contributions of certain easements in registered historic districts and reduced deduction for portion of qualified conservation contribution attributable to rehabilitation credit.
Sec. 1214. Charitable contributions of taxidermy property.
Sec. 1215. Recapture of tax benefit for charitable contributions of exempt use property not used for an exempt use.
Sec. 1216. Limitation of deduction for charitable contributions of clothing and household items.
Sec. 1217. Modification of recordkeeping requirements for certain charitable contributions.
Sec. 1218. Contributions of fractional interests in tangible personal property.
Sec. 1219. Provisions relating to substantial and gross overstatements of valuations.
Sec. 1220. Additional standards for credit counseling organizations.
Sec. 1221. Expansion of the base of tax on private foundation net investment income.
Sec. 1222. Definition of convention or association of churches.
Sec. 1223. Notification requirement for entities not currently required to file.
Sec. 1224. Disclosure to State officials relating to exempt organizations.
Sec. 1225. Public disclosure of information relating to unrelated business income tax returns.
Sec. 1226. Study on donor advised funds and supporting organizations.

PART 2—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

Sec. 1231. Excise taxes relating to donor advised funds.
Sec. 1232. Excess benefit transactions involving donor advised funds and sponsoring organizations.
Sec. 1233. Excess business holdings of donor advised funds.
Sec. 1234. Treatment of charitable contribution deductions to donor advised funds.
Sec. 1235. Returns of, and applications for recognition by, sponsoring organizations.

PART 3—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

Sec. 1241. Requirements for supporting organizations.
Sec. 1242. Excess benefit transactions involving supporting organizations.
Sec. 1243. Excess business holdings of supporting organizations.
Sec. 1244. Treatment of amounts paid to supporting organizations by private foundations.
Sec. 1245. Returns of supporting organizations.

TITLE XIII—OTHER PROVISIONS

Sec. 1301. Technical corrections relating to mine safety.
Sec. 1302. Going-to-the-sun road.
Sec. 1303. Exception to the local furnishing requirement of the tax-exempt bond rules.
Sec. 1304. Qualified tuition programs.

TITLE XIV—TARIFF PROVISIONS

Sec. 1401. Short title; table of contents.

# TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

## Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

**SEC. 101. MINIMUM FUNDING STANDARDS.**

(a) REPEAL OF EXISTING FUNDING RULES.—Sections 302 through 308 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082 through 1086) are repealed.

(b) NEW MINIMUM FUNDING STANDARDS.—Part 3 of subtitle B of title I of such Act (as amended by subsection (a)) is amended by inserting after section 301 the following new section:

29 USC 1082.

**"SEC. 302. MINIMUM FUNDING STANDARDS.**

"(a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—A plan to which this part applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 303 for the plan for the plan year,

"(B) in the case of a money purchase plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

"(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 304 as of the end of the plan year.

"(b) LIABILITY FOR CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under paragraphs (3) and (4) of section 303(j)) shall be paid by the employer responsible for making contributions to or under the plan.

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

"(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

"(A) IN GENERAL.—If—

"(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan is) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

"(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary of the Treasury may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary of the Treasury shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

"(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

"(i) in the case of a single-employer plan, the minimum required contribution under section 303 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 303(e), and

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 304(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 304(b)(2)(C).

"(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary of the Treasury may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business

hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales and profits of the industry concerned are depressed or declining, and

"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this part, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary of the Treasury and not satisfied by employer contributions.

"(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary of the Treasury shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

Notice.

"(I) notice of the completed application for any waiver or modification, and

Deadline.

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4)) representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1986.

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the aggregate unpaid minimum required contributions for the plan year and all preceding plan years, and

"(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 303(e)(2),

is less than $1,000,000.

"(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

"(iii) UNPAID MINIMUM REQUIRED CONTRIBUTION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 303 for the plan year which is not paid on or before the due date (as determined under section 303(j)(1)) for the plan year.

"(II) ORDERING RULE.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 303 for the plan year.

"(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

"(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a single-employer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year. Deadline.

"(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if such Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

"(6) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary of the Treasury shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

"(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 304(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

"(i) the Secretary of the Treasury determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

"(ii) only repeals an amendment described in subsection (d)(2), or

"(iii) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

"(8) CROSS REFERENCE.—For corresponding duties of the Secretary of the Treasury with regard to implementation of the Internal Revenue Code of 1986, see section 412(c) of such Code.

"(d) MISCELLANEOUS RULES.—

"(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary of the Treasury.

"(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

Deadlines.

"(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

"(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

"(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary of the Treasury notifying him of such amendment and such Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary of the Treasury unless such Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (c)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection (c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 304(d)) is unavailable or inadequate.

"(3) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the items relating to sections 302 through 308 and inserting the following new item:

"Sec. 302. Minimum funding standards.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2007. 29 USC 1082 note.

**SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.**

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 101 of this Act) is amended by inserting after section 302 the following new section:

**"SEC. 303. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.** 29 USC 1083.

"(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 302(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a single-employer plan—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e); or

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) equals or exceeds

the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by such excess.

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total (not less than zero) of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

"(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(C) SEGMENT RATES.—In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is—

"(A) the funding shortfall of such plan for such plan year, minus

"(B) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments and waiver amortization installments which have been determined for such plan year and any succeeding plan year with respect to the shortfall amortization bases and waiver amortization bases of the plan for any plan year preceding such plan year.

"(4) FUNDING SHORTFALL.—For purposes of this section, the funding shortfall of a plan for any plan year is the excess (if any) of—

"(A) the funding target of the plan for the plan year, over

"(B) the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) for the plan year which are held by the plan on the valuation date.

"(5) EXEMPTION FROM NEW SHORTFALL AMORTIZATION BASE.—

"(A) IN GENERAL.—In any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(A)) is equal to or greater than the funding target of the plan for the plan year, the shortfall amortization base of the plan for such plan year shall be zero.

"(B) TRANSITION RULE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), in the case of plan years beginning after 2007 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year for purposes of subparagraph (A).

"(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

| **"In the case of a plan year beginning in calendar year:** | **The applicable percentage is** |
|---|---|
| 2008 | 92 |
| 2009 | 94 |
| 2010 | 96. |

"(iii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2008 unless the shortfall amortization base for each of the preceding years beginning after 2007 was zero (determined after application of this subparagraph).

"(iv) TRANSITION RELIEF NOT AVAILABLE FOR NEW OR DEFICIT REDUCTION PLANS.—Clause (i) shall not apply to a plan—

"(I) which was not in effect for a plan year beginning in 2007, or

"(II) which was in effect for a plan year beginning in 2007 and which was subject to section 302(d) (as in effect for plan years beginning in 2007), determined after the application of paragraphs (6) and (9) thereof.

"(6) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

"(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

"(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year (as reduced under subsection (f)(4)(B)), bears to

"(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

"(e) WAIVER AMORTIZATION CHARGE.—

"(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

"(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

"(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 302(c).

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization bases for all preceding plan years (and all waiver amortization installments determined with respect to such bases) shall be reduced to zero.

"(f) REDUCTION OF MINIMUM REQUIRED CONTRIBUTION BY PREFUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—

"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PREFUNDING BALANCE.—The plan sponsor of a single-employer plan may elect to maintain a prefunding balance.

"(B) FUNDING STANDARD CARRYOVER BALANCE.—

"(i) IN GENERAL.—In the case of a single-employer plan described in clause (ii), the plan sponsor may elect to maintain a funding standard carryover balance, until such balance is reduced to zero.

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2007.—A plan is described in this clause if the plan—

"(I) was in effect for a plan year beginning in 2007, and

"(II) had a positive balance in the funding standard account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

"(2) APPLICATION OF BALANCES.—A prefunding balance and a funding standard carryover balance maintained pursuant to this paragraph—

"(A) shall be available for crediting against the minimum required contribution, pursuant to an election under paragraph (3),

"(B) shall be applied as a reduction in the amount treated as the value of plan assets for purposes of this section, to the extent provided in paragraph (4), and

"(C) may be reduced at any time, pursuant to an election under paragraph (5).

"(3) ELECTION TO APPLY BALANCES AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the prefunding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced as of the first day of the plan year by the amount so credited by the plan sponsor. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 302(c).

"(B) COORDINATION WITH FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no amount of the prefunding balance of such plan may be credited under this paragraph in reducing the minimum required contribution.

"(C) LIMITATION FOR UNDERFUNDED PLANS.—The preceding provisions of this paragraph shall not apply for any plan year if the ratio (expressed as a percentage) which—

"(i) the value of plan assets for the preceding plan year (as reduced under paragraph (4)(C)), bears to

"(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent. In the case of plan years beginning in 2008, the ratio under this subparagraph may be determined using such methods of estimation as the Secretary of the Treasury may prescribe.

"(4) EFFECT OF BALANCES ON AMOUNTS TREATED AS VALUE OF PLAN ASSETS.—In the case of any plan maintaining a prefunding balance or a funding standard carryover balance pursuant to this subsection, the amount treated as the value of plan assets shall be deemed to be such amount, reduced as provided in the following subparagraphs:

"(A) APPLICABILITY OF SHORTFALL AMORTIZATION BASE.—For purposes of subsection (c)(5), the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance, but only if an election under paragraph (2) applying any portion of the prefunding balance in reducing the minimum required contribution is in effect for the plan year.

"(B) DETERMINATION OF EXCESS ASSETS, FUNDING SHORTFALL, AND FUNDING TARGET ATTAINMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subsections (a), (c)(4)(B), and (d)(2)(A), the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance and the funding standard carryover balance.

"(ii) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS WITH PBGC.—For purposes of subsection (c)(4)(B), the value of plan assets shall not be deemed to be reduced for a plan year by the amount of the specified balance if, with respect to such balance, there is in effect for a plan year a binding written agreement with the Pension Benefit Guaranty Corporation which provides that such balance is not available to reduce the minimum required contribution for the plan year. For purposes of the preceding sentence, the term 'specified balance' means the prefunding balance or the funding standard carryover balance, as the case may be.

"(C) AVAILABILITY OF BALANCES IN PLAN YEAR FOR CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—For purposes of paragraph (3)(C)(i) of this subsection, the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance.

"(5) ELECTION TO REDUCE BALANCE PRIOR TO DETERMINATIONS OF VALUE OF PLAN ASSETS AND CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The plan sponsor may elect to reduce by any amount the balance of the prefunding balance and the funding standard carryover balance for any plan year (but not below zero). Such reduction shall be effective prior to any determination of the value of plan assets for such plan year under this section and application of the balance in reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2).

"(B) COORDINATION BETWEEN PREFUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no election may be made under subparagraph (A) with respect to the prefunding balance.

"(6) PREFUNDING BALANCE.—

"(A) IN GENERAL.—A prefunding balance maintained by a plan shall consist of a beginning balance of zero, increased and decreased to the extent provided in subparagraphs (B) and (C), and adjusted further as provided in paragraph (8).

"(B) INCREASES.—

"(i) IN GENERAL.—As of the first day of each plan year beginning after 2008, the prefunding balance of a plan shall be increased by the amount elected by the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

"(I) the aggregate total of employer contributions to the plan for the preceding plan year, over—

"(II) the minimum required contribution for such preceding plan year.

"(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

"(iii) CERTAIN CONTRIBUTIONS NECESSARY TO AVOID BENEFIT LIMITATIONS DISREGARDED.—The excess described in clause (i) with respect to any preceding plan year shall be reduced (but not below zero) by the amount of contributions an employer would be required to make under paragraph (1), (2), or (4) of section 206(g) to avoid a benefit limitation which would otherwise be imposed under such paragraph for the preceding plan year. Any contribution which may be taken into account in satisfying the requirements of more than 1 of such paragraphs shall be taken into account only once for purposes of this clause.

"(C) DECREASE.—The prefunding balance of a plan shall be decreased (but not below zero) by—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

"(7) FUNDING STANDARD CARRYOVER BALANCE.—

"(A) IN GENERAL.—A funding standard carryover balance maintained by a plan shall consist of a beginning balance determined under subparagraph (B), decreased to the extent provided in subparagraph (C), and adjusted further as provided in paragraph (8).

"(B) BEGINNING BALANCE.—The beginning balance of the funding standard carryover balance shall be the positive balance described in paragraph (1)(B)(ii)(II).

"(C) DECREASES.—The funding standard carryover balance of a plan shall be decreased (but not below zero) by—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

Regulations.

"(8) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance or the funding standard carryover balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary of the Treasury, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

Regulations.

"(9) ELECTIONS.—Elections under this subsection shall be made at such times, and in such form and manner, as shall be prescribed in regulations of the Secretary of the Treasury.

"(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

"(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

"(2) VALUATION DATE.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans which are single-employer plans and are maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

"(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

"(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

"(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

"(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of the averaging of fair market values, but only if such method—

"(i) is permitted under regulations prescribed by the Secretary of the Treasury,

"(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 25th month preceding the month in which the valuation date occurs and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month), and

"(iii) does not result in a determination of the value of plan assets which, at any time, is lower than 90 percent or greater than 110 percent of the fair market value of such assets at such time.

Any such averaging shall be adjusted for contributions and distributions (as provided by the Secretary of the Treasury).

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

"(A) PRIOR YEAR CONTRIBUTIONS.—If—

"(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

"(ii) the contribution is for a preceding plan year, the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2008, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

"(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

"(i) such contributions, and

"(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

"(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

"(2) INTEREST RATES.—

"(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

"(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target and normal cost of a plan for any plan year, the interest rate used in determining the present value of the benefits of the plan shall be—

"(i) in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

"(ii) in the case of benefits reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

"(iii) in the case of benefits reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

"(C) SEGMENT RATES.—For purposes of this paragraph—

"(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

"(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 15-year period beginning at the end of the period described in clause (i).

"(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

"(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary of the Treasury for such month and which reflects the average, for the 24-month period ending with the month preceding such month, of monthly yields on investment grade corporate bonds with varying maturities and that are in the top 3 quality levels available.

"(ii) ELECTION TO USE YIELD CURVE.—Solely for purposes of determining the minimum required contribution under this section, the plan sponsor may, in lieu of the segment rates determined under subparagraph (C), elect to use interest rates under the corporate bond yield curve. For purposes of the preceding sentence such curve shall be determined without regard to the 24-month averaging described in clause (i). Such election, once made, may be revoked only with the consent of the Secretary of the Treasury.

"(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary of the Treasury.

"(F) PUBLICATION REQUIREMENTS.—The Secretary of the Treasury shall publish for each month the corporate bond yield curve (and the corporate bond yield curve reflecting the modification described in section 205(g)(3)(B)(iii)(I)) for such month and each of the rates determined under subparagraph (B) for such month. The Secretary of the Treasury shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2008 or 2009, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

"(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

"(II) the product of the rate determined under the rules of section 302(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2007), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2008 and 66⅔ percent for plan years beginning in 2009.

"(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the first plan year of the plan begins after December 31, 2007.

"(iv) ELECTION.—The plan sponsor may elect not to have this subparagraph apply. Such election, once made, may be revoked only with the consent of the Secretary of the Treasury.

Regulations.

"(3) MORTALITY TABLES.—

"(A) IN GENERAL.—Except as provided in subparagraph (C) or (D), the Secretary of the Treasury shall by regulation prescribe mortality tables to be used in determining any present value or making any computation under this section. Such tables shall be based on the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary of the Treasury shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(B) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

"(C) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary of the Treasury, a mortality table which meets the requirements of clause (iii) shall be used in determining any present value or making any computation under this section during the period of consecutive plan years (not to exceed 10) specified in the request.

"(ii) EARLY TERMINATION OF PERIOD.—Notwithstanding clause (i), a mortality table described in clause (i) shall cease to be in effect as of the earliest of—

"(I) the date on which there is a significant change in the participants in the plan by reason of a plan spinoff or merger or otherwise, or

"(II) the date on which the plan actuary determines that such table does not meet the requirements of clause (iii).

"(iii) REQUIREMENTS.—A mortality table meets the requirements of this clause if—

"(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II), and

"(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience.

"(iv) ALL PLANS IN CONTROLLED GROUP MUST USE SEPARATE TABLE.—Except as provided by the Secretary of the Treasury, a plan sponsor may not use a mortality table under this subparagraph for any plan maintained by the plan sponsor unless—

"(I) a separate mortality table is established and used under this subparagraph for each other plan maintained by the plan sponsor and if the plan sponsor is a member of a controlled group, each member of the controlled group, and

"(II) the requirements of clause (iii) are met separately with respect to the table so established for each such plan, determined by only taking into account the participants of such plan, the

time such plan has been in existence, and the actual experience of such plan.

"(v) DEADLINE FOR SUBMISSION AND DISPOSITION OF APPLICATION.—

"(I) SUBMISSION.—The plan sponsor shall submit a mortality table to the Secretary of the Treasury for approval under this subparagraph at least 7 months before the 1st day of the period described in clause (i).

"(II) DISPOSITION.—Any mortality table submitted to the Secretary of the Treasury for approval under this subparagraph shall be treated as in effect as of the 1st day of the period described in clause (i) unless the Secretary of the Treasury, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (iii). The 180-day period shall be extended upon mutual agreement of the Secretary of the Treasury and the plan sponsor.

"(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

"(i) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary of the Treasury shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder. Applicability.

"(iii) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

"(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

"(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

"(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such

optional form of benefits, which are different from those specified in this subsection.

"(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary of the Treasury.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

"(i) the plan is a single-employer plan to which title IV applies,

"(ii) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed $50,000,000, and

"(iii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

"(i) SPECIAL RULES FOR AT-RISK PLANS.—

"(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

"(A) IN GENERAL.—In the case of a plan which is in at-risk status for a plan year, the funding target of the plan for the plan year shall be equal to the sum of—

"(i) the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B), and

"(ii) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor determined under subparagraph (C).

"(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

"(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 10 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk funding target and at-risk target normal cost are being determined.

"(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of benefits.

"(C) LOADING FACTOR.—The loading factor applied with respect to a plan under this paragraph for any plan year is the sum of—

"(i) $700, times the number of participants in the plan, plus

"(ii) 4 percent of the funding target (determined without regard to this paragraph) of the plan for the plan year.

"(2) TARGET NORMAL COST OF AT-RISK PLANS.—In the case of a plan which is in at-risk status for a plan year, the target normal cost of the plan for such plan year shall be equal to the sum of—

"(A) the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B), plus

"(B) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor equal to 4 percent of the target normal cost (determined without regard to this paragraph) of the plan for the plan year.

"(3) MINIMUM AMOUNT.—In no event shall—

"(A) the at-risk funding target be less than the funding target, as determined without regard to this subsection, or

"(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

"(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection—

"(A) IN GENERAL.—A plan is in at-risk status for a plan year if—

"(i) the funding target attainment percentage for the preceding plan year (determined under this section without regard to this subsection) is less than 80 percent, and

"(ii) the funding target attainment percentage for the preceding plan year (determined under this section by using the additional actuarial assumptions described in paragraph (1)(B) in computing the funding target) is less than 70 percent.

"(B) TRANSITION RULE.—In the case of plan years beginning in 2008, 2009, and 2010, subparagraph (A)(i) shall be applied by substituting the following percentages for '80 percent': Applicability.

"(i) 65 percent in the case of 2008.

"(ii) 70 percent in the case of 2009.

"(iii) 75 percent in the case of 2010.

In the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year under subparagraph (A)(ii) may be determined using such methods of estimation as the Secretary of the Treasury may provide.

"(C) SPECIAL RULE FOR EMPLOYEES OFFERED EARLY RETIREMENT IN 2006.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the additional actuarial assumptions described

in paragraph (1)(B) shall not be taken into account with respect to any employee if—

"(I) such employee is employed by a specified automobile manufacturer,

Deadline.

"(II) such employee is offered a substantial amount of additional cash compensation, substantially enhanced retirement benefits under the plan, or materially reduced employment duties on the condition that by a specified date (not later than December 31, 2010) the employee retires (as defined under the terms of the plan),

Deadline.

"(III) such offer is made during 2006 and pursuant to a bona fide retirement incentive program and requires, by the terms of the offer, that such offer can be accepted not later than a specified date (not later than December 31, 2006), and

"(IV) such employee does not elect to accept such offer before the specified date on which the offer expires.

"(ii) SPECIFIED AUTOMOBILE MANUFACTURER.—For purposes of clause (i), the term 'specified automobile manufacturer' means—

"(I) any manufacturer of automobiles, and

"(II) any manufacturer of automobile parts which supplies such parts directly to a manufacturer of automobiles and which, after a transaction or series of transactions ending in 1999, ceased to be a member of a controlled group which included such manufacturer of automobiles.

"(5) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

"(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

"(i) the amount determined under this section without regard to this subsection, plus

"(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

"(B) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

| **"If the consecutive number of years (including the plan year) the plan is in at-risk status is—** | **The transition percentage is—** |
|---|---|
| 1 | 20 |
| 2 | 40 |
| 3 | 60 |
| 4 | 80. |

"(C) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2008 shall not be taken into account.

"(6) SMALL PLAN EXCEPTION.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan shall not be treated as in at-risk status for the plan year. For purposes of this paragraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account and the rules of subsection (g)(2)(C) shall apply.

Applicability.

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

"(2) INTEREST.—Any payment required under paragraph (1) for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

"(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

"(A) FAILURE TO TIMELY MAKE REQUIRED INSTALLMENT.—In any case in which the plan has a funding shortfall for the preceding plan year, the employer maintaining the plan shall make the required installments under this paragraph and if the employer fails to pay the full amount of a required installment for the plan year, then the amount of interest charged under paragraph (2) on the underpayment for the period of underpayment shall be determined by using a rate of interest equal to the rate otherwise used under paragraph (2) plus 5 percentage points.

"(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

"(i) AMOUNT.—The amount of the underpayment shall be the excess of—

"(I) the required installment, over

"(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

"(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

"(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

| "In the case of the following required installment: | The due date is: |
|---|---|
| 1st | April 15 |
| 2nd | July 15 |
| 3rd | October 15 |
| 4th | January 15 of the following year. |

"(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

"(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

"(I) 90 percent of the minimum required contribution (determined without regard to this subsection) to the plan for the plan year under this section, or

"(II) 100 percent of the minimum required contribution (determined without regard to this subsection or to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

"(E) FISCAL YEARS AND SHORT YEARS.—

"(i) FISCAL YEARS.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

"(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

"(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan (other than a plan described in subsection (g)(2)(B)) which—

"(i) is required to pay installments under paragraph (3) for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

"(I) the base amount with respect to such quarter, over

"(II) the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funding target attainment percentage for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other

assets as specified by the Secretary of the Treasury in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph.

"(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this subsection applies (as provided under paragraph (2)), if—

"(A) any person fails to make a contribution payment required by section 302 and this section before the due date for such payment, and

"(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a single-employer plan covered under section 4021 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 302 for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

Deadline.

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (j).

"(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(b) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act (as amended by section 101) is amended by inserting after the item relating to section 302 the following new item:

"Sec. 303. Minimum funding standards for single-employer defined benefit pension plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2007. 29 USC 1083 note.

**SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.**

(a) FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(g) FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—

"(1) FUNDING-BASED LIMITATION ON SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If a participant of a defined benefit plan which is a single-employer plan is entitled to an unpredictable contingent event benefit payable with respect to any event occurring during any plan year, the plan shall provide that such benefit may not be provided if the adjusted funding target attainment percentage for such plan year—

"(i) is less than 60 percent, or

"(ii) would be less than 60 percent taking into account such occurrence.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan Effective date.

sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

"(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the occurrence referred to in subparagraph (A), and

"(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in a funding target attainment percentage of 60 percent.

"(C) UNPREDICTABLE CONTINGENT EVENT.—For purposes of this paragraph, the term 'unpredictable contingent event benefit' means any benefit payable solely by reason of—

"(i) a plant shutdown (or similar event, as determined by the Secretary of the Treasury), or

"(ii) an event other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

"(2) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

"(A) IN GENERAL.—No amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage for such plan year is—

"(i) less than 80 percent, or

"(ii) would be less than 80 percent taking into account such amendment.

Effective date.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first day of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

"(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the amendment, and

"(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in an adjusted funding target attainment percentage of 80 percent.

"(C) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Subparagraph (A) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

"(3) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

"(A) FUNDING PERCENTAGE LESS THAN 60 PERCENT.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted

funding target attainment percentage for a plan year is less than 60 percent, the plan may not pay any prohibited payment after the valuation date for the plan year.

Certification.

"(B) BANKRUPTCY.—A defined benefit plan which is a single-employer plan shall provide that, during any period in which the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, the plan may not pay any prohibited payment. The preceding sentence shall not apply on or after the date on which the enrolled actuary of the plan certifies that the adjusted funding target attainment percentage of such plan is not less than 100 percent.

"(C) LIMITED PAYMENT IF PERCENTAGE AT LEAST 60 PERCENT BUT LESS THAN 80 PERCENT.—

"(i) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is 60 percent or greater but less than 80 percent, the plan may not pay any prohibited payment after the valuation date for the plan year to the extent the amount of the payment exceeds the lesser of—

"(I) 50 percent of the amount of the payment which could be made without regard to this subsection, or

"(II) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 205(g)) of the maximum guarantee with respect to the participant under section 4022.

"(ii) ONE-TIME APPLICATION.—

"(I) IN GENERAL.—The plan shall also provide that only 1 prohibited payment meeting the requirements of clause (i) may be made with respect to any participant during any period of consecutive plan years to which the limitations under either subparagraph (A) or (B) or this subparagraph applies.

"(II) TREATMENT OF BENEFICIARIES.—For purposes of this clause, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 206(d)(3)(K)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under clause (i) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 206(d)(3)(B)(i)) provides otherwise.

"(D) EXCEPTION.—This paragraph shall not apply to any plan for any plan year if the terms of such plan (as in effect for the period beginning on September 1, 2005, and ending with such plan year) provide for no benefit accruals with respect to any participant during such period.

"(E) PROHIBITED PAYMENT.—For purpose of this paragraph, the term 'prohibited payment' means—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)) occurs during any period a limitation under subparagraph (A) or (B) is in effect,

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

Regulations.

"(iii) any other payment specified by the Secretary of the Treasury by regulations.

"(4) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—

"(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, benefit accruals under the plan shall cease as of the valuation date for the plan year.

Effective date.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to the amount sufficient to result in an adjusted funding target attainment percentage of 60 percent.

"(5) RULES RELATING TO CONTRIBUTIONS REQUIRED TO AVOID BENEFIT LIMITATIONS.—

"(A) SECURITY MAY BE PROVIDED.—

"(i) IN GENERAL.—For purposes of this subsection, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of clause (ii).

"(ii) FORM OF SECURITY.—The security required under clause (i) shall consist of—

"(I) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act,

"(II) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(III) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

"(iii) ENFORCEMENT.—Any security provided under clause (i) may be perfected and enforced at any time after the earlier of—

"(I) the date on which the plan terminates,

"(II) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 303(j), or

"(III) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

"(iv) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary of the Treasury may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

"(B) PREFUNDING BALANCE OR FUNDING STANDARD CARRYOVER BALANCE MAY NOT BE USED.—No prefunding balance or funding standard carryover balance under section 303(f) may be used under paragraph (1), (2), or (4) to satisfy any payment an employer may make under any such paragraph to avoid or terminate the application of any limitation under such paragraph.

"(C) DEEMED REDUCTION OF FUNDING BALANCES.—

"(i) IN GENERAL.—Subject to clause (iii), in any case in which a benefit limitation under paragraph (1), (2), (3), or (4) would (but for this subparagraph and determined without regard to paragraph (1)(B), (2)(B), or (4)(B)) apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this Act as having made an election under section 303(f) to reduce the prefunding balance or funding standard carryover balance by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

"(ii) EXCEPTION FOR INSUFFICIENT FUNDING BALANCES.—Clause (i) shall not apply with respect to a benefit limitation for any plan year if the application of clause (i) would not result in the benefit limitation not applying for such plan year.

"(iii) RESTRICTIONS OF CERTAIN RULES TO COLLECTIVELY BARGAINED PLANS.—With respect to any benefit limitation under paragraph (1), (2), or (4), clause (i) shall only apply in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers. Applicability.

"(6) NEW PLANS.—Paragraphs (1), (2), and (4) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this paragraph, the reference in this paragraph to a plan shall include a reference to any predecessor plan.

"(7) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS.—

"(A) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under paragraph (1), (2), (3), or (4) has been applied to a plan with respect to the plan year preceding the current plan year, the adjusted funding target attainment percentage of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding Certification.

target attainment percentage of the plan for the current plan year.

"(B) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no certification of the adjusted funding target attainment percentage for the current plan year is made with respect to the plan before the first day of the 10th month of such year, for purposes of paragraphs (1), (2), (3), and (4), such first day shall be deemed, for purposes of such paragraph, to be the valuation date of the plan for the current plan year and the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of such first day.

"(C) PRESUMPTION OF UNDERFUNDING AFTER 4TH MONTH FOR NEARLY UNDERFUNDED PLANS.—In any case in which—

"(i) a benefit limitation under paragraph (1), (2), (3), or (4) did not apply to a plan with respect to the plan year preceding the current plan year, but the adjusted funding target attainment percentage of the plan for such preceding plan year was not more than 10 percentage points greater than the percentage which would have caused such paragraph to apply to the plan with respect to such preceding plan year, and

"(ii) as of the first day of the 4th month of the current plan year, the enrolled actuary of the plan has not certified the actual adjusted funding target attainment percentage of the plan for the current plan year,

until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such paragraph, to be the valuation date of the plan for the current plan year and the adjusted funding target attainment percentage of the plan as of such first day shall, for purposes of such paragraph, be presumed to be equal to 10 percentage points less than the adjusted funding target attainment percentage of the plan for such preceding plan year.

"(8) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this part—

Effective date.

"(A) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of the period for which any limitation of payment or accrual of benefits under paragraph (3) or (4) applies.

"(B) TREATMENT OF AFFECTED BENEFITS.—Nothing in this paragraph shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this subsection.

"(9) TERMS RELATING TO FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 303(d)(2).

"(B) ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'adjusted funding target attainment

percentage' means the funding target attainment percentage which is determined under subparagraph (A) by increasing each of the amounts under subparagraphs (A) and (B) of section 303(d)(2) by the aggregate amount of purchases of annuities for employees other than highly compensated employees (as defined in section 414(q) of the Internal Revenue Code of 1986) which were made by the plan during the preceding 2 plan years.

"(C) APPLICATION TO PLANS WHICH ARE FULLY FUNDED WITHOUT REGARD TO REDUCTIONS FOR FUNDING BALANCES.—

"(i) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this subparagraph and without regard to the reduction in the value of assets under section 303(f)(4)), the funding target attainment percentage for purposes of subparagraphs (A) and (B) shall be determined without regard to such reduction.

"(ii) TRANSITION RULE.—Clause (i) shall be applied to plan years beginning after 2007 and before 2011 by substituting for '100 percent' the applicable percentage determined in accordance with the following table:

| "In the case of a plan year beginning in calendar year: | The applicable percentage is |
|---|---|
| 2008 | 92 |
| 2009 | 94 |
| 2010 | 96. |

"(iii) LIMITATION.—Clause (ii) shall not apply with respect to any plan year after 2008 unless the funding target attainment percentage (determined without regard to this subparagraph) of the plan for each preceding plan year after 2007 was not less than the applicable percentage with respect to such preceding plan year determined under clause (ii).

"(10) SPECIAL RULE FOR 2008.—For purposes of this subsection, in the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year may be determined using such methods of estimation as the Secretary of the Treasury may provide.".

(b) NOTICE REQUIREMENT.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (j) as subsection (k); and

(B) by inserting after subsection (i) the following new subsection:

"(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days— Deadline.

"(1) after the plan has become subject to a restriction described in paragraph (1) or (3) of section 206(g)),

"(2) in the case of a plan to which section 206(g)(4) applies, after the valuation date for the plan year described in section 206(g)(4)(B) for which the plan's adjusted funding target attainment percentage for the plan year is less than 60 percent

(or, if earlier, the date such percentage is deemed to be less than 60 percent under section 206(g)(7)), and

"(3) at such other time as may be determined by the Secretary of the Treasury.

The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 302(b)(7)(F)(iv)" and inserting "section 101(j) or 302(b)(7)(F)(iv)".

29 USC 1021 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2008, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

26 USC 401 note.

**SEC. 104. SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS OF CERTAIN COOPERATIVES.**

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was an eligible cooperative plan for its plan year which includes such date, the amendments made by this subtitle and subtitle B shall not apply to plan years beginning before the earlier of—

(1) the first plan year for which the plan ceases to be an eligible cooperative plan, or

(2) January 1, 2017.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) to an eligible cooperative plan for plan years beginning after December 31, 2007, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible cooperative

plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

(1) rural cooperatives (as defined in section 401(k)(7)(B) of such Code without regard to clause (iv) thereof), or

(2) organizations which are—

(A) cooperative organizations described in section 1381(a) of such Code which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

(B) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subparagraph (A).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) of the Employee Retirement Income Security Act of 1974 and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v) of such Act.

**SEC. 105. TEMPORARY RELIEF FOR CERTAIN PBGC SETTLEMENT PLANS.** 26 USC 401 note.

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was a PBGC settlement plan as of such date, the amendments made by this subtitle and subtitle B shall not apply to plan years beginning before January 1, 2014.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B), to a PBGC settlement plan for plan years beginning after December 31, 2007, and before January 1, 2014, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) PBGC SETTLEMENT PLAN.—For purposes of this section, the term "PBGC settlement plan" means a defined benefit plan (other than a multiemployer plan) to which section 302 of such Act and section 412 of such Code apply and—

(1) which was sponsored by an employer which was in bankruptcy, giving rise to a claim by the Pension Benefit Guaranty Corporation of not greater than $150,000,000, and the sponsorship of which was assumed by another employer that was not a member of the same controlled group as the bankrupt sponsor and the claim of the Pension Benefit Guaranty Corporation was settled or withdrawn in connection with the assumption of the sponsorship, or

(2) which, by agreement with the Pension Benefit Guaranty Corporation, was spun off from a plan subsequently terminated by such Corporation under section 4042 of the Employee Retirement Income Security Act of 1974.

**SEC. 106. SPECIAL RULES FOR PLANS OF CERTAIN GOVERNMENT CONTRACTORS.** 26 USC 401 note.

(a) GENERAL RULE.—Except as provided in this section, if a plan is an eligible government contractor plan, this subtitle and subtitle B shall not apply to plan years beginning before the earliest of—

(1) the first plan year for which the plan ceases to be an eligible government contractor plan,

(2) the effective date of the Cost Accounting Standards Pension Harmonization Rule, or

(3) January 1, 2011.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) to an eligible government contractor plan for plan years beginning after December 31, 2007, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) ELIGIBLE GOVERNMENT CONTRACTOR PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible government contractor plan if it is maintained by a corporation or a member of the same affiliated group (as defined by section 1504(a) of the Internal Revenue Code of 1986), whose primary source of revenue is derived from business performed under contracts with the United States that are subject to the Federal Acquisition Regulations (chapter 1 of title 48, CFR) and that are also subject to the Defense Federal Acquisition Regulation Supplement (chapter 2 of title 48, CFR), and whose revenue derived from such business in the previous fiscal year exceeded $5,000,000,000, and whose pension plan costs that are assignable under those contracts are subject to sections 412 and 413 of the Cost Accounting Standards (48 CFR 9904.412 and 9904.413).

Deadline.

(d) COST ACCOUNTING STANDARDS PENSION HARMONIZATION RULE.—The Cost Accounting Standards Board shall review and revise sections 412 and 413 of the Cost Accounting Standards (48 CFR 9904.412 and 9904.413) to harmonize the minimum required contribution under the Employee Retirement Income Security Act of 1974 of eligible government contractor plans and government reimbursable pension plan costs not later than January 1, 2010. Any final rule adopted by the Cost Accounting Standards Board shall be deemed the Cost Accounting Standards Pension Harmonization Rule.

**SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) MISCELLANEOUS AMENDMENTS TO TITLE I.—Subtitle B of title I of such Act (29 U.S.C. 1021 et seq.) is amended—

29 USC 1021.

(1) in section 101(d)(3), by striking "section 302(e)" and inserting "section 303(j)";

29 USC 1023.

(2) in section 103(d)(8)(B), by striking "the requirements of section 302(c)(3)" and inserting "the applicable requirements of sections 303(h) and 304(c)(3)";

(3) in section 103(d), by striking paragraph (11) and inserting the following:

"(11) If the current value of the assets of the plan is less than 70 percent of—

"(A) in the case of a single-employer plan, the funding target (as defined in section 303(d)(1)) of the plan, or

"(B) in the case of a multiemployer plan, the current liability (as defined in section 304(c)(6)(D)) under the plan,

the percentage which such value is of the amount described in subparagraph (A) or (B).";

(4) in section 203(a)(3)(C), by striking "section 302(c)(8)" and inserting "section 302(d)(2)"; 29 USC 1053.

(5) in section 204(g)(1), by striking "section 302(c)(8)" and inserting "section 302(d)(2)"; 29 USC 1054.

(6) in section 204(i)(2)(B), by striking "section 302(c)(8)" and inserting "section 302(d)(2)";

(7) in section 204(i)(3), by striking "funded current liability percentage (within the meaning of section 302(d)(8) of this Act)" and inserting "funding target attainment percentage (as defined in section 303(d)(2))";

(8) in section 204(i)(4), by striking "section 302(c)(11)(A), without regard to section 302(c)(11)(B)" and inserting "section 302(b)(1), without regard to section 302(b)(2)";

(9) in section 206(e)(1), by striking "section 302(d)" and inserting "section 303(j)(4)", and by striking "section 302(e)(5)" and inserting "section 303(j)(4)(E)(i)"; 29 USC 1056.

(10) in section 206(e)(3), by striking "section 302(e) by reason of paragraph (5)(A) thereof" and inserting "section 303(j)(3) by reason of section 303(j)(4)(A)"; and

(11) in sections 101(e)(3), 403(c)(1), and 408(b)(13), by striking "American Jobs Creation Act of 2004" and inserting "Pension Protection Act of 2006". 29 USC 1021, 1103, 1108.

(b) MISCELLANEOUS AMENDMENTS TO TITLE IV.—Title IV of such Act is amended—

(1) in section 4001(a)(13) (29 U.S.C. 1301(a)(13)), by striking "302(c)(11)(A)" and inserting "302(b)(1)", by striking "412(c)(11)(A)" and inserting "412(b)(1)", by striking "302(c)(11)(B)" and inserting "302(b)(2)", and by striking "412(c)(11)(B)" and inserting "412(b)(2)";

(2) in section 4003(e)(1) (29 U.S.C. 1303(e)(1)), by striking "302(f)(1)(A) and (B)" and inserting "303(k)(1)(A) and (B)", and by striking "412(n)(1)(A) and (B)" and inserting "430(k)(1)(A) and (B)";

(3) in section 4010(b)(2) (29 U.S.C. 1310(b)(2)), by striking "302(f)(1)(A) and (B)" and inserting "303(k)(1)(A) and (B)", and by striking "412(n)(1)(A) and (B)" and inserting "430(k)(1)(A) and (B)";

(4) in section 4062(c) (29 U.S.C. 1362(c)), by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) the sum of the shortfall amortization charge (within the meaning of section 303(c)(1) of this Act and 430(d)(1) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of shortfall amortization installments (if any) determined for succeeding plan years under section 303(c)(2) of this Act and section 430(d)(2) of such Code (which, for purposes of this subparagraph, shall include any increase in such sum which would result if all applications for waivers of the minimum funding standard under section 302(c) of this Act and section 412(c) of such Code which are pending with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year), and

"(2) the sum of the waiver amortization charge (within the meaning of section 303(e)(1) of this Act and 430(e)(1) of the Internal Revenue Code of 1986) with respect to the plan

(if any) for the plan year in which the termination date occurs, plus the aggregate total of waiver amortization installments (if any) determined for succeeding plan years under section 303(e)(2) of this Act and section 430(e)(2) of such Code,";

(5) in section 4071 (29 U.S.C. 1371), by striking "302(f)(4)" and inserting "303(k)(4)";

(6) in section 4243(a)(1)(B) (29 U.S.C. 1423(a)(1)(B)), by striking "302(a)" and inserting "304(a)", and, in clause (i), by striking "302(a)" and inserting "304(a)";

(7) in section 4243(f)(1) (29 U.S.C. 1423(f)(1)), by striking "303(a)" and inserting "302(c)";

(8) in section 4243(f)(2) (29 U.S.C. 1423(f)(2)), by striking "303(c)" and inserting "302(c)(3)"; and

(9) in section 4243(g) (29 U.S.C. 1423(g)), by striking "302(c)(3)" and inserting "304(c)(3)".

29 USC 1001 note.

(c) AMENDMENTS TO REORGANIZATION PLAN NO. 4 OF 1978.—Section 106(b)(ii) of Reorganization Plan No. 4 of 1978 (ratified and affirmed as law by Public Law 98–532 (98 Stat. 2705)) is amended by striking "302(c)(8)" and inserting "302(d)(2)", by striking "304(a) and (b)(2)(A)" and inserting "304(d)(1), (d)(2), and (e)(2)(A)", and by striking "412(c)(8), (e), and (f)(2)(A)" and inserting "412(c)(2) and 431(d)(1), (d)(2), and (e)(2)(A)".

(d) REPEAL OF EXPIRED AUTHORITY FOR TEMPORARY VARIANCES.—Section 207 of such Act (29 U.S.C. 1057) is repealed.

29 USC 1021 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2007.

# Subtitle B—Amendments to Internal Revenue Code of 1986

**SEC. 111. MINIMUM FUNDING STANDARDS.**

26 USC 412.

(a) NEW MINIMUM FUNDING STANDARDS.—Section 412 of the Internal Revenue Code of 1986 (relating to minimum funding standards) is amended to read as follows:

**"SEC. 412. MINIMUM FUNDING STANDARDS.**

"(a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—A plan to which this section applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is not a multiemployer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 430 for the plan for the plan year,

"(B) in the case of a money purchase plan which is not a multiemployer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

"(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the

plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year.

"(b) LIABILITY FOR CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under paragraphs (3) and (4) of section 430(j)) shall be paid by the employer responsible for making contributions to or under the plan.

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

"(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

"(A) IN GENERAL.—If—

"(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan is) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

"(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years

"(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

"(i) in the case of a defined benefit plan which is not a multiemployer plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(e), and

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 431(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 431(b)(2)(C).

"(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales and profits of the industry concerned are depressed or declining, and

"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this section and part III of this subchapter, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

"(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of the Employee Retirement Income Security Act of 1974), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

Notice.

"(I) notice of the completed application for any waiver or modification, and

Deadline.

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the aggregate unpaid minimum required contributions (within the meaning of section 4971(c)(4)) for the plan year and all preceding plan years, and

"(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 430(e)(2),

is less than $1,000,000.

"(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

"(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

"(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a defined benefit plan which is not a multiemployer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year. Deadline.

"(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a defined benefit plan which is not a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

"(6) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of the Employee Retirement Income Security Act of 1974 and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided

by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

"(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 431(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

"(i) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

"(ii) only repeals an amendment described in subsection (d)(2), or

"(iii) is required as a condition of qualification under part I of subchapter D, of chapter 1.

"(d) MISCELLANEOUS RULES.—

"(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary.

"(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

Deadline.

"(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

"(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

"(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary notifying him of such amendment and the Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (c)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection

Notices.
Deadline.

(c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 431(d)) is unavailable or inadequate.

"(3) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(e) PLANS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), this section applies to a plan if, for any plan year beginning on or after the effective date of this section for such plan under the Employee Retirement Income Security Act of 1974—

"(A) such plan included a trust which qualified (or was determined by the Secretary to have qualified) under section 401(a), or

"(B) such plan satisfied (or was determined by the Secretary to have satisfied) the requirements of section 403(a).

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) any profit-sharing or stock bonus plan,

"(B) any insurance contract plan described in paragraph (3),

"(C) any governmental plan (within the meaning of section 414(d)),

"(D) any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made,

"(E) any plan which has not, at any time after September 2, 1974, provided for employer contributions, or

"(F) any plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

No plan described in subparagraph (C), (D), or (F) shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) as in effect on September 1, 1974.

"(3) CERTAIN INSURANCE CONTRACT PLANS.—A plan is described in this paragraph if—

"(A) the plan is funded exclusively by the purchase of individual insurance contracts,

"(B) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(C) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(D) premiums payable for the plan year, and all prior plan years, under such contracts have been paid before lapse or there is reinstatement of the policy,

"(E) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(F) no policy loans are outstanding at any time during the plan year.

A plan funded exclusively by the purchase of group insurance contracts which is determined under regulations prescribed by the Secretary to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this paragraph.

Applicability.

"(4) CERTAIN TERMINATED MULTIEMPLOYER PLANS.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies until the last day of the plan year in which the plan terminates (within the meaning of section 4041A(a)(2) of such Act).".

26 USC 412 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

**SEC. 112. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.**

(a) IN GENERAL.—Subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended by adding at the end the following new part:

## "PART III—MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

26 USC 430.

**"SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.**

"(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 412(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a defined benefit plan which is not a multiemployer plan—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e);

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) equals or exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by such excess.

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue

or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total (not less than zero) of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

"(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(C) SEGMENT RATES.—In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is—

"(A) the funding shortfall of such plan for such plan year, minus

"(B) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments and waiver amortization installments which have been determined for such plan year and any succeeding plan year with respect to the shortfall amortization bases and waiver amortization bases of the plan for any plan year preceding such plan year.

"(4) FUNDING SHORTFALL.—For purposes of this section, the funding shortfall of a plan for any plan year is the excess (if any) of—

"(A) the funding target of the plan for the plan year, over

"(B) the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) for the plan year which are held by the plan on the valuation date.

"(5) EXEMPTION FROM NEW SHORTFALL AMORTIZATION BASE.—

"(A) IN GENERAL.—In any case in which the value of plan assets of the plan (as reduced under subsection

(f)(4)(A)) is equal to or greater than the funding target of the plan for the plan year, the shortfall amortization base of the plan for such plan year shall be zero.

"(B) TRANSITION RULE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), in the case of plan years beginning after 2007 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year for purposes of subparagraph (A).

"(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

| "In the case of a plan year beginning in calendar year: | The applicable percentage is |
|---|---|
| 2008 | 92 |
| 2009 | 94 |
| 2010 | 96. |

"(iii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2008 unless the shortfall amortization base for each of the preceding years beginning after 2007 was zero (determined after application of this subparagraph).

"(iv) TRANSITION RELIEF NOT AVAILABLE FOR NEW OR DEFICIT REDUCTION PLANS.—Clause (i) shall not apply to a plan—

"(I) which was not in effect for a plan year beginning in 2007, or

"(II) which was in effect for a plan year beginning in 2007 and which was subject to section 412(l) (as in effect for plan years beginning in 2007), determined after the application of paragraphs (6) and (9) thereof.

"(6) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

"(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

"(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year (as reduced under subsection (f)(4)(B)), bears to

"(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

"(e) WAIVER AMORTIZATION CHARGE.—

"(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

"(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

"(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 412(c).

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization bases for all preceding plan years (and all waiver amortization installments determined with respect to such bases) shall be reduced to zero.

"(f) REDUCTION OF MINIMUM REQUIRED CONTRIBUTION BY PREFUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—

"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PREFUNDING BALANCE.—The plan sponsor of a defined benefit plan which is not a multiemployer plan may elect to maintain a prefunding balance.

"(B) FUNDING STANDARD CARRYOVER BALANCE.—

"(i) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) described in clause (ii), the plan sponsor may elect to maintain a funding standard carryover balance, until such balance is reduced to zero.

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2007.—A plan is described in this clause if the plan—

"(I) was in effect for a plan year beginning in 2007, and

"(II) had a positive balance in the funding standard account under section 412(b) as in effect for such plan year and determined as of the end of such plan year.

"(2) APPLICATION OF BALANCES.—A prefunding balance and a funding standard carryover balance maintained pursuant to this paragraph—

"(A) shall be available for crediting against the minimum required contribution, pursuant to an election under paragraph (3),

"(B) shall be applied as a reduction in the amount treated as the value of plan assets for purposes of this section, to the extent provided in paragraph (4), and

"(C) may be reduced at any time, pursuant to an election under paragraph (5).

"(3) ELECTION TO APPLY BALANCES AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the prefunding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced as of the first day of the plan year by the amount so credited by the plan sponsor as of the first day of the plan year. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 412(c).

"(B) COORDINATION WITH FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no amount of the prefunding balance of such plan may be credited under this paragraph in reducing the minimum required contribution.

"(C) LIMITATION FOR UNDERFUNDED PLANS.—The preceding provisions of this paragraph shall not apply for any plan year if the ratio (expressed as a percentage) which—

"(i) the value of plan assets for the preceding plan year (as reduced under paragraph (4)(C)), bears to

"(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent. In the case of plan years beginning in 2008, the ratio under this subparagraph may be determined using such methods of estimation as the Secretary may prescribe.

"(4) EFFECT OF BALANCES ON AMOUNTS TREATED AS VALUE OF PLAN ASSETS.—In the case of any plan maintaining a prefunding balance or a funding standard carryover balance pursuant to this subsection, the amount treated as the value of plan assets shall be deemed to be such amount, reduced as provided in the following subparagraphs:

"(A) APPLICABILITY OF SHORTFALL AMORTIZATION BASE.—For purposes of subsection (c)(5), the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance, but only if an election under

paragraph (2) applying any portion of the prefunding balance in reducing the minimum required contribution is in effect for the plan year.

"(B) DETERMINATION OF EXCESS ASSETS, FUNDING SHORTFALL, AND FUNDING TARGET ATTAINMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subsections (a), (c)(4)(B), and (d)(2)(A), the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance and the funding standard carryover balance.

"(ii) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS WITH PBGC.—For purposes of subsection (c)(4)(B), the value of plan assets shall not be deemed to be reduced for a plan year by the amount of the specified balance if, with respect to such balance, there is in effect for a plan year a binding written agreement with the Pension Benefit Guaranty Corporation which provides that such balance is not available to reduce the minimum required contribution for the plan year. For purposes of the preceding sentence, the term 'specified balance' means the prefunding balance or the funding standard carryover balance, as the case may be.

"(C) AVAILABILITY OF BALANCES IN PLAN YEAR FOR CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—For purposes of paragraph (3)(C)(i) of this subsection, the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance.

"(5) ELECTION TO REDUCE BALANCE PRIOR TO DETERMINATIONS OF VALUE OF PLAN ASSETS AND CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The plan sponsor may elect to reduce by any amount the balance of the prefunding balance and the funding standard carryover balance for any plan year (but not below zero). Such reduction shall be effective prior to any determination of the value of plan assets for such plan year under this section and application of the balance in reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2). Effective date.

"(B) COORDINATION BETWEEN PREFUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no election may be made under subparagraph (A) with respect to the prefunding balance.

"(6) PREFUNDING BALANCE.—

"(A) IN GENERAL.—A prefunding balance maintained by a plan shall consist of a beginning balance of zero, increased and decreased to the extent provided in subparagraphs (B) and (C), and adjusted further as provided in paragraph (8).

"(B) INCREASES.—

"(i) IN GENERAL.—As of the first day of each plan year beginning after 2008, the prefunding balance of a plan shall be increased by the amount elected by Effective date.

the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

"(I) the aggregate total of employer contributions to the plan for the preceding plan year, over—

"(II) the minimum required contribution for such preceding plan year.

"(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

"(iii) CERTAIN CONTRIBUTIONS NECESSARY TO AVOID BENEFIT LIMITATIONS DISREGARDED.—The excess described in clause (i) with respect to any preceding plan year shall be reduced (but not below zero) by the amount of contributions an employer would be required to make under paragraph (1), (2), or (4) of section 206(g) to avoid a benefit limitation which would otherwise be imposed under such paragraph for the preceding plan year. Any contribution which may be taken into account in satisfying the requirements of more than 1 of such paragraphs shall be taken into account only once for purposes of this clause.

"(C) DECREASES.—The prefunding balance of a plan shall be decreased (but not below zero) by the sum of—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

"(7) FUNDING STANDARD CARRYOVER BALANCE.—

"(A) IN GENERAL.—A funding standard carryover balance maintained by a plan shall consist of a beginning balance determined under subparagraph (B), decreased to the extent provided in subparagraph (C), and adjusted further as provided in paragraph (8).

"(B) BEGINNING BALANCE.—The beginning balance of the funding standard carryover balance shall be the positive balance described in paragraph (1)(B)(ii)(II).

"(C) DECREASES.—The funding standard carryover balance of a plan shall be decreased (but not below zero) by—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

"(8) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance or the funding standard carryover balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary of the Treasury, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

"(9) ELECTIONS.—Elections under this subsection shall be made at such times, and in such form and manner, as shall be prescribed in regulations of the Secretary. Regulations.

"(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

"(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year. Deadline.

"(2) VALUATION DATE.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

"(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

"(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

"(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

"(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of the averaging of fair market values, but only if such method—

"(i) is permitted under regulations prescribed by the Secretary,

"(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 25th month preceding the month in which the

valuation date occurs and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month), and

"(iii) does not result in a determination of the value of plan assets which, at any time, is lower than 90 percent or greater than 110 percent of the fair market value of such assets at such time.

Any such averaging shall be adjusted for contributions and distributions (as provided by the Secretary).

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

"(A) PRIOR YEAR CONTRIBUTIONS.—If—

"(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

"(ii) the contribution is for a preceding plan year, the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2008, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

"(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

"(i) such contributions, and

"(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

"(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

"(2) INTEREST RATES.—

"(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

"(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of

a plan for any plan year, the interest rate used in determining the present value of the liabilities of the plan shall be—

"(i) in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

"(ii) in the case of benefits reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

"(iii) in the case of benefits reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

"(C) SEGMENT RATES.—For purposes of this paragraph—

"(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

"(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 15-year period beginning at the end of the period described in clause (i).

"(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

"(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary for such month and which reflects the average, for the 24-month period ending with the month preceding such month, of monthly yields on investment grade corporate bonds with varying maturities and that are in the top 3 quality levels available.

"(ii) ELECTION TO USE YIELD CURVE.—Solely for purposes of determining the minimum required contribution under this section, the plan sponsor may,

in lieu of the segment rates determined under subparagraph (C), elect to use interest rates under the corporate bond yield curve. For purposes of the preceding sentence such curve shall be determined without regard to the 24-month averaging described in clause (i). Such election, once made, may be revoked only with the consent of the Secretary.

"(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary.

"(F) PUBLICATION REQUIREMENTS.—The Secretary shall publish for each month the corporate bond yield curve (and the corporate bond yield curve reflecting the modification described in section 417(e)(3)(D)(i)) for such month and each of the rates determined under subparagraph (B) for such month. The Secretary shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2008 or 2009, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

"(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

"(II) the product of the rate determined under the rules of section 412(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2007), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2008 and 66⅔ percent for plan years beginning in 2009.

"(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the first plan year of the plan begins after December 31, 2007.

"(iv) ELECTION.—The plan sponsor may elect not to have this subparagraph apply. Such election, once made, may be revoked only with the consent of the Secretary.

"(3) MORTALITY TABLES.—

Regulations.

"(A) IN GENERAL.—Except as provided in subparagraph (C) or (D), the Secretary shall by regulation prescribe mortality tables to be used in determining any present value or making any computation under this section. Such tables

shall be based on the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(B) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

"(C) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary, a mortality table which meets the requirements of clause (iii) shall be used in determining any present value or making any computation under this section during the period of consecutive plan years (not to exceed 10) specified in the request.

"(ii) EARLY TERMINATION OF PERIOD.—Notwithstanding clause (i), a mortality table described in clause (i) shall cease to be in effect as of the earliest of—

"(I) the date on which there is a significant change in the participants in the plan by reason of a plan spinoff or merger or otherwise, or

"(II) the date on which the plan actuary determines that such table does not meet the requirements of clause (iii).

"(iii) REQUIREMENTS.—A mortality table meets the requirements of this clause if—

"(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II), and

"(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience.

"(iv) ALL PLANS IN CONTROLLED GROUP MUST USE SEPARATE TABLE.—Except as provided by the Secretary, a plan sponsor may not use a mortality table under this subparagraph for any plan maintained by the plan sponsor unless—

"(I) a separate mortality table is established and used under this subparagraph for each other plan maintained by the plan sponsor and if the plan sponsor is a member of a controlled group, each member of the controlled group, and

"(II) the requirements of clause (iii) are met separately with respect to the table so established for each such plan, determined by only taking into account the participants of such plan, the time such plan has been in existence, and the actual experience of such plan.

"(v) DEADLINE FOR SUBMISSION AND DISPOSITION OF APPLICATION.—

"(I) SUBMISSION.—The plan sponsor shall submit a mortality table to the Secretary for

approval under this subparagraph at least 7 months before the 1st day of the period described in clause (i).

"(II) DISPOSITION.—Any mortality table submitted to the Secretary for approval under this subparagraph shall be treated as in effect as of the 1st day of the period described in clause (i) unless the Secretary, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (iii). The 180-day period shall be extended upon mutual agreement of the Secretary and the plan sponsor.

Extension.

"(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

"(i) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

Applicability.

"(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(iii) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

"(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

"(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

"(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such optional form of benefits, which are different from those specified in this subsection.

"(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

"(i) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV of the Employee Retirement Income Security Act of 1974 applies,

"(ii) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed $50,000,000, and

"(iii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

"(i) SPECIAL RULES FOR AT-RISK PLANS.—

"(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

"(A) IN GENERAL.—In the case of a plan which is in at-risk status for a plan year, the funding target of the plan for the plan year shall be equal to the sum of—

"(i) the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B), and

"(ii) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor determined under subparagraph (C).

"(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

"(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 10 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk funding target and at-risk target normal cost are being determined.

"(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of benefits.

"(C) LOADING FACTOR.—The loading factor applied with respect to a plan under this paragraph for any plan year is the sum of—

"(i) $700, times the number of participants in the plan, plus

"(ii) 4 percent of the funding target (determined without regard to this paragraph) of the plan for the plan year.

"(2) TARGET NORMAL COST OF AT-RISK PLANS.—In the case of a plan which is in at-risk status for a plan year, the target normal cost of the plan for such plan year shall be equal to the sum of—

"(A) the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B), plus

"(B) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor equal to 4 percent of the target normal cost (determined without regard to this paragraph) of the plan for the plan year.

"(3) MINIMUM AMOUNT.—In no event shall—

"(A) the at-risk funding target be less than the funding target, as determined without regard to this subsection, or

"(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

"(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection—

"(A) IN GENERAL.—A plan is in at-risk status for a plan year if—

"(i) the funding target attainment percentage for the preceding plan year (determined under this section without regard to this subsection) is less than 80 percent, and

"(ii) the funding target attainment percentage for the preceding plan year (determined under this section by using the additional actuarial assumptions described in paragraph (1)(B) in computing the funding target) is less than 70 percent.

Applicability.

"(B) TRANSITION RULE.—In the case of plan years beginning in 2008, 2009, and 2010, subparagraph (A)(i) shall be applied by substituting the following percentages for '80 percent':

"(i) 65 percent in the case of 2008.

"(ii) 70 percent in the case of 2009.

"(iii) 75 percent in the case of 2010.

In the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year under subparagraph (A)(ii) may be determined using such methods of estimation as the Secretary may provide.

"(C) SPECIAL RULE FOR EMPLOYEES OFFERED EARLY RETIREMENT IN 2006.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the additional actuarial assumptions described in paragraph (1)(B) shall not be taken into account with respect to any employee if—

"(I) such employee is employed by a specified automobile manufacturer,

"(II) such employee is offered a substantial amount of additional cash compensation, substantially enhanced retirement benefits under the plan, or materially reduced employment duties on the condition that by a specified date (not later than December 31, 2010) the employee retires (as defined under the terms of the plan), Deadline.

"(III) such offer is made during 2006 and pursuant to a bona fide retirement incentive program and requires, by the terms of the offer, that such offer can be accepted not later than a specified date (not later than December 31, 2006), and Deadline.

"(IV) such employee does not elect to accept such offer before the specified date on which the offer expires.

"(ii) SPECIFIED AUTOMOBILE MANUFACTURER.—For purposes of clause (i), the term 'specified automobile manufacturer' means—

"(I) any manufacturer of automobiles, and

"(II) any manufacturer of automobile parts which supplies such parts directly to a manufacturer of automobiles and which, after a transaction or series of transactions ending in 1999, ceased to be a member of a controlled group which included such manufacturer of automobiles.

"(5) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

"(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

"(i) the amount determined under this section without regard to this subsection, plus

"(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

"(B) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

| "If the consecutive number of years (including the plan year) the plan is in at-risk status is— | The transition percentage is— |
|---|---|
| 1 | 20 |
| 2 | 40 |
| 3 | 60 |
| 4 | 80. |

"(C) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2008 shall not be taken into account.

"(6) SMALL PLAN EXCEPTION.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan shall not be treated as in at-risk status for the plan

Applicability.

year. For purposes of this paragraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account and the rules of subsection (g)(2)(C) shall apply.

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

"(2) INTEREST.—Any payment required under paragraph (1) for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

"(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

"(A) FAILURE TO TIMELY MAKE REQUIRED INSTALLMENT.—In any case in which the plan has a funding shortfall for the preceding plan year, the employer maintaining the plan shall make the required installments under this paragraph and if the employer fails to pay the full amount of a required installment for the plan year, then the amount of interest charged under paragraph (2) on the underpayment for the period of underpayment shall be determined by using a rate of interest equal to the rate otherwise used under paragraph (2) plus 5 percentage points.

"(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

"(i) AMOUNT.—The amount of the underpayment shall be the excess of—

"(I) the required installment, over

"(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

"(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

"(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

| "In the case of the following required installment: | The due date is: |
|---|---|
| 1st | April 15 |
| 2nd | July 15 |
| 3rd | October 15 |
| 4th | January 15 of the following year. |

"(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

"(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

"(I) 90 percent of the minimum required contribution (determined without regard to this subsection) to the plan for the plan year under this section, or

"(II) 100 percent of the minimum required contribution (determined without regard to this subsection or to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

"(E) FISCAL YEARS AND SHORT YEARS.—

"(i) FISCAL YEARS.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

"(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan (other than a plan described in subsection (g)(2)(B)) which—

"(i) is required to pay installments under paragraph (3) for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be

treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

"(I) the base amount with respect to such quarter, over

"(II) the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funding target attainment percentage for the plan year, and

Regulations.

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

Regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period

preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph.

"(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this subsection applies, if—

"(A) any person fails to make a contribution payment required by section 412 and this section before the due date for such payment, and

"(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) covered under section 4021 of the Employee Retirement Income Security Act of 1974 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 412 for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment. Deadline.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit

Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (j).

"(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 430.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

"(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

26 USC 430 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2007.

**SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.**

(a) PROHIBITION OF SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

26 USC prec. 430.

(1) IN GENERAL.—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended—

(A) by striking the heading and inserting the following:

## "PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS

"SUBPART A. MINIMUM FUNDING STANDARDS FOR PENSION PLANS.

"SUBPART B. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

## "Subpart A—Minimum Funding Standards for Pension Plans

"Sec. 430. Minimum funding standards for single-employer defined benefit pension plans.",

and

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

## "Subpart B—Benefit Limitations Under Single-Employer Plans

"Sec. 436. Funding-based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans.

**"SEC. 436. FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.** 26 USC 436.

"(a) GENERAL RULE.—For purposes of section 401(a)(29), a defined benefit plan which is a single-employer plan shall be treated as meeting the requirements of this section if the plan meets the requirements of subsections (b), (c), (d), and (e).

"(b) FUNDING-BASED LIMITATION ON SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—If a participant of a defined benefit plan which is a single-employer plan is entitled to an unpredictable contingent event benefit payable with respect to any event occurring during any plan year, the plan shall provide that such benefit may not be provided if the adjusted funding target attainment percentage for such plan year—

"(A) is less than 60 percent, or

"(B) would be less than 60 percent taking into account such occurrence.

"(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to— Effective date.

"(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the occurrence referred to in paragraph (1), and

"(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 60 percent.

"(3) UNPREDICTABLE CONTINGENT EVENT.—For purposes of this subsection, the term 'unpredictable contingent event benefit' means any benefit payable solely by reason of—

"(A) a plant shutdown (or similar event, as determined by the Secretary), or

"(B) any event other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

"(c) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

"(1) IN GENERAL.—No amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage for such plan year is—

"(A) less than 80 percent, or

"(B) would be less than 80 percent taking into account such amendment.

Effective date.

"(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first day of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

"(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and

"(B) in the case of paragraph (1)(B), the amount sufficient to result in an adjusted funding target attainment percentage of 80 percent.

"(3) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Paragraph (1) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

"(d) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

"(1) FUNDING PERCENTAGE LESS THAN 60 PERCENT.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, the plan may not pay any prohibited payment after the valuation date for the plan year.

"(2) BANKRUPTCY.—A defined benefit plan which is a single-employer plan shall provide that, during any period in which the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, the plan may not pay any prohibited payment. The preceding sentence shall not apply on or after the date on which the enrolled actuary of the plan certifies that the adjusted funding target attainment percentage of such plan is not less than 100 percent.

Effective date.

"(3) LIMITED PAYMENT IF PERCENTAGE AT LEAST 60 PERCENT BUT LESS THAN 80 PERCENT.—

"(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is 60 percent or greater but less than 80 percent, the plan may not pay any prohibited payment after the valuation date for the plan year to the extent the amount of the payment exceeds the lesser of—

"(i) 50 percent of the amount of the payment which could be made without regard to this section, or

"(ii) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 417(e)) of the maximum guarantee with respect to the participant under section 4022 of the Employee Retirement Income Security Act of 1974.

"(B) ONE-TIME APPLICATION.—

"(i) IN GENERAL.—The plan shall also provide that only 1 prohibited payment meeting the requirements of subparagraph (A) may be made with respect to any participant during any period of consecutive plan

years to which the limitations under either paragraph (1) or (2) or this paragraph applies.

"(ii) TREATMENT OF BENEFICIARIES.—For purposes of this subparagraph, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 414(p)(8)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under subparagraph (A) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 414(p)(1)(A)) provides otherwise.

"(4) EXCEPTION.—This subsection shall not apply to any plan for any plan year if the terms of such plan (as in effect for the period beginning on September 1, 2005, and ending with such plan year) provide for no benefit accruals with respect to any participant during such period.

"(5) PROHIBITED PAYMENT.—For purpose of this subsection, the term 'prohibited payment' means—

"(A) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during any period a limitation under paragraph (1) or (2) is in effect,

"(B) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(C) any other payment specified by the Secretary by regulations.

"(e) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.— Effective dates.

"(1) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, benefit accruals under the plan shall cease as of the valuation date for the plan year.

"(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to the amount sufficient to result in an adjusted funding target attainment percentage of 60 percent.

"(f) RULES RELATING TO CONTRIBUTIONS REQUIRED TO AVOID BENEFIT LIMITATIONS.—

"(1) SECURITY MAY BE PROVIDED.—

"(A) IN GENERAL.—For purposes of this section, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of subparagraph (B).

"(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section

412 of the Employee Retirement Income Security Act of 1974,

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

"(C) ENFORCEMENT.—Any security provided under subparagraph (A) may be perfected and enforced at any time after the earlier of—

"(i) the date on which the plan terminates,

"(ii) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 430(j), or

"(iii) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

Regulations.

"(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

"(2) PREFUNDING BALANCE OR FUNDING STANDARD CARRYOVER BALANCE MAY NOT BE USED.—No prefunding balance under section 430(f) or funding standard carryover balance may be used under subsection (b), (c), or (e) to satisfy any payment an employer may make under any such subsection to avoid or terminate the application of any limitation under such subsection.

"(3) DEEMED REDUCTION OF FUNDING BALANCES.—

"(A) IN GENERAL.—Subject to subparagraph (C), in any case in which a benefit limitation under subsection (b), (c), (d), or (e) would (but for this subparagraph and determined without regard to subsection (b)(2), (c)(2), or (e)(2)) apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this title as having made an election under section 430(f) to reduce the prefunding balance or funding standard carryover balance by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

"(B) EXCEPTION FOR INSUFFICIENT FUNDING BALANCES.—Subparagraph (A) shall not apply with respect to a benefit limitation for any plan year if the application of subparagraph (A) would not result in the benefit limitation not applying for such plan year.

"(C) RESTRICTIONS OF CERTAIN RULES TO COLLECTIVELY BARGAINED PLANS.—With respect to any benefit limitation under subsection (b), (c), or (e), subparagraph (A) shall only apply in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers.

"(g) NEW PLANS.—Subsections (b), (c), and (e) shall not apply to a plan for the first 5 plan years of the plan. For purposes

of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(h) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS.— Certification.

"(1) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under subsection (b), (c), (d), or (e) has been applied to a plan with respect to the plan year preceding the current plan year, the adjusted funding target attainment percentage of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding target attainment percentage of the plan for the current plan year.

"(2) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no certification of the adjusted funding target attainment percentage for the current plan year is made with respect to the plan before the first day of the 10th month of such year, for purposes of subsections (b), (c), (d), and (e), such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of such first day.

"(3) PRESUMPTION OF UNDERFUNDING AFTER 4TH MONTH FOR NEARLY UNDERFUNDED PLANS.—In any case in which—

"(A) a benefit limitation under subsection (b), (c), (d), or (e) did not apply to a plan with respect to the plan year preceding the current plan year, but the adjusted funding target attainment percentage of the plan for such preceding plan year was not more than 10 percentage points greater than the percentage which would have caused such subsection to apply to the plan with respect to such preceding plan year, and

"(B) as of the first day of the 4th month of the current plan year, the enrolled actuary of the plan has not certified the actual adjusted funding target attainment percentage of the plan for the current plan year,

until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the adjusted funding target attainment percentage of the plan as of such first day shall, for purposes of such subsection, be presumed to be equal to 10 percentage points less than the adjusted funding target attainment percentage of the plan for such preceding plan year.

"(i) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this title—

"(1) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of the period for which any limitation of payment or accrual of benefits under subsection (d) or (e) applies. Effective date.

"(2) TREATMENT OF AFFECTED BENEFITS.—Nothing in this subsection shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this section.

"(j) TERMS RELATING TO FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 430(d)(2).

"(2) ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'adjusted funding target attainment percentage' means the funding target attainment percentage which is determined under paragraph (1) by increasing each of the amounts under subparagraphs (A) and (B) of section 430(d)(2) by the aggregate amount of purchases of annuities for employees other than highly compensated employees (as defined in section 414(q)) which were made by the plan during the preceding 2 plan years.

"(3) APPLICATION TO PLANS WHICH ARE FULLY FUNDED WITHOUT REGARD TO REDUCTIONS FOR FUNDING BALANCES.—

"(A) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this paragraph and without regard to the reduction in the value of assets under section 430(f)(4)(A)), the funding target attainment percentage for purposes of paragraph (1) shall be determined without regard to such reduction.

Applicability.

"(B) TRANSITION RULE.—Subparagraph (A) shall be applied to plan years beginning after 2007 and before 2011 by substituting for '100 percent' the applicable percentage determined in accordance with the following table:

| "In the case of a plan year beginning in calendar year: | The applicable percentage is |
|---|---|
| 2008 | 92 |
| 2009 | 94 |
| 2010 | 96. |

"(C) LIMITATION.—Subparagraph (B) shall not apply with respect to any plan year after 2008 unless the funding target attainment percentage (determined without regard to this paragraph) of the plan for each preceding plan year after 2007 was not less than the applicable percentage with respect to such preceding plan year determined under subparagraph (B).

"(k) SPECIAL RULE FOR 2008.—For purposes of this section, in the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year may be determined using such methods of estimation as the Secretary may provide.".

(2) CLERICAL AMENDMENT.—The table of parts for subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

26 USC prec. 401.

"PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS".

26 USC 436 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2008, the amendments

made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

**SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) AMENDMENTS RELATED TO QUALIFICATION REQUIREMENTS.—

(1) Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows: 26 USC 401.

"(29) BENEFIT LIMITATIONS ON PLANS IN AT-RISK STATUS.—In the case of a defined benefit plan (other than a multiemployer plan) to which the requirements of section 412 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subsection unless the plan meets the requirements of section 436.".

(2) Section 401(a)(32) of such Code is amended—

(A) in subparagraph (A), by striking "412(m)(5)" each place it appears and inserting "section 430(j)(4)", and

(B) in subparagraph (C), by striking "section 412(m)" and inserting "section 430(j)".

(3) Section 401(a)(33) of such Code is amended—

(A) in subparagraph (B)(i), by striking "funded current liability percentage (within the meaning of section 412(l)(8))" and inserting "funding target attainment percentage (as defined in section 430(d)(2))",

(B) in subparagraph (B)(iii), by striking "subsection 412(c)(8)" and inserting "section 412(c)(2)", and

(C) in subparagraph (D), by striking "section 412(c)(11) (without regard to subparagraph (B) thereof)" and inserting "section 412(b)(2) (without regard to subparagraph (B) thereof)".

(b) VESTING RULES.—Section 411 of such Code is amended—

(1) by striking "section 412(c)(8)" in subsection (a)(3)(C) and inserting "section 412(c)(2)",

(2) in subsection (b)(1)(F)—

(A) by striking "paragraphs (2) and (3) of section 412(i)" in clause (ii) and inserting "subparagraphs (B) and (C) of section 412(e)(3)", and

(B) by striking "paragraphs (4), (5), and (6) of section 412(i)" and inserting "subparagraphs (D), (E), and (F) of section 412(e)(3)", and

(3) by striking "section 412(c)(8)" in subsection (d)(6)(A) and inserting "section 412(e)(2)".

(c) MERGERS AND CONSOLIDATIONS OF PLANS.—Subclause (I) of section 414(l)(2)(B)(i) of such Code is amended to read as follows:

"(I) the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the funding shortfall and target normal cost determined under section 430 in the case of any other plan), over".

(d) TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.—

26 USC 420.

(1) Section 420(e)(2) of such Code is amended to read as follows:

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the lesser of—

"(i) the fair market value of the plan's assets (reduced by the prefunding balance and funding standard carryover balance determined under section 430(f)), or

"(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

"(B) 125 percent of the sum of the funding shortfall and the target normal cost determined under section 430 for such plan year.".

(2) Section 420(e)(4) of such Code is amended to read as follows:

"(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section and section 430, be treated as assets in the plan.".

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

"(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

"(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

"(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

"(b) ADDITIONAL TAX.—If—

"(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable period, or

"(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period,

there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.".

(2) Section 4971(c) of such Code is amended—

(A) by striking "the last two sentences of section 412(a)" in paragraph (1) and inserting "section 431", and

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

"(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

"(B) ORDERING RULE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.".

(3) Section 4971(e)(1) of such Code is amended by striking "section 412(b)(3)(A)" and inserting "section 412(a)(1)(A)". 26 USC 4971.

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking "section 412(m)(5)" and inserting "section 430(j)(4)", and

(B) by striking "section 412(m)" and inserting "section 430(j)".

(5) Section 4972(c)(7) of such Code is amended by striking "except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof)" and inserting "except, in the case of a multiemployer plan, to the extent that such contributions exceed the full-funding limitation (as defined in section 431(c)(6))".

(f) REPORTING REQUIREMENTS.—Section 6059(b) of such Code is amended—

(1) by striking "the accumulated funding deficiency (as defined in section 412(a))" in paragraph (2) and inserting "the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,", and

(2) by striking paragraph (3)(B) and inserting:

"(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with.".

**SEC. 115. MODIFICATION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.** 26 USC 430 note.

(a) IN GENERAL.—In the case of a plan that— Applicability. Effective date.

(1) was not required to pay a variable rate premium for the plan year beginning in 1996,

(2) has not, in any plan year beginning after 1995, merged with another plan (other than a plan sponsored by an employer that was in 1996 within the controlled group of the plan sponsor), and

(3) is sponsored by a company that is engaged primarily in the interurban or interstate passenger bus service,

the rules described in subsection (b) shall apply for any plan year beginning after December 31, 2007.

(b) MODIFIED RULES.—The rules described in this subsection are as follows:

(1) For purposes of section 430(j)(3) of the Internal Revenue Code of 1986 and section 303(j)(3) of the Employee Retirement Income Security Act of 1974, the plan shall be treated as not having a funding shortfall for any plan year.

(2) For purposes of—

(A) determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of such Act, and

(B) determining any present value or making any computation under section 412 of such Code or section 302 of such Act,

the mortality table shall be the mortality table used by the plan.

(3) Section 430(c)(5)(B) of such Code and section 303(c)(5)(B) of such Act (relating to phase-in of funding target for exemption from new shortfall amortization base) shall each be applied by substituting "2012" for "2011" therein and by substituting for the table therein the following:

| "In the case of a plan year beginning in calendar year: | The applicable percentage is: |
|---|---|
| 2008 | 90 percent |
| 2009 | 92 percent |
| 2010 | 94 percent |
| 2011 | 96 percent. |

(c) DEFINITIONS.—Any term used in this section which is also used in section 430 of such Code or section 303 of such Act shall have the meaning provided such term in such section. If the same term has a different meaning in such Code and such Act, such term shall, for purposes of this section, have the meaning provided by such Code when applied with respect to such Code and the meaning provided by such Act when applied with respect to such Act.

(d) SPECIAL RULE FOR 2006 AND 2007.—

(1) IN GENERAL.—Section 769(c)(3) of the Retirement Protection Act of 1994, as added by section 201 of the Pension Funding Equity Act of 2004, is amended by striking "and 2005" and inserting ", 2005, 2006, and 2007".

26 USC 412 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to plan years beginning after December 31, 2005.

26 USC 412 note.

(e) CONFORMING AMENDMENT.—

(1) Section 769 of the Retirement Protection Act of 1994 is amended by striking subsection (c).

(2) The amendment made by paragraph (1) shall take effect on December 31, 2007, and shall apply to plan years beginning after such date.

Effective date.
26 USC 412 note.

**SEC. 116. RESTRICTIONS ON FUNDING OF NONQUALIFIED DEFERRED COMPENSATION PLANS BY EMPLOYERS MAINTAINING UNDERFUNDED OR TERMINATED SINGLE-EMPLOYER PLANS.**

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

26 USC 409A.

"(3) TREATMENT OF EMPLOYER'S DEFINED BENEFIT PLAN DURING RESTRICTED PERIOD.—

"(A) IN GENERAL.—If—

"(i) during any restricted period with respect to a single-employer defined benefit plan, assets are set

aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary) or transferred to such a trust or other arrangement for purposes of paying deferred compensation of an applicable covered employee under a nonqualified deferred compensation plan of the plan sponsor or member of a controlled group which includes the plan sponsor, or

"(ii) a nonqualified deferred compensation plan of the plan sponsor or member of a controlled group which includes the plan sponsor provides that assets will become restricted to the provision of benefits under the plan in connection with such restricted period (or other similar financial measure determined by the Secretary) with respect to the defined benefit plan, or assets are so restricted,

such assets shall, for purposes of section 83, be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors. Clause (i) shall not apply with respect to any assets which are so set aside before the restricted period with respect to the defined benefit plan.

"(B) RESTRICTED PERIOD.—For purposes of this section, the term 'restricted period' means, with respect to any plan described in subparagraph (A)—

"(i) any period during which the plan is in at-risk status (as defined in section 430(i));

"(ii) any period the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, and

"(iii) the 12-month period beginning on the date which is 6 months before the termination date of the plan if, as of the termination date, the plan is not sufficient for benefit liabilities (within the meaning of section 4041 of the Employee Retirement Income Security Act of 1974).

"(C) SPECIAL RULE FOR PAYMENT OF TAXES ON DEFERRED COMPENSATION INCLUDED IN INCOME.—If an employer provides directly or indirectly for the payment of any Federal, State, or local income taxes with respect to any compensation required to be included in gross income by reason of this paragraph—

"(i) interest shall be imposed under subsection (a)(1)(B)(i)(I) on the amount of such payment in the same manner as if such payment was part of the deferred compensation to which it relates,

"(ii) such payment shall be taken into account in determining the amount of the additional tax under subsection (a)(1)(B)(i)(II) in the same manner as if such payment was part of the deferred compensation to which it relates, and

"(iii) no deduction shall be allowed under this title with respect to such payment.

"(D) OTHER DEFINITIONS.—For purposes of this section—

"(i) APPLICABLE COVERED EMPLOYEE.—The term 'applicable covered employee' means any—

"(I) covered employee of a plan sponsor,

"(II) covered employee of a member of a controlled group which includes the plan sponsor, and

"(III) former employee who was a covered employee at the time of termination of employment with the plan sponsor or a member of a controlled group which includes the plan sponsor.

"(ii) COVERED EMPLOYEE.—The term 'covered employee' means an individual described in section 162(m)(3) or an individual subject to the requirements of section 16(a) of the Securities Exchange Act of 1934.".

(b) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

26 USC 409A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or other reservation of assets after the date of the enactment of this Act.

# TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

## Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

### SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by this Act) is amended by inserting after section 303 the following new section:

"MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS

29 USC 1084.

"SEC. 304. (a) IN GENERAL.—For purposes of section 302, the accumulated funding deficiency of a multiemployer plan for any plan year is—

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding

standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan which comes into existence on or after January 1, 2008, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(iii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

"(iv) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 302(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006).

"(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

"(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount of the waived funding deficiency (within the meaning of section 302(c)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 305 (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED IN PLAN YEARS BEFORE 2008.—In the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) over any period beginning with a plan year beginning before 2008, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

Regulations.

"(5) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary of the Treasury, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

Regulations.

"(6) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(7) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in

the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or to a fund exempt under section 501(c)(22) of the Internal Revenue Code of 1986 pursuant to section 4223 of this Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury. Regulations.

"(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 302(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iii) shall not apply to the amount so charged).

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 302 in such manner as is determined by the Secretary of the Treasury.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are not payable as a life annuity but are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(ii) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

"(c) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

Regulations.

"(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of such Secretary.

Applicability.
Regulations.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121 of the Internal Revenue Code of 1986, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5) of such Code,

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b) (2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be

directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1986).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury),

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986)

used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, such Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

Applicability.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

Regulations.

"(vi) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period

ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary of the Treasury finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, such Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary of the Treasury. Regulations.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year. Deadline.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month

Regulations.

period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

"(i) submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

"(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary of the Treasury shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

"(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions—

"(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

"(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

"(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

Notification.

"(iv) the notice required under paragraph (3)(A) has been provided.

"(C) TERMINATION.—The preceding provisions of this paragraph shall not apply with respect to any application submitted after December 31, 2014.

"(2) ALTERNATIVE EXTENSION.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary of the Treasury may extend the amortization period for a period of time (not in excess of 10 years reduced by the number of years of any extension under paragraph (1) with respect to such unfunded liability) if the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

"(B) DETERMINATION.—The Secretary of the Treasury may grant an extension under subparagraph (A) if such Secretary determines that—

"(i) such extension would carry out the purposes of this Act and would provide adequate protection for

participants under the plan and their beneficiaries, and

"(ii) the failure to permit such extension would—

"(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

"(II) be adverse to the interests of plan participants in the aggregate.

"(C) ACTION BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If such Secretary rejects the application for an extension under this paragraph, such Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

Deadline. Notification.

"(3) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary of the Treasury shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21)) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(b) SHORTFALL FUNDING METHOD.—

29 USC 1084 note.

(1) IN GENERAL.—A multiemployer plan meeting the criteria of paragraph (2) may adopt, use, or cease using, the shortfall funding method and such adoption, use, or cessation of use of such method, shall be deemed approved by the Secretary of the Treasury under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1) of the Internal Revenue Code of 1986.

(2) CRITERIA.—A multiemployer pension plan meets the criteria of this clause if—

(A) the plan has not used the shortfall funding method during the 5-year period ending on the day before the date the plan is to use the method under paragraph (1); and

(B) the plan is not operating under an amortization period extension under section 304(d) of such Act and did not operate under such an extension during such 5-year period.

(3) SHORTFALL FUNDING METHOD DEFINED.—For purposes of this subsection, the term "shortfall funding method" means the shortfall funding method described in Treasury Regulations section 1.412(c)(1)–2 (26 CFR 1.412(c)(1)–2).

(4) BENEFIT RESTRICTIONS TO APPLY.—The benefit restrictions under section 302(c)(7) of such Act and section 412(c)(7) of such Code shall apply during any period a multiemployer

plan is on the shortfall funding method pursuant to this subsection.

(5) USE OF SHORTFALL METHOD NOT TO PRECLUDE OTHER OPTIONS.—Nothing in this subsection shall be construed to affect a multiemployer plan's ability to adopt the shortfall funding method with the Secretary's permission under otherwise applicable regulations or to affect a multiemployer plan's right to change funding methods, with or without the Secretary's consent, as provided in applicable rules and regulations.

(c) CONFORMING AMENDMENTS.—

(1) Section 301 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081) is amended by striking subsection (d).

(2) The table of contents in section 1 of such Act (as amended by this Act) is amended by inserting after the item relating to section 303 the following new item:

"Sec. 304. Minimum funding standards for multiemployer plans.".

29 USC 1081 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2007.

Applicability.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

**SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.**

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended by inserting after section 304 the following new section:

"ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS

29 USC 1085.

"SEC. 305. (a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan in effect on July 16, 2006—

"(1) if the plan is in endangered status—

"(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

Applicability.

"(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

"(2) if the plan is in critical status—

"(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

Applicability.

"(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

"(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

"(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and, as of the beginning of the plan year, either—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

For purposes of this section, a plan shall be treated as in seriously endangered status for a plan year if the plan is described in both subparagraphs (A) and (B).

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the fair market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if—

"(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 304(d), or

"(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 304(d).

"(C) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year,

"(ii) the present value, as of the beginning of the current plan year, of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

"(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

"(D) A plan is described in this subparagraph if the sum of—

"(i) the fair market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

Deadline.

"(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury and to the plan sponsor—

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

"(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The actuary's projections shall be based on reasonable actuarial estimates, assumptions, and methods that, except as provided in clause (iii), offer the actuary's best estimate of anticipated experience under the plan. The projected present value of liabilities as of the beginning of such year shall be determined based on the most recent of either—

"(I) the actuarial statement required under section 103(d) with respect to the most recently filed annual report, or

"(II) the actuarial valuation for the preceding plan year.

"(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

"(iii) PROJECTED INDUSTRY ACTIVITY.—Any projection of activity in the industry or industries covered by the plan, including future covered employment and contribution levels, shall be based on information provided by the plan sponsor, which shall act reasonably and in good faith.

"(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4). Reports.

"(D) NOTICE.—

"(i) IN GENERAL.—In any case in which it is certified under subparagraph (A) that a multiemployer plan is or will be in endangered or critical status for a plan year, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, and the Secretary. Deadline.

"(ii) PLANS IN CRITICAL STATUS.—If it is certified under subparagraph (A) that a multiemployer plan is or will be in critical status, the plan sponsor shall include in the notice under clause (i) an explanation of the possibility that—

"(I) adjustable benefits (as defined in subsection (e)(8)) may be reduced, and

"(II) such reductions may apply to participants and beneficiaries whose benefit commencement date is on or after the date such notice is provided for the first plan year in which the plan is in critical status.

"(iii) MODEL NOTICE.—The Secretary shall prescribe a model notice that a multiemployer plan may use to satisfy the requirements under clause (ii).

"(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

Deadlines.

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the funding improvement plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable benchmarks in accordance with the funding improvement plan, including—

"(I) one proposal for reductions in the amount of future benefit accruals necessary to achieve the applicable benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions necessary to achieve the applicable benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

"(II) one proposal for increases in contributions under the plan necessary to achieve the applicable benchmarks, assuming no amendments reducing future benefit accruals under the plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the applicable benchmarks in accordance with the funding improvement plan.

For purposes of this section, the term 'applicable benchmarks' means the requirements applicable to the multiemployer plan under paragraph (3) (as modified by paragraph (5)).

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

"(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

"(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, formulated to provide, based on reasonably anticipated experience and reasonable actuarial assumptions, for the attainment by the plan during the funding improvement period of the following requirements:

"(i) INCREASE IN PLAN'S FUNDING PERCENTAGE.—The plan's funded percentage as of the close of the funding improvement period equals or exceeds a percentage equal to the sum of—

"(I) such percentage as of the beginning of such period, plus

"(II) 33 percent of the difference between 100 percent and the percentage under subclause (I).

"(ii) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A)(i)(II) shall be applied by substituting '20 percent' for '33 percent'. Applicability.

"(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A) shall be applied by substituting '15-year period' for '10-year period'. Applicability.

"(C) COORDINATION WITH CHANGES IN STATUS.—

"(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

"(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

"(D) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan's actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the

period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection and subsection (d) shall be applied as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

"(5) SPECIAL RULES FOR SERIOUSLY ENDANGERED PLANS MORE THAN 70 PERCENT FUNDED.—

"(A) IN GENERAL.—If the funded percentage of a plan in seriously endangered status was more than 70 percent as of the beginning of the initial determination year—

Applicability.
Deadline.

"(i) paragraphs (3)(B) and (4)(B) shall apply only if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), and

"(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of paragraph (3)(B) and (4)(B) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

"(B) SPECIAL RULE AFTER EXPIRATION OF AGREEMENTS.—Notwithstanding subparagraph (A)(ii), if, for any plan year ending after the date described in subparagraph (A)(ii), the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), paragraphs (3)(B) and (4)(B) shall continue to apply for such year.

"(6) UPDATES TO FUNDING IMPROVEMENT PLAN AND SCHEDULES.—

"(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104.

"(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(7) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—If—

"(i) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered endangered status expires, and

"(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to agree on changes to contribution or benefit schedules necessary to meet the applicable benchmarks in accordance with the funding improvement plan,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i)(I) beginning on the date specified in subparagraph (B).

"(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the earlier of the date—

"(i) on which the Secretary certifies that the parties are at an impasse, or

"(ii) which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.

"(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

"(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—

"(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the funding plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law, and

"(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

"(i) an increase in the plan's funded percentage, and

"(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan so as to be inconsistent with the funding improvement plan.

"(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

"(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that the benefit increase is consistent with the funding improvement plan and is paid for out of contributions not required by the funding improvement plan to meet the applicable benchmark in accordance with the schedule contemplated in the funding improvement plan.

"(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

Deadlines.

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the rehabilitation plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and adjustable

benefits, and increases in contributions, that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 204(g)) have been reduced to the maximum extent permitted by law.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

"(3) REHABILITATION PLAN.—For purposes of this section—

"(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

"(i) actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

"(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245).

Standards.

A rehabilitation plan must provide annual standards for meeting the requirements of such rehabilitation plan. Such plan shall also include the schedules required to be provided under paragraph (1)(B)(i) and if clause (ii) applies, shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

"(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

"(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104.

"(ii) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(C) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT REHABILITATION PLAN.—

"(i) IN GENERAL.—If—

"(I) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires, and

"(II) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution or benefit schedules with terms consistent with the rehabilitation plan and the schedule from the plan sponsor under paragraph (1)(B)(i),

the plan sponsor shall implement the default schedule described in the last sentence of paragraph (1) beginning on the date specified in clause (ii).

"(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the earlier of the date—

"(I) on which the Secretary certifies that the parties are at an impasse, or

"(II) which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.

"(4) REHABILITATION PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

"(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to the use of the shortfall method and taking into account any extension of amortization periods under section 304(d).

"(5) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

"(6) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under the default schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

"(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

"(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

"(7) AUTOMATIC EMPLOYER SURCHARGE.—

"(A) IMPOSITION OF SURCHARGE.—Each employer otherwise obligated to make contributions for the initial critical year shall be obligated to pay to the plan for such year a surcharge equal to 5 percent of the contributions otherwise required under the applicable collective bargaining agreement (or other agreement pursuant to which the employer contributes). For each succeeding plan year in which the plan is in critical status for a consecutive period of years beginning with the initial critical year, the surcharge shall be 10 percent of the contributions otherwise so required.

"(B) ENFORCEMENT OF SURCHARGE.—The surcharges under subparagraph (A) shall be due and payable on the same schedule as the contributions on which the surcharges are based. Any failure to make a surcharge payment shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.

"(C) SURCHARGE TO TERMINATE UPON COLLECTIVE BARGAINING AGREEMENT RENEGOTIATION.—The surcharge under this paragraph shall cease to be effective with respect to employees covered by a collective bargaining agreement (or other agreement pursuant to which the employer contributes), beginning on the effective date of a collective bargaining agreement (or other such agreement) that includes terms consistent with a schedule presented by the plan sponsor under paragraph (1)(B)(i), as modified under subparagraph (B) of paragraph (3).

"(D) SURCHARGE NOT TO APPLY UNTIL EMPLOYER RECEIVES NOTICE.—The surcharge under this paragraph shall not apply to an employer until 30 days after the employer has been notified by the plan sponsor that the plan is in critical status and that the surcharge is in effect.

"(E) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge under this paragraph shall not be the basis for any benefit accrual under the plan.

"(8) BENEFIT ADJUSTMENTS.—

"(A) ADJUSTABLE BENEFITS.—

"(i) IN GENERAL.—Notwithstanding section 204(g), the plan sponsor shall, subject to the notice requirements in subparagraph (C), make any reductions to adjustable benefits which the plan sponsor deems appropriate, based upon the outcome of collective bargaining over the schedule or schedules provided under paragraph (1)(B)(i).

"(ii) EXCEPTION FOR RETIREES.—Except in the case of adjustable benefits described in clause (iv)(III), the plan sponsor of a plan in critical status shall not reduce adjustable benefits of any participant or beneficiary whose benefit commencement date is before the date on which the plan provides notice to the participant or beneficiary under subsection (b)(3)(D) for the initial critical year.

"(iii) PLAN SPONSOR FLEXIBILITY.—The plan sponsor shall include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate by the plan sponsor based on the plan's then current overall funding status.

"(iv) ADJUSTABLE BENEFIT DEFINED.—For purposes of this paragraph, the term 'adjustable benefit' means—

"(I) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(II) any early retirement benefit or retirement-type subsidy (within the meaning of section 204(g)(2)(A)) and any benefit payment option (other than the qualified joint and survivor annuity), and

"(III) benefit increases that would not be eligible for a guarantee under section 4022A on the first day of initial critical year because the increases were adopted (or, if later, took effect) less than 60 months before such first day.

"(B) NORMAL RETIREMENT BENEFITS PROTECTED.—Except as provided in subparagraph (A)(iv)(III), nothing in this paragraph shall be construed to permit a plan

to reduce the level of a participant's accrued benefit payable at normal retirement age.

"(C) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—No reduction may be made to adjustable benefits under subparagraph (A) unless notice of such reduction has been given at least 30 days before the general effective date of such reduction for all participants and beneficiaries to— Deadline.

"(I) plan participants and beneficiaries,

"(II) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

"(III) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(ii) CONTENT OF NOTICE.—The notice under clause (i) shall contain—

"(I) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an estimate (on an annual or monthly basis) of any affected adjustable benefit that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in clause (i), and

"(II) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(iii) FORM AND MANNER.—Any notice under clause (i)—

"(I) shall be provided in a form and manner prescribed in regulations of the Secretary, Regulations.

"(II) shall be written in a manner so as to be understood by the average plan participant, and

"(III) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

The Secretary shall in the regulations prescribed under subclause (I) establish a model notice that a plan sponsor may use to meet the requirements of this subparagraph. Regulations.

"(9) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

"(A) BENEFIT REDUCTIONS.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

"(B) SURCHARGES.—Any surcharges under paragraph (7) shall be disregarded in determining an employer's withdrawal liability under section 4211, except for purposes of determining the unfunded vested benefits attributable to an employer under section 4211(c)(4) or a comparable method approved under section 4211(c)(5).

"(C) SIMPLIFIED CALCULATIONS.—The Pension Benefit Guaranty Corporation shall prescribe simplified methods for the application of this paragraph in determining withdrawal liability.

"(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

"(1) COMPLIANCE WITH REHABILITATION PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

"(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

"(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

Effective date.

"(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 204(g), the plan shall not pay—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary of the Treasury by regulations.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 203(e) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

"(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

"(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

"(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

"(h) NONBARGAINED PARTICIPATION.—

"(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements and employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining party, and its participation agreement with the plan were a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

"(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means—

"(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

"(ii) in the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the association of employers that is the employer settlor of the plan; and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

"(A) the numerator of which is the value of the plan's assets, as determined under section 304(c)(2), and

"(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 304(c)(3).

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 304(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary of the Treasury, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a).

"(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

"(9) PLAN SPONSOR.—In the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).

"(10) BENEFIT COMMENCEMENT DATE.—The term 'benefit commencement date' means the annuity starting date (or in the case of a retroactive annuity starting date, the date on which benefit payments begin).".

(b) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6) by striking "(6), or (7)" and inserting "(6), (7), or (8)";

(2) by redesignating subsection (c)(8) as subsection (c)(9); and

(3) by inserting after subsection (c)(7) the following new paragraph:

"(8) The Secretary may assess against any plan sponsor of a multiemployer plan a civil penalty of not more than $1,100 per day—

"(A) for each violation by such sponsor of the requirement under section 305 to adopt by the deadline established

in that section a funding improvement plan or rehabilitation plan with respect to a multiemployer which is in endangered or critical status, or

"(B) in the case of a plan in endangered status which is not in seriously endangered status, for failure by the plan to meet the applicable benchmarks under section 305 by the end of the funding improvement period with respect to the plan.".

(c) CAUSE OF ACTION TO COMPEL ADOPTION OR IMPLEMENTATION OF FUNDING IMPROVEMENT OR REHABILITATION PLAN.—Section 502(a) of the Employee Retirement Income Security Act of 1974 is amended by striking "or" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting "; or" and by adding at the end the following: 29 USC 1132.

"(10) in the case of a multiemployer plan that has been certified by the actuary to be in endangered or critical status under section 305, if the plan sponsor—

"(A) has not adopted a funding improvement or rehabilitation plan under that section by the deadline established in such section, or

"(B) fails to update or comply with the terms of the funding improvement or rehabilitation plan in accordance with the requirements of such section,

by an employer that has an obligation to contribute with respect to the multiemployer plan or an employee organization that represents active participants in the multiemployer plan, for an order compelling the plan sponsor to adopt a funding improvement or rehabilitation plan or to update or comply with the terms of the funding improvement or rehabilitation plan in accordance with the requirements of such section and the funding improvement or rehabilitation plan.".

(d) NO ADDITIONAL CONTRIBUTIONS REQUIRED.—Section 302(b) of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new paragraph: 29 USC 1082.

"(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Paragraph (1) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 305. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) and complies with the terms of such rehabilitation plan (and any updates or modifications of the plan).".

(e) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this Act) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.".

(f) EFFECTIVE DATES.— 29 USC 1082 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after 2007.

(2) SPECIAL RULE FOR CERTAIN NOTICES.—In any case in which a plan's actuary certifies that it is reasonably expected that a multiemployer plan will be in critical status under section 305(b)(3) of the Employee Retirement Income Security Act of 1974, as added by this section, with respect to the first plan year beginning after 2007, the notice required under

subparagraph (D) of such section may be provided at any time after the date of enactment, so long as it is provided on or before the last date for providing the notice under such subparagraph.

(3) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

**SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.**

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1426(d)(1)) is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years"; and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

29 USC 1426 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after 2007.

**SEC. 204. WITHDRAWAL LIABILITY REFORMS.**

(a) UPDATE OF RULES RELATING TO LIMITATIONS ON WITHDRAWAL LIABILITY.—

(1) INCREASE IN LIMITS.—Section 4225(a)(2) of such Act (29 U.S.C. 1405(a)(2)) is amended by striking the table contained therein and inserting the following new table:

| "If the liquidation or distribution value of the employer after the sale or exchange is— | The portion is— |
|---|---|
| Not more than $5,000,000 | 30 percent of the amount. |
| More than $5,000,000, but not more than $10,000,000 | $1,500,000, plus 35 percent of the amount in excess of $5,000,000. |
| More than $10,000,000, but not more than $15,000,000 | $3,250,000, plus 40 percent of the amount in excess of $10,000,000. |
| More than $15,000,000, but not more than $17,500,000 | $5,250,000, plus 45 percent of the amount in excess of $15,000,000. |
| More than $17,500,000, but not more than $20,000,000 | $6,375,000, plus 50 percent of the amount in excess of $17,500,000. |

| "If the liquidation or distribution value of the employer after the sale or exchange is— | The portion is— |
|---|---|
| More than $20,000,000, but not more than $22,500,000 ..... | $7,625,000, plus 60 percent of the amount in excess of $20,000,000. |
| More than $22,500,000, but not more than $25,000,000 ..... | $9,125,000, plus 70 percent of the amount in excess of $22,500,000. |
| More than $25,000,000 ..... | $10,875,000, plus 80 percent of the amount in excess of $25,000,000.". |

(2) PLANS USING ATTRIBUTABLE METHOD.—Section 4225(a)(1)(B) of such Act (29 U.S.C. 1405(a)(1)(B)) is amended to read as follows:

"(B) in the case of a plan using the attributable method of allocating withdrawal liability, the unfunded vested benefits attributable to employees of the employer.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to sales occurring on or after January 1, 2007. 29 USC 1405 note.

(b) WITHDRAWAL LIABILITY CONTINUES IF WORK CONTRACTED OUT.—

(1) IN GENERAL.—Clause (i) of section 4205(b)(2)(A) of such Act (29 U.S.C. 1385(b)(2)(A)) is amended by inserting "or to an entity or entities owned or controlled by the employer" after "to another location".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to work transferred on or after the date of the enactment of this Act. 29 USC 1385 note.

(c) APPLICATION OF RULES TO PLANS PRIMARILY COVERING EMPLOYEES IN THE BUILDING AND CONSTRUCTION INDUSTRY.—

(1) IN GENERAL.—Section 4210(b) of such Act (29 U.S.C. 1390(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(2) FRESH START OPTION.—Section 4211(c)(5) of such Act (29 U.S.C. 1391(c)(5)) is amended by adding at the end the following new subparagraph:

"(E) FRESH START OPTION.—Notwithstanding paragraph (1), a plan may be amended to provide that the withdrawal liability method described in subsection (b) shall be applied by substituting the plan year which is specified in the amendment and for which the plan has no unfunded vested benefits for the plan year ending before September 26, 1980.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan withdrawals occurring on or after January 1, 2007. 29 USC 1390 note.

(d) PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.—

(1) IN GENERAL.—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following:

"(g) PROCEDURES APPLICABLE TO CERTAIN DISPUTES.—

"(1) IN GENERAL.—If—

"(A) a plan sponsor of a plan determines that—

"(i) a complete or partial withdrawal of an employer has occurred, or

"(ii) an employer is liable for withdrawal liability payments with respect to such complete or partial withdrawal, and

"(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of any transaction which occurred after December 31, 1998, and at least 5 years (2 years in the case of a small employer) before the date of the complete or partial withdrawal was to evade or avoid withdrawal liability under this subtitle,

then the person against which the withdrawal liability is assessed based solely on the application of section 4212(c) may elect to use the special rule under paragraph (2) in applying subsection (d) of this section and section 4219(c) to such person.

"(2) SPECIAL RULE.—Notwithstanding subsection (d) and section 4219(c), if an electing person contests the plan sponsor's determination with respect to withdrawal liability payments under paragraph (1) through an arbitration proceeding pursuant to subsection (a), through an action brought in a court of competent jurisdiction for review of such an arbitration decision, or as otherwise permitted by law, the electing person shall not be obligated to make the withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination, but only if the electing person—

"(A) provides notice to the plan sponsor of its election to apply the special rule in this paragraph within 90 days after the plan sponsor notifies the electing person of its liability by reason of the application of section 4212(c); and

"(B) if a final decision in the arbitration proceeding, or in court, of the withdrawal liability dispute has not been rendered within 12 months from the date of such notice, the electing person provides to the plan, effective as of the first day following the 12-month period, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the sum of the withdrawal liability payments that would otherwise be due under subsection (d) and section 4219(c) for the 12-month period beginning with the first anniversary of such notice. Such bond or escrow shall remain in effect until there is a final decision in the arbitration proceeding, or in court, of the withdrawal liability dispute, at which time such bond or escrow shall be paid to the plan if such final decision upholds the plan sponsor's determination.

"(3) DEFINITION OF SMALL EMPLOYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'small employer' means any employer which, for the calendar year in which the transaction referred to in paragraph (1)(B) occurred and for each of the 3 preceding years, on average—

"(i) employs not more than 500 employees, and

"(ii) is required to make contributions to the plan for not more than 250 employees.

"(B) CONTROLLED GROUP.—Any group treated as a single employer under subsection (b)(1) of section 4001, without regard to any transaction that was a basis for the plan's finding under section 4212, shall be treated as a single employer for purposes of this subparagraph.

"(4) ADDITIONAL SECURITY PENDING RESOLUTION OF DISPUTE.—If a withdrawal liability dispute to which this subsection applies is not concluded by 12 months after the electing person posts the bond or escrow described in paragraph (2), the electing person shall, at the start of each succeeding 12-month period, provide an additional bond or amount held in escrow equal to the sum of the withdrawal liability payments that would otherwise be payable to the plan during that period.

"(5) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon the payment of the bond or escrow to the plan, by the amount thereof.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any person that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 on or after the date of enactment of this Act with respect to a transaction that occurred after December 31, 1998. 29 USC 1401 note.

**SEC. 205. PROHIBITION ON RETALIATION AGAINST EMPLOYERS EXERCISING THEIR RIGHTS TO PETITION THE FEDERAL GOVERNMENT.**

Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140) is amended by inserting before the last sentence thereof the following new sentence: "In the case of a multiemployer plan, it shall be unlawful for the plan sponsor or any other person to discriminate against any contributing employer for exercising rights under this Act or for giving information or testifying in any inquiry or proceeding relating to this Act before Congress.".

**SEC. 206. SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION.** 26 USC 412 note.

In the case of a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that—

(1) increases benefits, and

(2) provides for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383),

the amendments made by sections 201, 202, 211, and 212 of this Act shall not apply to the benefit increases under any plan amendment adopted prior to June 30, 2005, that are funded pursuant to such agreement if the plan is funded in compliance with such agreement (and any amendments thereto).

# Subtitle B—Amendments to Internal Revenue Code of 1986

**SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.**

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as added by this Act) is amended by inserting after section 430 the following new section:

26 USC 431.

**"SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS.**

"(a) IN GENERAL.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243 of the Employee Retirement Income Security Act of 1974.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan which comes into existence on or after January 1, 2008, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(iii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

"(iv) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 412(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan

years any amount credited to the funding standard account under section 412(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 412(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006).

"(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

"(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount of the waived funding deficiency (within the meaning of section 412(c)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 412(g) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED IN PLAN YEARS BEFORE 2008.—In the case of any amount amortized under section 412(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) over any period beginning with a plan year beginning before 2008 in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

"(5) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be— Regulations.

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

"(6) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(7) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) of such Act as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

Regulations.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 412(b)(7)(F) (as in effect on the day before the

date of the enactment of the Pension Protection Act of 2006) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iii) shall not apply to the amount so charged).

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 in such manner as is determined by the Secretary.

Applicability.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are not payable as a life annuity but are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(ii) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

"(c) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan. I22

"(2) VALUATION OF ASSETS.—

Regulations.

"(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary.

Regulations.
Applicability.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5),

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b)(2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary),

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder. Applicability.

"(vi) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the Regulations.

extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

Regulations.

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100

percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary. Deadline.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

"(i) submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

"(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

"(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions— Certification.

"(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

"(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

"(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

"(iv) the notice required under paragraph (3)(A) has been provided.

"(C) TERMINATION.—The preceding provisions of this paragraph shall not apply with respect to any application submitted after December 31, 2014.

"(2) ALTERNATIVE EXTENSION.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary may extend the amortization period for a period of time (not in excess of 10 years reduced by the number of years of any extension under paragraph (1) with respect to such unfunded liability) if the Secretary makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

"(B) DETERMINATION.—The Secretary may grant an extension under subparagraph (A) if the Secretary determines that—

"(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

"(ii) the failure to permit such extension would—

"(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

"(II) be adverse to the interests of plan participants in the aggregate.

Deadline.

"(C) ACTION BY SECRETARY.—The Secretary shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If the Secretary rejects the application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

"(3) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

26 USC 431 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2007.

Deadline.
Applicability.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension

(and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

**SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.**

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after section 431 the following new section:

**"SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS.** 26 USC 432.

"(a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan in effect on July 16, 2006—

"(1) if the plan is in endangered status—

"(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

"(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and Applicability.

"(2) if the plan is in critical status—

"(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

"(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period. Applicability.

"(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

"(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and, as of the beginning of the plan year, either—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(d).

For purposes of this section, a plan shall be treated as in seriously endangered status for a plan year if the plan is described in both subparagraphs (A) and (B).

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the fair market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if—

"(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 431(d), or

"(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 431(d).

"(C) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year,

"(ii) the present value, as of the beginning of the current plan year, of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

"(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

"(D) A plan is described in this subparagraph if the sum of—

"(i) the fair market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

"(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary and to the plan sponsor— Deadline.

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

"(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The actuary's projections shall be based on reasonable actuarial estimates, assumptions, and methods that, except as provided in clause (iii), offer the actuary's best estimate of anticipated experience under the plan. The projected present value of liabilities as of the beginning of such year shall be determined based on the most recent of either—

"(I) the actuarial statement required under section 103(d) of the Employee Retirement Income Security Act of 1974 with respect to the most recently filed annual report, or

"(II) the actuarial valuation for the preceding plan year.

"(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

"(iii) PROJECTED INDUSTRY ACTIVITY.—Any projection of activity in the industry or industries covered by the plan, including future covered employment and contribution levels, shall be based on information provided by the plan sponsor, which shall act reasonably and in good faith.

"(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for

purposes of section 502(c)(2) of the Employee Retirement Income Security Act of 1974 as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4) of such Act.

"(D) NOTICE.—

Deadline.

"(i) IN GENERAL.—In any case in which it is certified under subparagraph (A) that a multiemployer plan is or will be in endangered or critical status for a plan year, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, and the Secretary of Labor.

"(ii) PLANS IN CRITICAL STATUS.—If it is certified under subparagraph (A) that a multiemployer plan is or will be in critical status, the plan sponsor shall include in the notice under clause (i) an explanation of the possibility that—

"(I) adjustable benefits (as defined in subsection (e)(8)) may be reduced, and

"(II) such reductions may apply to participants and beneficiaries whose benefit commencement date is on or after the date such notice is provided for the first plan year in which the plan is in critical status.

"(iii) MODEL NOTICE.—The Secretary of Labor shall prescribe a model notice that a multiemployer plan may use to satisfy the requirements under clause (ii).

"(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

Deadlines.

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the funding improvement plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable benchmarks in accordance with the funding improvement plan, including—

"(I) one proposal for reductions in the amount of future benefit accruals necessary to achieve the applicable benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions necessary to achieve the applicable benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

"(II) one proposal for increases in contributions under the plan necessary to achieve the applicable benchmarks, assuming no amendments reducing future benefit accruals under the plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the applicable benchmarks in accordance with the funding improvement plan.

For purposes of this section, the term 'applicable benchmarks' means the requirements applicable to the multiemployer plan under paragraph (3) (as modified by paragraph (5)).

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

"(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

"(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, formulated to provide, based on reasonably anticipated experience and reasonable actuarial assumptions, for the attainment by the plan during the funding improvement period of the following requirements:

"(i) INCREASE IN PLAN'S FUNDING PERCENTAGE.—The plan's funded percentage as of the close of the funding improvement period equals or exceeds a percentage equal to the sum of—

"(I) such percentage as of the beginning of such period, plus

"(II) 33 percent of the difference between 100 percent and the percentage under subclause (I).

"(ii) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A)(i)(II) shall be applied by substituting '20 percent' for '33 percent'.

"(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

Expiration date.

"(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

Applicability.

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A) shall be applied by substituting '15-year period' for '10-year period'.

Termination dates.

"(C) COORDINATION WITH CHANGES IN STATUS.—

"(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

"(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

"(D) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan's actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection and subsection (d) shall be applied as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

"(5) SPECIAL RULES FOR SERIOUSLY ENDANGERED PLANS MORE THAN 70 PERCENT FUNDED.—

"(A) IN GENERAL.—If the funded percentage of a plan in seriously endangered status was more than 70 percent as of the beginning of the initial determination year—

"(i) paragraphs (3)(B) and (4)(B) shall apply only if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), and

"(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of paragraph (3)(B) and (4)(B) for plan years in the funding improvement period beginning on or before the date on which

the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

"(B) SPECIAL RULE AFTER EXPIRATION OF AGREEMENTS.—Notwithstanding subparagraph (A)(ii), if, for any plan year ending after the date described in subparagraph (A)(ii), the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), paragraphs (3)(B) and (4)(B) shall continue to apply for such year.

"(6) UPDATES TO FUNDING IMPROVEMENT PLANS AND SCHEDULES.—

"(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

"(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(7) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—If—

"(i) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered endangered status expires, and

"(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to agree on changes to contribution or benefit schedules necessary to meet the applicable benchmarks in accordance with the funding improvement plan,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i)(I) beginning on the date specified in subparagraph (B).

"(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the earlier of the date—

"(i) on which the Secretary of Labor certifies that the parties are at an impasse, or

"(ii) which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.

"(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

"(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—

"(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the funding plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law, and

"(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

"(i) an increase in the plan's funded percentage, and

"(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan so as to be inconsistent with the funding improvement plan.

"(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

"(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of

a funding improvement plan so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that the benefit increase is consistent with the funding improvement plan and is paid for out of contributions not required by the funding improvement plan to meet the applicable benchmark in accordance with the schedule contemplated in the funding improvement plan.

"(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection— Deadlines.

"(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the rehabilitation plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and adjustable benefits, and increases in contributions, that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 411(d)(6)) have been reduced to the maximum extent permitted by law.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

"(3) REHABILITATION PLAN.—For purposes of this section—

"(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

"(i) actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures

(including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

"(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245 of the Employee Retirement Income Security Act of 1974).

A rehabilitation plan must provide annual standards for meeting the requirements of such rehabilitation plan. Such plan shall also include the schedules required to be provided under paragraph (1)(B)(i) and if clause (ii) applies, shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

"(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

"(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

"(ii) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(C) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT REHABILITATION PLAN.—

"(i) IN GENERAL.—If—

"(I) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires, and

"(II) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution or benefit schedules with terms consistent with the rehabilitation plan and the schedule from the plan sponsor under paragraph (1)(B)(i),

the plan sponsor shall implement the default schedule described in the last sentence of paragraph (1) beginning on the date specified in clause (ii).

"(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the earlier of the date—

"(I) on which the Secretary of Labor certifies that the parties are at an impasse, or

"(II) which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.

"(4) REHABILITATION PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

"(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to the use of the shortfall method and taking into account any extension of amortization periods under section 431(d).

"(5) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

"(6) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under the default schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

"(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

"(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative

schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

"(7) AUTOMATIC EMPLOYER SURCHARGE.—

"(A) IMPOSITION OF SURCHARGE.—Each employer otherwise obligated to make a contribution for the initial critical year shall be obligated to pay to the plan for such year a surcharge equal to 5 percent of the contribution otherwise required under the applicable collective bargaining agreement (or other agreement pursuant to which the employer contributes). For each succeeding plan year in which the plan is in critical status for a consecutive period of years beginning with the initial critical year, the surcharge shall be 10 percent of the contribution otherwise so required.

"(B) ENFORCEMENT OF SURCHARGE.—The surcharges under subparagraph (A) shall be due and payable on the same schedule as the contributions on which the surcharges are based. Any failure to make a surcharge payment shall be treated as a delinquent contribution under section 515 of the Employee Retirement Income Security Act of 1974 and shall be enforceable as such.

Termination date.

"(C) SURCHARGE TO TERMINATE UPON COLLECTIVE BARGAINING AGREEMENT RENEGOTIATION.—The surcharge under this paragraph shall cease to be effective with respect to employees covered by a collective bargaining agreement (or other agreement pursuant to which the employer contributes), beginning on the effective date of a collective bargaining agreement (or other such agreement) that includes terms consistent with a schedule presented by the plan sponsor under paragraph (1)(B)(i), as modified under subparagraph (B) of paragraph (3).

Effective date.

"(D) SURCHARGE NOT TO APPLY UNTIL EMPLOYER RECEIVES NOTICE.—The surcharge under this paragraph shall not apply to an employer until 30 days after the employer has been notified by the plan sponsor that the plan is in critical status and that the surcharge is in effect.

"(E) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge under this paragraph shall not be the basis for any benefit accrual under the plan.

"(8) BENEFIT ADJUSTMENTS.—

"(A) ADJUSTABLE BENEFITS.—

"(i) IN GENERAL.—Notwithstanding section 204(g), the plan sponsor shall, subject to the notice requirement under subparagraph (C), make any reductions to adjustable benefits which the plan sponsor deems appropriate, based upon the outcome of collective bargaining over the schedule or schedules provided under paragraph (1)(B)(i).

"(ii) EXCEPTION FOR RETIREES.—Except in the case of adjustable benefits described in clause (iv)(III), the plan sponsor of a plan in critical status shall not reduce adjustable benefits of any participant or beneficiary whose benefit commencement date is before the date on which the plan provides notice to the participant

or beneficiary under subsection (b)(3)(D) for the initial critical year.

"(iii) PLAN SPONSOR FLEXIBILITY.—The plan sponsor shall include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate by the plan sponsor based on the plan's then current overall funding status.

"(iv) ADJUSTABLE BENEFIT DEFINED.—For purposes of this paragraph, the term 'adjustable benefit' means—

"(I) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(II) any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) and any benefit payment option (other than the qualified joint and survivor annuity), and

"(III) benefit increases that would not be eligible for a guarantee under section 4022A of the Employee Retirement Income Security Act of 1974 on the first day of initial critical year because the increases were adopted (or, if later, took effect) less than 60 months before such first day.

"(B) NORMAL RETIREMENT BENEFITS PROTECTED.—Except as provided in subparagraph (A)(iv)(III), nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant's accrued benefit payable at normal retirement age.

"(C) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—No reduction may be made to adjustable benefits under subparagraph (A) unless notice of such reduction has been given at least 30 days before the general effective date of such reduction for all participants and beneficiaries to—

"(I) plan participants and beneficiaries,

"(II) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

"(III) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(ii) CONTENT OF NOTICE.—The notice under clause (i) shall contain—

"(I) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an estimate (on an annual or monthly basis) of any affected adjustable benefit that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in clause (i), and

"(II) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(iii) FORM AND MANNER.—Any notice under clause (i)—

"(I) shall be provided in a form and manner prescribed in regulations of the Secretary of Labor,

"(II) shall be written in a manner so as to be understood by the average plan participant, and

"(III) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

The Secretary of Labor shall in the regulations prescribed under subclause (I) establish a model notice that a plan sponsor may use to meet the requirements of this subparagraph.

"(9) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

"(A) BENEFIT REDUCTIONS.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

"(B) SURCHARGES.—Any surcharges under paragraph (7) shall be disregarded in determining an employer's withdrawal liability under section 4211 of such Act, except for purposes of determining the unfunded vested benefits attributable to an employer under section 4211(c)(4) of such Act or a comparable method approved under section 4211(c)(5) of such Act.

Applicability.

"(C) SIMPLIFIED CALCULATIONS.—The Pension Benefit Guaranty Corporation shall prescribe simplified methods for the application of this paragraph in determining withdrawal liability.

"(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

"(1) COMPLIANCE WITH REHABILITATION PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

"(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

"(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

"(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 411(d)(6), the plan shall not pay— Effective date.

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(b)(1)(A)),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

"(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

"(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

"(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan. Deadline.

"(h) NONBARGAINED PARTICIPATION.—

"(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements

and employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining party, and its participation agreement with the plan were a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

"(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means—

"(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

"(ii) in the case of a plan described under section 404(c), or a continuation of such a plan, the association of employers that is the employer settlor of the plan; and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

"(A) the numerator of which is the value of the plan's assets, as determined under section 431(c)(2), and

"(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 431(c)(3).

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 412(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a) of the Employee Retirement Income Security Act of 1974.

"(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

"(9) PLAN SPONSOR.—In the case of a plan described under section 404(c), or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).

"(10) BENEFIT COMMENCEMENT DATE.—The term 'benefit commencement date' means the annuity starting date (or in the case of a retroactive annuity starting date, the date on which benefit payments begin)."

(b) EXCISE TAXES ON FAILURES RELATING TO MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.—

(1) IN GENERAL.—Section 4971 of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following: 26 USC 4971.

"(g) MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.—

"(1) IN GENERAL.—Except as provided in this subsection—

"(A) no tax shall be imposed under this section for a taxable year with respect to a multiemployer plan if, for the plan years ending with or within the taxable year, the plan is in critical status pursuant to section 432, and

"(B) any tax imposed under this subsection for a taxable year with respect to a multiemployer plan if, for the plan years ending with or within the taxable year, the plan is in endangered status pursuant to section 432 shall be in addition to any other tax imposed by this section.

"(2) FAILURE TO COMPLY WITH FUNDING IMPROVEMENT OR REHABILITATION PLAN.—

"(A) IN GENERAL.—If any funding improvement plan or rehabilitation plan in effect under section 432 with respect to a multiemployer plan requires an employer to make a contribution to the plan, there is hereby imposed a tax on each failure of the employer to make the required contribution within the time required under such plan.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be equal to the amount of the required contribution the employer failed to make in a timely manner.

"(C) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by the employer responsible for contributing to or under the rehabilitation plan which fails to make the contribution.

"(3) FAILURE TO MEET REQUIREMENTS FOR PLANS IN ENDANGERED OR CRITICAL STATUS.—If—

"(A) a plan which is in seriously endangered status fails to meet the applicable benchmarks by the end of the funding improvement period, or

"(B) a plan which is in critical status either—

"(i) fails to meet the requirements of section 432(e) by the end of the rehabilitation period, or

"(ii) has received a certification under section 432(b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan,

the plan shall be treated as having an accumulated funding deficiency for purposes of this section for the last plan year in such funding improvement, rehabilitation, or 3-consecutive year period (and each succeeding plan year until such benchmarks or requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such benchmarks or requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

"(4) FAILURE TO ADOPT REHABILITATION PLAN.—

"(A) IN GENERAL.—In the case of a multiemployer plan which is in critical status, there is hereby imposed a tax on the failure of such plan to adopt a rehabilitation plan within the time prescribed under section 432.

"(B) AMOUNT OF TAX.—The amount of the tax imposed under subparagraph (A) with respect to any plan sponsor for any taxable year shall be the greater of—

"(i) the amount of tax imposed under subsection (a) for the taxable year (determined without regard to this subsection), or

"(ii) the amount equal to $1,100 multiplied by the number of days during the taxable year which are included in the period beginning on the first day of the 240-day period described in section 432(e)(1)(A) and ending on the day on which the rehabilitation plan is adopted.

"(C) LIABILITY FOR TAX.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A) shall be paid by each plan sponsor.

"(ii) PLAN SPONSOR.—For purposes of clause (i), the term 'plan sponsor' in the case of a multiemployer plan means the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

"(5) WAIVER.—In the case of a failure described in paragraph (2) or (3) which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by this subsection. For purposes of this paragraph, reasonable cause includes unanticipated and material market fluctuations, the loss of a significant contributing employer, or other factors to the extent that the payment of tax under this subsection with respect to the failure would be excessive or otherwise inequitable relative to the failure involved.

"(6) TERMS USED IN SECTION 432.—For purposes of this subsection, any term used in this subsection which is also used in section 432 shall have the meaning given such term by section 432.".

(2) CONTROLLED GROUPS.—Section 4971(c)(2) of such Code is amended— 26 USC 4971.

(A) by striking "In the case of a plan other than a multiemployer plan, if the" and inserting "If an", and

(B) by striking "or (f)" and inserting "(f), or (g)".

(c) NO ADDITIONAL CONTRIBUTION REQUIRED.—Section 412(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph: 26 USC 412.

"(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Paragraph (1) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 432. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 432(e) and complies with such rehabilitation plan (and any modifications of the plan).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter D of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 432. Additional funding rules for multiemployer plans in endangered status or critical status.".

(e) EFFECTIVE DATES.— 26 USC 412 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after 2007.

(2) SPECIAL RULE FOR CERTAIN NOTICES.—In any case in which a plan's actuary certifies that it is reasonably expected that a multiemployer plan will be in critical status under section 305(b)(3) of the Employee Retirement Income Security Act of 1974, as added by this section, with respect to the first plan year beginning after 2007, the notice required under subparagraph (D) of such section may be provided at any time after the date of enactment, so long as it is provided on or before the last date for providing the notice under such subparagraph.

(3) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

**SEC. 213. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.**

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 418E(d)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years"; and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan

sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

26 USC 418E note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the determinations made in plan years beginning after 2007.

26 USC 4971 note.

**SEC. 214. EXEMPTION FROM EXCISE TAXES FOR CERTAIN MULTIEMPLOYER PENSION PLANS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no tax shall be imposed under subsection (a) or (b) of section 4971 of the Internal Revenue Code of 1986 with respect to any accumulated funding deficiency of a plan described in subsection (b) of this section for any taxable year beginning before the earlier of—

(1) the taxable year in which the plan sponsor adopts a rehabilitation plan under section 305(e) of the Employee Retirement Income Security Act of 1974 and section 432(e) of such Code (as added by this Act); or

(2) the taxable year that contains January 1, 2009.

(b) PLAN DESCRIBED.—A plan described under this subsection is a multiemployer pension plan—

(1) with less than 100 participants;

(2) with respect to which the contributing employers participated in a Federal fishery capacity reduction program;

(3) with respect to which employers under the plan participated in the Northeast Fisheries Assistance Program; and

(4) with respect to which the annual normal cost is less than $100,000 and the plan is experiencing a funding deficiency on the date of enactment of this Act.

# Subtitle C—Sunset of Additional Funding Rules

**SEC. 221. SUNSET OF ADDITIONAL FUNDING RULES.**

(a) REPORT.—Not later than December 31, 2011, the Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall conduct a study of the effect of the amendments made by this subtitle on the operation and funding status of multiemployer plans and shall report the results of such study, including any recommendations for legislation, to the Congress.

(b) MATTERS INCLUDED IN STUDY.—The study required under subsection (a) shall include—

(1) the effect of funding difficulties, funding rules in effect before the date of the enactment of this Act, and the amendments made by this subtitle on small businesses participating in multiemployer plans,

(2) the effect on the financial status of small employers of—

(A) funding targets set in funding improvement and rehabilitation plans and associated contribution increases,

(B) funding deficiencies,

(C) excise taxes,

(D) withdrawal liability,

(E) the possibility of alternative schedules and procedures for financially troubled employers, and

(F) other aspects of the multiemployer system, and

(3) the role of the multiemployer pension plan system in helping small employers to offer pension benefits.

(c) SUNSET.— 26 USC 412 note.

(1) IN GENERAL.—Except as provided in this subsection, notwithstanding any other provision of this Act, the provisions of, and the amendments made by, sections 201(b), 202, and 212 shall not apply to plan years beginning after December 31, 2014.

(2) FUNDING IMPROVEMENT AND REHABILITATION PLANS.—If a plan is operating under a funding improvement or rehabilitation plan under section 305 of such Act or 432 of such Code for its last year beginning before January 1, 2015, such plan shall continue to operate under such funding improvement or rehabilitation plan during any period after December 31, 2014, such funding improvement or rehabilitation plan is in effect and all provisions of such Act or Code relating to the operation of such funding improvement or rehabilitation plan shall continue in effect during such period.

# TITLE III—INTEREST RATE ASSUMPTIONS

**SEC. 301. EXTENSION OF REPLACEMENT OF 30-YEAR TREASURY RATES.**

(a) AMENDMENTS OF ERISA.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 is amended— 29 USC 1082.

(A) by striking "2006" and inserting "2008", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 302(d)(7)(C)(i) of such Act is amended—

(A) by striking "or 2005" and inserting ", 2005, 2006, or 2007", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

(3) PBGC PREMIUM RATE.—Subclause (V) of section 4006(a)(3)(E)(iii) of such Act is amended by striking "2006" and inserting "2008". 29 USC 1306.

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended— 26 USC 412.

(A) by striking "2006" and inserting "2008", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 412(l)(7)(C)(i) of such Code is amended—

(A) by striking "or 2005" and inserting ", 2005, 2006, or 2007", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

29 USC 1082.

(c) PLAN AMENDMENTS.—Clause (ii) of section 101(c)(2)(A) of the Pension Funding Equity Act of 2004 is amended by striking "2006" and inserting "2008".

**SEC. 302. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.**

(a) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Paragraph (3) of section 205(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3)(A) For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) For purposes of subparagraph (A)—

"(i) The term 'applicable mortality table' means a mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the plan year under subparagraph (A) of section 303(h)(3) (without regard to subparagraph (C) or (D) of such section).

"(ii) The term 'applicable interest rate' means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 303(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

"(iii) For purposes of clause (ii), the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 303(h)(2)(C) if—

"(I) section 303(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) for the average yields for the 24-month period described in such section,

"(II) section 303(h)(2)(G)(i)(II) were applied by substituting 'section 205(g)(3)(B)(iii)(II)' for 'section 302(b)(5)(B)(ii)(II)', and

"(III) the applicable percentage under section 303(h)(2)(G) were determined in accordance with the following table:

| "In the case of plan years beginning in: | The applicable percentage is: |
|---|---|
| 2008 | 20 percent |
| 2009 | 40 percent |
| 2010 | 60 percent |
| 2011 | 80 percent.". |

26 USC 417.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 417(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) APPLICABLE MORTALITY TABLE.—For purposes of subparagraph (A), the term 'applicable mortality table' means a mortality table, modified as appropriate by the

Secretary, based on the mortality table specified for the plan year under subparagraph (A) of section 430(h)(3) (without regard to subparagraph (C) or (D) of such section).

"(C) APPLICABLE INTEREST RATE.—For purposes of subparagraph (A), the term 'applicable interest rate' means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary may by regulations prescribe.

"(D) APPLICABLE SEGMENT RATES.—For purposes of subparagraph (C), the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 430(h)(2)(C) if—

"(i) section 430(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) for the average yields for the 24-month period described in such section,

"(ii) section 430(h)(2)(G)(i)(II) were applied by substituting 'section 417(e)(3)(A)(ii)(II)' for 'section 412(b)(5)(B)(ii)(II)', and

"(iii) the applicable percentage under section 430(h)(2)(G) were determined in accordance with the following table:

| "In the case of plan years beginning in: | The applicable percentage is: |
|---|---|
| 2008 | 20 percent |
| 2009 | 40 percent |
| 2010 | 60 percent |
| 2011 | 80 percent.". |

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2007. 26 USC 417 note.

**SEC. 303. INTEREST RATE ASSUMPTION FOR APPLYING BENEFIT LIMITATIONS TO LUMP SUM DISTRIBUTIONS.**

(a) IN GENERAL.—Clause (ii) of section 415(b)(2)(E) of the Internal Revenue Code of 1986 is amended to read as follows: 26 USC 415.

"(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), the interest rate assumption shall not be less than the greatest of—

"(I) 5.5 percent,

"(II) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3)) were the interest rate assumption, or

"(III) the rate specified under the plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions made in years beginning after December 31, 2005. 26 USC 415 note.

# TITLE IV—PBGC GUARANTEE AND RELATED PROVISIONS

**SEC. 401. PBGC PREMIUMS.**

(a) VARIABLE-RATE PREMIUMS.—

(1) CONFORMING AMENDMENTS RELATED TO FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Section 4006(a)(3)(E) of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) For purposes of clause (ii), the term 'unfunded vested benefits' means, for a plan year, the excess (if any) of—

"(I) the funding target of the plan as determined under section 303(d) for the plan year by only taking into account vested benefits and by using the interest rate described in clause (iv), over

"(II) the fair market value of plan assets for the plan year which are held by the plan on the valuation date.

"(iv) The interest rate used in valuing benefits for purposes of subclause (I) of clause (iii) shall be equal to the first, second, or third segment rate for the month preceding the month in which the plan year begins, which would be determined under section 303(h)(2)(C) if section 303(h)(2)(D) were applied by using the monthly yields for the month preceding the month in which the plan year begins on investment grade corporate bonds with varying maturities and in the top 3 quality levels rather than the average of such yields for a 24-month period.".

29 USC 1306 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to plan years beginning after 2007.

(b) TERMINATION PREMIUMS.—

(1) REPEAL OF SUNSET PROVISION.—Subparagraph (E) of section 4006(a)(7) of such Act is repealed.

(2) TECHNICAL CORRECTION.—

(A) IN GENERAL.—Section 4006(a)(7)(C)(ii) of such Act is amended by striking "subparagraph (B)(i)(I)" and inserting "subparagraph (B)".

29 USC 1306 note.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect as if included in the provision of the Deficit Reduction Act of 2005 to which it relates.

26 USC 430 note.

**SEC. 402. SPECIAL FUNDING RULES FOR CERTAIN PLANS MAINTAINED BY COMMERCIAL AIRLINES.**

(a) IN GENERAL.—The plan sponsor of an eligible plan may elect to either—

(1) have the rules of subsection (b) apply, or

(2) have section 303 of the Employee Retirement Income Security Act of 1974 and section 430 of the Internal Revenue Code of 1986 applied to its first taxable year beginning in 2008 by amortizing the shortfall amortization base for such taxable year over a period of 10 plan years (rather than 7 plan years) beginning with such plan year.

(b) ALTERNATIVE FUNDING SCHEDULE.—

(1) IN GENERAL.—If an election is made under subsection (a)(1) to have this subsection apply to an eligible plan and the requirements of paragraphs (2) and (3) are met with respect to the plan—

(A) in the case of any applicable plan year beginning before January 1, 2008, the plan shall not have an accumulated funding deficiency for purposes of section 302 of the Employee Retirement Income Security Act of 1974 and sections 412 and 4971 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (e) for the plan for the plan year, and

(B) in the case of any applicable plan year beginning on or after January 1, 2008, the minimum required contribution determined under sections 303 of such Act and 430 of such Code shall, for purposes of sections 302 and 303 of such Act and sections 412, 430, and 4971 of such Code, be equal to the minimum required contribution determined under subsection (e) for the plan for the plan year.

(2) ACCRUAL RESTRICTIONS.—

(A) IN GENERAL.—The requirements of this paragraph are met if, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that—

(i) the accrued benefit, any death or disability benefit, and any social security supplement described in the last sentence of section 411(a)(9) of such Code and section 204(b)(1)(G) of such Act, of each participant are frozen at the amount of such benefit or supplement immediately before such first day, and

(ii) all other benefits under the plan are eliminated,

but only to the extent the freezing or elimination of such benefits would have been permitted under section 411(d)(6) of such Code and section 204(g) of such Act if they had been implemented by a plan amendment adopted immediately before such first day.

(B) INCREASES IN SECTION 415 LIMITS.—If a plan provides that an accrued benefit of a participant which has been subject to any limitation under section 415 of such Code will be increased if such limitation is increased, the plan shall not be treated as meeting the requirements of this section unless, effective as of the first day of the first applicable plan year (or, if later, the date of the enactment of this Act) and at all times thereafter while an election under this section is in effect, the plan provides that any such increase shall not take effect. A plan shall not fail to meet the requirements of section 411(d)(6) of such Code and section 204(g) of such Act solely because the plan is amended to meet the requirements of this subparagraph.

(3) RESTRICTION ON APPLICABLE BENEFIT INCREASES.—

(A) IN GENERAL.—The requirements of this paragraph are met if no applicable benefit increase takes effect at any time during the period beginning on July 26, 2005, and ending on the day before the first day of the first applicable plan year.

(B) APPLICABLE BENEFIT INCREASE.—For purposes of this paragraph, the term "applicable benefit increase" means, with respect to any plan year, any increase in

liabilities of the plan by plan amendment (or otherwise provided in regulations provided by the Secretary) which, but for this paragraph, would occur during the plan year by reason of—

(i) any increase in benefits,

(ii) any change in the accrual of benefits, or

(iii) any change in the rate at which benefits become nonforfeitable under the plan.

(4) EXCEPTION FOR IMPUTED DISABILITY SERVICE.—Paragraphs (2) and (3) shall not apply to any accrual or increase with respect to imputed service provided to a participant during any period of the participant's disability occurring on or after the effective date of the plan amendment providing the restrictions under paragraph (2) (or on or after July 26, 2005, in the case of the restrictions under paragraph (3)) if the participant—

(A) was receiving disability benefits as of such date, or

(B) was receiving sick pay and subsequently determined to be eligible for disability benefits as of such date.

(c) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE PLAN.—The term "eligible plan" means a defined benefit plan (other than a multiemployer plan) to which sections 302 of such Act and 412 of such Code applies which is sponsored by an employer—

(A) which is a commercial airline passenger airline, or

(B) the principal business of which is providing catering services to a commercial passenger airline.

(2) APPLICABLE PLAN YEAR.—The term "applicable plan year" means each plan year to which the election under subsection (a)(1) applies under subsection (d)(1)(A).

(d) ELECTIONS AND RELATED TERMS.—

Deadlines.

(1) YEARS FOR WHICH ELECTION MADE.—

(A) ALTERNATIVE FUNDING SCHEDULE.—If an election under subsection (a)(1) was made with respect to an eligible plan, the plan sponsor may select either a plan year beginning in 2006 or a plan year beginning in 2007 as the first plan year to which such election applies. The election shall apply to such plan year and all subsequent years. The election shall be made—

(i) not later than December 31, 2006, in the case of an election for a plan year beginning in 2006, or

(ii) not later than December 31, 2007, in the case of an election for a plan year beginning in 2007.

(B) 10 YEAR AMORTIZATION.—An election under subsection (a)(2) shall be made not later than December 31, 2007.

(C) ELECTION OF NEW PLAN YEAR FOR ALTERNATIVE FUNDING SCHEDULE.—In the case of an election under subsection (a)(1), the plan sponsor may specify a new plan year in such election and the plan year of the plan may be changed to such new plan year without the approval of the Secretary of the Treasury.

(2) MANNER OF ELECTION.—A plan sponsor shall make any election under subsection (a) in such manner as the Secretary

of the Treasury may prescribe. Such election, once made, may be revoked only with the consent of such Secretary.

(e) MINIMUM REQUIRED CONTRIBUTION.—In the case of an eligible plan with respect to which an election is made under subsection (a)(1)—

(1) IN GENERAL.—In the case of any applicable plan year during the amortization period, the minimum required contribution shall be the amount necessary to amortize the unfunded liability of the plan, determined as of the first day of the plan year, in equal annual installments (until fully amortized) over the remainder of the amortization period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(a)(2)(A) of such Act and section 412(a)(2)(A) of such Code shall apply to such plan, but the prefunding balance and funding standard carryover balance as of the first day of the first of such years under section 303(f) of such Act and section 430(f) of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term "unfunded liability" means the unfunded accrued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term "amortization period" means the 17-plan year period beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

Applicability.

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this section, shall apply,

(B) a rate of interest of 8.85 percent shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(5) SPECIAL RULE FOR CERTAIN PLAN SPINOFFS.—For purposes of subsection (b), if, with respect to any eligible plan to which this subsection applies—

(A) any applicable plan year includes the date of the enactment of this Act,

(B) a plan was spun off from the eligible plan during the plan year but before such date of enactment,

the minimum required contribution under paragraph (1) for the eligible plan for such applicable plan year shall be an aggregate amount determined as if the plans were a single plan for that plan year (based on the full 12-month plan year in effect prior to the spin-off). The employer shall designate the allocation of such aggregate amount between such plans for the applicable plan year.

(f) SPECIAL RULES FOR CERTAIN BALANCES AND WAIVERS.—In the case of an eligible plan with respect to which an election is made under subsection (a)(1)—

(1) FUNDING STANDARD ACCOUNT AND CREDIT BALANCES.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance or funding standard carryover balance

under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(2) WAIVED FUNDING DEFICIENCIES.—Any waived funding deficiency under sections 302 and 303 of such Act or section 412 of such Code, as in effect before the date of enactment of this section, shall be deemed satisfied as of the first day of the first applicable plan year and the amount of such waived funding deficiency shall be taken into account in determining the plan's unfunded liability under subsection (e)(3)(A). In the case of a plan amendment adopted to satisfy the requirements of subsection (b)(2), the plan shall not be deemed to violate section 304(b) of such Act or section 412(f) of such Code, as so in effect, by reason of such amendment or any increase in benefits provided to such plan's participants under a separate plan that is a defined contribution plan or a multiemployer plan.

(g) OTHER RULES FOR PLANS MAKING ELECTION UNDER THIS SECTION.—

(1) SUCCESSOR PLANS TO CERTAIN PLANS.—If—

(A) an election under paragraph (1) or (2) of subsection (a) is in effect with respect to any eligible plan, and

(B) the eligible plan is maintained by an employer that establishes or maintains 1 or more other defined benefit plans (other than any multiemployer plan), and such other plans in combination provide benefit accruals to any substantial number of successor employees,

the Secretary of the Treasury may, in the Secretary's discretion, determine that any trust of which any other such plan is a part does not constitute a qualified trust under section 401(a) of the Internal Revenue Code of 1986 unless all benefit obligations of the eligible plan have been satisfied. For purposes of this paragraph, the term "successor employee" means any employee who is or was covered by the eligible plan and any employees who perform substantially the same type of work with respect to the same business operations as an employee covered by such eligible plan.

(2) SPECIAL RULES FOR TERMINATIONS.—

(A) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new subsection:

29 USC 1322.

"(h) SPECIAL RULE FOR PLANS ELECTING CERTAIN FUNDING REQUIREMENTS.—If any plan makes an election under section 402(a)(1) of the Pension Protection Act of 2006 and is terminated effective before the end of the 10-year period beginning on the first day of the first applicable plan year—

"(1) this section shall be applied—

"(A) by treating the first day of the first applicable plan year as the termination date of the plan, and

"(B) by determining the amount of guaranteed benefits on the basis of plan assets and liabilities as of such assumed termination date, and

"(2) notwithstanding section 4044(a), plan assets shall first be allocated to pay the amount, if any, by which—

"(A) the amount of guaranteed benefits under this section (determined without regard to paragraph (1) and on

the basis of plan assets and liabilities as of the actual date of plan termination), exceeds

"(B) the amount determined under paragraph (1).".

(B) TERMINATION PREMIUM.—In applying section 4006(a)(7)(A) of the Employee Retirement Income Security Act of 1974 to an eligible plan during any period in which an election under subsection (a)(1) is in effect—

(i) "$2,500" shall be substituted for "$1,250" in such section if such plan terminates during the 5-year period beginning on the first day of the first applicable plan year with respect to such plan, and

(ii) such section shall be applied without regard to subparagraph (B) of section 8101(d)(2) of the Deficit Reduction Act of 2005 (relating to special rule for plans terminated in bankruptcy). Applicability.

The substitution described in clause (i) shall not apply with respect to any plan if the Secretary of Labor determines that such plan terminated as a result of extraordinary circumstances such as a terrorist attack or other similar event.

(3) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(iv) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to any taxable year of a plan sponsor of an eligible plan if any applicable plan year with respect to such plan ends with or within such taxable year.

(4) NOTICE.—In the case of a plan amendment adopted in order to comply with this section, any notice required under section 204(h) of such Act or section 4980F(e) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers. Deadline.

(h) EXCLUSION OF CERTAIN EMPLOYEES FROM MINIMUM COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—Section 410(b)(3) of such Code is amended by striking the last sentence and inserting the following: "For purposes of subparagraph (B), management pilots who are not represented in accordance with title II of the Railway Labor Act shall be treated as covered by a collective bargaining agreement described in such subparagraph if the management pilots manage the flight operations of air pilots who are so represented and the management pilots are, pursuant to the terms of the agreement, included in the group of employees benefitting under the trust described in such subparagraph. Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees whose principal duties are not customarily performed aboard an aircraft in flight (other than management pilots described in the preceding sentence)." 26 USC 410.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning before, on, or after the date of the enactment of this Act.

(i) EXTENSION OF SPECIAL RULE FOR ADDITIONAL FUNDING REQUIREMENTS.—In the case of an employer which is a commercial passenger airline, section 302(d)(12) of the Employee Retirement Income Security Act of 1974 and section 412(l)(12) of the Internal

Revenue Code of 1986, as in effect before the date of the enactment of this Act, shall each be applied—

(1) by substituting "December 28, 2007" for "December 28, 2005" in subparagraph (D)(i) thereof, and

(2) without regard to subparagraph (D)(ii).

(j) EFFECTIVE DATE.—Except as otherwise provided in this section, the provisions of and amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.

**SEC. 403. LIMITATION ON PBGC GUARANTEE OF SHUTDOWN AND OTHER BENEFITS.**

(a) IN GENERAL.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended by adding at the end the following:

"(8) If an unpredictable contingent event benefit (as defined in section 206(g)(1)) is payable by reason of the occurrence of any event, this section shall be applied as if a plan amendment had been adopted on the date such event occurred.".

29 USC 1322 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits that become payable as a result of an event which occurs after July 26, 2005.

**SEC. 404. RULES RELATING TO BANKRUPTCY OF EMPLOYER.**

(a) GUARANTEE.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) is amended by adding at the end the following:

"(g) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date of the plan, then this section shall be applied by treating the date such petition was filed as the termination date of the plan.".

(b) ALLOCATION OF ASSETS AMONG PRIORITY GROUPS IN BANKRUPTCY PROCEEDINGS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344) is amended by adding at the end the following:

"(e) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date of the plan, then subsection (a)(3) shall be applied by treating the date such petition was filed as the termination date of the plan.".

29 USC 1322 note.

(c) EFFECTIVE DATE.—The amendments made this section shall apply with respect to proceedings initiated under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, on or after the date that is 30 days after the date of enactment of this Act.

**SEC. 405. PBGC PREMIUMS FOR SMALL PLANS.**

(a) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)) is amended—

(1) by striking "The additional" in subparagraph (E)(i) and inserting "Except as provided in subparagraph (H), the additional", and

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

"(H)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

"(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined by taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied."

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to plan years beginning after December 31, 2006. 29 USC 1306 note.

**SEC. 406. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.**

(a) IN GENERAL.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking "(b)" and inserting "(b)(1)", and

(2) by inserting at the end the following new paragraph:

"(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1)." Regulations.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act. 29 USC 1307 note.

**SEC. 407. RULES FOR SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.**

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

"(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(i) owns the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.

"(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

"(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner."

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(B)".

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking "as defined in section 4022(b)(6)", and

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

"(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(1) owns the entire interest in an unincorporated trade or business,

"(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

"(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.".

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking "section 4022(b)(6)" and inserting "section 4021(d)".

(d) EFFECTIVE DATES.— 29 USC 1321 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2005, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which notices of determination are provided under such section after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2006. Effective date.

**SEC. 408. ACCELERATION OF PBGC COMPUTATION OF BENEFITS ATTRIBUTABLE TO RECOVERIES FROM EMPLOYERS.**

(a) MODIFICATION OF AVERAGE RECOVERY PERCENTAGE OF OUTSTANDING AMOUNT OF BENEFIT LIABILITIES PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—Section 4022(c)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)(ii)) is amended to read as follows:

"(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined."

(b) VALUATION OF SECTION 4062(c) LIABILITY FOR DETERMINING AMOUNTS PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 13) is amended to read as follows: 29 USC 1322.

"(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'recovery ratio' means the ratio which—

"(i) the sum of the values of all recoveries under section 4062, 4063, or 4064, determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

"(ii) the sum of all unfunded benefit liabilities under such plans as of the termination date in connection with any such prior termination.".

(2) ALLOCATION OF ASSETS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection: 29 USC 1344.

"(e) VALUATION OF SECTION 4062(c) LIABILITY FOR DETERMINING AMOUNTS PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—

"(1) IN GENERAL.—In the case of a terminated plan, the value of the recovery of liability under section 4062(c) allocable as a plan asset under this section for purposes of determining the amount of benefits payable by the corporation shall be determined by multiplying—

"(A) the amount of liability under section 4062(c) as of the termination date of the plan, by

"(B) the applicable section 4062(c) recovery ratio.

"(2) SECTION 4062(c) RECOVERY RATIO.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'section 4062(c) recovery ratio' means the ratio which—

"(i) the sum of the values of all recoveries under section 4062(c) determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

"(ii) the sum of all the amounts of liability under section 4062(c) with respect to such plans as of the termination date in connection with any such prior termination.

"(B) PRIOR TERMINATIONS.—A plan termination described in this subparagraph is a termination with respect to which—

"(i) the value of recoveries under section 4062(c) have been determined by the corporation, and

"(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined.

"(C) EXCEPTION.—In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, the term 'section 4062(c) recovery ratio' means, with respect to the termination of such plan, the ratio of—

"(i) the value of the recoveries on behalf of the plan under section 4062(c), to

"(ii) the amount of the liability owed under section 4062(c) as of the date of plan termination to the trustee appointed under section 4042 (b) or (c).

"(3) SUBSECTION NOT TO APPLY.—This subsection shall not apply with respect to the determination of—

"(A) whether the amount of outstanding benefit liabilities exceeds $20,000,000, or

"(B) the amount of any liability under section 4062 to the corporation or the trustee appointed under section 4042 (b) or (c).

"(4) DETERMINATIONS.—Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable.".

29 USC 1322 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for any termination for which notices of intent to terminate are provided (or in the case of a termination by the corporation, a notice of determination under section 4042 under the Employee Retirement Income Security Act of 1974 is issued) on or after

the date which is 30 days after the date of enactment of this section.

**SEC. 409. TREATMENT OF CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.**

(a) IN GENERAL.—Section 4041(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) there is transaction or series of transactions which result in a person ceasing to be a member of a controlled group, and

"(ii) such person immediately before the transaction or series of transactions maintained a single-employer plan which is a defined benefit plan which is fully funded,

then the interest rate used in determining whether the plan is sufficient for benefit liabilities or to otherwise assess plan liabilities for purposes of this subsection or section 4042(a)(4) shall be not less than the interest rate used in determining whether the plan is fully funded.

"(B) LIMITATIONS.—Subparagraph (A) shall not apply to any transaction or series of transactions unless—

"(i) any employer maintaining the plan immediately before or after such transaction or series of transactions—

"(I) has an outstanding senior unsecured debt instrument which is rated investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

"(II) if no such debt instrument of such employer has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer investment grade, and

"(ii) the employer maintaining the plan after the transaction or series of transactions employs at least 20 percent of the employees located in the United States who were employed by such employer immediately before the transaction or series of transactions.

"(C) FULLY FUNDED.—For purposes of subparagraph (A), a plan shall be treated as fully funded with respect to any transaction or series of transactions if—

"(i) in the case of a transaction or series of transactions which occur in a plan year beginning before January 1, 2008, the funded current liability percentage determined under section 302(d) for the plan year is at least 100 percent, and

"(ii) in the case of a transaction or series of transactions which occur in a plan year beginning on or

after such date, the funding target attainment percentage determined under section 303 is, as of the valuation date for such plan year, at least 100 percent.

"(D) 2 YEAR LIMITATION.—Subparagraph (A) shall not apply to any transaction or series of transactions if the plan referred to in subparagraph (A)(ii) is terminated under section 4041(c) or 4042 after the close of the 2-year period beginning on the date on which the first such transaction occurs.".

29 USC 1341 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction or series of transactions occurring on and after the date of the enactment of this Act.

**SEC. 410. MISSING PARTICIPANTS.**

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

Regulations.

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to

another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).".

(b) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(1) by striking "title IV" and inserting "section 4050"; and

(2) by striking "the plan shall provide that,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

Regulations. 29 USC 1056 note.

**SEC. 411. DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION.**

(a) IN GENERAL.—Title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended—

(1) by striking the second sentence of section 4002(a) and inserting the following: "In carrying out its functions under this title, the corporation shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall act in accordance with the policies established by the board."; and

29 USC 1302.

(2) in section 4003(b), by—

29 USC 1303.

(A) striking "under this title, any member" and inserting "under this title, the Director, any member"; and

(B) striking "designated by the chairman" and inserting "designated by the Director or chairman".

(b) COMPENSATION OF DIRECTOR.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Director, Pension Benefit Guaranty Corporation.".

(c) JURISDICTION OF NOMINATION.—

(1) IN GENERAL.—The Committee on Finance of the Senate and the Committee on Health, Education, Labor, and Pensions of the Senate shall have joint jurisdiction over the nomination of a person nominated by the President to fill the position of Director of the Pension Benefit Guaranty Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act), and if one committee votes to order reported such a nomination, the other shall report within 30 calendar days, or be automatically discharged.

(2) RULEMAKING OF THE SENATE.—This subsection is enacted by Congress—

(A) as an exercise of rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a nomination described in such sentence, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same

manner and to the same extent as in the case of any other rule of the Senate.

Termination date. 29 USC 1302 note.

(d) TRANSITION.—The term of the individual serving as Executive Director of the Pension Benefit Guaranty Corporation on the date of enactment of this Act shall expire on such date of enactment. Such individual, or any other individual, may serve as interim Director of such Corporation until an individual is appointed as Director of such Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act).

**SEC. 412. INCLUSION OF INFORMATION IN THE PBGC ANNUAL REPORT.**

Section 4008 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1308) is amended by—

(1) striking "As soon as practicable" and inserting "(a) As soon as practicable"; and

(2) adding at the end the following:

"(b) The report under subsection (a) shall include—

"(1) a summary of the Pension Insurance Modeling System microsimulation model, including the specific simulation parameters, specific initial values, temporal parameters, and policy parameters used to calculate the financial statements for the corporation;

"(2) a comparison of—

"(A) the average return on investments earned with respect to assets invested by the corporation for the year to which the report relates; and

"(B) an amount equal to 60 percent of the average return on investment for such year in the Standard & Poor's 500 Index, plus 40 percent of the average return on investment for such year in the Lehman Aggregate Bond Index (or in a similar fixed income index); and

"(3) a statement regarding the deficit or surplus for such year that the corporation would have had if the corporation had earned the return described in paragraph (2)(B) with respect to assets invested by the corporation.".

# TITLE V—DISCLOSURE

**SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICE.**

(a) IN GENERAL.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended to read as follows:

"(f) DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan to which title IV applies shall for each plan year provide a plan funding notice to the Pension Benefit Guaranty Corporation, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal

administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i)(I) in the case of a single-employer plan, a statement as to whether the plan's funding target attainment percentage (as defined in section 303(d)(2)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages), or

"(II) in the case of a multiemployer plan, a statement as to whether the plan's funded percentage (as defined in section 305(i)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages),

"(ii)(I) in the case of a single-employer plan, a statement of—

"(aa) the total assets (separately stating the prefunding balance and the funding standard carryover balance) and liabilities of the plan, determined in the same manner as under section 303, for the plan year for which the latest annual report filed under section 104(a) was filed and for the 2 preceding plan years, as reported in the annual report for each such plan year, and

"(bb) the value of the plan's assets and liabilities for the plan year to which the notice relates as of the last day of the plan year to which the notice relates determined using the asset valuation under subclause (II) of section 4006(a)(3)(E)(iii) and the interest rate under section 4006(a)(3)(E)(iv), and

"(II) in the case of a multiemployer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as the last day of such plan year and the preceding 2 plan years,

"(iii) a statement of the number of participants who are—

"(I) retired or separated from service and are receiving benefits,

"(II) retired or separated participants entitled to future benefits, and

"(III) active participants under the plan,

"(iv) a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates,

"(v) in the case of a multiemployer plan, whether the plan was in critical or endangered status under section 305 for such plan year and, if so—

"(I) a statement describing how a person may obtain a copy of the plan's funding improvement or rehabilitation plan, as appropriate, adopted under section 305 and the actuarial and financial

data that demonstrate any action taken by the plan toward fiscal improvement, and

"(II) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 305 during the plan year to which the notice relates,

"(vi) in the case of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the Secretary), an explanation of the amendment, schedule increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

"(vii)(I) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of title IV, or

"(II) in the case of a multiemployer plan, a summary of the rules governing reorganization or insolvency, including the limitations on benefit payments,

"(viii) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply,

"(ix) a statement that a person may obtain a copy of the annual report of the plan filed under section 104(a) upon request, through the Internet website of the Department of Labor, or through an Intranet website maintained by the applicable plan sponsor (or plan administrator on behalf of the plan sponsor), and

"(x) if applicable, a statement that each contributing sponsor, and each member of the contributing sponsor's controlled group, of the single-employer plan was required to provide the information under section 4010 for the plan year to which the notice relates.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include—

Reports.

"(i) in the case of a multiemployer plan, a statement that the plan administrator shall provide, upon written request, to any labor organization representing plan participants and beneficiaries and any employer that has an obligation to contribute to the plan, a copy of the annual report filed with the Secretary under section 104(a), and

"(ii) any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—

"(A) IN GENERAL.—Any notice under paragraph (1) shall be provided not later than 120 days after the end of the plan year to which the notice relates.

"(B) EXCEPTION FOR SMALL PLANS.—In the case of a small plan (as such term is used under section 303(g)(2)(B)) any notice under paragraph (1) shall be provided upon filing of the annual report under section 104(a).

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary, Regulations.

"(B) shall be written in a manner so as to be understood by the average plan participant, and

"(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.".

(b) REPEAL OF NOTICE TO PARTICIPANTS OF FUNDING STATUS.—

(1) IN GENERAL.—Title IV of such Act (29 U.S.C. 1301 et seq.) is amended by striking section 4011. 29 USC 1311.

(2) CLERICAL AMENDMENT.—Section 1 of such Act is amended in the table of contents by striking the item relating to section 4011.

(c) MODEL NOTICE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection. Deadline. 29 USC 1021 note.

(d) EFFECTIVE DATE.— 29 USC 1021 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007, except that the amendment made by subsection (b) shall apply to plan years beginning after December 31, 2006.

(2) TRANSITION RULE.—Any requirement under section 101(f) of the Employee Retirement Income Security Act of 1974 (as amended by this section) to report the funding target attainment percentage or funded percentage of a plan with respect to any plan year beginning before January 1, 2008, shall be treated as met if the plan reports—

(A) in the case of a plan year beginning in 2006, the funded current liability percentage (as defined in section 302(d)(8) of such Act) of the plan for such plan year, and

(B) in the case of a plan year beginning in 2007, the funding target attainment percentage or funded percentage as determined using such methods of estimation as the Secretary of the Treasury may provide.

**SEC. 502. ACCESS TO MULTIEMPLOYER PENSION PLAN INFORMATION.**

(a) FINANCIAL INFORMATION WITH RESPECT TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021), as amended by section 103, is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) MULTIEMPLOYER PLAN INFORMATION MADE AVAILABLE ON REQUEST.—

"(1) IN GENERAL.—Each administrator of a multiemployer plan shall, upon written request, furnish to any plan participant Reports.

or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan—

"(A) a copy of any periodic actuarial report (including any sensitivity testing) received by the plan for any plan year which has been in the plan's possession for at least 30 days,

"(B) a copy of any quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor or other fiduciary which has been in the plan's possession for at least 30 days, and

"(C) a copy of any application filed with the Secretary of the Treasury requesting an extension under section 304 of this Act or section 431(d) of the Internal Revenue Code of 1986 and the determination of such Secretary pursuant to such application.

"(2) COMPLIANCE.—Information required to be provided under paragraph (1)—

Deadline.
Regulations.

"(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary,

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the information is required to be provided, and

"(C) shall not—

"(i) include any individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer, or

"(ii) reveal any proprietary information regarding the plan, any contributing employer, or entity providing services to the plan.

"(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report or application described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 101(j)" and inserting "subsection (j) or (k) of section 101".

29 USC 1021 note.

(3) REGULATIONS.—The Secretary shall prescribe regulations under section 101(k)(2) of the Employee Retirement Income Security Act of 1974 (as added by paragraph (1)) not later than 1 year after the date of the enactment of this Act.

(b) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY TO MULTIEMPLOYER PLANS.—

29 USC 1021.

(1) IN GENERAL.—Section 101 of such Act (as amended by subsection (a)) is amended—

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

"(l) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY.—

"(1) IN GENERAL.—The plan sponsor or administrator of a multiemployer plan shall, upon written request, furnish to any employer who has an obligation to contribute to the plan a notice of—

"(A) the estimated amount which would be the amount of such employer's withdrawal liability under part 1 of subtitle E of title IV if such employer withdrew on the last day of the plan year preceding the date of the request, and

"(B) an explanation of how such estimated liability amount was determined, including the actuarial assumptions and methods used to determine the value of the plan liabilities and assets, the data regarding employer contributions, unfunded vested benefits, annual changes in the plan's unfunded vested benefits, and the application of any relevant limitations on the estimated withdrawal liability.

For purposes of subparagraph (B), the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

"(2) COMPLIANCE.—Any notice required to be provided under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary to the requesting employer within— Regulations.

"(i) 180 days after the request, or Deadline.

"(ii) subject to regulations of the Secretary, such longer time as may be necessary in the case of a plan that determines withdrawal liability based on any method described under paragraph (4) or (5) of section 4211(c); and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

"(3) LIMITATIONS.—In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 101(j) or (k)" and inserting "subsection (j), (k), or (l) of section 101".

(c) NOTICE OF AMENDMENT REDUCING FUTURE ACCRUALS.—

(1) AMENDMENT OF ERISA.—Section 204(h)(1) of such Act (29 U.S.C. 1054(h)(1)) is amended by inserting at the end before the period the following: "and to each employer who has an obligation to contribute to the plan".

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Section 4980F(e)(1) of such Code is amended by adding at the end before the period the following: "and to each employer who has an obligation to contribute to the plan". 26 USC 4980F.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007. 26 USC 4980F note.

**SEC. 503. ADDITIONAL ANNUAL REPORTING REQUIREMENTS.**

(a) ADDITIONAL ANNUAL REPORTING REQUIREMENTS WITH RESPECT TO DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(A) in subsection (a)(1)(B), by striking "subsections (d) and (e)" and inserting "subsections (d), (e), and (f)"; and

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

"(f) ADDITIONAL INFORMATION WITH RESPECT TO DEFINED BENEFIT PLANS.—

"(1) LIABILITIES UNDER 2 OR MORE PLANS.—

"(A) IN GENERAL.—In any case in which any liabilities to participants or their beneficiaries under a defined benefit plan as of the end of a plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under 2 or more pension plans as of immediately before such plan year, an annual report under this section for such plan year shall include the funded percentage of each of such 2 or more pension plans as of the last day of such plan year and the funded percentage of the plan with respect to which the annual report is filed as of the last day of such plan year.

"(B) FUNDED PERCENTAGE.—For purposes of this paragraph, the term 'funded percentage'—

"(i) in the case of a single-employer plan, means the funding target attainment percentage, as defined in section 303(d)(2), and

"(ii) in the case of a multiemployer plan, has the meaning given such term in section 305(i)(2).

"(2) ADDITIONAL INFORMATION FOR MULTIEMPLOYER PLANS.—With respect to any defined benefit plan which is a multiemployer plan, an annual report under this section for a plan year shall include, in addition to the information required under paragraph (1), the following, as of the end of the plan year to which the report relates:

"(A) The number of employers obligated to contribute to the plan.

"(B) A list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year.

"(C) The number of participants under the plan on whose behalf no contributions were made by an employer as an employer of the participant for such plan year and for each of the 2 preceding plan years.

"(D) The ratios of—

"(i) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the plan year, to

"(ii) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during each of the 2 preceding plan years.

"(E) Whether the plan received an amortization extension under section 304(d) of this Act or section 431(d) of the Internal Revenue Code of 1986 for such plan year

and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the extension, and the period of such extension.

"(F) Whether the plan used the shortfall funding method (as such term is used in section 305) for such plan year and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the use of such method, and the period of use of such method.

"(G) Whether the plan was in critical or endangered status under section 305 for such plan year, and if so, a summary of any funding improvement or rehabilitation plan (or modification thereto) adopted during the plan year, and the funded percentage of the plan.

"(H) The number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers.

"(I) In the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation.".

(2) GUIDANCE BY SECRETARY OF LABOR.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor shall publish guidance to assist multiemployer defined benefit plans to— Deadline. 29 USC 1023 note.

(A) identify and enumerate plan participants for whom there is no employer with an obligation to make an employer contribution under the plan; and

(B) report such information under section 103(f)(2)(D) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(b) ADDITIONAL INFORMATION IN ANNUAL ACTUARIAL STATEMENT REGARDING PLAN RETIREMENT PROJECTIONS.—Section 103(d) of such Act (29 U.S.C. 1023(d)) is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following new paragraph:

"(12) A statement explaining the actuarial assumptions and methods used in projecting future retirements and forms of benefit distributions under the plan.".

(c) REPEAL OF SUMMARY ANNUAL REPORT REQUIREMENT FOR DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)) is amended by inserting "(other than an administrator of a defined benefit plan to which the requirements of section 103(f) applies)" after "the administrators".

(2) CONFORMING AMENDMENT.—Section 101(a)(2) of such Act (29 U.S.C. 1021(a)(2)) is amended by inserting "subsection (f) and" before "sections 104(b)(3) and 105(a) and (c)".

(d) FURNISHING SUMMARY PLAN INFORMATION TO EMPLOYERS AND EMPLOYEE REPRESENTATIVES OF MULTIEMPLOYER PLANS.—Section 104 of such Act (29 U.S.C. 1024) is amended—

(1) in the header, by striking "**PARTICIPANTS**" and inserting "**PARTICIPANTS AND CERTAIN EMPLOYERS**";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) FURNISHING SUMMARY PLAN INFORMATION TO EMPLOYERS AND EMPLOYEE REPRESENTATIVES OF MULTIEMPLOYER PLANS.—

Deadline.

"(1) IN GENERAL.—With respect to a multiemployer plan subject to this section, within 30 days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan, the administrators shall furnish to each employee organization and to each employer with an obligation to contribute to the plan a report that contains—

"(A) a description of the contribution schedules and benefit formulas under the plan, and any modification to such schedules and formulas, during such plan year;

"(B) the number of employers obligated to contribute to the plan;

"(C) a list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year;

"(D) the number of participants under the plan on whose behalf no contributions were made by an employer as an employer of the participant for such plan year and for each of the 2 preceding plan years;

"(E) whether the plan was in critical or endangered status under section 305 for such plan year and, if so, include—

"(i) a list of the actions taken by the plan to improve its funding status; and

"(ii) a statement describing how a person may obtain a copy of the plan's improvement or rehabilitation plan, as applicable, adopted under section 305 and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement;

"(F) the number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers, as reported on the annual report for the plan year to which the report under this subsection relates;

"(G) in the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation;

"(H) a description as to whether the plan—

"(i) sought or received an amortization extension under section 304(d) of this Act or section 431(d) of the Internal Revenue Code of 1986 for such plan year; or

"(ii) used the shortfall funding method (as such term is used in section 305) for such plan year; and

"(I) notification of the right under this section of the recipient to a copy of the annual report filed with the Secretary under subsection (a), summary plan description, summary of any material modification of the plan, upon written request, but that— Notification.

"(i) in no case shall a recipient be entitled to receive more than one copy of any such document described during any one 12-month period; and

"(ii) the administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to this subparagraph.

"(2) EFFECT OF SUBSECTION.—Nothing in this subsection waives any other provision under this title requiring plan administrators to provide, upon request, information to employers that have an obligation to contribute under the plan.".

(e) MODEL FORM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 101(f) of the Employee Retirement Income Security Act of 1974, as amended by this section. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection. Deadline. 29 USC 1021 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007. 29 USC 1021 note.

**SEC. 504. ELECTRONIC DISPLAY OF ANNUAL REPORT INFORMATION.**

(a) ELECTRONIC DISPLAY OF INFORMATION.—Section 104(b) of such Act (29 U.S.C. 1024(b)) is amended by adding at the end the following:

"(5) Identification and basic plan information and actuarial information included in the annual report for any plan year shall be filed with the Secretary in an electronic format which accommodates display on the Internet, in accordance with regulations which shall be prescribed by the Secretary. The Secretary shall provide for display of such information included in the annual report, within 90 days after the date of the filing of the annual report, on an Internet website maintained by the Secretary and other appropriate media. Such information shall also be displayed on any Intranet website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor) for the purpose of communicating with employees and not the public, in accordance with regulations which shall be prescribed by the Secretary.". Regulations.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2007. 29 USC 1024 note.

**SEC. 505. SECTION 4010 FILINGS WITH THE PBGC.**

(a) CHANGE IN CRITERIA FOR PERSONS REQUIRED TO PROVIDE INFORMATION TO PBGC.—Section 4010(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1) and inserting the following:

"(1) the funding target attainment percentage (as defined in subsection (d)) at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent;".

(b) ADDITIONAL INFORMATION REQUIRED.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL INFORMATION REQUIRED.—

"(1) IN GENERAL.—The information submitted to the corporation under subsection (a) shall include—

"(A) the amount of benefit liabilities under the plan determined using the assumptions used by the corporation in determining liabilities;

"(B) the funding target of the plan determined as if the plan has been in at-risk status for at least 5 plan years; and

"(C) the funding target attainment percentage of the plan.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) FUNDING TARGET.—The term 'funding target' has the meaning provided under section 303(d)(1).

"(B) FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'funding target attainment percentage' has the meaning provided under section 302(d)(2).

"(C) AT-RISK STATUS.—The term 'at-risk status' has the meaning provided in section 303(i)(4).

"(e) NOTICE TO CONGRESS.—The corporation shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, a summary report in the aggregate of the information submitted to the corporation under this section.".

29 USC 1310 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to years beginning after 2007.

**SEC. 506. DISCLOSURE OF TERMINATION INFORMATION TO PLAN PARTICIPANTS.**

(a) DISTRESS TERMINATIONS.—

(1) IN GENERAL.—Section 4041(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)) is amended by adding at the end the following:

"(D) DISCLOSURE OF TERMINATION INFORMATION.—

"(i) IN GENERAL.—A plan administrator that has filed a notice of intent to terminate under subsection (a)(2) shall provide to an affected party any information provided to the corporation under subsection (a)(2) not later than 15 days after—

"(I) receipt of a request from the affected party for the information; or

"(II) the provision of new information to the corporation relating to a previous request.

"(ii) CONFIDENTIALITY.—

"(I) IN GENERAL.—The plan administrator shall not provide information under clause (i) in a form that includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

"(II) LIMITATION.—A court may limit disclosure under this subparagraph of confidential information described in section 552(b) of title 5, United States Code, to any authorized representative of the participants or beneficiaries that agrees to ensure the confidentiality of such information.

"(iii) FORM AND MANNER OF INFORMATION; CHARGES.—

"(I) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this subparagraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

"(II) REASONABLE CHARGES.—A plan administrator may charge a reasonable fee for any information provided under this subparagraph in other than electronic form.

"(iv) AUTHORIZED REPRESENTATIVE.—For purposes of this subparagraph, the term 'authorized representative' means any employee organization representing participants in the pension plan.".

(2) CONFORMING AMENDMENT.—Section 4041(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(1)) is amended in subparagraph (C) by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)".

(b) INVOLUNTARY TERMINATIONS.—

(1) IN GENERAL.—Section 4042(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(c)) is amended by—

(A) striking "(c) If the" and inserting "(c)(1) If the";

(B) redesignating paragraph (3) as paragraph (2); and

(C) adding at the end the following:

"(3) DISCLOSURE OF TERMINATION INFORMATION.—

"(A) IN GENERAL.—

"(i) INFORMATION FROM PLAN SPONSOR OR ADMINISTRATOR.—A plan sponsor or plan administrator of a single-employer plan that has received a notice from the corporation of a determination that the plan should be terminated under this section shall provide to an affected party any information provided to the corporation in connection with the plan termination.

"(ii) INFORMATION FROM CORPORATION.—The corporation shall provide a copy of the administrative record, including the trusteeship decision record of a termination of a plan described under clause (i).

Deadline.

"(B) TIMING OF DISCLOSURE.—The plan sponsor, plan administrator, or the corporation, as applicable, shall provide the information described in subparagraph (A) not later than 15 days after—

"(i) receipt of a request from an affected party for such information; or

"(ii) in the case of information described under subparagraph (A)(i), the provision of any new information to the corporation relating to a previous request by an affected party.

"(C) CONFIDENTIALITY.—

"(i) IN GENERAL.—The plan administrator and plan sponsor shall not provide information under subparagraph (A)(i) in a form which includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

"(ii) LIMITATION.—A court may limit disclosure under this paragraph of confidential information described in section 552(b) of title 5, United States Code, to authorized representatives (within the meaning of section 4041(c)(2)(D)(iv)) of the participants or beneficiaries that agree to ensure the confidentiality of such information.

"(D) FORM AND MANNER OF INFORMATION; CHARGES.—

"(i) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this paragraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

"(ii) REASONABLE CHARGES.—A plan sponsor may charge a reasonable fee for any information provided under this paragraph in other than electronic form.".

29 USC 1341 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any plan termination under title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) with respect to which the notice of intent to terminate (or in the case of a termination by the Pension Benefit Guaranty Corporation, a notice of determination under section 4042 of such Act (29 U.S.C. 1342)) occurs after the date of enactment of this Act.

(2) TRANSITION RULE.—If notice under section 4041(c)(2)(D) or 4042(c)(3) of the Employee Retirement Income Security Act of 1974 (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act, such notice shall not be required to be provided until such 90th day.

**SEC. 507. NOTICE OF FREEDOM TO DIVEST EMPLOYER SECURITIES.**

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021), as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

"(m) NOTICE OF RIGHT TO DIVEST.—Not later than 30 days before the first date on which an applicable individual of an applicable individual account plan is eligible to exercise the right under section 204(j) to direct the proceeds from the divestment of employer securities with respect to any type of contribution, the administrator shall provide to such individual a notice— Deadline.

"(1) setting forth such right under such section, and

"(2) describing the importance of diversifying the investment of retirement account assets.

The notice required by this subsection shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient.".

(b) PENALTIES.—Section 502(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(7)) is amended by striking "section 101(i)" and inserting "subsection (i) or (m) of section 101".

(c) MODEL NOTICE.—The Secretary of the Treasury shall, within 180 days after the date of the enactment of this subsection, prescribe a model notice for purposes of satisfying the requirements of the amendments made by this section. Deadline. 29 USC 1021 note.

(d) EFFECTIVE DATES.— 29 USC 1021 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) TRANSITION RULE.—If notice under section 101(m) of the Employee Retirement Income Security Act of 1974 (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act, such notice shall not be required to be provided until such 90th day.

**SEC. 508. PERIODIC PENSION BENEFIT STATEMENTS.**

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended to read as follows:

"(a) REQUIREMENTS TO PROVIDE PENSION BENEFIT STATEMENTS.—

"(1) REQUIREMENTS.—

"(A) INDIVIDUAL ACCOUNT PLAN.—The administrator of an individual account plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

"(i) at least once each calendar quarter to a participant or beneficiary who has the right to direct the investment of assets in his or her account under the plan,

"(ii) at least once each calendar year to a participant or beneficiary who has his or her own account under the plan but does not have the right to direct the investment of assets in that account, and

"(iii) upon written request to a plan beneficiary not described in clause (i) or (ii).

"(B) DEFINED BENEFIT PLAN.—The administrator of a defined benefit plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

"(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit and who is employed by the employer maintaining the plan at the time the statement is to be furnished, and

"(ii) to a participant or beneficiary of the plan upon written request.

Information furnished under clause (i) to a participant may be based on reasonable estimates determined under regulations prescribed by the Secretary, in consultation with the Pension Benefit Guaranty Corporation.

"(2) STATEMENTS.—

"(A) IN GENERAL.—A pension benefit statement under paragraph (1)—

"(i) shall indicate, on the basis of the latest available information—

"(I) the total benefits accrued, and

"(II) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

"(ii) shall include an explanation of any permitted disparity under section 401(l) of the Internal Revenue Code of 1986 or any floor-offset arrangement that may be applied in determining any accrued benefits described in clause (i),

"(iii) shall be written in a manner calculated to be understood by the average plan participant, and

"(iv) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant or beneficiary.

"(B) ADDITIONAL INFORMATION.—In the case of an individual account plan, any pension benefit statement under clause (i) or (ii) of paragraph (1)(A) shall include—

"(i) the value of each investment to which assets in the individual account have been allocated, determined as of the most recent valuation date under the plan, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and

"(ii) in the case of a pension benefit statement under paragraph (1)(A)(i)—

"(I) an explanation of any limitations or restrictions on any right of the participant or beneficiary under the plan to direct an investment,

"(II) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a statement of the risk that holding more than 20 percent of a portfolio

in the security of one entity (such as employer securities) may not be adequately diversified, and

"(III) a notice directing the participant or beneficiary to the Internet website of the Department of Labor for sources of information on individual investing and diversification.

Notices.

"(C) ALTERNATIVE NOTICE.—The requirements of subparagraph (A)(i)(II) are met if, at least annually and in accordance with requirements of the Secretary, the plan—

"(i) updates the information described in such paragraph which is provided in the pension benefit statement, or

"(ii) provides in a separate statement such information as is necessary to enable a participant or beneficiary to determine their nonforfeitable vested benefits.

"(3) DEFINED BENEFIT PLANS.—

"(A) ALTERNATIVE NOTICE.—In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if at least once each year the administrator provides to the participant notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant.

"(B) YEARS IN WHICH NO BENEFITS ACCRUE.—The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).".

(2) CONFORMING AMENDMENTS.—

(A) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(B) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

"(b) LIMITATION ON NUMBER OF STATEMENTS.—In no case shall a participant or beneficiary of a plan be entitled to more than 1 statement described in subparagraph (A)(iii) or (B)(ii) of subsection (a)(1), whichever is applicable, in any 12-month period.".

(C) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(f)" and inserting "section 101(f), or section 105(a)".

(b) MODEL STATEMENTS.—

29 USC 1025 note.
Deadline.

(1) IN GENERAL.—The Secretary of Labor shall, within 1 year after the date of the enactment of this section, develop 1 or more model benefit statements that are written in a manner calculated to be understood by the average plan participant and that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974.

(2) INTERIM FINAL RULES.—The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

29 USC 1025 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2006" the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

**SEC. 509. NOTICE TO PARTICIPANTS OR BENEFICIARIES OF BLACKOUT PERIODS.**

(a) IN GENERAL.—Section 101(i)(8)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(i)(8)(B)) is amended by striking clauses (i) through (iv), by redesignating clause (v) as clause (ii), and by inserting before clause (ii), as so redesignated, the following new clause:

"(i) on the first day of the plan year—

"(I) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

"(II) covered only one or more partners (or partners and their spouses) in the plan sponsor, and".

29 USC 1021 note.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of section 306 of Public Law 107–204 (116 Stat. 745 et seq.).

# TITLE VI—INVESTMENT ADVICE, PROHIBITED TRANSACTIONS, AND FIDUCIARY RULES

## Subtitle A—Investment Advice

**SEC. 601. PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.**

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14) Any transaction in connection with the provision of investment advice described in section 3(21)(A)(ii) to a participant or beneficiary of an individual account plan that permits such participant or beneficiary to direct the investment of assets in their individual account, if—

"(A) the transaction is—

"(i) the provision of the investment advice to the participant or beneficiary of the plan with respect to a security or other property available as an investment under the plan,

"(ii) the acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice, or

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with an acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice; and

"(B) the requirements of subsection (g) are met.".

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection: 29 USC 1108.

"(g) PROVISION OF INVESTMENT ADVICE TO PARTICIPANT AND BENEFICIARIES.—

"(1) IN GENERAL.—The prohibitions provided in section 406 shall not apply to transactions described in subsection (b)(14) if the investment advice provided by a fiduciary adviser is provided under an eligible investment advice arrangement.

"(2) ELIGIBLE INVESTMENT ADVICE ARRANGEMENT.—For purposes of this subsection, the term 'eligible investment advice arrangement' means an arrangement—

"(A) which either—

"(i) provides that any fees (including any commission or other compensation) received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for purposes of investment of plan assets do not vary depending on the basis of any investment option selected, or

"(ii) uses a computer model under an investment advice program meeting the requirements of paragraph (3) in connection with the provision of investment advice by a fiduciary adviser to a participant or beneficiary, and

"(B) with respect to which the requirements of paragraph (4), (5), (6), (7), (8), and (9) are met.

"(3) INVESTMENT ADVICE PROGRAM USING COMPUTER MODEL.—

"(A) IN GENERAL.—An investment advice program meets the requirements of this paragraph if the requirements of subparagraphs (B), (C), and (D) are met.

"(B) COMPUTER MODEL.—The requirements of this subparagraph are met if the investment advice provided

under the investment advice program is provided pursuant to a computer model that—

"(i) applies generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time,

"(ii) utilizes relevant information about the participant, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

"(iii) utilizes prescribed objective criteria to provide asset allocation portfolios comprised of investment options available under the plan,

"(iv) operates in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser, and

"(v) takes into account all investment options under the plan in specifying how a participant's account balance should be invested and is not inappropriately weighted with respect to any investment option.

"(C) CERTIFICATION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any investment advice program if an eligible investment expert certifies, prior to the utilization of the computer model and in accordance with rules prescribed by the Secretary, that the computer model meets the requirements of subparagraph (B).

"(ii) RENEWAL OF CERTIFICATIONS.—If, as determined under regulations prescribed by the Secretary, there are material modifications to a computer model, the requirements of this subparagraph are met only if a certification described in clause (i) is obtained with respect to the computer model as so modified.

"(iii) ELIGIBLE INVESTMENT EXPERT.—The term 'eligible investment expert' means any person—

"(I) which meets such requirements as the Secretary may provide, and

"(II) does not bear any material affiliation or contractual relationship with any investment adviser or a related person thereof (or any employee, agent, or registered representative of the investment adviser or related person).

"(D) EXCLUSIVITY OF RECOMMENDATION.—The requirements of this subparagraph are met with respect to any investment advice program if—

"(i) the only investment advice provided under the program is the advice generated by the computer model described in subparagraph (B), and

"(ii) any transaction described in subsection (b)(14)(B)(ii) occurs solely at the direction of the participant or beneficiary.

Nothing in the preceding sentence shall preclude the participant or beneficiary from requesting investment advice other than that described in subparagraph (A), but

only if such request has not been solicited by any person connected with carrying out the arrangement.

"(4) EXPRESS AUTHORIZATION BY SEPARATE FIDUCIARY.—The requirements of this paragraph are met with respect to an arrangement if the arrangement is expressly authorized by a plan fiduciary other than the person offering the investment advice program, any person providing investment options under the plan, or any affiliate of either.

"(5) ANNUAL AUDIT.—The requirements of this paragraph are met if an independent auditor, who has appropriate technical training or experience and proficiency and so represents in writing—

"(A) conducts an annual audit of the arrangement for compliance with the requirements of this subsection, and

"(B) following completion of the annual audit, issues a written report to the fiduciary who authorized use of the arrangement which presents its specific findings regarding compliance of the arrangement with the requirements of this subsection.

Reports.

For purposes of this paragraph, an auditor is considered independent if it is not related to the person offering the arrangement to the plan and is not related to any person providing investment options under the plan.

"(6) DISCLOSURE.—The requirements of this paragraph are met if—

"(A) the fiduciary adviser provides to a participant or a beneficiary before the initial provision of the investment advice with regard to any security or other property offered as an investment option, a written notification (which may consist of notification by means of electronic communication)—

"(i) of the role of any party that has a material affiliation or contractual relationship with the financial adviser in the development of the investment advice program and in the selection of investment options available under the plan,

"(ii) of the past performance and historical rates of return of the investment options available under the plan,

"(iii) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(iv) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(v) the manner, and under what circumstances, any participant or beneficiary information provided under the arrangement will be used or disclosed,

"(vi) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(vii) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(viii) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property, and

"(B) at all times during the provision of advisory services to the participant or beneficiary, the fiduciary adviser—

"(i) maintains the information described in subparagraph (A) in accurate form and in the manner described in paragraph (8),

"(ii) provides, without charge, accurate information to the recipient of the advice no less frequently than annually,

"(iii) provides, without charge, accurate information to the recipient of the advice upon request of the recipient, and

"(iv) provides, without charge, accurate information to the recipient of the advice concerning any material change to the information required to be provided to the recipient of the advice at a time reasonably contemporaneous to the change in information.

"(7) OTHER CONDITIONS.—The requirements of this paragraph are met if—

"(A) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(B) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(C) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(D) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(8) STANDARDS FOR PRESENTATION OF INFORMATION.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the notification required to be provided to participants and beneficiaries under paragraph (6)(A) is written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and is sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(B) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary shall issue a model form for the disclosure of fees and other compensation required in paragraph (6)(A)(iii) which meets the requirements of subparagraph (A).

"(9) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—The requirements of this paragraph are met if a fiduciary adviser who has provided advice referred to in paragraph (1) maintains, for a period of not less than 6 years after the provision of the advice, any records necessary for determining whether the requirements of the preceding provisions of this

subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(10) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an eligible investment advice arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the eligible investment advice arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

"(iii) the terms of the eligible investment advice arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

"(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an eligible investment advice arrangement for the provision of investment advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

"(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

"(11) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

"(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice referred to in section 3(21)(A)(ii) by the person to the participant or beneficiary of the plan and who is—

"(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(ii) a bank or similar financial institution referred to in section 408(b)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

"(iii) an insurance company qualified to do business under the laws of a State,

"(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(v) an affiliate of a person described in any of clauses (i) through (iv), or

"(vi) an employee, agent, or registered representative of a person described in clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

For purposes of this part, a person who develops the computer model described in paragraph (3)(B) or markets the investment advice program or computer model shall be treated as a person who is a fiduciary of the plan by reason of the provision of investment advice referred to in section 3(21)(A)(ii) to the participant or beneficiary and shall be treated as a fiduciary adviser for purposes of this subsection and subsection (b)(14), except that the Secretary may prescribe rules under which only 1 fiduciary adviser may elect to be treated as a fiduciary with respect to the plan.

"(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

29 USC 1108 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided after December 31, 2006.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

26 USC 4975.

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemption from tax on prohibited transactions) is amended—

(A) in paragraph (15), by striking "or" at the end;

(B) in paragraph (16), by striking the period at the end and inserting ";or"; and

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

"(17) Any transaction in connection with the provision of investment advice described in subsection (e)(3)(B) to a participant or beneficiary in a plan and that permits such participant or beneficiary to direct the investment of plan assets in an individual account, if—

"(A) the transaction is—

"(i) the provision of the investment advice to the participant or beneficiary of the plan with respect to a security or other property available as an investment under the plan,

"(ii) the acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice, or

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with an acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice; and

"(B) the requirements of subsection (f)(8) are met.".

(2) REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph: 26 USC 4975.

"(8) PROVISION OF INVESTMENT ADVICE TO PARTICIPANT AND BENEFICIARIES.— I24 "(A) IN GENERAL.—The prohibitions provided in subsection (c) shall not apply to transactions described in subsection (b)(14) if the investment advice provided by a fiduciary adviser is provided under an eligible investment advice arrangement.

"(B) ELIGIBLE INVESTMENT ADVICE ARRANGEMENT.—For purposes of this paragraph, the term 'eligible investment advice arrangement' means an arrangement—

"(i) which either—

"(I) provides that any fees (including any commission or other compensation) received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for purposes of investment of plan assets do not vary depending on the basis of any investment option selected, or

"(II) uses a computer model under an investment advice program meeting the requirements of subparagraph (C) in connection with the provision of investment advice by a fiduciary adviser to a participant or beneficiary, and

"(ii) with respect to which the requirements of subparagraphs (D), (E), (F), (G), (H), and (I) are met.

"(C) INVESTMENT ADVICE PROGRAM USING COMPUTER MODEL.—

"(i) IN GENERAL.—An investment advice program meets the requirements of this subparagraph if the requirements of clauses (ii), (iii), and (iv) are met.

"(ii) COMPUTER MODEL.—The requirements of this clause are met if the investment advice provided under

the investment advice program is provided pursuant to a computer model that—

"(I) applies generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time,

"(II) utilizes relevant information about the participant, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

"(III) utilizes prescribed objective criteria to provide asset allocation portfolios comprised of investment options available under the plan,

"(IV) operates in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser, and

"(V) takes into account all investment options under the plan in specifying how a participant's account balance should be invested and is not inappropriately weighted with respect to any investment option.

"(iii) CERTIFICATION.—

"(I) IN GENERAL.—The requirements of this clause are met with respect to any investment advice program if an eligible investment expert certifies, prior to the utilization of the computer model and in accordance with rules prescribed by the Secretary of Labor, that the computer model meets the requirements of clause (ii).

"(II) RENEWAL OF CERTIFICATIONS.—If, as determined under regulations prescribed by the Secretary of Labor, there are material modifications to a computer model, the requirements of this clause are met only if a certification described in subclause (I) is obtained with respect to the computer model as so modified.

"(III) ELIGIBLE INVESTMENT EXPERT.—The term 'eligible investment expert' means any person which meets such requirements as the Secretary of Labor may provide and which does not bear any material affiliation or contractual relationship with any investment adviser or a related person thereof (or any employee, agent, or registered representative of the investment adviser or related person).

"(iv) EXCLUSIVITY OF RECOMMENDATION.—The requirements of this clause are met with respect to any investment advice program if—

"(I) the only investment advice provided under the program is the advice generated by the computer model described in clause (ii), and

"(II) any transaction described in subsection (b)(14)(B)(ii) occurs solely at the direction of the participant or beneficiary.

Nothing in the preceding sentence shall preclude the participant or beneficiary from requesting investment advice other than that described in clause (i), but only if such request has not been solicited by any person connected with carrying out the arrangement.

"(D) EXPRESS AUTHORIZATION BY SEPARATE FIDUCIARY.—The requirements of this subparagraph are met with respect to an arrangement if the arrangement is expressly authorized by a plan fiduciary other than the person offering the investment advice program, any person providing investment options under the plan, or any affiliate of either.

"(E) AUDITS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if an independent auditor, who has appropriate technical training or experience and proficiency and so represents in writing—

"(I) conducts an annual audit of the arrangement for compliance with the requirements of this paragraph, and

"(II) following completion of the annual audit, issues a written report to the fiduciary who authorized use of the arrangement which presents its specific findings regarding compliance of the arrangement with the requirements of this paragraph.

Reports.

"(ii) SPECIAL RULE FOR INDIVIDUAL RETIREMENT AND SIMILAR PLANS.—In the case of a plan described in subparagraphs (B) through (F) (and so much of subparagraph (G) as relates to such subparagraphs) of subsection (e)(1), in lieu of the requirements of clause (i), audits of the arrangement shall be conducted at such times and in such manner as the Secretary of Labor may prescribe.

"(iii) INDEPENDENT AUDITOR.—For purposes of this subparagraph, an auditor is considered independent if it is not related to the person offering the arrangement to the plan and is not related to any person providing investment options under the plan.

"(F) DISCLOSURE.—The requirements of this subparagraph are met if—

"(i) the fiduciary adviser provides to a participant or a beneficiary before the initial provision of the investment advice with regard to any security or other property offered as an investment option, a written notification (which may consist of notification by means of electronic communication)—

"(I) of the role of any party that has a material affiliation or contractual relationship with the financial adviser in the development of the investment advice program and in the selection of investment options available under the plan,

"(II) of the past performance and historical rates of return of the investment options available under the plan,

"(III) of all fees or other compensation relating to the advice that the fiduciary adviser or any

affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(IV) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(V) the manner, and under what circumstances, any participant or beneficiary information provided under the arrangement will be used or disclosed,

"(VI) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(VII) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(VIII) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property, and

"(ii) at all times during the provision of advisory services to the participant or beneficiary, the fiduciary adviser—

"(I) maintains the information described in clause (i) in accurate form and in the manner described in subparagraph (H),

"(II) provides, without charge, accurate information to the recipient of the advice no less frequently than annually,

"(III) provides, without charge, accurate information to the recipient of the advice upon request of the recipient, and

"(IV) provides, without charge, accurate information to the recipient of the advice concerning any material change to the information required to be provided to the recipient of the advice at a time reasonably contemporaneous to the change in information.

"(G) OTHER CONDITIONS.—The requirements of this subparagraph are met if—

"(i) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(ii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(iii) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(iv) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(H) STANDARDS FOR PRESENTATION OF INFORMATION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the notification required to be provided to participants and beneficiaries under subparagraph (F)(i) is written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and is sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(ii) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary of Labor shall issue a model form for the disclosure of fees and other compensation required in subparagraph (F)(i)(III) which meets the requirements of clause (i).

"(I) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—The requirements of this subparagraph are met if a fiduciary adviser who has provided advice referred to in subparagraph (A) maintains, for a period of not less than 6 years after the provision of the advice, any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(17) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(J) DEFINITIONS.—For purposes of this paragraph and subsection (d)(17)—

"(i) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the participant or beneficiary of the plan and who is—

"(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(II) a bank or similar financial institution referred to in section 408(b)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

"(III) an insurance company qualified to do business under the laws of a State,

"(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(V) an affiliate of a person described in any of subclauses (I) through (IV), or

"(VI) an employee, agent, or registered representative of a person described in subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

For purposes of this title, a person who develops the computer model described in subparagraph (C)(ii) or markets the investment advice program or computer model shall be treated as a person who is a fiduciary of the plan by reason of the provision of investment advice referred to in subsection (e)(3)(B) to the participant or beneficiary and shall be treated as a fiduciary adviser for purposes of this paragraph and subsection (d)(17), except that the Secretary of Labor may prescribe rules under which only 1 fiduciary adviser may elect to be treated as a fiduciary with respect to the plan.

"(ii) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(iii) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

26 USC 4975 note.

(3) DETERMINATION OF FEASIBILITY OF APPLICATION OF COMPUTER MODEL INVESTMENT ADVICE PROGRAMS FOR INDIVIDUAL RETIREMENT AND SIMILAR PLANS.—

(A) SOLICITATION OF INFORMATION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall—

(i) solicit information as to the feasibility of the application of computer model investment advice programs for plans described in subparagraphs (B) through (F) (and so much of subparagraph (G) as relates to such subparagraphs) of section 4975(e)(1) of the Internal Revenue Code of 1986, including soliciting information from—

(I) at least the top 50 trustees of such plans, determined on the basis of assets held by such trustees, and

(II) other persons offering computer model investment advice programs based on nonproprietary products, and

(ii) shall on the basis of such information make the determination under subparagraph (B).

The information solicited by the Secretary of Labor under clause (i) from persons described in subclauses (I) and (II) of clause (i) shall include information on computer

modeling capabilities of such persons with respect to the current year and preceding year, including such capabilities for investment accounts maintained by such persons.

(B) DETERMINATION OF FEASIBILITY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall, on the basis of information received under subparagraph (A), determine whether there is any computer model investment advice program which may be utilized by a plan described in subparagraph (A)(i) to provide investment advice to the account beneficiary of the plan which—

(i) utilizes relevant information about the account beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

(ii) takes into account the full range of investments, including equities and bonds, in determining the options for the investment portfolio of the account beneficiary, and

(iii) allows the account beneficiary, in directing the investment of assets, sufficient flexibility in obtaining advice to evaluate and select investment options.

The Secretary of Labor shall report the results of such determination to the committees of Congress referred to in subparagraph (D)(ii) not later than December 31, 2007.

Reports. Deadline.

(C) APPLICATION OF COMPUTER MODEL INVESTMENT ADVICE PROGRAM.—

(i) CERTIFICATION REQUIRED FOR USE OF COMPUTER MODEL.—

(I) RESTRICTION ON USE.—Subclause (II) of section 4975(f)(8)(B)(i) of the Internal Revenue Code of 1986 shall not apply to a plan described in subparagraph (A)(i).

(II) RESTRICTION LIFTED IF MODEL CERTIFIED.—If the Secretary of Labor determines under subparagraph (B) or (D) that there is a computer model investment advice program described in subparagraph (B), subclause (I) shall cease to apply as of the date of such determination.

(ii) CLASS EXEMPTION IF NO INITIAL CERTIFICATION BY SECRETARY.—If the Secretary of Labor determines under subparagraph (B) that there is no computer model investment advice program described in subparagraph (B), the Secretary of Labor shall grant a class exemption from treatment as a prohibited transaction under section 4975(c) of the Internal Revenue Code of 1986 to any transaction described in section 4975(d)(17)(A) of such Code with respect to plans described in subparagraph (A)(i), subject to such conditions as set forth in such exemption as are in the interests of the plan and its account beneficiary and protective of the rights of the account beneficiary and as are necessary to—

(I) ensure the requirements of sections 4975(d)(17) and 4975(f)(8) (other than subparagraph (C) thereof) of the Internal Revenue Code of 1986 are met, and

(II) ensure the investment advice provided under the investment advice program utilizes prescribed objective criteria to provide asset allocation portfolios comprised of securities or other property available as investments under the plan.

Deadline.

If the Secretary of Labor solicits any information under subparagraph (A) from a person and such person does not provide such information within 60 days after the solicitation, then, unless such failure was due to reasonable cause and not wilful neglect, such person shall not be entitled to utilize the class exemption under this clause.

(D) SUBSEQUENT DETERMINATION.—

(i) IN GENERAL.—If the Secretary of Labor initially makes a determination described in subparagraph (C)(ii), the Secretary may subsequently determine that there is a computer model investment advice program described in subparagraph (B). If the Secretary makes such subsequent determination, then the class exemption described in subparagraph (C)(ii) shall cease to apply after the later of—

(I) the date which is 2 years after such subsequent determination, or

(II) the date which is 3 years after the first date on which such exemption took effect.

Deadlines.

(ii) REQUESTS FOR DETERMINATION.—Any person may request the Secretary of Labor to make a determination under this subparagraph with respect to any computer model investment advice program, and the Secretary of Labor shall make a determination with respect to such request within 90 days. If the Secretary of Labor makes a determination that such program is not described in subparagraph (B), the Secretary shall, within 10 days of such determination, notify the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate of such determination and the reasons for such determination.

(E) EFFECTIVE DATE.—The provisions of this paragraph shall take effect on the date of the enactment of this Act.

26 USC 4975 note.

(4) EFFECTIVE DATE.—Except as provided in this subsection, the amendments made by this subsection shall apply with respect to advice referred to in section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided after December 31, 2006.

26 USC 4975 note.

(c) COORDINATION WITH EXISTING EXEMPTIONS.—Any exemption under section 408(b) of the Employee Retirement Income Security Act of 1974 and section 4975(d) of the Internal Revenue Code of 1986 provided by the amendments made by this section shall

not in any manner alter existing individual or class exemptions, provided by statute or administrative action.

## Subtitle B—Prohibited Transactions

**SEC. 611. PROHIBITED TRANSACTION RULES RELATING TO FINANCIAL INVESTMENTS.**

(a) EXEMPTION FOR BLOCK TRADING.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by section 601, is amended by adding at the end the following new paragraph:

"(15)(A) Any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary), between a plan and a party in interest (other than a fiduciary described in section 3(21)(A)) with respect to a plan if—

"(i) the transaction involves a block trade,

"(ii) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor), does not exceed 10 percent of the aggregate size of the block trade,

"(iii) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

"(iv) the compensation associated with the purchase and sale is not greater than the compensation associated with an arm's length transaction with an unrelated party.

"(B) For purposes of this paragraph, the term 'block trade' means any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.".

(2) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(A) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by section 601, is amended by striking "or" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", or", and by adding at the end the following new paragraph:

"(18) any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary of Labor), between a plan and a party in interest (other than a fiduciary described in subsection (e)(3)(B)) with respect to a plan if—

"(A) the transaction involves a block trade,

"(B) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor), does not exceed 10 percent of the aggregate size of the block trade,

"(C) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

"(D) the compensation associated with the purchase and sale is not greater than the compensation associated with an arm's length transaction with an unrelated party.".

(B) SPECIAL RULE RELATING TO BLOCK TRADE.—Subsection (f) of section 4975 of such Code (relating to other

definitions and special rules), as amended by section 601, is amended by adding at the end the following new paragraph:

"(9) BLOCK TRADE.—The term 'block trade' means any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.".

(b) BONDING RELIEF.—Section 412(a) of such Act (29 U.S.C. 1112(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3),

(2) by striking "and" at the end of paragraph (1), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) no bond shall be required of any entity which is registered as a broker or a dealer under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) if the broker or dealer is subject to the fidelity bond requirements of a self-regulatory organization (within the meaning of section 3(a)(26) of such Act (15 U.S.C. 78c(a)(26)).".

(c) EXEMPTION FOR ELECTRONIC COMMUNICATION NETWORK.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act, as amended by subsection (a), is amended by adding at the end the following:

29 USC 1108.

"(16) Any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary), between a plan and a party in interest if—

"(A) the transaction is executed through an electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

"(i) the applicable Federal regulating entity, or

"(ii) such foreign regulatory entity as the Secretary may determine by regulation,

"(B) either—

"(i) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system in accordance with applicable rules of the Securities and Exchange Commission or other relevant governmental authority, or

"(ii) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades,

"(C) the price and compensation associated with the purchase and sale are not greater than the price and compensation associated with an arm's length transaction with an unrelated party,

"(D) if the party in interest has an ownership interest in the system or venue described in subparagraph (A), the system or venue has been authorized by the plan sponsor or other independent fiduciary for transactions described in this paragraph, and

Deadline.
Notice.

"(E) not less than 30 days prior to the initial transaction described in this paragraph executed through any system or venue described in subparagraph (A), a plan fiduciary is provided written or electronic notice of the

execution of such transaction through such system or venue.".

(2) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (a), is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", or", and by adding at the end the following new paragraph:

"(19) any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary of Labor), between a plan and a party in interest if—

"(A) the transaction is executed through an electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

"(i) the applicable Federal regulating entity, or

"(ii) such foreign regulatory entity as the Secretary of Labor may determine by regulation,

"(B) either—

"(i) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system in accordance with applicable rules of the Securities and Exchange Commission or other relevant governmental authority, or

"(ii) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades,

"(C) the price and compensation associated with the purchase and sale are not greater than the price and compensation associated with an arm's length transaction with an unrelated party,

"(D) if the party in interest has an ownership interest in the system or venue described in subparagraph (A), the system or venue has been authorized by the plan sponsor or other independent fiduciary for transactions described in this paragraph, and

"(E) not less than 30 days prior to the initial transaction described in this paragraph executed through any system or venue described in subparagraph (A), a plan fiduciary is provided written or electronic notice of the execution of such transaction through such system or venue.". Deadline. Notice.

(d) EXEMPTION FOR SERVICE PROVIDERS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1106), as amended by subsection (c), is amended by adding at the end the following new paragraph: 29 USC 1108.

"(17)(A) Transactions described in subparagraphs (A), (B), and (D) of section 406(a)(1) between a plan and a person that is a party in interest other than a fiduciary (or an affiliate) who has or exercises any discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of section 3(21)(A)(ii)) with respect to those assets, solely by reason of providing services to the plan or solely by reason of a relationship to such a service provider described

in subparagraph (F), (G), (H), or (I) of section 3(14), or both, but only if in connection with such transaction the plan receives no less, nor pays no more, than adequate consideration.

"(B) For purposes of this paragraph, the term 'adequate consideration' means—

"(i) in the case of a security for which there is a generally recognized market—

"(I) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(II) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the party in interest, taking into account factors such as the size of the transaction and marketability of the security, and

"(ii) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary.".

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—

(A) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (c), is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", or", and by adding at the end the following new paragraph:

"(20) transactions described in subparagraphs (A), (B), and (D) of subsection (c)(1) between a plan and a person that is a party in interest other than a fiduciary (or an affiliate) who has or exercises any discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of subsection (e)(3)(B)) with respect to those assets, solely by reason of providing services to the plan or solely by reason of a relationship to such a service provider described in subparagraph (F), (G), (H), or (I) of subsection (e)(2), or both, but only if in connection with such transaction the plan receives no less, nor pays no more, than adequate consideration.".

(B) SPECIAL RULE RELATING TO SERVICE PROVIDERS.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(10) ADEQUATE CONSIDERATION.—The term 'adequate consideration' means—

"(A) in the case of a security for which there is a generally recognized market—

"(i) the price of the security prevailing on a national securities exchange which is registered under

section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the party in interest, taking into account factors such as the size of the transaction and marketability of the security, and

"(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor.".

(e) RELIEF FOR FOREIGN EXCHANGE TRANSACTIONS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (d), is amended by adding at the end the following new paragraph:

"(18) FOREIGN EXCHANGE TRANSACTIONS.—Any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either), and a plan (as defined in section 3(3)) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or other party in interest, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities or other investment assets (other than a foreign exchange transaction unrelated to any other investment in securities or other investment assets),

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

"(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates for transactions of comparable size and maturity at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

"(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.".

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (d), is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", or", and by adding at the end the following new paragraph:

"(21) any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either) and a plan (as defined in this section) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or other party in interest person, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities or other investment assets (other than a foreign exchange transaction unrelated to any other investment in securities or other investment assets),

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

"(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates for transactions of comparable size and maturity at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

"(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.".

(f) DEFINITION OF PLAN ASSET VEHICLE.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) the term 'plan assets' means plan assets as defined by such regulations as the Secretary may prescribe, except that under such regulations the assets of any entity shall not be treated as plan assets if, immediately after the most recent acquisition of any equity interest in the entity, less than 25 percent of the total value of each class of equity interest in the entity is held by benefit plan investors. For purposes of determinations pursuant to this paragraph, the value of any equity interest held by a person (other than such a benefit plan investor) who has discretionary authority or control with respect to the assets of the entity or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person, shall be disregarded for purposes of calculating the 25 percent threshold. An entity shall be considered to hold plan assets only to the extent of the percentage of the equity interest held by benefit plan investors. For purposes of this paragraph, the term 'benefit plan investor' means an employee benefit plan subject to part 4, any plan to which section 4975 of the Internal Revenue Code of 1986 applies, and any entity whose underlying assets include plan assets by reason of a plan's investment in such entity.".

(g) EXEMPTION FOR CROSS TRADING.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (e), is amended by adding at the end the following new paragraph:

"(19) CROSS TRADING.—Any transaction described in sections 406(a)(1)(A) and 406(b)(2) involving the purchase and sale of a security between a plan and any other account managed by the same investment manager, if—

"(A) the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security for which market quotations are readily available,

"(B) the transaction is effected at the independent current market price of the security (within the meaning of section 270.17a–7(b) of title 17, Code of Federal Regulations),

"(C) no brokerage commission, fee (except for customary transfer fees, the fact of which is disclosed pursuant to subparagraph (D)), or other remuneration is paid in connection with the transaction,

"(D) a fiduciary (other than the investment manager engaging in the cross-trades or any affiliate) for each plan participating in the transaction authorizes in advance of any cross-trades (in a document that is separate from any other written agreement of the parties) the investment manager to engage in cross trades at the investment manager's discretion, after such fiduciary has received disclosure regarding the conditions under which cross trades may take place (but only if such disclosure is separate from any other agreement or disclosure involving the asset management relationship), including the written policies and procedures of the investment manager described in subparagraph (H),

"(E) each plan participating in the transaction has assets of at least $100,000,000, except that if the assets of a plan are invested in a master trust containing the assets of plans maintained by employers in the same controlled group (as defined in section 407(d)(7)), the master trust has assets of at least $100,000,000,

"(F) the investment manager provides to the plan fiduciary who authorized cross trading under subparagraph (D) a quarterly report detailing all cross trades executed by the investment manager in which the plan participated during such quarter, including the following information, as applicable: (i) the identity of each security bought or sold; (ii) the number of shares or units traded; (iii) the parties involved in the cross-trade; and (iv) trade price and the method used to establish the trade price,

"(G) the investment manager does not base its fee schedule on the plan's consent to cross trading, and no other service (other than the investment opportunities and cost savings available through a cross trade) is conditioned on the plan's consent to cross trading,

"(H) the investment manager has adopted, and cross-trades are effected in accordance with, written cross-trading policies and procedures that are fair and equitable to all accounts participating in the cross-trading program, and that include a description of the manager's pricing policies and procedures, and the manager's policies and procedures for allocating cross trades in an objective manner among accounts participating in the cross-trading program, and

Reports.
Deadline.

"(I) the investment manager has designated an individual responsible for periodically reviewing such purchases and sales to ensure compliance with the written policies and procedures described in subparagraph (H), and following such review, the individual shall issue an annual written report no later than 90 days following the period to which it relates signed under penalty of perjury to the plan fiduciary who authorized cross trading under subparagraph (D) describing the steps performed during the course of the review, the level of compliance, and any specific instances of non-compliance.

Notification.

The written report under subparagraph (I) shall also notify the plan fiduciary of the plan's right to terminate participation in the investment manager's cross-trading program at any time.".

(2) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (e), is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or", and by adding at the end the following new paragraph:

"(22) any transaction described in subsection (c)(1)(A) involving the purchase and sale of a security between a plan and any other account managed by the same investment manager, if—

"(A) the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security for which market quotations are readily available,

"(B) the transaction is effected at the independent current market price of the security (within the meaning of section 270.17a–7(b) of title 17, Code of Federal Regulations),

"(C) no brokerage commission, fee (except for customary transfer fees, the fact of which is disclosed pursuant to subparagraph (D)), or other remuneration is paid in connection with the transaction,

"(D) a fiduciary (other than the investment manager engaging in the cross-trades or any affiliate) for each plan participating in the transaction authorizes in advance of any cross-trades (in a document that is separate from any other written agreement of the parties) the investment manager to engage in cross trades at the investment manager's discretion, after such fiduciary has received disclosure regarding the conditions under which cross trades may take place (but only if such disclosure is separate from any other agreement or disclosure involving the asset management relationship), including the written policies and procedures of the investment manager described in subparagraph (H),

"(E) each plan participating in the transaction has assets of at least $100,000,000, except that if the assets of a plan are invested in a master trust containing the assets of plans maintained by employers in the same controlled group (as defined in section 407(d)(7) of the Employee Retirement Income Security Act of 1974), the master trust has assets of at least $100,000,000,

"(F) the investment manager provides to the plan fiduciary who authorized cross trading under subparagraph (D) a quarterly report detailing all cross trades executed by the investment manager in which the plan participated during such quarter, including the following information, as applicable: (i) the identity of each security bought or sold; (ii) the number of shares or units traded; (iii) the parties involved in the cross-trade; and (iv) trade price and the method used to establish the trade price,

"(G) the investment manager does not base its fee schedule on the plan's consent to cross trading, and no other service (other than the investment opportunities and cost savings available through a cross trade) is conditioned on the plan's consent to cross trading,

"(H) the investment manager has adopted, and cross-trades are effected in accordance with, written cross-trading policies and procedures that are fair and equitable to all accounts participating in the cross-trading program, and that include a description of the manager's pricing policies and procedures, and the manager's policies and procedures for allocating cross trades in an objective manner among accounts participating in the cross-trading program, and

"(I) the investment manager has designated an individual responsible for periodically reviewing such purchases and sales to ensure compliance with the written policies and procedures described in subparagraph (H), and following such review, the individual shall issue an annual written report no later than 90 days following the period to which it relates signed under penalty of perjury to the plan fiduciary who authorized cross trading under subparagraph (D) describing the steps performed during the course of the review, the level of compliance, and any specific instances of non-compliance. Reports. Deadline.

The written report shall also notify the plan fiduciary of the plan's right to terminate participation in the investment manager's cross-trading program at any time.". Notification.

(3) REGULATIONS.—No later than 180 days after the date of the enactment of this Act, the Secretary of Labor, after consultation with the Securities and Exchange Commission, shall issue regulations regarding the content of policies and procedures required to be adopted by an investment manager under section 408(b)(19) of the Employee Retirement Income Security Act of 1974. Deadline. 29 USC 1108 note.

(h) EFFECTIVE DATES.— 26 USC 4975 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BONDING RULE.—The amendments made by subsection (b) shall apply to plan years beginning after such date.

**SEC. 612. CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.**

(a) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)), as amended by sections 601 and 611, is further amended by adding at the end the following new paragraph:

"(20)(A) Except as provided in subparagraphs (B) and (C), a transaction described in section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.

"(B) Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(C) In the case of any fiduciary or other party in interest (or any other person knowingly participating in such transaction), subparagraph (A) does not apply to any transaction if, at the time the transaction occurs, such fiduciary or party in interest (or other person) knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(D) For purposes of this paragraph, the term 'correction period' means, in connection with a fiduciary or party in interest (or other person knowingly participating in the transaction), the 14-day period beginning on the date on which such fiduciary or party in interest (or other person) discovers, or reasonably should have discovered, that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(E) For purposes of this paragraph—

"(i) The term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof).

"(ii) The term 'commodity' has the meaning given such term by section 475(e)(2) of such Code (without regard to subparagraph (D)(iii) thereof).

"(iii) The term 'correct' means, with respect to a transaction—

"(I) to undo the transaction to the extent possible and in any case to make good to the plan or affected account any losses resulting from the transaction, and

"(II) to restore to the plan or affected account any profits made through the use of assets of the plan.".

(b) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by sections 601 and 611, is amended by striking "or" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", or", and by adding at the end the following new paragraph:

"(23) except as provided in subsection (f)(11), a transaction described in subparagraph (A), (B), (C), or (D) of subsection (c)(1) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.".

(2) SPECIAL RULES RELATING TO CORRECTION PERIOD.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules), as amended by sections 601 and 611, is amended by adding at the end the following new paragraph:

"(11) CORRECTION PERIOD.—

"(A) IN GENERAL.—For purposes of subsection (d)(23), the term 'correction period' means the 14-day period beginning on the date on which the disqualified person discovers, or reasonably should have discovered, that the transaction would (without regard to this paragraph and subsection (d)(23)) constitute a prohibited transaction.

"(B) EXCEPTIONS.—

"(i) EMPLOYER SECURITIES.—Subsection (d)(23) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(ii) KNOWING PROHIBITED TRANSACTION.—In the case of any disqualified person, subsection (d)(23) does not apply to a transaction if, at the time the transaction is entered into, the disqualified person knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a prohibited transaction.

"(C) ABATEMENT OF TAX WHERE THERE IS A CORRECTION.—If a transaction is not treated as a prohibited transaction by reason of subsection (d)(23), then no tax under subsections (a) and (b) shall be assessed with respect to such transaction, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(D) DEFINITIONS.—For purposes of this paragraph and subsection (d)(23)—

"(i) SECURITY.—The term 'security' has the meaning given such term by section 475(c)(2) (without regard to subparagraph (F)(iii) and the last sentence thereof).

"(ii) COMMODITY.—The term 'commodity' has the meaning given such term by section 475(e)(2) (without regard to subparagraph (D)(iii) thereof).

"(iii) CORRECT.—The term 'correct' means, with respect to a transaction—

"(I) to undo the transaction to the extent possible and in any case to make good to the plan or affected account any losses resulting from the transaction, and

"(II) to restore to the plan or affected account any profits made through the use of assets of the plan.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction which the fiduciary or disqualified person discovers, or reasonably should have discovered, after the date of the enactment of this Act constitutes a prohibited transaction.

26 USC 4975 note.

## Subtitle C—Fiduciary and Other Rules

**SEC. 621. INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.**

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting "(A)" after "(c)(1)",

(B) in subparagraph (A)(ii) (as redesignated by paragraph (1)), by inserting before the period the following: ", except that this clause shall not apply in connection with such participant or beneficiary for any blackout period during which the ability of such participant or beneficiary to direct the investment of the assets in his or her account is suspended by a plan sponsor or fiduciary", and

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

"(B) If a person referred to in subparagraph (A)(ii) meets the requirements of this title in connection with authorizing and implementing the blackout period, any person who is otherwise a fiduciary shall not be liable under this title for any loss occurring during such period.

"(C) For purposes of this paragraph, the term 'blackout period' has the meaning given such term by section 101(i)(7)."; and

(2) by adding at the end the following:

"(4)(A) In any case in which a qualified change in investment options occurs in connection with an individual account plan, a participant or beneficiary shall not be treated for purposes of paragraph (1) as not exercising control over the assets in his account in connection with such change if the requirements of subparagraph (C) are met in connection with such change.

"(B) For purposes of subparagraph (A), the term 'qualified change in investment options' means, in connection with an individual account plan, a change in the investment options offered to the participant or beneficiary under the terms of the plan, under which—

"(i) the account of the participant or beneficiary is reallocated among one or more remaining or new investment options which are offered in lieu of one or more investment options offered immediately prior to the effective date of the change, and

"(ii) the stated characteristics of the remaining or new investment options provided under clause (i), including characteristics relating to risk and rate of return, are, as of immediately after the change, reasonably similar to those of the existing investment options as of immediately before the change.

"(C) The requirements of this subparagraph are met in connection with a qualified change in investment options if—

"(i) at least 30 days and no more than 60 days prior to the effective date of the change, the plan administrator furnishes written notice of the change to the participants

and beneficiaries, including information comparing the existing and new investment options and an explanation that, in the absence of affirmative investment instructions from the participant or beneficiary to the contrary, the account of the participant or beneficiary will be invested in the manner described in subparagraph (B),

"(ii) the participant or beneficiary has not provided to the plan administrator, in advance of the effective date of the change, affirmative investment instructions contrary to the change, and

"(iii) the investments under the plan of the participant or beneficiary as in effect immediately prior to the effective date of the change were the product of the exercise by such participant or beneficiary of control over the assets of the account within the meaning of paragraph (1).".

(b) EFFECTIVE DATE.— 29 USC 1104 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2007" the earlier of— Applicability.

(A) the later of—

(i) December 31, 2008, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2009.

**SEC. 622. INCREASE IN MAXIMUM BOND AMOUNT.**

(a) IN GENERAL.—Section 412(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112), as amended by section 611(b), is amended by adding at the end the following: "In the case of a plan that holds employer securities (within the meaning of section 407(d)(1)), this subsection shall be applied by substituting '$1,000,000' for '$500,000' each place it appears.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2007. 29 USC 1112 note.

**SEC. 623. INCREASE IN PENALTIES FOR COERCIVE INTERFERENCE WITH EXERCISE OF ERISA RIGHTS.**

(a) IN GENERAL.—Section 511 of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1141) is amended—

(1) by striking "$10,000" and inserting "$100,000", and

(2) by striking "one year" and inserting "10 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act. 29 USC 1141 note.

**SEC. 624. TREATMENT OF INVESTMENT OF ASSETS BY PLAN WHERE PARTICIPANT FAILS TO EXERCISE INVESTMENT ELECTION.**

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)), as amended by section 622, is amended by adding at the end the following new paragraph:

"(5) DEFAULT INVESTMENT ARRANGEMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), a participant in an individual account plan meeting the notice requirements of subparagraph (B) shall be treated as exercising control over the assets in the account with respect to the amount of contributions and earnings which, in the absence of an investment election by the participant, are invested by the plan in accordance with regulations prescribed by the Secretary. The regulations under this subparagraph shall provide guidance on the appropriateness of designating default investments that include a mix of asset classes consistent with capital preservation or long-term capital appreciation, or a blend of both.

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if each participant—

"(I) receives, within a reasonable period of time before each plan year, a notice explaining the employee's right under the plan to designate how contributions and earnings will be invested and explaining how, in the absence of any investment election by the participant, such contributions and earnings will be invested, and

"(II) has a reasonable period of time after receipt of such notice and before the beginning of the plan year to make such designation.

Applicability.

"(ii) FORM OF NOTICE.—The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall apply with respect to the notices described in this subparagraph.".

29 USC 1104 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

Deadline.

(2) REGULATIONS.—Final regulations under section 404(c)(5)(A) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be issued no later than 6 months after the date of the enactment of this Act.

29 USC 1104 note.
Deadline.

**SEC. 625. CLARIFICATION OF FIDUCIARY RULES.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue final regulations clarifying that the selection of an annuity contract as an optional form of distribution from an individual account plan to a participant or beneficiary—

(1) is not subject to the safest available annuity standard under Interpretive Bulletin 95–1 (29 CFR 2509.95–1), and

(2) is subject to all otherwise applicable fiduciary standards.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

# TITLE VII—BENEFIT ACCRUAL STANDARDS

**SEC. 701. BENEFIT ACCRUAL STANDARDS.**

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Section 204(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES RELATING TO AGE.—

"(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

"(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

"(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

"(B) APPLICABLE DEFINED BENEFIT PLANS.—

"(i) INTEREST CREDITS.—

"(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

"(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

"(III) MARKET RATE OF RETURN.—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

"(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

"(iii) RATE OF BENEFIT ACCRUAL.—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

"(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

Regulations.

"(III) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph

through the use of 2 or more plan amendments rather than a single amendment.

"(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'applicable defined benefit plan' has the meaning given such term by section 203(f)(3).

"(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

"(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

"(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

"(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of the Internal Revenue Code of 1986.

"(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

"(E) INDEXING PERMITTED.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides for indexing of accrued benefits under the plan.

"(ii) PROTECTION AGAINST LOSS.—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(iii) INDEXING.—For purposes of this subparagraph, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

"(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms 'early

retirement benefit' and 'retirement-type subsidy' have the meaning given such terms in subsection (g)(2)(A).

"(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.".

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT AMOUNTS.—Section 203 of such Act (29 U.S.C. 1053) is amended by adding at the end the following new subsection:

"(f) SPECIAL RULES FOR PLANS COMPUTING ACCRUED BENEFITS BY REFERENCE TO HYPOTHETICAL ACCOUNT BALANCE OR EQUIVALENT AMOUNTS.—

"(1) IN GENERAL.—An applicable defined benefit plan shall not be treated as failing to meet—

"(A) subject to paragraph (2), the requirements of subsection (a)(2), or

"(B) the requirements of section 204(c) or section 205(g) with respect to contributions other than employee contributions,

solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in the hypothetical account described in paragraph (3) or as an accumulated percentage of the participant's final average compensation.

"(2) 3-YEAR VESTING.—In the case of an applicable defined benefit plan, such plan shall be treated as meeting the requirements of subsection (a)(2) only if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(3) APPLICABLE DEFINED BENEFIT PLAN AND RELATED RULES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable defined benefit plan' means a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant's final average compensation.

"(B) REGULATIONS TO INCLUDE SIMILAR PLANS.—The Secretary of the Treasury shall issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or any portion of such a plan) which has an effect similar to an applicable defined benefit plan.".

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Subsection (b) of section 411 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

26 USC 411.

"(5) SPECIAL RULES RELATING TO AGE.—

"(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be

equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

"(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

"(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

"(B) APPLICABLE DEFINED BENEFIT PLANS.—

"(i) INTEREST CREDITS.—

"(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

"(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

"(III) MARKET RATE OF RETURN.—The Secretary may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

"(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

"(iii) RATE OF BENEFIT ACCRUAL.—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of

the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

"(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

Regulations.

"(III) MULTIPLE AMENDMENTS.—The Secretary shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

"(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'applicable defined benefit plan' has the meaning given such term by section 411(a)(13).

"(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

"(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

"(II) the interest rate and mortality table used to determine the amount of any benefit under the

plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

"(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a).

"(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) are met.

"(E) INDEXING PERMITTED.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides for indexing of accrued benefits under the plan.

"(ii) PROTECTION AGAINST LOSS.—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(iii) INDEXING.—For purposes of this subparagraph, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

"(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms 'early retirement benefit' and 'retirement-type subsidy' have the meaning given such terms in subsection (d)(6)(B)(i).

"(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.".

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT AMOUNTS.—Subsection (a) of section 411 of such Code is amended by adding at the end the following new paragraph:

"(13) SPECIAL RULES FOR PLANS COMPUTING ACCRUED BENEFITS BY REFERENCE TO HYPOTHETICAL ACCOUNT BALANCE OR EQUIVALENT AMOUNTS.—

"(A) IN GENERAL.—An applicable defined benefit plan shall not be treated as failing to meet—

"(i) subject to paragraph (2), the requirements of subsection (a)(2), or

"(ii) the requirements of subsection (c) or section 417(e) with respect to contributions other than employee contributions,

solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the

terms of the plan, equal to the amount expressed as the balance in the hypothetical account described in paragraph (3) or as an accumulated percentage of the participant's final average compensation.

"(B) 3-YEAR VESTING.—In the case of an applicable defined benefit plan, such plan shall be treated as meeting the requirements of subsection (a)(2) only if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(C) APPLICABLE DEFINED BENEFIT PLAN AND RELATED RULES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'applicable defined benefit plan' means a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant's final average compensation.

"(ii) REGULATIONS TO INCLUDE SIMILAR PLANS.—The Secretary shall issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or any portion of such a plan) which has an effect similar to an applicable defined benefit plan.".

(c) AMENDMENTS TO AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(i) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)) is amended by adding at the end the following new paragraph:

"(10) SPECIAL RULES RELATING TO AGE.—

"(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

"(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

"(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

"(B) APPLICABLE DEFINED BENEFIT PLANS.—

"(i) INTEREST CREDITS.—

"(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

"(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

"(III) MARKET RATE OF RETURN.—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

"(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

"(iii) RATE OF BENEFIT ACCRUAL.—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

"(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

Regulations.

"(III) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

"(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'applicable defined benefit plan' has the meaning given such term by section 203(f)(3) of the Employee Retirement Income Security Act of 1974.

"(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

"(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

"(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

"(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of the Internal Revenue Code of 1986.

"(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

"(E) INDEXING PERMITTED.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides for indexing of accrued benefits under the plan.

"(ii) PROTECTION AGAINST LOSS.—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(iii) INDEXING.—For purposes of this subparagraph, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

"(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms 'early retirement benefit' and 'retirement-type subsidy' have the meaning given such terms in section 203(g)(2)(A) of the Employee Retirement Income Security Act of 1974.

"(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.".

(d) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create an inference with respect to— 26 USC 411 note.

(1) the treatment of applicable defined benefit plans or conversions to applicable defined benefit plans under sections 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974, 4(i)(1) of the Age Discrimination in Employment Act of 1967, and 411(b)(1)(H) of the Internal Revenue Code of 1986, as in effect before such amendments, or

(2) the determination of whether an applicable defined benefit plan fails to meet the requirements of sections 203(a)(2), 204(c), or 204(g) of the Employee Retirement Income Security Act of 1974 or sections 411(a)(2), 411(c), or 417(e) of such Code, as in effect before such amendments, solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in a hypothetical account or as an accumulated percentage of the participant's final average compensation.

For purposes of this subsection, the term "applicable defined benefit plan" has the meaning given such term by section 203(f)(3) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(C) of such Code, as in effect after such amendments.

(e) EFFECTIVE DATE.— Applicability. 26 USC 411 note.

(1) IN GENERAL.—The amendments made by this section shall apply to periods beginning on or after June 29, 2005.

(2) PRESENT VALUE OF ACCRUED BENEFIT.—The amendments made by subsections (a)(2) and (b)(2) shall apply to distributions made after the date of the enactment of this Act.

(3) VESTING AND INTEREST CREDIT REQUIREMENTS.—In the case of a plan in existence on June 29, 2005, the requirements of clause (i) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, clause (i) of section 204(b)(5)(B) of the Employee

Retirement Income Security Act of 1974, and clause (i) of section 4(i)(10)(B) of the Age Discrimination in Employment Act of 1967 (as added by this Act) and the requirements of 203(f)(2) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(B) of the Internal Revenue Code of 1986 (as so added) shall, for purposes of applying the amendments made by subsections (a) and (b), apply to years beginning after December 31, 2007, unless the plan sponsor elects the application of such requirements for any period after June 29, 2005, and before the first year beginning after December 31, 2007.

(4) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the requirements described in paragraph (3) shall, for purposes of applying the amendments made by subsections (a) and (b), not apply to plan years beginning before—

(A) the earlier of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 2008, or

(B) January 1, 2010.

(5) CONVERSIONS.—The requirements of clause (ii) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, clause (ii) of section 204(b)(5)(B) of the Employee Retirement Income Security Act of 1974, and clause (ii) of section 4(i)(10)(B) of the Age Discrimination in Employment Act of 1967 (as added by this Act), shall apply to plan amendments adopted after, and taking effect after, June 29, 2005, except that the plan sponsor may elect to have such amendments apply to plan amendments adopted before, and taking effect after, such date.

Deadline.
26 USC 411 note.

**SEC. 702. REGULATIONS RELATING TO MERGERS AND ACQUISITIONS.**

The Secretary of the Treasury or his delegate shall, not later than 12 months after the date of the enactment of this Act, prescribe regulations for the application of the amendments made by, and the provisions of, this title in cases where the conversion of a plan to an applicable defined benefit plan is made with respect to a group of employees who become employees by reason of a merger, acquisition, or similar transaction.

# TITLE VIII—PENSION RELATED REVENUE PROVISIONS

## Subtitle A—Deduction Limitations

**SEC. 801. INCREASE IN DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.**

26 USC 404.

(a) IN GENERAL.—Section 404 of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer

to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended—

(1) in subsection (a)(1)(A), by inserting "in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under subsection (o), and in the case of any other plan" after "section 501(a),", and

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

"(o) DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.—For purposes of subsection (a)(1)(A)—

"(1) IN GENERAL.—In the case of a defined benefit plan to which subsection (a)(1)(A) applies (other than a multiemployer plan), the amount determined under this subsection for any taxable year shall be equal to the greater of—

"(A) the sum of the amounts determined under paragraph (2) with respect to each plan year ending with or within the taxable year, or

"(B) the sum of the minimum required contributions under section 430 for such plan years.

"(2) DETERMINATION OF AMOUNT.—

"(A) IN GENERAL.—The amount determined under this paragraph for any plan year shall be equal to the excess (if any) of—

"(i) the sum of—

"(I) the funding target for the plan year,

"(II) the target normal cost for the plan year, and

"(III) the cushion amount for the plan year, over

"(ii) the value (determined under section 430(g)(2)) of the assets of the plan which are held by the plan as of the valuation date for the plan year.

"(B) SPECIAL RULE FOR CERTAIN EMPLOYERS.—If section 430(i) does not apply to a plan for a plan year, the amount determined under subparagraph (A)(i) for the plan year shall in no event be less than the sum of—

"(i) the funding target for the plan year (determined as if section 430(i) applied to the plan), plus

"(ii) the target normal cost for the plan year (as so determined).

"(3) CUSHION AMOUNT.—For purposes of paragraph (2)(A)(i)(III)—

"(A) IN GENERAL.—The cushion amount for any plan year is the sum of—

"(i) 50 percent of the funding target for the plan year, and

"(ii) the amount by which the funding target for the plan year would increase if the plan were to take into account—

"(I) increases in compensation which are expected to occur in succeeding plan years, or

"(II) if the plan does not base benefits for service to date on compensation, increases in benefits which are expected to occur in succeeding plan years (determined on the basis of the average annual increase in benefits over the 6 immediately preceding plan years).

"(B) LIMITATIONS.—

Applicability.

"(i) IN GENERAL.—In making the computation under subparagraph (A)(ii), the plan's actuary shall assume that the limitations under subsection (l) and section 415(b) shall apply.

"(ii) EXPECTED INCREASES.—In the case of a plan year during which a plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, the plan's actuary may, notwithstanding subsection (l), take into account increases in the limitations which are expected to occur in succeeding plan years.

"(4) SPECIAL RULES FOR PLANS WITH 100 OR FEWER PARTICIPANTS.—

"(A) IN GENERAL.—For purposes of determining the amount under paragraph (3) for any plan year, in the case of a plan which has 100 or fewer participants for the plan year, the liability of the plan attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years shall not be taken into account in determining the target liability.

"(B) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining the number of plan participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(f)(4))) shall be treated as one plan, but only participants of such member or employer shall be taken into account.

"(5) SPECIAL RULE FOR TERMINATING PLANS.—In the case of a plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, the amount determined under paragraph (2) shall in no event be less than the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 4041(d) of such Act).

"(6) ACTUARIAL ASSUMPTIONS.—Any computation under this subsection for any plan year shall use the same actuarial assumptions which are used for the plan year under section 430.

"(7) DEFINITIONS.—Any term used in this subsection which is also used in section 430 shall have the same meaning given such term by section 430.".

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

26 USC 404.

"(iv) GUARANTEED PLANS.—In applying this paragraph, any single-employer plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 shall not be taken into account.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking "section 412" each place it appears and inserting "section 431".

(2) Section 404(a)(1)(B) of such Code is amended—

(A) by striking "In the case of a plan" and inserting "In the case of a multiemployer plan",

(B) by striking "section 412(c)(7)" each place it appears and inserting "section 431(c)(6)",

(C) by striking "section 412(c)(7)(B)" and inserting "section 431(c)(6)(A)(ii)",

(D) by striking "section 412(c)(7)(A)" and inserting "section 431(c)(6)(A)(i)", and

(E) by striking "section 412" and inserting "section 431".

(3) Section 404(a)(7) of such Code, as amended by this Act, is amended— 26 USC 404.

(A) by adding at the end of subparagraph (A) the following new sentence: "In the case of a defined benefit plan which is a single employer plan, the amount necessary to satisfy the minimum funding standard provided by section 412 shall not be less than the plan's funding shortfall determined under section 430.", and

(B) by striking subparagraph (D) and inserting:

"(D) INSURANCE CONTRACT PLANS.—For purposes of this paragraph, a plan described in section 412(e)(3) shall be treated as a defined benefit plan.".

(4) Section 404A(g)(3)(A) of such Code is amended by striking "paragraphs (3) and (7) of section 412(c)" and inserting "paragraphs (3) and (6) of section 431(c)".

(d) SPECIAL RULE FOR 2006 AND 2007.—

(1) IN GENERAL.—Clause (i) of section 404(a)(1)(D) of the Internal Revenue Code of 1986 (relating to special rule in case of certain plans) is amended by striking "section 412(l)" and inserting "section 412(l)(8)(A), except that section 412(l)(8)(A) shall be applied for purposes of this clause by substituting '150 percent (140 percent in the case of a multiemployer plan) of current liability' for 'the current liability' in clause (i).". Applicability.

(2) CONFORMING AMENDMENT.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(e) EFFECTIVE DATES.— 26 USC 404 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 2007.

(2) SPECIAL RULES.—The amendments made by subsection (d) shall apply to years beginning after December 31, 2005.

**SEC. 802. DEDUCTION LIMITS FOR MULTIEMPLOYER PLANS.**

(a) INCREASE IN DEDUCTION.—Section 404(a)(1)(D) of the Internal Revenue Code of 1986, as amended by this Act, is amended to read as follows:

"(D) AMOUNT DETERMINED ON BASIS OF UNFUNDED CURRENT LIABILITY.—In the case of a defined benefit plan which is a multiemployer plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the excess (if any) of—

"(i) 140 percent of the current liability of the plan determined under section 431(c)(6)(C), over

"(ii) the value of the plan's assets determined under section 431(c)(2).".

26 USC 404 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2007.

**SEC. 803. UPDATING DEDUCTION RULES FOR COMBINATION OF PLANS.**

26 USC 404.

(a) IN GENERAL.—Subparagraph (C) of section 404(a)(7) of the Internal Revenue Code of 1986 (relating to limitation on deductions where combination of defined contribution plan and defined benefit plan) is amended by adding after clause (ii) the following new clause:

"(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans, this paragraph shall only apply to the extent that such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans. For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions to the extent attributable to employer contributions to such plans in such preceding taxable years.".

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

"(v) MULTIEMPLOYER PLANS.—In applying this paragraph, any multiemployer plan shall not be taken into account.".

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 4972(c)(6) of such Code (relating to nondeductible contributions) is amended to read as follows:

"(A) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the amount of contributions described in section 401(m)(4)(A), or".

26 USC 404 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2005.

# Subtitle B—Certain Pension Provisions Made Permanent

26 USC 1 note.

**SEC. 811. PENSIONS AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS OF ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 MADE PERMANENT.**

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, subtitles A through F of title VI of such Act (relating to pension and individual retirement arrangement provisions).

**SEC. 812. SAVER'S CREDIT.**

Section 25B of the Internal Revenue Code of 1986 (relating to elective deferrals and IRA contributions by certain individuals) is amended by striking subsection (h). 26 USC 25B.

# Subtitle C—Improvements in Portability, Distribution, and Contribution Rules

**SEC. 821. CLARIFICATIONS REGARDING PURCHASE OF PERMISSIVE SERVICE CREDIT.**

(a) IN GENERAL.—Section 415(n) of the Internal Revenue Code of 1986 (relating to special rules for the purchase of permissive service credit) is amended—

(1) by striking "an employee" in paragraph (1) and inserting "a participant", and

(2) by adding at the end of paragraph (3)(A) the following new flush sentence:

"Such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan.".

(b) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 415(n)(3) of such Code is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—In the case of a trustee-to-trustee transfer to which section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

"(i) the limitations of subparagraph (B) shall not apply in determining whether the transfer is for the purchase of permissive service credit, and

"(ii) the distribution rules applicable under this title to the defined benefit governmental plan to which any amounts are so transferred shall apply to such amounts and any benefits attributable to such amounts.". Applicability.

(c) NONQUALIFIED SERVICE.—Section 415(n)(3) of such Code is amended—

(1) by striking "permissive service credit attributable to nonqualified service" each place it appears in subparagraph (B) and inserting "nonqualified service credit",

(2) by striking so much of subparagraph (C) as precedes clause (i) and inserting:

"(C) NONQUALIFIED SERVICE CREDIT.—For purposes of subparagraph (B), the term 'nonqualified service credit' means permissive service credit other than that allowed with respect to—", and

(3) by striking "elementary or secondary education (through grade 12), as determined under State law" in subparagraph (C)(ii) and inserting "elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed".

26 USC 415 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect as if included in the amendments made by section 1526 of the Taxpayer Relief Act of 1997.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

**SEC. 822. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY CONTRACTS.**

26 USC 402.

(a) IN GENERAL.—Subparagraph (A) of section 402(c)(2) (relating to the maximum amount which may be rolled over) is amended—

(1) by striking "which is part of a plan which is a defined contribution plan and which agrees to separately account" and inserting "or to an annuity contract described in section 403(b) and such trust or contract provides for separate accounting"; and

(2) by inserting "(and earnings thereon)" after "so transferred".

26 USC 402 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2006.

Regulations.

**SEC. 823. CLARIFICATION OF MINIMUM DISTRIBUTION RULES FOR GOVERNMENTAL PLANS.**

The Secretary of the Treasury shall issue regulations under which a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall, for all years to which section 401(a)(9) of such Code applies to such plan, be treated as having complied with such section 401(a)(9) if such plan complies with a reasonable good faith interpretation of such section 401(a)(9).

**SEC. 824. ALLOW DIRECT ROLLOVERS FROM RETIREMENT PLANS TO ROTH IRAS.**

(a) IN GENERAL.—Subsection (e) of section 408A of the Internal Revenue Code of 1986 (defining qualified rollover contribution) is amended to read as follows:

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution—

"(1) to a Roth IRA from another such account,

"(2) from an eligible retirement plan, but only if—

"(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

"(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.".

(b) CONFORMING AMENDMENTS.—

26 USC 408A and note.

(1) Section 408A(c)(3)(B) of such Code, as in effect before the Tax Increase Prevention and Reconciliation Act of 2005, is amended—

(A) in the text by striking "individual retirement plan" and inserting "an eligible retirement plan (as defined by section 402(c)(8)(B))", and

(B) in the heading by striking "IRA" the first place it appears and inserting "ELIGIBLE RETIREMENT PLAN".

(2) Section 408A(d)(3) of such Code is amended— 26 USC 408A.

(A) in subparagraph (A), by striking "section 408(d)(3)" inserting "sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)",

(B) in subparagraph (B), by striking "individual retirement plan" and inserting "eligible retirement plan (as defined by section 402(c)(8)(B))",

(C) in subparagraph (D), by inserting "or 6047" after "408(i)",

(D) in subparagraph (D), by striking "or both" and inserting "persons subject to section 6047(d)(1), or all of the foregoing persons", and

(E) in the heading, by striking "IRA" the first place it appears and inserting "ELIGIBLE RETIREMENT PLAN".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2007. 26 USC 408A note.

**SEC. 825. ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PLANS.** 26 USC 457 note.

An individual shall not be precluded from participating in an eligible deferred compensation plan by reason of having received a distribution under section 457(e)(9) of the Internal Revenue Code of 1986, as in effect prior to the enactment of the Small Business Job Protection Act of 1996.

**SEC. 826. MODIFICATIONS OF RULES GOVERNING HARDSHIPS AND UNFORSEEN FINANCIAL EMERGENCIES.** 26 USC 401 note.

Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall modify the rules for determining whether a participant has had a hardship for purposes of section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that if an event (including the occurrence of a medical expense) would constitute a hardship under the plan if it occurred with respect to the participant's spouse or dependent (as defined in section 152 of such Code), such event shall, to the extent permitted under a plan, constitute a hardship if it occurs with respect to a person who is a beneficiary under the plan with respect to the participant. The Secretary of the Treasury shall issue similar rules for purposes of determining whether a participant has had— Deadline.

(1) a hardship for purposes of section 403(b)(11)(B) of such Code; or

(2) an unforeseen financial emergency for purposes of sections 409A(a)(2)(A)(vi), 409A(a)(2)(B)(ii), and 457(d)(1)(A)(iii) of such Code.

**SEC. 827. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.**

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.—

"(i) IN GENERAL.—Any qualified reservist distribution.

"(ii) AMOUNT DISTRIBUTED MAY BE REPAID.—Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the end of the active duty period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

"(iii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term 'qualified reservist distribution' means any distribution to an individual if—

"(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii),

"(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

"(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

"(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph applies to individuals ordered or called to active duty after September 11, 2001, and before December 31, 2007. In no event shall the 2-year period referred to in clause (ii) end before the date which is 2 years after the date of the enactment of this subparagraph.".

(b) CONFORMING AMENDMENTS.—

26 USC 401.

(1) Section 401(k)(2)(B)(i) of such Code is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) in the case of a qualified reservist distribution (as defined in section 72(t)(2)(G)(iii)), the date on which a period referred to in subclause (III) of such section begins, and".

(2) Section 403(b)(7)(A)(ii) of such Code is amended by inserting "(unless such amount is a distribution to which section 72(t)(2)(G) applies)" after "distributee".

(3) Section 403(b)(11) of such Code is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies.".

(c) EFFECTIVE DATE; WAIVER OF LIMITATIONS.— 26 USC 72 note.

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

**SEC. 828. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.**

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph: 26 USC 72.

"(10) DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—

"(A) IN GENERAL.—In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414(d)) which is a defined benefit plan, paragraph (2)(A)(v) shall be applied by substituting 'age 50' for 'age 55'.

"(B) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this paragraph, the term 'qualified public safety employee' means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act. 26 USC 72 note.

**SEC. 829. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.**

(a) IN GENERAL.—

(1) QUALIFIED PLANS.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

"(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.—

"(A) IN GENERAL.—If, with respect to any portion of a distribution from an eligible retirement plan of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

"(i) the transfer shall be treated as an eligible rollover distribution for purposes of this subsection,

"(ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)) for purposes of this title, and

Applicability.

"(iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

"(B) CERTAIN TRUSTS TREATED AS BENEFICIARIES.—For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.".

26 USC 403.

(2) SECTION 403(a) PLANS.—Subparagraph (B) of section 403(a)(4) of such Code (relating to rollover amounts) is amended by inserting "and (11)" after "(7)".

(3) SECTION 403(b) PLANS.—Subparagraph (B) of section 403(b)(8) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(4) SECTION 457 PLANS.—Subparagraph (B) of section 457(e)(16) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

26 USC 402 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2006.

26 USC 408 note.

**SEC. 830. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS.**

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) shall make available a form (or modify existing forms) for use by individuals to direct that a portion of any refund of overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1986 be paid directly to an individual retirement plan (as defined in section 7701(a)(37) of such Code) of such individual.

(b) EFFECTIVE DATE.—The form required by subsection (a) shall be made available for taxable years beginning after December 31, 2006.

**SEC. 831. ALLOWANCE OF ADDITIONAL IRA PAYMENTS IN CERTAIN BANKRUPTCY CASES.**

(a) ALLOWANCE OF CONTRIBUTIONS.—Section 219(b)(5) of the Internal Revenue Code of 1986 (relating to deductible amount) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CATCHUP CONTRIBUTIONS FOR CERTAIN INDIVIDUALS.—

"(i) IN GENERAL.—In the case of an applicable individual who elects to make a qualified retirement contribution in addition to the deductible amount determined under subparagraph (A)—

"(I) the deductible amount for any taxable year shall be increased by an amount equal to 3 times the applicable amount determined under subparagraph (B) for such taxable year, and

"(II) subparagraph (B) shall not apply.

"(ii) APPLICABLE INDIVIDUAL.—For purposes of this subparagraph, the term 'applicable individual' means, with respect to any taxable year, any individual who was a qualified participant in a qualified cash or

deferred arrangement (as defined in section 401(k)) of an employer described in clause (iii) under which the employer matched at least 50 percent of the employee's contributions to such arrangement with stock of such employer.

"(iii) EMPLOYER DESCRIBED.—An employer is described in this clause if, in any taxable year preceding the taxable year described in clause (ii)—

"(I) such employer (or any controlling corporation of such employer) was a debtor in a case under title 11 of the United States Code, or similar Federal or State law, and

"(II) such employer (or any other person) was subject to an indictment or conviction resulting from business transactions related to such case.

"(iv) QUALIFIED PARTICIPANT.—For purposes of clause (ii), the term 'qualified participant' means any applicable individual who was a participant in the cash or deferred arrangement described in such clause on the date that is 6 months before the filing of the case described in clause (iii).

"(v) TERMINATION.—This subparagraph shall not apply to taxable years beginning after December 31, 2009.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 219 note.

**SEC. 832. DETERMINATION OF AVERAGE COMPENSATION FOR SECTION 415 LIMITS.**

(a) IN GENERAL.—Section 415(b)(3) of the Internal Revenue Code of 1986 is amended by striking "both was an active participant in the plan and". 26 USC 415.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2005. 26 USC 415 note.

**SEC. 833. INFLATION INDEXING OF GROSS INCOME LIMITATIONS ON CERTAIN RETIREMENT SAVINGS INCENTIVES.**

(a) SAVER'S CREDIT.—Subsection (b) of section 25B of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) JOINT RETURNS.—In the case of a joint return, the applicable percentage is—

"(A) if the adjusted gross income of the taxpayer is not over $30,000, 50 percent,

"(B) if the adjusted gross income of the taxpayer is over $30,000 but not over $32,500, 20 percent,

"(C) if the adjusted gross income of the taxpayer is over $32,500 but not over $50,000, 10 percent, and

"(D) if the adjusted gross income of the taxpayer is over $50,000, zero percent.

"(2) OTHER RETURNS.—In the case of—

"(A) a head of household, the applicable percentage shall be determined under paragraph (1) except that such paragraph shall be applied by substituting for each dollar amount therein (as adjusted under paragraph (3)) a dollar amount equal to 75 percent of such dollar amount, and

Applicability.

"(B) any taxpayer not described in paragraph (1) or subparagraph (A), the applicable percentage shall be determined under paragraph (1) except that such paragraph shall be applied by substituting for each dollar amount therein (as adjusted under paragraph (3)) a dollar amount equal to 50 percent of such dollar amount.

"(3) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, each of the dollar amounts in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $500.".

26 USC 219.

(b) DEDUCTION OF RETIREMENT CONTRIBUTIONS FOR ACTIVE PARTICIPANTS.—Section 219(g) of such Code is amended by adding at the end the following new paragraph:

"(8) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amount in the last row of the table contained in paragraph (3)(B)(i), the dollar amount in the last row of the table contained in paragraph (3)(B)(ii), and the dollar amount contained in paragraph (7)(A), shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

(c) CONTRIBUTION LIMITATION FOR ROTH IRAS.—Section 408A(c)(3) of such Code is amended by adding at the end the following new subparagraph:

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amounts in subclauses (I) and (II) of subparagraph (C)(ii) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

26 USC 25B note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after 2006.

# Subtitle D—Health and Medical Benefits

**SEC. 841. USE OF EXCESS PENSION ASSETS FOR FUTURE RETIREE HEALTH BENEFITS AND COLLECTIVELY BARGAINED RETIREE HEALTH BENEFITS.**

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection: 26 USC 420.

"(f) QUALIFIED TRANSFERS TO COVER FUTURE RETIREE HEALTH COSTS AND COLLECTIVELY BARGAINED RETIREE HEALTH BENEFITS.—

"(1) IN GENERAL.—An employer maintaining a defined benefit plan (other than a multiemployer plan) may, in lieu of a qualified transfer, elect for any taxable year to have the plan make—

"(A) a qualified future transfer, or

"(B) a collectively bargained transfer.

Except as provided in this subsection, a qualified future transfer and a collectively bargained transfer shall be treated for purposes of this title and the Employee Retirement Income Security Act of 1974 as if it were a qualified transfer.

"(2) QUALIFIED FUTURE AND COLLECTIVELY BARGAINED TRANSFERS.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'qualified future transfer' and 'collectively bargained transfer' mean a transfer which meets all of the requirements for a qualified transfer, except that—

"(i) the determination of excess pension assets shall be made under subparagraph (B),

"(ii) the limitation on the amount transferred shall be determined under subparagraph (C),

"(iii) the minimum cost requirements of subsection (c)(3) shall be modified as provided under subparagraph (D), and

"(iv) in the case of a collectively bargained transfer, the requirements of subparagraph (E) shall be met with respect to the transfer.

"(B) EXCESS PENSION ASSETS.—

"(i) IN GENERAL.—In determining excess pension assets for purposes of this subsection, subsection (e)(2) shall be applied by substituting '120 percent' for '125 percent'.

"(ii) REQUIREMENT TO MAINTAIN FUNDED STATUS.—If, as of any valuation date of any plan year in the transfer period, the amount determined under subsection (e)(2)(B) (after application of clause (i)) exceeds the amount determined under subsection (e)(2)(A), either—

"(I) the employer maintaining the plan shall make contributions to the plan in an amount not less than the amount required to reduce such excess to zero as of such date, or

"(II) there is transferred from the health benefits account to the plan an amount not less than the amount required to reduce such excess to zero as of such date.

"(C) LIMITATION ON AMOUNT TRANSFERRED.—Notwithstanding subsection (b)(3), the amount of the excess pension assets which may be transferred—

"(i) in the case of a qualified future transfer shall be equal to the sum of—

"(I) if the transfer period includes the taxable year of the transfer, the amount determined under subsection (b)(3) for such taxable year, plus

"(II) in the case of all other taxable years in the transfer period, the sum of the qualified current retiree health liabilities which the plan reasonably estimates, in accordance with guidance issued by the Secretary, will be incurred for each of such years, and

"(ii) in the case of a collectively bargained transfer, shall not exceed the amount which is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles, to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the collectively bargained cost maintenance period for collectively bargained retiree health liabilities.

"(D) MINIMUM COST REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of subsection (c)(3) shall be treated as met if—

"(I) in the case of a qualified future transfer, each group health plan or arrangement under which applicable health benefits are provided provides applicable health benefits during the period beginning with the first year of the transfer period and ending with the last day of the 4th year following the transfer period such that the annual average amount of such the applicable employer cost during such period is not less than the applicable employer cost determined under subsection (c)(3)(A) with respect to the transfer, and

"(II) in the case of a collectively bargained transfer, each collectively bargained group health plan under which collectively bargained health benefits are provided provides that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement.

"(ii) ELECTION TO MAINTAIN BENEFITS FOR FUTURE TRANSFERS.—An employer may elect, in lieu of the requirements of clause (i)(I), to meet the requirements of subsection (c)(3) by meeting the requirements of such subsection (as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999) for each of the years described in the period under clause (i)(I).

"(iii) COLLECTIVELY BARGAINED EMPLOYER COST.—For purposes of this subparagraph, the term 'collectively bargained employer cost' means the average cost

per covered individual of providing collectively bargained retiree health benefits as determined in accordance with the applicable collective bargaining agreement. Such agreement may provide for an appropriate reduction in the collectively bargained employer cost to take into account any portion of the collectively bargained retiree health benefits that is provided or financed by a government program or other source.

"(E) SPECIAL RULES FOR COLLECTIVELY BARGAINED TRANSFERS.—

"(i) IN GENERAL.—A collectively bargained transfer shall only include a transfer which—

"(I) is made in accordance with a collective bargaining agreement,

"(II) before the transfer, the employer designates, in a written notice delivered to each employee organization that is a party to the collective bargaining agreement, as a collectively bargained transfer in accordance with this section, and

"(III) involves a plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and dependents under all of the benefit plans maintained by the employer, but only if the aggregate cost (including administrative expenses) of such benefits or coverage which would have been allowable as a deduction to the employer (if such benefits or coverage had been provided directly by the employer and the employer used the cash receipts and disbursements method of accounting) is at least 5 percent of the gross receipts of the employer (determined in accordance with the last sentence of subsection (c)(2)(E)(ii)(II)) for such taxable year, or a plan maintained by a successor to such employer.

"(ii) USE OF ASSETS.—Any assets transferred to a health benefits account in a collectively bargained transfer (and any income allocable thereto) shall be used only to pay collectively bargained retiree health liabilities (other than liabilities of key employees not taken into account under paragraph (6)(B)(iii)) for the taxable year of the transfer or for any subsequent taxable year during the collectively bargained cost maintenance period (whether directly or through reimbursement).

"(3) COORDINATION WITH OTHER TRANSFERS.—In applying subsection (b)(3) to any subsequent transfer during a taxable year in a transfer period or collectively bargained cost maintenance period, qualified current retiree health liabilities shall be reduced by any such liabilities taken into account with respect to the qualified future transfer or collectively bargained transfer to which such period relates.

"(4) SPECIAL DEDUCTION RULES FOR COLLECTIVELY BARGAINED TRANSFERS.—In the case of a collectively bargained transfer—

"(A) the limitation under subsection (d)(1)(C) shall not apply, and

"(B) notwithstanding subsection (d)(2), an employer may contribute an amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to collectively bargained retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(B), and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement (as determined under section 419A(f)(5)(A)) without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of section 404 or the other provisions of this section.

Rules.

The Secretary shall provide rules to ensure that the application of this paragraph does not result in a deduction being allowed more than once for the same contribution or for 2 or more contributions or expenditures relating to the same collectively bargained retiree health liabilities.

"(5) TRANSFER PERIOD.—For purposes of this subsection, the term 'transfer period' means, with respect to any transfer, a period of consecutive taxable years (not less than 2) specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.

"(6) TERMS RELATING TO COLLECTIVELY BARGAINED TRANSFERS.—For purposes of this subsection—

"(A) COLLECTIVELY BARGAINED COST MAINTENANCE PERIOD.—The term 'collectively bargained cost maintenance period' means, with respect to each covered retiree and his covered spouse and dependents, the shorter of—

"(i) the remaining lifetime of such covered retiree and his covered spouse and dependents, or

"(ii) the period of coverage provided by the collectively bargained health plan (determined as of the date of the collectively bargained transfer) with respect to such covered retiree and his covered spouse and dependents.

"(B) COLLECTIVELY BARGAINED RETIREE HEALTH LIABILITIES.—

"(i) IN GENERAL.—The term 'collectively bargained retiree health liabilities' means the present value, as of the beginning of a taxable year and determined in accordance with the applicable collective bargaining agreement, of all collectively bargained health benefits (including administrative expenses) for such taxable year and all subsequent taxable years during the collectively bargained cost maintenance period.

"(ii) REDUCTION FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under clause (i) shall be reduced by the value (as of the close of the plan year preceding the year of the collectively bargained transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1))

set aside to pay for the collectively bargained retiree health liabilities.

"(iii) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(I)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing collectively bargained retiree health liabilities for such taxable year or in calculating collectively bargained employer cost under subsection (c)(3)(C).

"(C) COLLECTIVELY BARGAINED HEALTH BENEFITS.—The term 'collectively bargained health benefits' means health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the collectively bargained transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and their spouses and dependents, and

"(ii) if specified by the provisions of the collective bargaining agreement governing the collectively bargained transfer, active employees who, following their retirement, are entitled to receive such benefits and who are entitled to pension benefits under the plan, and their spouses and dependents.

"(D) COLLECTIVELY BARGAINED HEALTH PLAN.—The term 'collectively bargained health plan' means a group health plan or arrangement for retired employees and their spouses and dependents that is maintained pursuant to 1 or more collective bargaining agreements.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act. 26 USC 420 note.

**SEC. 842. TRANSFER OF EXCESS PENSION ASSETS TO MULTIEMPLOYER HEALTH PLAN.**

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 is amended— 26 USC 420.

(1) by striking "(other than a multiemployer plan)" in subsection (a), and

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

"(5) APPLICATION TO MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, this section shall be applied to any such plan—

"(A) by treating any reference in this section to an employer as a reference to all employers maintaining the plan (or, if appropriate, the plan sponsor), and

"(B) in accordance with such modifications of this section (and the provisions of this title relating to this section) as the Secretary determines appropriate to reflect the fact the plan is not maintained by a single employer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made in taxable years beginning after December 31, 2006. 26 USC 420 note.

**SEC. 843. ALLOWANCE OF RESERVE FOR MEDICAL BENEFITS OF PLANS SPONSORED BY BONA FIDE ASSOCIATIONS.**

26 USC 419A.

(a) IN GENERAL.—Section 419A(c) of the Internal Revenue Code of 1986 (relating to account limit) is amended by adding at the end the following new paragraph:

"(6) ADDITIONAL RESERVE FOR MEDICAL BENEFITS OF BONA FIDE ASSOCIATION PLANS.—

"(A) IN GENERAL.—An applicable account limit for any taxable year may include a reserve in an amount not to exceed 35 percent of the sum of—

"(i) the qualified direct costs, and

"(ii) the change in claims incurred but unpaid, for such taxable year with respect to medical benefits (other than post-retirement medical benefits).

"(B) APPLICABLE ACCOUNT LIMIT.—For purposes of this subsection, the term 'applicable account limit' means an account limit for a qualified asset account with respect to medical benefits provided through a plan maintained by a bona fide association (as defined in section 2791(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–91(d)(3)).".

26 USC 419A note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

**SEC. 844. TREATMENT OF ANNUITY AND LIFE INSURANCE CONTRACTS WITH A LONG-TERM CARE INSURANCE FEATURE.**

(a) EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 72 of the Internal Revenue Code of 1986 (relating to amounts not received as annuities) is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

"(11) SPECIAL RULES FOR CERTAIN COMBINATION CONTRACTS PROVIDING LONG-TERM CARE INSURANCE.—Notwithstanding paragraphs (2), (5)(C), and (10), in the case of any charge against the cash value of an annuity contract or the cash surrender value of a life insurance contract made as payment for coverage under a qualified long-term care insurance contract which is part of or a rider on such annuity or life insurance contract—

"(A) the investment in the contract shall be reduced (but not below zero) by such charge, and

"(B) such charge shall not be includible in gross income.".

(b) TAX-FREE EXCHANGES AMONG CERTAIN INSURANCE POLICIES.—

(1) ANNUITY CONTRACTS CAN INCLUDE QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—Paragraph (2) of section 1035(b) of such Code is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.".

(2) LIFE INSURANCE CONTRACTS CAN INCLUDE QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—Paragraph (3) of section 1035(b) of such Code is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance

contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.".

(3) EXPANSION OF TAX-FREE EXCHANGES OF LIFE INSURANCE, ENDOWMENT, AND ANNUITY CONTRACTS FOR LONG-TERM CARE CONTRACTS.—Subsection (a) of section 1035 of such Code (relating to certain exchanges of insurance policies) is amended— 26 USC 1035.

(A) in paragraph (1) by inserting "or for a qualified long-term care insurance contract" before the semicolon at the end,

(B) in paragraph (2) by inserting ", or (C) for a qualified long-term care insurance contract" before the semicolon at the end, and

(C) in paragraph (3) by inserting "or for a qualified long-term care insurance contract" before the period at the end.

(4) TAX-FREE EXCHANGES OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—Subsection (a) of section 1035 of such Code (relating to certain exchanges of insurance policies) is amended by striking "or" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; or", and by inserting after paragraph (3) the following new paragraph:

"(4) a qualified long-term care insurance contract for a qualified long-term care insurance contract.".

(c) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE OR ANNUITY CONTRACT.—Subsection (e) of section 7702B of such Code (relating to treatment of qualified long-term care insurance) is amended to read as follows:

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE OR ANNUITY CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract or an annuity contract— Regulations.

"(1) IN GENERAL.—This title shall apply as if the portion of the contract providing such coverage is a separate contract. Applicability.

"(2) DENIAL OF DEDUCTION UNDER SECTION 213.—No deduction shall be allowed under section 213(a) for any payment made for coverage under a qualified long-term care insurance contract if such payment is made as a charge against the cash surrender value of a life insurance contract or the cash value of an annuity contract.

"(3) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract or annuity contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

"(4) ANNUITY CONTRACTS TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of this subsection, none of the following shall be treated as an annuity contract:

"(A) A trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) A contract—

"(i) purchased by a trust described in subparagraph (A),

"(ii) purchased as part of a plan described in section 403(a),

"(iii) described in section 403(b),

"(iv) provided for employees of a life insurance company under a plan described in section 818(a)(3), or

"(v) from an individual retirement account or an individual retirement annuity.

"(C) A contract purchased by an employer for the benefit of the employee (or the employee's spouse).

Any dividend described in section 404(k) which is received by a participant or beneficiary shall, for purposes of this paragraph, be treated as paid under a separate contract to which subparagraph (B)(i) applies.".

(d) INFORMATION REPORTING.—

(1) Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

26 USC 6050U.

**"SEC. 6050U. CHARGES OR PAYMENTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS UNDER COMBINED ARRANGEMENTS.**

Regulations.

"(a) REQUIREMENT OF REPORTING.—Any person who makes a charge against the cash value of an annuity contract, or the cash surrender value of a life insurance contract, which is excludible from gross income under section 72(e)(11) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the amount of the aggregate of such charges against each such contract for the calendar year,

"(2) the amount of the reduction in the investment in each such contract by reason of such charges, and

"(3) the name, address, and TIN of the individual who is the holder of each such contract.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person making the payments, and

"(2) the information required to be shown on the return with respect to such individual.

Deadline.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.".

(2) PENALTY FOR FAILURE TO FILE.—

26 USC 6724.

(A) RETURN.—Subparagraph (B) of section 6724(d)(1) of such Code is amended by striking "or" at the end of clause (xvii), by striking "and" at the end of clause (xviii) and inserting "or", and by adding at the end the following new clause:

"(xix) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements), and".

(B) STATEMENT.—Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB), and by inserting after subparagraph (BB) the following new subparagraph: 26 USC 6724.

"(CC) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of such chapter 61 of such Code is amended by adding at the end the following new item:

"Sec. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.".

(e) TREATMENT OF POLICY ACQUISITION EXPENSES.—Subsection (e) of section 848 of such Code (relating to classification of contracts) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CERTAIN QUALIFIED LONG-TERM CARE INSURANCE CONTRACT ARRANGEMENTS.—An annuity or life insurance contract which includes a qualified long-term care insurance contract as a part of or a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in subparagraph (A) or (B) of subsection (c)(1).".

(f) TECHNICAL AMENDMENT.—Paragraph (1) of section 7702B(e) of such Code (as in effect before amendment by subsection (c)) is amended by striking "section" and inserting "title".

(g) EFFECTIVE DATES.— Applicability. 26 USC 72 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1996, but only with respect to taxable years beginning after December 31, 2009.

(2) TAX-FREE EXCHANGES.—The amendments made by subsection (b) shall apply with respect to exchanges occurring after December 31, 2009.

(3) INFORMATION REPORTING.—The amendments made by subsection (d) shall apply to charges made after December 31, 2009.

(4) POLICY ACQUISITION EXPENSES.—The amendment made by subsection (e) shall apply to specified policy acquisition expenses determined for taxable years beginning after December 31, 2009.

(5) TECHNICAL AMENDMENT.—The amendment made by subsection (f) shall take effect as if included in section 321(a) of the Health Insurance Portability and Accountability Act of 1996.

**SEC. 845. DISTRIBUTIONS FROM GOVERNMENTAL RETIREMENT PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE FOR PUBLIC SAFETY OFFICERS.**

(a) IN GENERAL.—Section 402 of the Internal Revenue Code of 1986 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(l) DISTRIBUTIONS FROM GOVERNMENTAL PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE.—

"(1) IN GENERAL.—In the case of an employee who is an eligible retired public safety officer who makes the election

described in paragraph (6) with respect to any taxable year of such employee, gross income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the employee, his spouse, or dependents (as defined in section 152) for such taxable year.

"(2) LIMITATION.—The amount which may be excluded from gross income for the taxable year by reason of paragraph (1) shall not exceed $3,000.

"(3) DISTRIBUTIONS MUST OTHERWISE BE INCLUDIBLE.—

"(A) IN GENERAL.—An amount shall be treated as a distribution for purposes of paragraph (1) only to the extent that such amount would be includible in gross income without regard to paragraph (1).

"(B) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as a distribution for purposes of subparagraph (A), the aggregate amounts distributed from an eligible retirement plan in a taxable year (up to the amount excluded under paragraph (1)) shall be treated as includible in gross income (without regard to subparagraph (A)) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE RETIREMENT PLAN.—For purposes of paragraph (1), the term 'eligible retirement plan' means a governmental plan (within the meaning of section 414(d)) which is described in clause (iii), (iv), (v), or (vi) of subsection (c)(8)(B).

"(B) ELIGIBLE RETIRED PUBLIC SAFETY OFFICER.—The term 'eligible retired public safety officer' means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions subject to paragraph (1) are made.

"(C) PUBLIC SAFETY OFFICER.—The term 'public safety officer' shall have the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

"(D) QUALIFIED HEALTH INSURANCE PREMIUMS.—The term 'qualified health insurance premiums' means premiums for coverage for the eligible retired public safety officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in section 7702B(b)).

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DIRECT PAYMENT TO INSURER REQUIRED.—Paragraph (1) shall only apply to a distribution if payment of the premiums is made directly to the provider of the

accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.

"(B) RELATED PLANS TREATED AS 1.—All eligible retirement plans of an employer shall be treated as a single plan.

"(6) ELECTION DESCRIBED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an election is described in this paragraph if the election is made by an employee after separation from service with respect to amounts not distributed from an eligible retirement plan to have amounts from such plan distributed in order to pay for qualified health insurance premiums.

"(B) SPECIAL RULE.—A plan shall not be treated as violating the requirements of section 401, or as engaging in a prohibited transaction for purposes of section 503(b), merely because it provides for an election with respect to amounts that are otherwise distributable under the plan or merely because of a distribution made pursuant to an election described in subparagraph (A).

"(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 213.

"(8) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 162(l).".

(b) CONFORMING AMENDMENTS.—

(1) Section 403(a) of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by inserting after paragraph (1) the following new paragraph: 26 USC 403.

"(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.".

(2) Section 403(b) of such Code (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.".

(3) Section 457(a) of such Code (relating to year of inclusion in gross income) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—In the case of a plan of an eligible employer described in subsection (e)(1)(A), to the extent provided in section 402(l), paragraph (1) shall not apply to amounts otherwise includible in gross income under this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2006. 26 USC 402 note.

# Subtitle E—United States Tax Court Modernization

**SEC. 851. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.**

26 USC 7448.

(a) IN GENERAL.—Subsection (s) of section 7448 of the Internal Revenue Code of 1986 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

26 USC 7448 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

**SEC. 852. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.**

Section 7472 of the Internal Revenue Code of 1986 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after the date of the enactment of the Pension Protection Act of 2006, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

**SEC. 853. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.**

(a) IN GENERAL.—Section 7447 of the Internal Revenue Code of 1986 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Federal Retirement Thrift Investment Board prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.". Regulations.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date. 26 USC 7447 note.

**SEC. 854. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF SPECIAL TRIAL JUDGES OF THE TAX COURT.**

(a) DEFINITIONS.—Section 7448(a) of the Internal Revenue Code of 1986 (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'special trial judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under chapter 83 or 84 of title 5, United States Code, whether or not performing judicial duties under section 7443B.

"(6) The term 'special trial judge's salary' means the salary of a special trial judge received under section 7443A(d), any amount received as an annuity under chapter 83 or 84 of title 5, United States Code, and compensation received under section 7443B.".

26 USC 7448.

(b) ELECTION.—Subsection (b) of section 7448 of such Code (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

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

"(2) SPECIAL TRIAL JUDGES.—Any special trial judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

Deadline.

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 of such Code is amended by inserting "**AND SPECIAL TRIAL JUDGES**" after "**JUDGES**".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 of such Code is amended by inserting "and special trial judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448 of such Code, as amended by this Act, are each amended—

(A) by inserting "or special trial judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or special trial judge's" after "judge's" each place it appears.

(4) Section 7448(c) of such Code is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers", and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsection (a)(4) and (a)(6)".

(5) Section 7448(j)(1) of such Code is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under chapter 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(6) Section 7448(m)(1) of such Code, as amended by this Act, is amended by inserting "or any annuity under chapter 83 or 84 of title 5, United States Code" after "7447(d)".

(7) Section 7448(n) of such Code is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(8) Section 3121(b)(5)(E) of such Code is amended by inserting "or special trial judge" before "of the United States Tax Court".

(9) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or special trial judge" before "of the United States Tax Court". 42 USC 410.

**SEC. 855. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.**

(a) IN GENERAL.—Paragraph (1) of section 6330(d) of the Internal Revenue Code of 1986 (relating to proceeding after hearing) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).". Deadline.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

**SEC. 856. PROVISIONS FOR RECALL.**

(a) IN GENERAL.—Part I of subchapter C of chapter 76 of the Internal Revenue Code of 1986 is amended by inserting after section 7443A the following new section:

**"SEC. 7443B. RECALL OF SPECIAL TRIAL JUDGES OF THE TAX COURT.** 26 USC 7443B.

"(a) RECALLING OF RETIRED SPECIAL TRIAL JUDGES.—Any individual who has retired pursuant to the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a special trial judge of the Tax Court.

"(b) COMPENSATION.—For the year in which a period of recall occurs, the special trial judge shall receive, in addition to the annuity provided under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the special trial judge is recalled.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 of such Code is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Recall of special trial judges of the Tax Court.".

**SEC. 857. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.**

26 USC 7443A.

(a) IN GENERAL.—Section 7443A(b) of the Internal Revenue Code of 1986 (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) any proceeding under section 7436(c), and".

(b) CONFORMING AMENDMENT.—Section 7443A(c) of such Code is amended by striking "or (4)" and inserting "(4), or (5)".

26 USC 7443A.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

**SEC. 858. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.**

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) of the Internal Revenue Code of 1986 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

26 USC 6214 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

**SEC. 859. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.**

(a) IN GENERAL.—Section 7451 of the Internal Revenue Code of 1986 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

26 USC 7451 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 860. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.**

(a) IN GENERAL.—Section 7475(b) of the Internal Revenue Code of 1986 (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

26 USC 7475 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

## Subtitle F—Other Provisions

**SEC. 861. EXTENSION TO ALL GOVERNMENTAL PLANS OF CURRENT MORATORIUM ON APPLICATION OF CERTAIN NON-DISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.**

(a) IN GENERAL.—

(1) Subparagraph (G) of section 401(a)(5) and subparagraph (G) of section 401(a)(26) of the Internal Revenue Code of 1986 are each amended by striking "section 414(d))" and all that follows and inserting "section 414(d)).". 26 USC 401.

(2) Subparagraph (G) of section 401(k)(3) of such Code and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 (Public Law 105–34; 111 Stat. 1063) are each amended by striking "maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)". 26 USC 401 and note.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subparagraph (G) of section 401(a)(5) of the Internal Revenue Code of 1986 is amended by striking "STATE AND LOCAL GOVERNMENTAL" and inserting "GOVERNMENTAL".

(2) The heading of subparagraph (G) of section 401(a)(26) of such Code is amended by striking "EXCEPTION FOR STATE AND LOCAL" and inserting "EXCEPTION FOR".

(3) Section 401(k)(3)(G) of such Code is amended by inserting "GOVERNMENTAL PLAN.—" after "(G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any year beginning after the date of the enactment of this Act.

**SEC. 862. ELIMINATION OF AGGREGATE LIMIT FOR USAGE OF EXCESS FUNDS FROM BLACK LUNG DISABILITY TRUSTS.**

(a) IN GENERAL.—So much of section 501(c)(21)(C) of the Internal Revenue Code of 1986 (relating to black lung disability trusts) as precedes the last sentence is amended to read as follows:

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of—

"(i) the fair market value of the assets of the trust, over

"(ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 501 note.

**SEC. 863. TREATMENT OF DEATH BENEFITS FROM CORPORATE-OWNED LIFE INSURANCE.**

(a) IN GENERAL.—Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(j) TREATMENT OF CERTAIN EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.—

"(1) GENERAL RULE.—In the case of an employer-owned life insurance contract, the amount excluded from gross income of an applicable policyholder by reason of paragraph (1) of subsection (a) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract.

"(2) EXCEPTIONS.—In the case of an employer-owned life insurance contract with respect to which the notice and consent requirements of paragraph (4) are met, paragraph (1) shall not apply to any of the following:

"(A) EXCEPTIONS BASED ON INSURED'S STATUS.—Any amount received by reason of the death of an insured who, with respect to an applicable policyholder—

"(i) was an employee at any time during the 12-month period before the insured's death, or

"(ii) is, at the time the contract is issued—

"(I) a director,

"(II) a highly compensated employee within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof), or

"(III) a highly compensated individual within the meaning of section 105(h)(5), except that '35 percent' shall be substituted for '25 percent' in subparagraph (C) thereof.

"(B) EXCEPTION FOR AMOUNTS PAID TO INSURED'S HEIRS.—Any amount received by reason of the death of an insured to the extent—

"(i) the amount is paid to a member of the family (within the meaning of section 267(c)(4)) of the insured, any individual who is the designated beneficiary of the insured under the contract (other than the applicable policyholder), a trust established for the benefit of any such member of the family or designated beneficiary, or the estate of the insured, or

"(ii) the amount is used to purchase an equity (or capital or profits) interest in the applicable policyholder from any person described in clause (i).

"(3) EMPLOYER-OWNED LIFE INSURANCE CONTRACT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employer-owned life insurance contract' means a life insurance contract which—

"(i) is owned by a person engaged in a trade or business and under which such person (or a related person described in subparagraph (B)(ii)) is directly or indirectly a beneficiary under the contract, and

"(ii) covers the life of an insured who is an employee with respect to the trade or business of the applicable policyholder on the date the contract is issued.

For purposes of the preceding sentence, if coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract.

"(B) APPLICABLE POLICYHOLDER.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'applicable policyholder' means, with respect to any employer-owned life insurance contract, the person described in subparagraph (A)(i) which owns the contract.

"(ii) RELATED PERSONS.—The term 'applicable policyholder' includes any person which—

"(I) bears a relationship to the person described in clause (i) which is specified in section 267(b) or 707(b)(1), or

"(II) is engaged in trades or businesses with such person which are under common control

(within the meaning of subsection (a) or (b) of section 52).

"(4) NOTICE AND CONSENT REQUIREMENTS.—The notice and consent requirements of this paragraph are met if, before the issuance of the contract, the employee—

"(A) is notified in writing that the applicable policyholder intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued,

"(B) provides written consent to being insured under the contract and that such coverage may continue after the insured terminates employment, and

"(C) is informed in writing that an applicable policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE.—The term 'employee' includes an officer, director, and highly compensated employee (within the meaning of section 414(q)).

"(B) INSURED.—The term 'insured' means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resident. In the case of a contract covering the joint lives of 2 individuals, references to an insured include both of the individuals.".

(b) REPORTING REQUIREMENTS.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039H the following new section:

**"SEC. 6039I. RETURNS AND RECORDS WITH RESPECT TO EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.** 26 USC 6039I.

"(a) IN GENERAL.—Every applicable policyholder owning 1 or more employer-owned life insurance contracts issued after the date of the enactment of this section shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) showing for each year such contracts are owned— Regulations.

"(1) the number of employees of the applicable policyholder at the end of the year,

"(2) the number of such employees insured under such contracts at the end of the year,

"(3) the total amount of insurance in force at the end of the year under such contracts,

"(4) the name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged, and

"(5) that the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

"(b) RECORDKEEPING REQUIREMENT.—Each applicable policyholder owning 1 or more employer-owned life insurance contracts during any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section and section 101(j) are met.

"(c) DEFINITIONS.—Any term used in this section which is used in section 101(j) shall have the same meaning given such term by section 101(j).".

(c) CONFORMING AMENDMENTS.—

26 USC 101.

(1) Paragraph (1) of section 101(a) of the Internal Revenue Code of 1986 is amended by striking "and subsection (f)" and inserting "subsection (f), and subsection (j)".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039H the following new item:

"Sec. 6039I. Returns and records with respect to employer-owned life insurance contracts.".

Applicability.
26 USC 101 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to life insurance contracts issued after the date of the enactment of this Act, except for a contract issued after such date pursuant to an exchange described in section 1035 of the Internal Revenue Code of 1986 for a contract issued on or prior to that date. For purposes of the preceding sentence, any material increase in the death benefit or other material change shall cause the contract to be treated as a new contract except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of such Code), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.

**SEC. 864. TREATMENT OF TEST ROOM SUPERVISORS AND PROCTORS WHO ASSIST IN THE ADMINISTRATION OF COLLEGE ENTRANCE AND PLACEMENT EXAMS.**

26 USC 3401 note.

(a) IN GENERAL.—Section 530 of the Revenue Reconciliation Act of 1978 is amended by adding at the end the following new subsection:

"(f) TREATMENT OF TEST ROOM SUPERVISORS AND PROCTORS WHO ASSIST IN THE ADMINISTRATION OF COLLEGE ENTRANCE AND PLACEMENT EXAMS.—

Applicability.

"(1) IN GENERAL.—In the case of an individual described in paragraph (2) who is providing services as a test proctor or room supervisor by assisting in the administration of college entrance or placement examinations, this section shall be applied to such services performed after December 31, 2006 (and remuneration paid for such services) without regard to subsection (a)(3) thereof.

"(2) APPLICABILITY.—An individual is described in this paragraph if the individual—

"(A) is providing the services described in subsection (a) to an organization described in section 501(c), and exempt from tax under section 501(a), of the Internal Revenue Code of 1986, and

"(B) is not otherwise treated as an employee of such organization for purposes of subtitle C of such Code (relating to employment taxes).".

26 USC 3401 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration for services performed after December 31, 2006.

**SEC. 865. GRANDFATHER RULE FOR CHURCH PLANS WHICH SELF-ANNUITIZE.** 26 USC 401 note.

(a) IN GENERAL.—In the case of any plan year ending after the date of the enactment of this Act, annuity payments provided with respect to any account maintained for a participant or beneficiary under a qualified church plan shall not fail to satisfy the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 merely because the payments are not made under an annuity contract purchased from an insurance company if such payments would not fail such requirements if provided with respect to a retirement income account described in section 403(b)(9) of such Code.

(b) QUALIFIED CHURCH PLAN.—For purposes of this section, the term "qualified church plan" means any money purchase pension plan described in section 401(a) of such Code which—

(1) is a church plan (as defined in section 414(e) of such Code) with respect to which the election provided by section 410(d) of such Code has not been made, and

(2) was in existence on April 17, 2002.

**SEC. 866. EXEMPTION FOR INCOME FROM LEVERAGED REAL ESTATE HELD BY CHURCH PLANS.**

(a) IN GENERAL.—Section 514(c)(9)(C) of the Internal Revenue Code of 1986 is amended by striking "or" after clause (ii), by striking the period at the end of clause (iii) and inserting "; or", and by inserting after clause (iii) the following: 26 USC 514.

"(iv) a retirement income account described in section 403(b)(9).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after the date of enactment of this Act. 26 USC 514 note.

**SEC. 867. CHURCH PLAN RULE.**

(a) IN GENERAL.—Paragraph (11) of section 415(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following: "Subparagraph (B) of paragraph (1) shall not apply to a plan maintained by an organization described in section 3121(w)(3)(A) except with respect to highly compensated benefits. For purposes of this paragraph, the term 'highly compensated benefits' means any benefits accrued for an employee in any year on or after the first year in which such employee is a highly compensated employee (as defined in section 414(q)) of the organization described in section 3121(w)(3)(A). For purposes of applying paragraph (1)(B) to highly compensated benefits, all benefits of the employee otherwise taken into account (without regard to this paragraph) shall be taken into account.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2006. 26 USC 415 note.

**SEC. 868. GRATUITOUS TRANSFER FOR BENEFITS OF EMPLOYEES.**

(a) IN GENERAL.—Subparagraph (E) of section 664(g)(3) of the Internal Revenue Code of 1986 is amended by inserting "(determined on the basis of fair market value of securities when allocated to participants)" after "paragraph (7)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 664 note.

# TITLE IX—INCREASE IN PENSION PLAN DIVERSIFICATION AND PARTICIPATION AND OTHER PENSION PROVISIONS

**SEC. 901. DEFINED CONTRIBUTION PLANS REQUIRED TO PROVIDE EMPLOYEES WITH FREEDOM TO INVEST THEIR PLAN ASSETS.**

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

26 USC 401.

(1) QUALIFICATION REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (34) the following new paragraph:

"(35) DIVERSIFICATION REQUIREMENTS FOR CERTAIN DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A trust which is part of an applicable defined contribution plan shall not be treated as a qualified trust unless the plan meets the diversification requirements of subparagraphs (B), (C), and (D).

"(B) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this subparagraph if the applicable individual may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

"(C) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities, a plan meets the requirements of this subparagraph if each applicable individual who—

"(i) is a participant who has completed at least 3 years of service, or

"(ii) is a beneficiary of a participant described in clause (i) or of a deceased participant,

may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

"(D) INVESTMENT OPTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this paragraph, each of which is diversified and has materially different risk and return characteristics.

"(ii) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

"(I) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this subparagraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

"(II) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this subparagraph if the plan imposes restrictions or conditions with respect to the investment of employer securities which are not imposed on the investment of other assets of the plan. This subclause shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

"(E) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable defined contribution plan' means any defined contribution plan which holds any publicly traded employer securities.

"(ii) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

"(I) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m), and

"(II) such plan is a separate plan for purposes of section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers.

"(iii) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term does not include a one-participant retirement plan.

"(iv) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of clause (iii), the term 'one-participant retirement plan' means a retirement plan that—

"(I) on the first day of the plan year covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or covered only one or more partners (or partners and their spouses) in the plan sponsor,

"(II) meets the minimum coverage requirements of section 410(b) without being combined with any other plan of the business that covers the employees of the business,

"(III) does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses),

"(IV) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

"(V) does not cover a business that uses the services of leased employees (within the meaning of section 414(n)).

For purposes of this clause, the term 'partner' includes a 2-percent shareholder (as defined in section 1372(b)) of an S corporation.

"(F) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

"(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

"(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

"(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

"(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

"(I) 'controlled group of corporations' has the meaning given such term by section 1563(a), except that '50 percent' shall be substituted for '80 percent' each place it appears,

"(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

"(III) 'parent corporation' has the meaning given such term by section 424(e).

"(G) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(I) any participant in the plan, and

"(II) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

"(ii) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A).

"(iii) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

"(iv) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(v) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

"(vi) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 411(a)(5).

"(H) TRANSITION RULE FOR SECURITIES ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

"(i) RULES PHASED IN OVER 3 YEARS.—

Applicability.

"(I) IN GENERAL.—In the case of the portion of an account to which subparagraph (C) applies and which consists of employer securities acquired in a plan year beginning before January 1, 2007, subparagraph (C) shall only apply to the applicable percentage of such securities. This subparagraph shall be applied separately with respect to each class of securities.

"(II) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Subclause (I) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined as follows:

| "Plan year to which subparagraph (C) applies: | The applicable percentage is: |
|---|---|
| 1st | 33 |
| 2d | 66 |
| 3d and following | 100.". |

(2) CONFORMING AMENDMENTS.—

26 USC 401.

(A) Section 401(a)(28)(B) of such Code (relating to additional requirements relating to employee stock ownership plans) is amended by adding at the end the following new clause:

"(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(E)).".

(B) Section 409(h)(7) of such Code is amended by inserting "or subparagraph (B) or (C) of section 401(a)(35)" before the period at the end.

(C) Section 4980(c)(3)(A) of such Code is amended by striking "if—" and all that follows and inserting "if the requirements of subparagraphs (B), (C), and (D) are met.".

(b) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) DIVERSIFICATION REQUIREMENTS FOR CERTAIN INDIVIDUAL ACCOUNT PLANS.—

"(1) IN GENERAL.—An applicable individual account plan shall meet the diversification requirements of paragraphs (2), (3), and (4).

"(2) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this paragraph if the applicable individual may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

"(3) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities, a plan meets the requirements of this paragraph if each applicable individual who—

"(A) is a participant who has completed at least 3 years of service, or

"(B) is a beneficiary of a participant described in subparagraph (A) or of a deceased participant,

may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

"(4) INVESTMENT OPTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this subsection, each of which is diversified and has materially different risk and return characteristics.

"(B) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

"(i) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this paragraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

"(ii) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this paragraph if the plan imposes restrictions or conditions with respect to the investment of employer securities which are not imposed on the investment of other assets of the plan. This subparagraph shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

"(5) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable individual account plan' means any individual account plan (as defined in section 3(34)) which holds any publicly traded employer securities.

"(B) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

"(i) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m) of section 401 of the Internal Revenue Code of 1986, and

"(ii) such plan is a separate plan (for purposes of section 414(l) of such Code) with respect to any other defined benefit plan or individual account plan maintained by the same employer or employers.

"(C) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term shall not include a one-participant retirement plan (as defined in section 101(i)(8)(B)).

"(D) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

"(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

"(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

"(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

"(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

"(I) 'controlled group of corporations' has the meaning given such term by section 1563(a) of the Internal Revenue Code of 1986, except that '50 percent' shall be substituted for '80 percent' each place it appears,

"(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

"(III) 'parent corporation' has the meaning given such term by section 424(e) of such Code.

"(6) OTHER DEFINITIONS.—For purposes of this paragraph—

"(A) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(i) any participant in the plan, and

"(ii) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

"(B) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A) of the Internal Revenue Code of 1986.

"(C) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1).

"(D) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7) of such Code.

"(E) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

"(F) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 203(b)(2).

"(7) TRANSITION RULE FOR SECURITIES ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

"(A) RULES PHASED IN OVER 3 YEARS.—

Applicability.

"(i) IN GENERAL.—In the case of the portion of an account to which paragraph (3) applies and which consists of employer securities acquired in a plan year beginning before January 1, 2007, paragraph (3) shall only apply to the applicable percentage of such securities. This subparagraph shall be applied separately with respect to each class of securities.

"(ii) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Clause (i) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

| "Plan year to which paragraph (3) applies: | The applicable percentage is: |
|---|---|
| 1st | 33 |
| 2d | 66 |
| 3d | 100.". |

(2) CONFORMING AMENDMENT.—Section 407(b)(3) of such Act (29 U.S.C. 1107(b)(3)) is amended by adding at the end the following:

"(D) For diversification requirements for qualifying employer securities held in certain individual account plans, see section 204(j).".

26 USC 401 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 2006.

Applicability.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2006" the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

(3) SPECIAL RULE FOR CERTAIN EMPLOYER SECURITIES HELD IN AN ESOP.—

(A) IN GENERAL.—In the case of employer securities to which this paragraph applies, the amendments made by this section shall apply to plan years beginning after the earlier of—

(i) December 31, 2007, or

(ii) the first date on which the fair market value of such securities exceeds the guaranteed minimum value described in subparagraph (B)(ii).

(B) APPLICABLE SECURITIES.—This paragraph shall apply to employer securities which are attributable to employer contributions other than elective deferrals, and which, on September 17, 2003—

(i) consist of preferred stock, and

(ii) are within an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986), the terms of which provide that the value of the securities cannot be less than the guaranteed minimum value specified by the plan on such date.

(C) COORDINATION WITH TRANSITION RULE.—In applying section 401(a)(35)(H) of the Internal Revenue Code of 1986 and section 204(j)(7) of the Employee Retirement Income Security Act of 1974 (as added by this section) to employer securities to which this paragraph applies, the applicable percentage shall be determined without regard to this paragraph.

**SEC. 902. INCREASING PARTICIPATION THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.**

(a) IN GENERAL.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph: 26 USC 401.

"(13) ALTERNATIVE METHOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS TO MEET NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A qualified automatic contribution arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

"(B) QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this paragraph, the term 'qualified automatic contribution arrangement' means any cash or deferred arrangement which meets the requirements of subparagraphs (C) through (E).

"(C) AUTOMATIC DEFERRAL.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to a qualified percentage of compensation.

"(ii) ELECTION OUT.—The election treated as having been made under clause (i) shall cease to apply with respect to any employee if such employee makes an affirmative election—

"(I) to not have such contributions made, or

"(II) to make elective contributions at a level specified in such affirmative election.

"(iii) QUALIFIED PERCENTAGE.—For purposes of this subparagraph, the term 'qualified percentage' means, with respect to any employee, any percentage determined under the arrangement if such percentage is applied uniformly, does not exceed 10 percent, and is at least—

"(I) 3 percent during the period ending on the last day of the first plan year which begins after the date on which the first elective contribution described in clause (i) is made with respect to such employee,

"(II) 4 percent during the first plan year following the plan year described in subclause (I),

"(III) 5 percent during the second plan year following the plan year described in subclause (I), and

"(IV) 6 percent during any subsequent plan year.

"(iv) AUTOMATIC DEFERRAL FOR CURRENT EMPLOYEES NOT REQUIRED.—Clause (i) may be applied without taking into account any employee who—

"(I) was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the date on which such arrangement becomes a qualified automatic contribution arrangement (determined after application of this clause), and

"(II) had an election in effect on such date either to participate in the arrangement or to not participate in the arrangement.

"(D) MATCHING OR NONELECTIVE CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer—

"(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to the sum of 100 percent of the elective contributions of the employee to the extent that such contributions do not exceed 1 percent of compensation plus 50 percent of so much of such compensation as exceeds 1 percent but does not exceed 6 percent of compensation, or

"(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the

arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(ii) APPLICATION OF RULES FOR MATCHING CONTRIBUTIONS.—The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of clause (i)(I).

"(iii) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of clause (i) unless, with respect to employer contributions (including matching contributions) taken into account in determining whether the requirements of clause (i) are met—

"(I) any employee who has completed at least 2 years of service (within the meaning of section 411(a)) has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such employer contributions, and

"(II) the requirements of subparagraph (B) of paragraph (2) are met with respect to all such employer contributions.

"(iv) APPLICATION OF CERTAIN OTHER RULES.—The rules of subparagraphs (E)(ii) and (F) of paragraph (12) shall apply for purposes of subclauses (I) and (II) of clause (i).

"(E) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, within a reasonable period before each plan year, each employee eligible to participate in the arrangement for such year receives written notice of the employee's rights and obligations under the arrangement which—

"(I) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(II) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(ii) TIMING AND CONTENT REQUIREMENTS.—A notice shall not be treated as meeting the requirements of clause (i) with respect to an employee unless—

"(I) the notice explains the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(II) in the case of an arrangement under which the employee may elect among 2 or more investment options, the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee, and

"(III) the employee has a reasonable period of time after receipt of the notice described in subclauses (I) and (II) and before the first elective contribution is made to make either such election.".

(b) MATCHING CONTRIBUTIONS.—Section 401(m) of such Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph 26 USC 401.

(12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) ALTERNATIVE METHOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) is a qualified automatic contribution arrangement (as defined in subsection (k)(13)), and

"(B) meets the requirements of paragraph (11)(B).".

(c) EXCLUSION FROM DEFINITION OF TOP-HEAVY PLANS.—

26 USC 416.

(1) ELECTIVE CONTRIBUTION RULE.—Clause (i) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(k)(13)" after "section 401(k)(12)".

(2) MATCHING CONTRIBUTION RULE.—Clause (ii) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(m)(12)" after "section 401(m)(11)".

(d) TREATMENT OF WITHDRAWALS OF CONTRIBUTIONS DURING FIRST 90 DAYS.—

(1) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(w) SPECIAL RULES FOR CERTAIN WITHDRAWALS FROM ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

"(1) IN GENERAL.—If an eligible automatic contribution arrangement allows an employee to elect to make permissible withdrawals—

"(A) the amount of any such withdrawal shall be includible in the gross income of the employee for the taxable year of the employee in which the distribution is made,

"(B) no tax shall be imposed under section 72(t) with respect to the distribution, and

"(C) the arrangement shall not be treated as violating any restriction on distributions under this title solely by reason of allowing the withdrawal.

In the case of any distribution to an employee by reason of an election under this paragraph, employer matching contributions shall be forfeited or subject to such other treatment as the Secretary may prescribe.

"(2) PERMISSIBLE WITHDRAWAL.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'permissible withdrawal' means any withdrawal from an eligible automatic contribution arrangement meeting the requirements of this paragraph which—

"(i) is made pursuant to an election by an employee, and

"(ii) consists of elective contributions described in paragraph (3)(B) (and earnings attributable thereto).

"(B) TIME FOR MAKING ELECTION.—Subparagraph (A) shall not apply to an election by an employee unless the election is made no later than the date which is 90 days after the date of the first elective contribution with respect to the employee under the arrangement.

"(C) AMOUNT OF DISTRIBUTION.—Subparagraph (A) shall not apply to any election by an employee unless the amount of any distribution by reason of the election

is equal to the amount of elective contributions made with respect to the first payroll period to which the eligible automatic contribution arrangement applies to the employee and any succeeding payroll period beginning before the effective date of the election (and earnings attributable thereto).

"(3) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement under an applicable employer plan—

"(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

"(C) under which, in the absence of an investment election by the participant, contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary of Labor under section 404(c)(5) of the Employee Retirement Income Security Act of 1974, and

"(D) which meets the requirements of paragraph (4).

"(4) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—The administrator of a plan containing an arrangement described in paragraph (3) shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (3) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

"(i) the notice includes an explanation of the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.

"(5) APPLICABLE EMPLOYER PLAN.—For purposes of this subsection, the term 'applicable employer plan' means—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b), and

"(C) an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A).

"(6) SPECIAL RULE.—A withdrawal described in paragraph (1) (subject to the limitation of paragraph (2)(C)) shall not be taken into account for purposes of section 401(k)(3).".

(2) VESTING CONFORMING AMENDMENTS.—

26 USC 411.

(A) Section 411(a)(3)(G) of such Code is amended by inserting "an erroneous automatic contribution under section 414(w)," after "402(g)(2)(A),".

(B) The heading of section 411(a)(3)(G) of such Code is amended by inserting "**OR ERRONEOUS AUTOMATIC CONTRIBUTION**" before the period.

(C) Section 401(k)(8)(E) of such Code is amended by inserting "an erroneous automatic contribution under section 414(w)," after "402(g)(2)(A),".

(D) The heading of section 401(k)(8)(E) of such Code is amended by inserting "**OR ERRONEOUS AUTOMATIC CONTRIBUTION**" before the period.

(E) Section 203(a)(3)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(F)) is amended by inserting "an erroneous automatic contribution under section 414(w) of such Code," after "402(g)(2)(A) of such Code,".

(e) EXCESS CONTRIBUTIONS.—

(1) EXPANSION OF CORRECTIVE DISTRIBUTION PERIOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subsection (f) of section 4979 of the Internal Revenue Code of 1986 is amended—

(A) by inserting "(6 months in the case of an excess contribution or excess aggregate contribution to an eligible automatic contribution arrangement (as defined in section 414(w)(3)))" after "2½ months" in paragraph (1), and

(B) by striking "2½ MONTHS OF" in the heading and inserting "SPECIFIED PERIOD AFTER".

(2) YEAR OF INCLUSION.—Paragraph (2) of section 4979(f) of such Code is amended to read as follows:

"(2) YEAR OF INCLUSION.—Any amount distributed as provided in paragraph (1) shall be treated as earned and received by the recipient in the recipient's taxable year in which such distributions were made.".

(3) SIMPLIFICATION OF ALLOCABLE EARNINGS.—

(A) SECTION 4979.—Paragraph (1) of section 4979(f) of such Code is amended by adding "through the end of the plan year for which the contribution was made" after "thereto".

(B) SECTION 401(k) AND 401(m).—

(i) Clause (i) of section 401(k)(8)(A) of such Code is amended by adding "through the end of such year" after "such contributions".

(ii) Subparagraph (A) of section 401(m)(6) of such Code is amended by adding "through the end of such year" after "to such contributions". 26 USC 401.

(f) PREEMPTION OF CONFLICTING STATE REGULATION.—

(1) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of this section, this title shall supersede any law of a State which would directly or indirectly prohibit or restrict the inclusion in any plan of an automatic contribution arrangement. The Secretary may prescribe regulations which would establish minimum standards that such an arrangement would be required to satisfy in order for this subsection to apply in the case of such arrangement.

"(2) For purposes of this subsection, the term 'automatic contribution arrangement' means an arrangement—

"(A) under which a participant may elect to have the plan sponsor make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(B) under which a participant is treated as having elected to have the plan sponsor make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

"(C) under which such contributions are invested in accordance with regulations prescribed by the Secretary under section 404(c)(5).

"(3)(A) The plan administrator of an automatic contribution arrangement shall, within a reasonable period before such plan year, provide to each participant to whom the arrangement applies for such plan year notice of the participant's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

"(B) A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to a participant unless—

"(i) the notice includes an explanation of the participant's right under the arrangement not to have elective contributions made on the participant's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the participant has a reasonable period of time, after receipt of the notice described in clause (i) and before the first elective contribution is made, to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the participant.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "or section 302(b)(7)(F)(vi)" inserting ", section 302(b)(7)(F)(vi), or section 514(e)(3)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007, except that the amendments made by subsection (f) shall take effect on the date of the enactment of this Act. 26 USC 401 note.

**SEC. 903. TREATMENT OF ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.**

26 USC 414.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—Section 414 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new subsection:

"(x) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

Applicability.

"(1) GENERAL RULE.—Except as provided in this subsection, the requirements of this title shall be applied to any defined benefit plan or applicable defined contribution plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

"(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

"(i) which is maintained by an employer which, at the time the plan is established, is a small employer,

"(ii) which consists of a defined benefit plan and an applicable defined contribution plan,

"(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable defined contribution plan to the extent necessary for the separate application of this title under paragraph (1), and

"(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2), except that such section shall be applied by substituting '500' for '50' each place it appears.

"(B) BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

"(I) 1 percent multiplied by the number of years of service with the employer, or

"(II) 20 percent.

"(iii) SPECIAL RULE FOR APPLICABLE DEFINED BENEFIT PLANS.—If the defined benefit plan under clause (i) is an applicable defined benefit plan as defined in section 411(a)(13)(B) which meets the interest credit requirements of section 411(b)(5)(B)(i), the plan shall

be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives a pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

| "If the participant's age as of the beginning of the year is— | The percentage is— |
|---|---|
| 30 or less | 2 |
| Over 30 but less than 40 | 4 |
| 40 or over but less than 50 | 6 |
| 50 or over | 8. |

"(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

"(C) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable defined contribution plan forming part of an eligible combined plan are met if—

"(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

"(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) shall apply for purposes of this clause. Applicability.

"(ii) NONELECTIVE CONTRIBUTIONS.—An applicable defined contribution plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

"(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

"(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

"(ii) in the case of an applicable defined contribution plan forming part of eligible combined plan—

"(I) an employee has a nonforfeitable right to any matching contribution made under the

qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

"(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

Applicability.

For purposes of this subparagraph, the rules of section 411 shall apply to the extent not inconsistent with this subparagraph.

"(E) UNIFORM PROVISION OF CONTRIBUTIONS AND BENEFITS.—In the case of a defined benefit plan or applicable defined contribution plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all contributions and benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

"(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

"(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l), and

"(II) the requirements of sections 401(a)(4) and 410(b) are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l).

"(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) without being combined with any other plan.

"(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

"(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable defined contribution plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) if the requirements of paragraph (2)(C) are met with respect to such arrangement.

"(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A).

"(4) SATISFACTION OF TOP-HEAVY RULES.—A defined benefit plan and applicable defined contribution plan forming part of an eligible combined plan for any plan year shall be treated as meeting the requirements of section 416 for the plan year.

"(5) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

"(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

"(ii) meets the notice requirements under subparagraph (B).

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of section 401(k)(12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(6) COORDINATION WITH OTHER REQUIREMENTS.—

"(A) TREATMENT OF SEPARATE PLANS.—Section 414(k) shall not apply to an eligible combined plan.

"(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of sections 6058 and 6059.

"(7) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable defined contribution plan' means a defined contribution plan which includes a qualified cash or deferred arrangement.

"(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2).".

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 210 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subsection:

29 USC 1060.

"(e) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

Applicability.

"(1) GENERAL RULE.—Except as provided in this subsection, this Act shall be applied to any defined benefit plan or applicable individual account plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

"(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

"(i) which is maintained by an employer which, at the time the plan is established, is a small employer,

"(ii) which consists of a defined benefit plan and an applicable individual account plan each of which qualifies under section 401(a) of the Internal Revenue Code of 1986,

"(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable individual account plan to the extent necessary for the separate application of this Act under paragraph (1), and

"(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

Applicability.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2) of the Internal Revenue Code of 1986, except that such section shall be applied by substituting '500' for '50' each place it appears.

"(B) BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

"(I) 1 percent multiplied by the number of years of service with the employer, or

"(II) 20 percent.

"(iii) SPECIAL RULE FOR APPLICABLE DEFINED BENEFIT PLANS.—If the defined benefit plan under clause (i) is an applicable defined benefit plan as defined in section 203(f)(3)(B) which meets the interest credit

requirements of section 204(b)(5)(B)(i), the plan shall be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

| "If the participant's age as of the beginning of the year is— | The percentage is— |
|---|---|
| 30 or less | 2 |
| Over 30 but less than 40 | 4 |
| 40 or over but less than 50 | 6 |
| 50 or over | 8. |

"(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (1), (2), and (3) of section 203(b), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

"(C) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable individual account plan forming part of an eligible combined plan are met if—

"(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

"(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) of the Internal Revenue Code of 1986 shall apply for purposes of this clause. Applicability.

"(ii) NONELECTIVE CONTRIBUTIONS.—An applicable individual account plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

"(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

"(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

"(ii) in the case of an applicable individual account plan forming part of eligible combined plan—

"(I) an employee has a nonforfeitable right to any matching contribution made under the qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

"(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

Applicability.

For purposes of this subparagraph, the rules of section 203 shall apply to the extent not inconsistent with this subparagraph.

"(E) UNIFORM PROVISION OF CONTRIBUTIONS AND BENEFITS.—In the case of a defined benefit plan or applicable individual account plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all contributions and benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

"(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

"(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l) of the Internal Revenue Code of 1986, and

"(II) the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l) of the Internal Revenue Code of 1986.

"(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan.

"(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

"(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable individual account plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) of the Internal Revenue Code of 1986 if the requirements of paragraph (2) are met with respect to such arrangement.

"(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) of such Code to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A) of such Code.

"(4) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

"(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

"(ii) meets the notice requirements under subparagraph (B).

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of this subparagraph shall not be treated as met unless the requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 are met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(5) COORDINATION WITH OTHER REQUIREMENTS.—

"(A) TREATMENT OF SEPARATE PLANS.—The except clause in section 3(35) shall not apply to an eligible combined plan.

"(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of section 103.

"(6) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable individual account plan' means an individual account plan which includes a qualified cash or deferred arrangement.

"(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2) of the Internal Revenue Code of 1986.".

(2) CONFORMING CHANGES.—

29 USC 1060.

(A) The heading for section 210 of such Act is amended to read as follows:

**"SEC. 210. MULTIPLE EMPLOYER PLANS AND OTHER SPECIAL RULES.".**

(B) The table of contents in section 1 of such Act is amended by striking the item relating to section 210 and inserting the following new item:

"Sec. 210. Multiple employer plans and other special rules.".

26 USC 414 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2009.

**SEC. 904. FASTER VESTING OF EMPLOYER NONELECTIVE CONTRIBUTIONS.**

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

26 USC 411.

(1) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended to read as follows:

"(2) EMPLOYER CONTRIBUTIONS.—

"(A) DEFINED BENEFIT PLANS.—

"(i) IN GENERAL.—In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) 5-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

| **"Years of service:** | **The nonforfeitable percentage is:** |
|---|---|
| 3 | 20 |
| 4 | 40 |
| 5 | 60 |
| 6 | 80 |
| 7 or more | 100. |

"(B) DEFINED CONTRIBUTION PLANS.—

"(i) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) 3-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right

to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) 2 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

| "Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 or more | 100.". |

(2) CONFORMING AMENDMENT.—Section 411(a) of such Code (relating to general rule for minimum vesting standards) is amended by striking paragraph (12).

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2)(A)(i) In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

| "Years of service: | The nonforfeitable percentage is: |
|---|---|
| 3 | 20 |
| 4 | 40 |
| 5 | 60 |
| 6 | 80 |
| 7 or more | 100. |

"(B)(i) In the case of an individual account plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

| "Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |

| "Years of service: | The nonforfeitable percentage is: |
|---|---|
| 5 | 80 |
| 6 or more | 100.". |

(2) CONFORMING AMENDMENT.—Section 203(a) of such Act is amended by striking paragraph (4).

26 USC 411 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2006.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment); or

(ii) January 1, 2007; or

(B) January 1, 2009.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

(4) SPECIAL RULE FOR STOCK OWNERSHIP PLANS.—Notwithstanding paragraph (1) or (2), in the case of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986) which had outstanding on September 26, 2005, a loan incurred for the purpose of acquiring qualifying employer securities (as defined in section 4975(e)(8) of such Code), the amendments made by this section shall not apply to any plan year beginning before the earlier of—

(A) the date on which the loan is fully repaid, or

(B) the date on which the loan was, as of September 26, 2005, scheduled to be fully repaid.

**SEC. 905. DISTRIBUTIONS DURING WORKING RETIREMENT.**

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subparagraph (A) of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) is amended by adding at the end the following new sentence: "A distribution from a plan, fund, or program shall not be treated as made in a form other than retirement income or as a distribution prior to termination of covered employment solely because such distribution is made to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.".

26 USC 401.

(b) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after paragraph (35) the following new paragraph:

"(36) DISTRIBUTIONS DURING WORKING RETIREMENT.—A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section solely because the plan provides that a distribution may be made from such trust to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 2006. 26 USC 401 note.

**SEC. 906. TREATMENT OF CERTAIN PENSION PLANS OF INDIAN TRIBAL GOVERNMENTS.**

(a) DEFINITION OF GOVERNMENT PLAN TO INCLUDE CERTAIN PENSION PLANS OF INDIAN TRIBAL GOVERNMENTS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414(d) of the Internal Revenue Code of 1986 (defining governmental plan) is amended by adding at the end the following: "The term 'governmental plan' includes a plan which is established and maintained by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).". 26 USC 414.

(2) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) is amended by adding at the end the following: "The term 'governmental plan' includes a plan which is established and maintained by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function)".

(B) Section 4021(b)(2) of such Act is amended by adding at the end the following: "or which is described in the last sentence of section 3(32)". 29 USC 1321.

(b) CLARIFICATION THAT TRIBAL GOVERNMENTS ARE SUBJECT TO THE SAME PENSION PLAN RULES AND REGULATIONS APPLIED TO STATE AND OTHER LOCAL GOVERNMENTS AND THEIR POLICE AND FIREFIGHTERS.—

(1) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(A) POLICE AND FIREFIGHTERS.—Subparagraph (H) section 415(b)(2) of the Internal Revenue Code of 1986 (defining participant) is amended— 26 USC 415.

(i) in clause (i), by striking "State or political subdivision" and inserting "State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision"; and

(ii) in clause (ii)(I), by striking "State or political subdivision" each place it appears and inserting "State, Indian tribal government (as so defined), or any political subdivision".

(B) STATE AND LOCAL GOVERNMENT PLANS.—

26 USC 415.

(i) IN GENERAL.—Subparagraph (A) of section 415(b)(10) of such Code (relating to limitation to equal accrued benefit) is amended by inserting "or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governments)," after "foregoing,".

(ii) CONFORMING AMENDMENT.—The heading of paragraph (1) of section 415(b) of such Code is amended by striking "SPECIAL RULE FOR STATE AND" and inserting "SPECIAL RULE FOR STATE, INDIAN TRIBAL, AND".

(C) GOVERNMENT PICK UP CONTRIBUTIONS.—Paragraph (2) of section 414(h) of such Code (relating to designation by units of government) is amended by inserting "or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governments)," after "foregoing,".

(2) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 4021(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321(b)) is amended—

(A) in paragraph (12), by striking "or" at the end;

(B) in paragraph (13), by striking "plan." and inserting "plan; or"; and

(C) by adding at the end the following:

"(14) established and maintained by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).".

26 USC 414 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any year beginning on or after the date of the enactment of this Act.

# TITLE X—PROVISIONS RELATING TO SPOUSAL PENSION PROTECTION

### SEC. 1001. REGULATIONS ON TIME AND ORDER OF ISSUANCE OF DOMESTIC RELATIONS ORDERS.

Deadline.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue regulations under section 206(d)(3) of the Employee Retirement Security Act of 1974 and

section 414(p) of the Internal Revenue Code of 1986 which clarify that—

(1) a domestic relations order otherwise meeting the requirements to be a qualified domestic relations order, including the requirements of section 206(d)(3)(D) of such Act and section 414(p)(3) of such Code, shall not fail to be treated as a qualified domestic relations order solely because—

(A) the order is issued after, or revises, another domestic relations order or qualified domestic relations order; or

(B) of the time at which it is issued; and

(2) any order described in paragraph (1) shall be subject to the same requirements and protections which apply to qualified domestic relations orders, including the provisions of section 206(d)(3)(H) of such Act and section 414(p)(7) of such Code.

**SEC. 1002. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.**

(a) IN GENERAL.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking "(A) is entitled to an annuity under subsection (a)(1) and (B)"; and

(2) in subsection (e)(5), by striking "or divorced wife" the second place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

45 USC 231a note.

**SEC. 1003. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.**

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following:

"(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of the enactment of this Act.

45 USC 231d note.

**SEC. 1004. REQUIREMENT FOR ADDITIONAL SURVIVOR ANNUITY OPTION.**

(a) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 417(a)(1)(A) of the Internal Revenue Code of 1986 is amended—

26 USC 417.

(A) in clause (i), by striking ", and" and inserting a comma;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and".

26 USC 417.

(2) DEFINITION.—Section 417 of such Code is amended by adding at the end the following:

"(g) DEFINITION OF QUALIFIED OPTIONAL SURVIVOR ANNUITY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

"(A) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(B) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), if the survivor annuity percentage—

"(i) is less than 75 percent, the applicable percentage is 75 percent, and

"(ii) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

"(B) SURVIVOR ANNUITY PERCENTAGE.—For purposes of subparagraph (A), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.".

(3) NOTICE.—Section 417(a)(3)(A)(i) of such Code is amended by inserting "and of the qualified optional survivor annuity" after "annuity".

(b) AMENDMENTS TO ERISA.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 205(c)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(1)(A)) is amended—

(A) in clause (i), by striking ", and" and inserting a comma;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and".

(2) DEFINITION.—Section 205(d) of such Act (29 U.S.C. 1055(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

"(2)(A) For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

"(i) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(ii) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(B)(i) For purposes of subparagraph (A), if the survivor annuity percentage—

"(I) is less than 75 percent, the applicable percentage is 75 percent, and

"(II) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

"(ii) For purposes of clause (i), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.".

(3) NOTICE.—Section 205(c)(3)(A)(i) of such Act (29 U.S.C. 1055(c)(3)(A)(i)) is amended by inserting "and of the qualified optional survivor annuity" after "annuity".

(c) EFFECTIVE DATES.— 26 USC 417 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 2008, or

(ii) the date on which the last collective bargaining agreement related to the plan terminates (determined without regard to any extension thereof after the date of enactment of this Act), or

(B) January 1, 2009.

# TITLE XI—ADMINISTRATIVE PROVISIONS

**SEC. 1101. EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.** Establishment. 29 USC 1202a.

(a) IN GENERAL.—The Secretary of the Treasury shall have full authority to establish and implement the Employee Plans Compliance Resolution System (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

(b) IMPROVEMENTS.—The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program), giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program;

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;

(3) extending the duration of the self-correction period under the Self-Correction Program for significant compliance failures;

(4) expanding the availability to correct insignificant compliance failures under the Self-Correction Program during audit; and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

**SEC. 1102. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.**

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

26 USC 417.

(A) IN GENERAL.—Section 417(a)(6)(A) of the Internal Revenue Code of 1986 is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 by substituting "180 days" for "90 days" each place it appears in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).

(2) AMENDMENT OF ERISA.—

(A) IN GENERAL.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 relating to sections 203(e) and 205 of such Act by substituting "180 days" for "90 days" each place it appears.

26 USC 417 note.

(3) EFFECTIVE DATE.—The amendments and modifications made or required by this subsection shall apply to years beginning after December 31, 2006.

26 USC 417 note.

(b) NOTIFICATION OF RIGHT TO DEFER.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 and under section 205 of the Employee Retirement Income Security Act of 1974 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2006.

Deadline.

(B) REASONABLE NOTICE.—A plan shall not be treated as failing to meet the requirements of section 411(a)(11) of such Code or section 205 of such Act with respect to any description of consequences described in paragraph (1) made within 90 days after the Secretary of the Treasury issues the modifications required by paragraph (1) if the

plan administrator makes a reasonable attempt to comply with such requirements.

**SEC. 1103. REPORTING SIMPLIFICATION.**

26 USC 6058 note.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "one-participant retirement plan" means a retirement plan with respect to which the following requirements are met:

(A) on the first day of the plan year—

(i) the plan covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or

(ii) the plan covered only one or more partners (or partners and their spouses) in the plan sponsor;

(B) the plan meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

(C) the plan does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses);

(D) the plan does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

(E) the plan does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of such Code).

For purposes of this paragraph, the term "partner" includes a 2-percent shareholder (as defined in section 1372(b) of such Code) of an S corporation.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2007.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 PARTICIPANTS.—In the case of plan years beginning after December 31, 2006, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 participants on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).

**SEC. 1104. VOLUNTARY EARLY RETIREMENT INCENTIVE AND EMPLOYMENT RETENTION PLANS MAINTAINED BY LOCAL EDUCATIONAL AGENCIES AND OTHER ENTITIES.**

(a) VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

26 USC 457.

(1) TREATMENT AS PLAN PROVIDING SEVERANCE PAY.—Section 457(e)(11) of the Internal Revenue Code of 1986 (relating to certain plans excluded) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

"(i) IN GENERAL.—If an applicable voluntary early retirement incentive plan—

"(I) makes payments or supplements as an early retirement benefit, a retirement-type subsidy, or a benefit described in the last sentence of section 411(a)(9), and

"(II) such payments or supplements are made in coordination with a defined benefit plan which is described in section 401(a) and includes a trust exempt from tax under section 501(a) and which is maintained by an eligible employer described in paragraph (1)(A) or by an education association described in clause (ii)(II),

such applicable plan shall be treated for purposes of subparagraph (A)(i) as a bona fide severance pay plan with respect to such payments or supplements to the extent such payments or supplements could otherwise have been provided under such defined benefit plan (determined as if section 411 applied to such defined benefit plan).

"(ii) APPLICABLE VOLUNTARY EARLY RETIREMENT INCENTIVE PLAN.—For purposes of this subparagraph, the term 'applicable voluntary early retirement incentive plan' means a voluntary early retirement incentive plan maintained by—

"(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), or

"(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) and exempt from tax under section 501(a).".

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(l)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(l)(1)) is amended—

(A) by inserting "(A)" after "(1)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by redesignating clauses (i) and (ii) of subparagraph (B) (as in effect before the amendments made by subparagraph (B)) as subclauses (I) and (II), respectively, and

(D) by adding at the end the following:

"(B) A voluntary early retirement incentive plan that—

"(i) is maintained by—

"(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

"(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c)(5) or (6) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, and

"(ii) makes payments or supplements described in subclauses (I) and (II) of subparagraph (A)(ii) in coordination with a defined benefit plan (as so defined) maintained by an eligible employer described in section 457(e)(1)(A) of such Code or by an education association described in clause (i)(II),

shall be treated solely for purposes of subparagraph (A)(ii) as if it were a part of the defined benefit plan with respect to such payments or supplements. Payments or supplements under such a voluntary early retirement incentive plan shall not constitute severance pay for purposes of paragraph (2).".

(b) EMPLOYMENT RETENTION PLANS.—

(1) IN GENERAL.—Section 457(f)(2) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following: 26 USC 457.

"(F) that portion of any applicable employment retention plan described in paragraph (4) with respect to any participant.".

(2) DEFINITIONS AND RULES RELATING TO EMPLOYMENT RETENTION PLANS.—Section 457(f) of such Code is amended by adding at the end the following new paragraph:

"(4) EMPLOYMENT RETENTION PLANS.—For purposes of paragraph (2)(F)—

"(A) IN GENERAL.—The portion of an applicable employment retention plan described in this paragraph with respect to any participant is that portion of the plan which provides benefits payable to the participant not in excess of twice the applicable dollar limit determined under subsection (e)(15).

"(B) OTHER RULES.—

"(i) LIMITATION.—Paragraph (2)(F) shall only apply to the portion of the plan described in subparagraph (A) for years preceding the year in which such portion is paid or otherwise made available to the participant. Applicability.

"(ii) TREATMENT.—A plan shall not be treated for purposes of this title as providing for the deferral of compensation for any year with respect to the portion of the plan described in subparagraph (A).

"(C) APPLICABLE EMPLOYMENT RETENTION PLAN.—The term 'applicable employment retention plan' means an employment retention plan maintained by—

"(i) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

"(ii) an education association which principally represents employees of 1 or more agencies described in

clause (i) and which is described in section 501(c) (5) or (6) and exempt from taxation under section 501(a).

"(D) EMPLOYMENT RETENTION PLAN.—The term 'employment retention plan' means a plan to pay, upon termination of employment, compensation to an employee of a local educational agency or education association described in subparagraph (C) for purposes of—

"(i) retaining the services of the employee, or

"(ii) rewarding such employee for the employee's service with 1 or more such agencies or associations.".

(c) COORDINATION WITH ERISA.—Section 3(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)(B)) is amended by adding at the end the following: "An applicable voluntary early retirement incentive plan (as defined in section 457(e)(11)(D)(ii) of the Internal Revenue Code of 1986) making payments or supplements described in section 457(e)(11)(D)(i) of such Code, and an applicable employment retention plan (as defined in section 457(f)(4)(C) of such Code) making payments of benefits described in section 457(f)(4)(A) of such Code, shall, for purposes of this title, be treated as a welfare plan (and not a pension plan) with respect to such payments and supplements.".

26 USC 457 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) TAX AMENDMENTS.—The amendments made by subsections (a)(1) and (b) shall apply to taxable years ending after the date of the enactment of this Act.

(3) ERISA AMENDMENTS.—The amendment made by subsection (c) shall apply to plan years ending after the date of the enactment of this Act.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall alter or affect the construction of the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, or the Age Discrimination in Employment Act of 1967 as applied to any plan, arrangement, or conduct to which such amendments do not apply.

**SEC. 1105. NO REDUCTION IN UNEMPLOYMENT COMPENSATION AS A RESULT OF PENSION ROLLOVERS.**

26 USC 3304.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 (relating to requirements for State unemployment laws) is amended by adding at the end the following new flush sentence: "Compensation shall not be reduced under paragraph (15) for any pension, retirement or retired pay, annuity, or similar payment which is not includible in gross income of the individual for the taxable year in which paid because it was part of a rollover distribution.".

26 USC 3304 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to weeks beginning on or after the date of the enactment of this Act.

**SEC. 1106. REVOCATION OF ELECTION RELATING TO TREATMENT AS MULTIEMPLOYER PLAN.**

29 USC 1002.

(a) AMENDMENT TO ERISA.—Section 3(37) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subparagraph (G):

"(G)(i) Within 1 year after the enactment of the Pension Protection Act of 2006— Deadline.

"(I) an election under subparagraph (E) may be revoked, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, if, for each of the 3 plan years prior to the date of the enactment of that Act, the plan would have been a multiemployer plan but for the election under subparagraph (E), and

"(II) a plan that meets the criteria in clauses (i) and (ii) of subparagraph (A) of this paragraph or that is described in clause (vi) may, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, elect to be a multiemployer plan, if—

"(aa) for each of the 3 plan years immediately before the date of the enactment of the Pension Protection Act of 2006, the plan has met those criteria or is so described,

"(bb) substantially all of the plan's employer contributions for each of those plan years were made or required to be made by organizations that were exempt from tax under section 501 of the Internal Revenue Code of 1986, and

"(cc) the plan was established prior to September 2, 1974.

"(ii) An election under this paragraph shall be effective for all purposes under this Act and under the Internal Revenue Code of 1986, starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006. Effective date.

"(iii) Once made, an election under this paragraph shall be irrevocable, except that a plan described in subclause (i)(II) shall cease to be a multiemployer plan as of the plan year beginning immediately after the first plan year for which the majority of its employer contributions were made or required to be made by organizations that were not exempt from tax under section 501 of the Internal Revenue Code of 1986.

"(iv) The fact that a plan makes an election under clause (i)(II) does not imply that the plan was not a multiemployer plan prior to the date of the election or would not be a multiemployer plan without regard to the election.

"(v)(I) No later than 30 days before an election is made under this paragraph, the plan administrator shall provide notice of the pending election to each plan participant and beneficiary, each labor organization representing such participants or beneficiaries, and each employer that has an obligation to contribute to the plan, describing the principal differences between the guarantee programs under title IV and the benefit restrictions under this title for single employer and multiemployer plans, along with such other information as the plan administrator chooses to include. Deadlines. Notices.

"(II) Within 180 days after the date of enactment of the Pension Protection Act of 2006, the Secretary shall prescribe a model notice under this subparagraph.

"(III) A plan administrator's failure to provide the notice required under this subparagraph shall be treated for purposes

of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

"(vi) A plan is described in this clause if it is a plan—

"(I) that was established in Chicago, Illinois, on August 12, 1881; and

"(II) sponsored by an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.".

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Subsection (f) of section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph (6):

26 USC 414.

"(6) ELECTION WITH REGARD TO MULTIEMPLOYER STATUS.—

Deadline.

"(A) Within 1 year after the enactment of the Pension Protection Act of 2006—

"(i) An election under paragraph (5) may be revoked, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, if, for each of the 3 plan years prior to the date of the enactment of that Act, the plan would have been a multiemployer plan but for the election under paragraph (5), and

"(ii) a plan that meets the criteria in subparagraph (A) and (B) of paragraph (1) of this subsection or that is described in subparagraph (E) may, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, elect to be a multiemployer plan, if—

"(I) for each of the 3 plan years immediately before the date of enactment of the Pension Protection Act of 2006, the plan has met those criteria or is so described,

"(II) substantially all of the plan's employer contributions for each of those plan years were made or required to be made by organizations that were exempt from tax under section 501, and

"(III) the plan was established prior to September 2, 1974.

Effective date.

"(B) An election under this paragraph shall be effective for all purposes under this Act and under the Employee Retirement Income Security Act of 1974, starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006.

"(C) Once made, an election under this paragraph shall be irrevocable, except that a plan described in subparagraph (A)(ii) shall cease to be a multiemployer plan as of the plan year beginning immediately after the first plan year for which the majority of its employer contributions were made or required to be made by organizations that were not exempt from tax under section 501.

"(D) The fact that a plan makes an election under subparagraph (A)(ii) does not imply that the plan was not a multiemployer plan prior to the date of the election or would not be a multiemployer plan without regard to the election.

"(E) A plan is described in this subparagraph if it is a plan—

"(i) that was established in Chicago, Illinois, on August 12, 1881; and

"(ii) sponsored by an organization described in section 501(c)(5) and exempt from tax under section 501(a).".

**SEC. 1107. PROVISIONS RELATING TO PLAN AMENDMENTS.** 26 USC 411 note.

(a) IN GENERAL.—If this section applies to any pension plan or contract amendment—

(1) such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such pension plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any pension plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this Act, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2009. Effective date.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting "2011" for "2009".

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

# TITLE XII—PROVISIONS RELATING TO EXEMPT ORGANIZATIONS

## Subtitle A—Charitable Giving Incentives

**SEC. 1201. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.**

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph: 26 USC 408.

"(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

"(A) IN GENERAL.—So much of the aggregate amount of qualified charitable distributions with respect to a taxpayer made during any taxable year which does not exceed $100,000 shall not be includible in gross income of such taxpayer for such taxable year.

"(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

"(i) which is made directly by the trustee to an organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any fund or account described in section 4966(d)(2)), and

"(ii) which is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A).

"(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph, a distribution to an organization described in subparagraph (B)(i) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(E) DENIAL OF DEDUCTION.—Qualified charitable distributions which are not includible in gross income pursuant to subparagraph (A) shall not be taken into account in determining the deduction under section 170.

"(F) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.".

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

26 USC 6034.

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

**"SEC. 6034. RETURNS BY CERTAIN TRUSTS.**

"(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

"(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

"(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

"(A) the amount of the deduction taken under section 642(c) within such year,

"(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

"(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

"(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

"(E) the total income of the trust within such year and the expenses attributable thereto, and

"(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

"(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

"(B) the trust is described in section 4947(a)(1).".

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph: 26 USC 6652.

"(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that— Applicability.

"(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

"(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

"(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.".

26 USC 6104.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).".

(4) CLERICAL AMENDMENT.—The item in the table of sections for subpart A of part III of subchapter A of chapter 61 relating to section 6034 is amended to read as follows:

"Sec. 6034. Returns by certain trusts.".

(c) EFFECTIVE DATES.—

26 USC 408 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

26 USC 6034 note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2006.

**SEC. 1202. EXTENSION OF MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.**

(a) IN GENERAL.—Section 170(e)(3)(C)(iv) (relating to termination) is amended by striking "2005" and inserting "2007".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 1203. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.**

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

"The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.".

26 USC 1367 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 1204. EXTENSION OF MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.**

(a) IN GENERAL.—Section 170(e)(3)(D)(iv) (relating to termination) is amended by striking "2005" and inserting "2007".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

**SEC. 1205. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) PARAGRAPH TO APPLY ONLY TO CERTAIN EXCESS PAYMENTS.—

"(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a qualifying specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482. Applicability.

"(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

"(I) such excess determined without regard to any amendment or supplement to a return of tax, or

"(II) such excess determined with regard to all such amendments and supplements.

"(iii) QUALIFYING SPECIFIED PAYMENT.—The term 'qualifying specified payment' means a specified payment which is made pursuant to—

"(I) a binding written contract in effect on the date of the enactment of this subparagraph, or

"(II) a contract which is a renewal, under substantially similar terms, of a contract described in subclause (I).

"(iv) TERMINATION.—This subparagraph shall not apply to payments received or accrued after December 31, 2007.".

(b) REPORTING.—

(1) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection: 26 USC 6033.

"(h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

"(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

"(2) any loans made to each such controlled entity, and

"(3) any transfers of funds between such controlling organization and each such controlled entity.".

(2) REPORT TO CONGRESS.—Not later than January 1, 2009, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the Internal Revenue Service in administering the amendments made by subsection (a) and on the extent to which payments by controlled entities (within the meaning of section 512(b)(13) of the Internal Revenue Code of 1986) to controlling organizations (within the meaning of section 512(b)(13) of such Code) meet the requirements under section 482 of such Code. Such report shall include the results of any audit of any controlling organization or controlled entity and recommendations relating to the tax treatment of payments from controlled entities to controlling organizations.

(c) EFFECTIVE DATE.—

26 USC 512 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to payments received or accrued after December 31, 2005.

26 USC 6033 note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns the due date (determined without regard to extensions) of which is after the date of the enactment of this Act.

**SEC. 1206. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.**

(a) IN GENERAL.—

26 USC 170.

(1) INDIVIDUALS.—Paragraph (1) of section 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

"(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

"(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

Applicability.

"(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

Applicability.

"(iv) SPECIAL RULE FOR CONTRIBUTION OF PROPERTY USED IN AGRICULTURE OR LIVESTOCK PRODUCTION.—

"(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year for which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

"(II) EXCEPTION.—Subclause (I) shall not apply to any contribution of property made after the date of the enactment of this subparagraph which is used in agriculture or livestock production (or available for such production) unless such contribution is subject to a restriction that such property remain available for such production. This subparagraph shall be applied separately with respect to property to which subclause (I) does not apply by reason of the preceding sentence prior to its application to property to which subclause (I) does apply.

"(v) DEFINITION.—For purposes of clause (iv), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

"(vi) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.".

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows: 26 USC 170.

"(2) CORPORATIONS.—In the case of a corporation—

"(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

"(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

"(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1))—

"(I) which is made by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(v)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

"(II) which, in the case of contributions made after the date of the enactment of this subparagraph, is a contribution of property which is used in agriculture or livestock production (or available for such production) and which is subject to a restriction that such property remain available for such production,

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

"(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time. Applicability.

"(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

"(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

"(i) this section,

"(ii) part VIII (except section 248),

"(iii) any net operating loss carryback to the taxable year under section 172,

"(iv) section 199, and

"(v) any capital loss carryback to the taxable year under section 1212(a)(1).".

(b) CONFORMING AMENDMENTS.—

26 USC 170.

(1) Paragraph (2) of section 170(d) is amended by striking "subsection (b)(2)" each place it appears and inserting "subsection (b)(2)(A)".

(2) Section 545(b)(2) is amended by striking "and (D)" and inserting "(D), and (E)".

26 USC 170 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

**SEC. 1207. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.**

(a) EXEMPTION FROM IMPOSITION OF SPECIAL FUELS TAX.—Section 4041(g) (relating to other exemptions) is amended by striking "and" at the end of paragraph (3), by striking the period in paragraph (4) and inserting "; and", and by inserting after paragraph (4) the following new paragraph:

"(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood.".

(b) EXEMPTION FROM MANUFACTURERS EXCISE TAX.—

(1) IN GENERAL.—Section 4221(a) (relating to certain tax-free sales) is amended by striking "or" at the end of paragraph (4), by adding "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood,".

(2) NO EXEMPTION WITH RESPECT TO VACCINES AND RECREATIONAL EQUIPMENT.—Section 4221(a) is amended by adding at the end the following new sentence: "In the case of taxes imposed by subchapter C or D, paragraph (6) shall not apply.".

(3) CONFORMING AMENDMENTS.—

(A) The second sentence of section 4221(a) is amended by striking "Paragraphs (4) and (5)" and inserting "Paragraphs (4), (5), and (6)".

(B) Section 6421(c) is amended by striking "or (5)" and inserting "(5), or (6)".

(c) EXEMPTION FROM COMMUNICATION EXCISE TAX.—

(1) IN GENERAL.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

Regulations.

"(k) EXEMPTION FOR QUALIFIED BLOOD COLLECTOR ORGANIZATIONS.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)(49)) for services or facilities furnished to such organization.".

(2) CONFORMING AMENDMENT.—Section 4253(l), as redesignated by paragraph (1), is amended by striking "or (j)" and inserting "(j), or (k)".

(d) EXEMPTION FROM TAX ON HEAVY VEHICLES.—Section 4483 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR VEHICLES USED IN BLOOD COLLECTION.—

"(1) IN GENERAL.—No tax shall be imposed by section 4481 on the use of any qualified blood collector vehicle by a qualified blood collector organization.

"(2) QUALIFIED BLOOD COLLECTOR VEHICLE.—For purposes of this subsection, the term 'qualified blood collector vehicle' means a vehicle at least 80 percent of the use of which during the prior taxable period was by a qualified blood collector organization in the collection, storage, or transportation of blood.

"(3) SPECIAL RULE FOR VEHICLES FIRST PLACED IN SERVICE IN A TAXABLE PERIOD.—In the case of a vehicle first placed in service in a taxable period, a vehicle shall be treated as a qualified blood collector vehicle for such taxable period if such qualified blood collector organization certifies to the Secretary that the organization reasonably expects at least 80 percent of the use of such vehicle by the organization during such taxable period will be in the collection, storage, or transportation of blood.

"(4) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—The term 'qualified blood collector organization' has the meaning given such term by section 7701(a)(49).".

(e) CREDIT OR REFUND FOR CERTAIN TAXES ON SALES AND SERVICES.—

(1) DEEMED OVERPAYMENT.—

(A) IN GENERAL.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph: 26 USC 6416.

"(E) sold to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood;".

(B) NO CREDIT OR REFUND FOR VACCINES OR RECREATIONAL EQUIPMENT.—Section 6416(b)(2) is amended by adding at the end the following new sentence: "In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.".

(C) CONFORMING AMENDMENTS.—Section 6416(b)(2) is amended—

(i) by striking "Subparagraphs (C) and (D)" in the second sentence and inserting "Subparagraphs (C), (D), and (E)".

(ii) by striking "(B), (C), and (D)" and inserting "(B), (C), (D), and (E)".

(2) SALES OF TIRES.—Section 6416(b)(4)(B) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding after clause (ii) the following:

"(iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.".

(f) DEFINITION OF QUALIFIED BLOOD COLLECTOR ORGANIZATION.—Section 7701(a) is amended by inserting at the end the following new paragraph:

"(49) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—The term 'qualified blood collector organization' means an organization which is—

"(A) described in section 501(c)(3) and exempt from tax under section 501(a),

"(B) primarily engaged in the activity of the collection of human blood,

"(C) registered with the Secretary for purposes of excise tax exemptions, and

"(D) registered by the Food and Drug Administration to collect blood.".

26 USC 4041 note.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 2007.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable periods beginning on or after July 1, 2007.

# Subtitle B—Reforming Exempt Organizations

## PART 1—GENERAL REFORMS

### SEC. 1211. REPORTING ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

(a) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons), as amended by this Act, is amended by adding at the end the following new section:

26 USC 6050V.

**"SEC. 6050V. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.**

"(a) IN GENERAL.—Each applicable exempt organization which makes a reportable acquisition shall make the return described in subsection (c).

"(b) TIME FOR MAKING RETURN.—Any applicable exempt organization required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary.

"(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary prescribes,

"(2) contains the name, address, and taxpayer identification number of the applicable exempt organization and the issuer of the applicable insurance contract, and

"(3) contains such other information as the Secretary may prescribe.

"(d) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE ACQUISITION.—The term 'reportable acquisition' means the acquisition by an applicable exempt organization of a direct or indirect interest in any applicable insurance contract in any case in which such acquisition is a part of a structured transaction involving a pool of such contracts.

"(2) APPLICABLE INSURANCE CONTRACT.—

"(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt

organization have directly or indirectly held an interest in the contract (whether or not at the same time).

"(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

"(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

"(ii) the sole interest in the contract of an applicable exempt organization or each person other than an applicable exempt organization is as a named beneficiary, or

"(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

"(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

"(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in subclause (I) or clause (i) or (ii).

"(3) APPLICABLE EXEMPT ORGANIZATION.—The term 'applicable exempt organization' means—

"(A) an organization described in section 170(c),

"(B) an organization described in section 168(h)(2)(A)(iv), or

"(C) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

"(e) TERMINATION.—This section shall not apply to reportable acquisitions occurring after the date which is 2 years after the date of the enactment of this section.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.".

(b) PENALTIES.—

(1) IN GENERAL.—Subparagraph (B) of section 6724(d)(1), as amended by this Act, is amended by redesignating clauses (xiv) through (xix) as clauses (xv) through (xx) and by inserting after clause (xiii) the following new clause: 26 USC 6724.

"(xiv) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),".

(2) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking "or" at the end of subparagraph (B), by striking "and" at the end of subparagraph (C) and inserting "or", and by adding at the end the following new subparagraph:

"(D) in the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return, and".

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall undertake a study on—

(A) the use by tax exempt organizations of applicable insurance contracts (as defined under section 6050V(d)(2) of the Internal Revenue Code of 1986, as added by subsection (a)) for the purpose of sharing the benefits of the organization's insurable interest in individuals insured under such contracts with investors, and

(B) whether such activities are consistent with the tax exempt status of such organizations.

(2) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary of the Treasury shall report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

26 USC 6050V.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions of contracts after the date of enactment of this Act.

**SEC. 1212. INCREASE IN PENALTY EXCISE TAXES RELATING TO PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.**

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

26 USC 4941.

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking "5 percent" and inserting "10 percent", and

(B) in paragraph (2), by striking "2½ percent" and inserting "5 percent".

(2) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking "$10,000" each place it appears in the text and heading thereof and inserting "$20,000".

(3) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking "$10,000" and inserting "$20,000".

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking "15 percent" and inserting "30 percent".

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking "5 percent" and inserting "10 percent".

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking "5 percent" both places it appears and inserting "10 percent".

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking "$5,000," and inserting "$10,000,", and

(B) by striking "$10,000." and inserting "$20,000.".

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking "10 percent" and inserting "20 percent", and

(B) in paragraph (2), by striking "2½ percent" and inserting "5 percent".

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended— 26 USC 4945.

(A) by striking "$5,000," and inserting "$10,000,", and

(B) by striking "$10,000." and inserting "$20,000.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 4941 note.

**SEC. 1213. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS IN REGISTERED HISTORIC DISTRICTS AND REDUCED DEDUCTION FOR PORTION OF QUALIFIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO REHABILITATION CREDIT.**

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

"(i) such interest—

"(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

"(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

"(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

"(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

"(II) has the resources to manage and enforce the restriction and a commitment to do so, and

"(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

"(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

"(II) photographs of the entire exterior of the building, and

"(III) a description of all restrictions on the development of the building.".

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

26 USC 170.

(1) by striking "any building, structure, or land area which",

(2) by inserting "any building, structure, or land area which" before "is listed" in clause (i), and

(3) by inserting "any building which" before "is located" in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

"(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

"(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of $10,000.

"(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).".

(d) REDUCED DEDUCTION FOR PORTION OF QUALIFIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO THE REHABILITATION CREDIT.—Subsection (f) of section 170, as amended by subsection (c), is amended by adding at the end the following new paragraph:

"(14) REDUCTION FOR AMOUNTS ATTRIBUTABLE TO REHABILITATION CREDIT.—In the case of any qualified conservation contribution (as defined in subsection (h)), the amount of the deduction allowed under this section shall be reduced by an amount which bears the same ratio to the fair market value of the contribution as—

"(A) the sum of the credits allowed to the taxpayer under section 47 for the 5 preceding taxable years with respect to any building which is a part of such contribution, bears to

"(B) the fair market value of the building on the date of the contribution.".

26 USC 170 note.

(e) EFFECTIVE DATES.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after July 25, 2006.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND; REDUCTION FOR REHABILITATION CREDIT.—The amendments made by subsections (b) and (d) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

**SEC. 1214. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.**

(a) DENIAL OF LONG-TERM CAPITAL GAIN.—Subparagraph (B) of section 170(e)(1) is amended by striking "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause: 26 USC 170.

"(iv) of any taxidermy property which is contributed by the person who prepared, stuffed, or mounted the property or by any person who paid or incurred the cost of such preparation, stuffing, or mounting,".

(b) TREATMENT OF BASIS.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) SPECIAL RULE FOR TAXIDERMY PROPERTY.—

"(A) BASIS.—For purposes of this section and notwithstanding section 1012, in the case of a charitable contribution of taxidermy property which is made by the person who prepared, stuffed, or mounted the property or by any person who paid or incurred the cost of such preparation, stuffing, or mounting, only the cost of the preparing, stuffing, or mounting shall be included in the basis of such property.

"(B) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means any work of art which—

"(i) is the reproduction or preservation of an animal, in whole or in part,

"(ii) is prepared, stuffed, or mounted for purposes of recreating one or more characteristics of such animal, and

"(iii) contains a part of the body of the dead animal.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after July 25, 2006. 26 USC 170 note.

**SEC. 1215. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.**

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

"(i) of tangible personal property—

"(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

"(II) which is applicable property (as defined in paragraph (7)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (7)(D),".

26 USC 170.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

"(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

"(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

"(ii) the donor's basis in such property at the time such property was contributed.

"(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

"(i) after the last day of the taxable year of the donor in which such property was contributed, and

"(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

"(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

"(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

"(ii) for which a deduction in excess of the donor's basis is allowed.

"(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

"(i) which—

"(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

"(II) describes how the property was used and how such use furthered such purpose or function, or

"(ii) which—

"(I) states the intended use of the property by the donee at the time of the contribution, and

"(II) certifies that such intended use has become impossible or infeasible to implement.".

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking "2 years" and inserting "3 years", and

(2) by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

"(F) a description of the donee's use of the property, and

"(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(7)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(7)(D) if such certification is made under section 170(e)(7).".

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6720A the following new section:

**"SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.** 26 USC 6720B.

"In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

"Sec. 6720B. Fraudulent identification of exempt use property.".

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after September 1, 2006. 26 USC 170 note.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after September 1, 2006. 26 USC 6050L.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act. 26 USC 6720B note.

**SEC. 1216. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.**

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph: 26 USC 170.

"(16) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

"(A) IN GENERAL.—In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of clothing or a household item unless such clothing or household item is in good used condition or better.

"(B) ITEMS OF MINIMAL VALUE.—Notwithstanding subparagraph (A), the Secretary may by regulation deny a deduction under subsection (a) for any contribution of

clothing or a household item which has minimal monetary value.

"(C) EXCEPTION FOR CERTAIN PROPERTY.—Subparagraphs (A) and (B) shall not apply to any contribution of a single item of clothing or a household item for which a deduction of more than $500 is claimed if the taxpayer includes with the taxpayer's return a qualified appraisal with respect to the property.

"(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

"(ii) EXCLUDED ITEMS.—Such term does not include—

"(I) food,

"(II) paintings, antiques, and other objects of art,

"(III) jewelry and gems, and

"(IV) collections.

"(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of enactment of this Act.

**SEC. 1217. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.**

26 USC 170.

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

**SEC. 1218. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.**

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) SPECIAL RULES FOR FRACTIONAL GIFTS.—

"(1) DENIAL OF DEDUCTION IN CERTAIN CASES.—

"(A) IN GENERAL.—No deduction shall be allowed for a contribution of an undivided portion of a taxpayer's entire interest in tangible personal property unless all interest in the property is held immediately before such contribution by—

"(i) the taxpayer, or

"(ii) the taxpayer and the donee.

"(B) EXCEPTIONS.—The Secretary may, by regulation, provide for exceptions to subparagraph (A) in cases where all persons who hold an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

"(2) VALUATION OF SUBSEQUENT GIFTS.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

"(A) the fair market value of the property at the time of the initial fractional contribution, or

"(B) the fair market value of the property at the time of the additional contribution.

"(3) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX.—

"(A) RECAPTURE.—The Secretary shall provide for the recapture of the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided portion of a taxpayer's entire interest in tangible personal property—

"(i) in any case in which the donor does not contribute all of the remaining interest in such property to the donee (or, if such donee is no longer in existence, to any person described in section 170(c)) before the earlier of—

"(I) the date that is 10 years after the date of the initial fractional contribution, or

"(II) the date of the death of the donor, and

"(ii) in any case in which the donee has not, during the period beginning on the date of the initial fractional contribution and ending on the date described in clause (i)—

"(I) had substantial physical possession of the property, and

"(II) used the property in a use which is related to a purpose or function constituting the basis for the organizations' exemption under section 501.

"(B) ADDITION TO TAX.—The tax imposed under this chapter for any taxable year for which there is a recapture under subparagraph (A) shall be increased by 10 percent of the amount so recaptured.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

"(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.".

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 2055.

"(g) VALUATION OF SUBSEQUENT GIFTS.—

"(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

"(A) the fair market value of the property at the time of the initial fractional contribution, or

"(B) the fair market value of the property at the time of the additional contribution.

"(2) DEFINITIONS.—For purposes of this paragraph—

"(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

"(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.".

26 USC 2522.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

"(1) DENIAL OF DEDUCTION IN CERTAIN CASES.—

"(A) IN GENERAL.—No deduction shall be allowed for a contribution of an undivided portion of a taxpayer's entire interest in tangible personal property unless all interest in the property is held immediately before such contribution by—

"(i) the taxpayer, or

"(ii) the taxpayer and the donee.

"(B) EXCEPTIONS.—The Secretary may, by regulation, provide for exceptions to subparagraph (A) in cases where all persons who hold an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

"(2) VALUATION OF SUBSEQUENT GIFTS.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

"(A) the fair market value of the property at the time of the initial fractional contribution, or

"(B) the fair market value of the property at the time of the additional contribution.

"(3) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX.—

"(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to any deduction allowed under this section (plus interest) with respect to any contribution of an undivided portion of a taxpayer's entire interest in tangible personal property—

"(i) in any case in which the donor does not contribute all of the remaining interest in such property to the donee (or, if such donee is no longer in existence, to any person described in section 170(c)) before the earlier of—

"(I) the date that is 10 years after the date of the initial fractional contribution, or

"(II) the date of the death of the donor, and

"(ii) in any case in which the donee has not, during the period beginning on the date of the initial fractional contribution and ending on the date described in clause (i)—

"(I) had substantial physical possession of the property, and

"(II) used the property in a use which is related to a purpose or function constituting the basis for the organizations' exemption under section 501.

"(B) ADDITION TO TAX.—The tax imposed under this chapter for any taxable year for which there is a recapture under subparagraph (A) shall be increased by 10 percent of the amount so recaptured.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

"(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act. 26 USC 170 note.

**SEC. 1219. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS.**

(a) MODIFICATION OF THRESHOLDS FOR SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS.—

(1) SUBSTANTIAL VALUATION MISSTATEMENT.—

(A) INCOME TAXES.—Subparagraph (A) of section 6662(e)(1) (relating to substantial valuation misstatement under chapter 1) is amended by striking "200 percent" and inserting "150 percent". 26 USC 6662.

(B) ESTATE AND GIFT TAXES.—Paragraph (1) of section 6662(g) is amended by striking "50 percent" and inserting "65 percent".

(2) GROSS VALUATION MISSTATEMENT.—

(A) INCOME TAXES.—Clauses (i) and (ii) of section 6662(h)(2)(A) (relating to increase in penalty in case of gross valuation misstatements) are amended to read as follows:

"(i) in paragraph (1)(A), '200 percent' for '150 percent',

"(ii) in paragraph (1)(B)(i)—

"(I) '400 percent' for '200 percent', and

"(II) '25 percent' for '50 percent', and".

(B) ESTATE AND GIFT TAXES.—Subparagraph (C) of section 6662(h)(2) is amended by striking "'25 percent' for '50 percent'" and inserting "'40 percent' for '65 percent'".

26 USC 6664.

(3) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking "paragraph (1) shall not apply unless" and inserting "paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if".

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

26 USC 6695A.

**"SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.**

"(a) IMPOSITION OF PENALTY.—If—

"(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

"(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property, then such person shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

"(1) the greater of—

"(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

"(B) $1,000, or

"(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

"(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.".

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking "6694 and 6695" each place it appears in the text and heading thereof and inserting "6694, 6695, and 6695A", and

(B) by striking "6694 or 6695" each place it appears in the text and inserting "6694, 6695, or 6695A".

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

"Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.
"Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.".

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows: 26 USC 170.

"(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

"(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

"(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

"(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

"(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

"(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary, Regulations.

"(II) regularly performs appraisals for which the individual receives compensation, and

"(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

"(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

"(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

"(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.".

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

"(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

"(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).".

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking "with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986".

(e) EFFECTIVE DATES.— Applicability. 26 USC 170 note.

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and

(d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after July 25, 2006.

**SEC. 1220. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.**

26 USC 501.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

"(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

"(A) The organization—

"(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

"(ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,

"(iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

"(iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.

"(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

"(C) The organization establishes and implements a fee policy which—

"(i) requires that any fees charged to a consumer for services are reasonable,

"(ii) allows for the waiver of fees if the consumer is unable to pay, and

"(iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

"(D) At all times the organization has a board of directors or other governing body—

"(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

"(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

"(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

"(E) The organization does not own more than 35 percent of—

"(i) the total combined voting power of any corporation (other than a corporation which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

"(ii) the profits interest of any partnership (other than a partnership which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

"(iii) the beneficial interest of any trust or estate (other than a trust which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

"(F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

"(2) ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (c)(3).—

"(A) IN GENERAL.—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

"(i) The organization does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

"(ii) The aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage of the total revenues of the organization.

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable percentage is 50 percent.

"(ii) TRANSITION RULE.—Notwithstanding clause (i), in the case of an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection, the applicable percentage is—

"(I) 80 percent for the first taxable year of such organization beginning after the date which is 1 year after the date of the enactment of this subsection, and

"(II) 70 percent for the second such taxable year beginning after such date, and

"(III) 60 percent for the third such taxable year beginning after such date.

"(3) ADDITIONAL REQUIREMENT FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

"(4) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

"(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

"(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

"(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

"(iii) a combination of the activities described in clauses (i) and (ii).

"(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.".

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

26 USC 513.

"(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes the provision of debt management plan

services (as defined in section 501(q)(4)(B)) by any organization other than an organization which meets the requirements of section 501(q).".

(c) EFFECTIVE DATE.— 26 USC 501 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

**SEC. 1221. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.**

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: "Such term shall also include income from sources similar to those in the preceding sentence.". 26 USC 4940.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: "Such term shall also include income from sources similar to those in the preceding sentence.".

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking "used for the production of interest, dividends, rents, and royalties" and inserting "used for the production of gross investment income (as defined in paragraph (2))",

(2) in subparagraph (C), by inserting "or carrybacks" after "carryovers", and

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

"(D) Except to the extent provided by regulation, under rules similar to the rules of section 1031 (including the exception under subsection (a)(2) thereof), no gain or loss shall be taken into account with respect to any portion of property used for a period of not less than 1 year for a purpose or function constituting the basis of the private foundation's exemption if the entire property is exchanged immediately following such period solely for property of like kind which is to be used primarily for a purpose or function constituting the basis for such foundation's exemption.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 509 note.

**SEC. 1222. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.**

Section 7701 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.".

**SEC. 1223. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.**

26 USC 6033.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

"(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

"(A) the legal name of the organization,

"(B) any name under which such organization operates or does business,

"(C) the organization's mailing address and Internet web site address (if any),

"(D) the organization's taxpayer identification number,

"(E) the name and address of a principal officer, and

"(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

"(2) upon the termination of the existence of the organization, shall furnish notice of such termination.".

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

Revocation.

"(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

Publication.
Records.

"(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

"(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause

for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.".

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph: 26 USC 7428.

"(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).".

(d) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

"(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).".

(e) SECRETARIAL OUTREACH REQUIREMENTS.— 26 USC 6033 note.

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize, in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under subsection (a)(1) or (i) of section 6033 of such Code. Public information.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2006. 26 USC 6033 note.

**SEC. 1224. DISCLOSURE TO STATE OFFICIALS RELATING TO EXEMPT ORGANIZATIONS.**

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such returns or return information may constitute evidence of noncompliance under the laws within the jurisdiction of the appropriate State officer.

"(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of any organization described in section 501(c) (other than organizations described in paragraph (1) or (3) thereof) for the purpose of, and only to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) the State tax officer,

"(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6103(a) is amended by inserting "or section 6104(c)" after "this section". 26 USC 6103.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", any appropriate State officer (as defined in section 6104(c))," before "or any other person",

(B) in subparagraph (F)(i), by inserting "any appropriate State officer (as defined in section 6104(c))," before "or any other person", and

(C) in the matter following subparagraph (F), by inserting ", an appropriate State officer (as defined in section 6104(c))," after "including an agency" each place it appears.

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS" after "RULE".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or under section 6104(c)" after "7213(a)(2)".

(7) Paragraph (2) of section 7431(a) is amended by inserting "or in violation of section 6104(c)" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

**SEC. 1225. PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME TAX RETURNS.**

(a) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

"(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such

organization, but only if such organization is described in section 501(c)(3),".

26 USC 6104 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

**SEC. 1226. STUDY ON DONOR ADVISED FUNDS AND SUPPORTING ORGANIZATIONS.**

(a) STUDY.—The Secretary of the Treasury shall undertake a study on the organization and operation of donor advised funds (as defined in section 4966(d)(2) of the Internal Revenue Code of 1986, as added by this Act) and of organizations described in section 509(a)(3) of such Code. The study shall specifically consider—

(1) whether the deductions allowed for the income, gift, or estate taxes for charitable contributions to sponsoring organizations (as defined in section 4966(d)(1) of such Code, as added by this Act) of donor advised funds or to organizations described in section 509(a)(3) of such Code are appropriate in consideration of—

(A) the use of contributed assets (including the type, extent, and timing of such use), or

(B) the use of the assets of such organizations for the benefit of the person making the charitable contribution (or a person related to such person),

(2) whether donor advised funds should be required to distribute for charitable purposes a specified amount (whether based on the income or assets of the fund) in order to ensure that the sponsoring organization with respect to such donor advised fund is operating consistent with the purposes or functions constituting the basis for its exemption under section 501, or its status as an organization described in section 509(a), of such Code,

(3) whether the retention by donors to organizations described in paragraph (1) of rights or privileges with respect to amounts transferred to such organizations (including advisory rights or privileges with respect to the making of grants or the investment of assets) is consistent with the treatment of such transfers as completed gifts that qualify for a deduction for income, gift, or estate taxes, and

(4) whether the issues raised by paragraphs (1), (2), and (3) are also issues with respect to other forms of charities or charitable donations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under subsection (a) and make such recommendations as the Secretary of the Treasury considers appropriate.

## PART 2—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

**SEC. 1231. EXCISE TAXES RELATING TO DONOR ADVISED FUNDS.**

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by the

Tax Increase Prevention and Reconciliation Act of 2005, is amended by adding at the end the following new subchapter:

## "Subchapter G—Donor Advised Funds

"Sec. 4966. Taxes on taxable distributions.
"Sec. 4967. Taxes on prohibited benefits.

**"SEC. 4966. TAXES ON TAXABLE DISTRIBUTIONS.** 26 USC 4966.

"(a) IMPOSITION OF TAXES.—

"(1) ON THE SPONSORING ORGANIZATION.—There is hereby imposed on each taxable distribution a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the sponsoring organization with respect to the donor advised fund.

"(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under subsection (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

"(2) LIMIT FOR MANAGEMENT.—With respect to any one taxable distribution, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(c) TAXABLE DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund—

"(A) to any natural person, or

"(B) to any other person if—

"(i) such distribution is for any purpose other than one specified in section 170(c)(2)(B), or

"(ii) the sponsoring organization does not exercise expenditure responsibility with respect to such distribution in accordance with section 4945(h).

"(2) EXCEPTIONS.—Such term shall not include any distribution from a donor advised fund—

"(A) to any organization described in section 170(b)(1)(A) (other than a disqualified supporting organization),

"(B) to the sponsoring organization of such donor advised fund, or

"(C) to any other donor advised fund.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

"(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof),

"(B) is not a private foundation (as defined in section 509(a)), and

"(C) maintains 1 or more donor advised funds.

"(2) DONOR ADVISED FUND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'donor advised fund' means a fund or account—

"(i) which is separately identified by reference to contributions of a donor or donors,

"(ii) which is owned and controlled by a sponsoring organization, and

"(iii) with respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

"(B) EXCEPTIONS.—The term 'donor advised fund' shall not include any fund or account—

"(i) which makes distributions only to a single identified organization or governmental entity, or

"(ii) with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, if—

"(I) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee all of the members of which are appointed by the sponsoring organization,

"(II) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

"(III) all grants from such fund or account are awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the board of directors of the sponsoring organization, and such procedure is designed to ensure that all such grants meet the requirements of paragraph (1), (2), or (3) of section 4945(g).

"(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account not described in subparagraph (B) from treatment as a donor advised fund—

"(i) if such fund or account is advised by a committee not directly or indirectly controlled by the donor or any person appointed or designated by the donor for the purpose of advising with respect to distributions from such fund (and any related parties), or

"(ii) if such fund benefits a single identified charitable purpose.

"(3) FUND MANAGER.—The term 'fund manager' means, with respect to any sponsoring organization—

"(A) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

"(B) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

"(4) DISQUALIFIED SUPPORTING ORGANIZATION.—

"(A) IN GENERAL.—The term 'disqualified supporting organization' means, with respect to any distribution—

"(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(ii) any organization which is described in subparagraph (B) or (C) if—

"(I) the donor or any person designated by the donor for the purpose of advising with respect to distributions from a donor advised fund (and any related parties) directly or indirectly controls a supported organization (as defined in section 509(f)(3)) of such organization, or

"(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate. Regulations.

"(B) TYPE I AND TYPE II SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

"(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

"(ii) supervised or controlled in connection with one or more such organizations.

"(C) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).

**"SEC. 4967. TAXES ON PROHIBITED BENEFITS.** 26 USC 4967.

"(a) IMPOSITION OF TAXES.—

"(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (d) to have a sponsoring organization make a distribution from a donor advised fund which results in such person or any other person described in subsection (d) receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 125 percent of such benefit. The tax imposed by this paragraph shall be paid by any person described in subsection (d) who advises as to the distribution or who receives such a benefit as a result of the distribution.

"(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such benefit. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

"(b) EXCEPTION.—No tax shall be imposed under this section with respect to any distribution if a tax has been imposed with respect to such distribution under section 4958.

"(c) SPECIAL RULES.—For purposes of subsection (a)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under paragraph (1) or (2) of subsection (a) with respect to a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

"(2) LIMIT FOR MANAGEMENT.—With respect to any one distribution described in subsection (a), the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(d) PERSON DESCRIBED.—A person is described in this subsection if such person is described in section 4958(f)(7) with respect to a donor advised fund.".

(b) CONFORMING AMENDMENTS.—

26 USC 4963.

(1) Section 4963 is amended by inserting "4966, 4967," after "4958," each place it appears in subsections (a) and (c).

(2) The table of subchapters for chapter 42 is amended by adding at the end the following new item:

"SUBCHAPTER G—DONOR ADVISED FUNDS".

26 USC 4963 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1232. EXCESS BENEFIT TRANSACTIONS INVOLVING DONOR ADVISED FUNDS AND SPONSORING ORGANIZATIONS.**

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding after subparagraph (C) the following new subparagraphs:

"(D) which involves a donor advised fund (as defined in section 4966(d)(2)), any person who is described in paragraph (7) with respect to such donor advised fund (as so defined), and

"(E) which involves a sponsoring organization (as defined in section 4966(d)(1)), any person who is described in paragraph (8) with respect to such sponsoring organization (as so defined).".

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraphs:

"(7) DONORS AND DONOR ADVISORS.—For purposes of paragraph (1)(E), a person is described in this paragraph if such person—

"(A) is described in section 4966(d)(2)(A)(iii),

"(B) is a member of the family of an individual described in subparagraph (A), or

"(C) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in subparagraph (A) or (B) of paragraph (7)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(8) INVESTMENT ADVISORS.—For purposes of paragraph (1)(F)—

"(A) IN GENERAL.—A person is described in this paragraph if such person—

"(i) is an investment advisor,

"(ii) is a member of the family of an individual described in clause (i), or

"(iii) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i) or (ii) of paragraph (8)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(B) INVESTMENT ADVISOR DEFINED.—For purposes of subparagraph (A), the term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4966(d)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4966(d)(2)) owned by such organization.".

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph: 26 USC 4958.

"(2) SPECIAL RULES FOR DONOR ADVISED FUNDS.—In the case of any donor advised fund (as defined in section 4966(d)(2))—

"(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other similar payment from such fund to a person described in subsection (f)(7) with respect to such fund, and

"(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other similar payment.".

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting ", except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in any donor advised fund" after "standards".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act. 26 USC 4958 note.

**SEC. 1233. EXCESS BUSINESS HOLDINGS OF DONOR ADVISED FUNDS.**

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

"(e) APPLICATION OF TAX TO DONOR ADVISED FUNDS.—

"(1) IN GENERAL.—For purposes of this section, a donor advised fund (as defined in section 4966(d)(2)) shall be treated as a private foundation.

"(2) DISQUALIFIED PERSON.—In applying this section to any donor advised fund (as so defined), the term 'disqualified person' means, with respect to the donor advised fund, any person who is—

"(A) described in section 4966(d)(2)(A)(iii),

"(B) a member of the family of an individual described in subparagraph (A), or

"(C) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in subparagraph (A) or (B) of section 4943(e)(2)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(3) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to donor advised funds (as so defined), except that—

"(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

"(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).".

26 USC 4943 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 1234. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.**

26 USC 170.

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

"(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

"(i) described in paragraph (3), (4), or (5) of subsection (c), or

"(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.".

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

"(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

"(i) described in paragraph (3) or (4) of subsection (a), or

"(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the

rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.".

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph: 26 USC 2522.

"(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

"(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

"(i) described in paragraph (3) or (4) of subsection (a), or

"(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act. 26 USC 170 note.

**SEC. 1235. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.**

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

"(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

"(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

"(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act. 26 USC 6033 note.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

"(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4966(d)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section Notification.

4966(d)(2)) and the manner in which such organization plans to operate such funds.".

26 USC 508 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

## PART 3—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

### SEC. 1241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.

26 USC 509.

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

"(B) is—

"(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

"(ii) supervised or controlled in connection with one or more such organizations, or

"(iii) operated in connection with one or more such organizations, and".

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

"(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

"(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

"(A) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

"(B) FOREIGN SUPPORTED ORGANIZATIONS.—

"(i) IN GENERAL.—The organization is not operated in connection with any supported organization that is not organized in the United States.

"(ii) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with an organization that is not organized in the United States on the date of the enactment of this subsection, clause (i) shall not apply until the first day of the third taxable year of the organization beginning after the date of the enactment of this subsection.

"(2) ORGANIZATIONS CONTROLLED BY DONORS.—

"(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

"(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

"(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

"(B) PERSON DESCRIBED.—A person is described in this subparagraph if, with respect to a supported organization

of an organization described in subparagraph (A), such person is—

"(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who directly or indirectly controls, either alone or together with persons described in clauses (ii) and (iii), the governing body of such supported organization,

"(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

"(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

"(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

"(B) with respect to which the organization performs the functions of, or carries out the purposes of.".

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because— 26 USC 509 note.

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

(d) PAYOUT REQUIREMENTS FOR TYPE III SUPPORTING ORGANIZATIONS.— 26 USC 509 note.

(1) IN GENERAL.—The Secretary of the Treasury shall promulgate new regulations under section 509 of the Internal Revenue Code of 1986 on payments required by type III supporting organizations which are not functionally integrated type III supporting organizations. Such regulations shall require such organizations to make distributions of a percentage of either income or assets to supported organizations (as defined in section 509(f)(3) of such Code) in order to ensure that a significant amount is paid to such organizations. Regulations.

(2) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of paragraph (1), the terms "type III supporting organization" and "functionally integrated type III supporting organization" have the meanings given such terms under subparagraphs (A) and (B) section 4943(f)(5) of the Internal Revenue Code of 1986 (as added by this Act), respectively.

(e) EFFECTIVE DATES.— 26 USC 509 note.

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—Subsection (c) shall take effect—

(A) in the case of trusts operated in connection with an organization described in paragraph (1) or (2) of section 509(a) of the Internal Revenue Code of 1986 on the date of the enactment of this Act, on the date that is one year after the date of the enactment of this Act, and

(B) in the case of any other trust, on the date of the enactment of this Act.

**SEC. 1242. EXCESS BENEFIT TRANSACTIONS INVOLVING SUPPORTING ORGANIZATIONS.**

26 USC 4958.

(a) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by adding after subparagraph (C) the following new subparagraph:

"(D) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) and organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.".

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

"(i) the term 'excess benefit transaction' includes—

"(I) any grant, loan, compensation, or other similar payment provided by such organization to a person described in subparagraph (B), and

"(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

"(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other similar payment.

"(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a substantial contributor to such organization,

"(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

"(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the

organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust. Rules similar to the rules of subparagraphs (B) and (C) of section 507(d)(2) shall apply for purposes of this subparagraph.

"(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).".

(c) EFFECTIVE DATES.— 26 USC 4958 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transactions occurring after July 25, 2006.

**SEC. 1243. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.**

(a) IN GENERAL.—Section 4943, as amended by this Act, is amended by adding at the end the following new subsection: 26 USC 4943.

"(f) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section, an organization which is described in paragraph (3) shall be treated as a private foundation.

"(2) EXCEPTION.—The Secretary may exempt the excess business holdings of any organization from the application of this subsection if the Secretary determines that such holdings are consistent with the purpose or function constituting the basis for its exemption under section 501.

"(3) ORGANIZATIONS DESCRIBED.—An organization is described in this paragraph if such organization is—

"(A) a type III supporting organization (other than a functionally integrated type III supporting organization), or

"(B) an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

"(4) DISQUALIFIED PERSON.—

"(A) IN GENERAL.—In applying this section to any organization described in paragraph (3), the term 'disqualified person' means, with respect to the organization—

"(i) any person who was, at any time during the 5-year period ending on the date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

"(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

"(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described

in clause (i) or (ii) of section 4943(f)(4)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

"(iv) any person described in section 4958(c)(3)(B), and

"(v) any organization—

"(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

"(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of the family (within the meaning of section 4946(d)) of such a person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

"(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those of the officers, directors, or trustees of the organization), or

"(iii) an owner of more than 20 percent of—

"(I) the total combined voting power of a corporation,

"(II) the profits interest of a partnership, or

"(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

"(5) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of this subsection—

"(A) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

"(B) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—The term 'functionally integrated type III supporting organization' means a type III supporting organization which is not required under regulations established by the Secretary to make payments to supported organizations (as defined under section 509(f)(3)) due to the activities of the organization related to performing the functions of, or carrying out the purposes of, such supported organizations.

"(6) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization in any business enterprise if, as of November 18, 2005, the holdings were held (and at all times thereafter, are held) for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over such organization.

"(7) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that— Deadlines.

"(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

"(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 4943 note.

**SEC. 1244. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.**

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows: 26 USC 4942.

"(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to—

"(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(ii) any organization which is described in subparagraph (B) or (C) if—

"(I) a disqualified person of the private foundation directly or indirectly controls such organization or a supported organization (as defined in section 509(f)(3)) of such organization, or

"(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate. Regulations.

"(B) TYPE I AND TYPE II SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

"(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

"(ii) supervised or controlled in connection with one or more such organizations.

"(C) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).".

(b) TAXABLE EXPENDITURES.—Subparagraph (A) of section 4945(d)(4) is amended to read as follows:

"(A) such organization—

"(i) is described in paragraph (1) or (2) of section 509(a),

"(ii) is an organization described in section 509(a)(3) (other than an organization described in clause (i) or (ii) of section 4942(g)(4)(A)), or

"(iii) is an exempt operating foundation (as defined in section 4940(d)(2)), or".

26 USC 4942 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

**SEC. 1245. RETURNS OF SUPPORTING ORGANIZATIONS.**

26 USC 6033.

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3) is amended by inserting "(other than an organization described in section 509(a)(3))" after "paragraph (1)".

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by this Act, is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

"(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

"(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

"(3) certify that the organization meets the requirements of section 509(a)(3)(C).".

26 USC 6033 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

# TITLE XIII—OTHER PROVISIONS

**SEC. 1301. TECHNICAL CORRECTIONS RELATING TO MINE SAFETY.**

Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820), as amended by the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109–236), is amended—

*Ante*, p. 500.

(1) by striking subsection (d); and

(2) in subsection (a)—

(A) by striking "(1)(1) The operator" and inserting "(1) The operator";

(B) in the paragraph (2) added by section 8(a)(1)(B) of the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109–236)—

(i) by striking "paragraph (1)" and inserting "subsection (a)(1)"; and

(ii) by redesignating such paragraph as subsection (d) and transferring such subsection so as to appear after subsection (c); and

(3) in subsection (b)—

(A) by striking "Any operator" and inserting "(1) Any operator"; and

(B) in the second sentence, as added by section 8(a)(2) of the Mine Improvement and New Emergency Response

Act of 2006 (Public Law 109–236), by striking "Violations" and inserting the following:

"(2) Violations".

**SEC. 1302. GOING-TO-THE-SUN ROAD.**

(a) IN GENERAL.—Section 1940 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1511) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

(C) by striking "$10,000,000" each place that it appears and inserting "$16,666,666"; and

(2) by adding at the end the following:

"(c) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.".

(b) RESCISSION.—Section 10212 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1937) is amended by striking "$8,543,000,000" each place it appears and inserting "$8,593,000,000". 23 USC 101 note.

**SEC. 1303. EXCEPTION TO THE LOCAL FURNISHING REQUIREMENT OF THE TAX-EXEMPT BOND RULES.**

(a) SNETTISHAM HYDROELECTRIC FACILITY.—For purposes of determining whether any private activity bond issued before May 31, 2006, and used to finance the acquisition of the Snettisham hydroelectric facility is a qualified bond for purposes of section 142(a)(8) of the Internal Revenue Code of 1986, the electricity furnished by such facility to the City of Hoonah, Alaska, shall not be taken into account for purposes of section 142(f)(1) of such Code.

(b) LAKE DOROTHY HYDROELECTRIC FACILITY.—For purposes of determining whether any private activity bond issued before May 31, 2006, and used to finance the Lake Dorothy hydroelectric facility is a qualified bond for purposes of section 142(a)(8) of the Internal Revenue Code of 1986, the electricity furnished by such facility to the City of Hoonah, Alaska, shall not be taken into account for purposes of paragraphs (1) and (3) of section 142(f) of such Code.

(c) DEFINITIONS.—For purposes of this section—

(1) LAKE DOROTHY HYDROELECTRIC FACILITY.—The term "Lake Dorothy hydroelectric facility" means the hydroelectric facility located approximately 10 miles south of Juneau, Alaska, and commonly referred to as the "Lake Dorothy project".

(2) SNETTISHAM HYDROELECTRIC FACILITY.—The term "Snettisham hydroelectric facility" means the hydroelectric project described in section 1804 of the Small Business Job Protection Act of 1996.

**SEC. 1304. QUALIFIED TUITION PROGRAMS.** 26 USC 1 note.

(a) PERMANENT EXTENSION OF MODIFICATIONS.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to section 402 of such Act (relating to modifications to qualified tuition programs).

26 USC 529.

(b) REGULATORY AUTHORITY TO PREVENT ABUSE.—Section 529 (relating to qualified tuition programs) is amended by adding at the end the following new subsection:

"(f) REGULATIONS.—Notwithstanding any other provision of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and to prevent abuse of such purposes, including regulations under chapters 11, 12, and 13 of this title.".

# TITLE XIV—TARIFF PROVISIONS

Miscellaneous Trade and Technical Corrections Act of 2006.
19 USC 1654 note.

**SEC. 1401. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the "Miscellaneous Trade and Technical Corrections Act of 2006".

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

TITLE XIV—TARIFF PROVISIONS

Sec. 1401. Short title; table of contents.
Sec. 1402. Reference.

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1411. Certain non-knit gloves designed for use by auto mechanics.
Sec. 1412. Certain microphones for use in automotive interiors.
Sec. 1413. Acrylic or modacrylic synthetic filament tow.
Sec. 1414. Acrylic or modacrylic synthetic staple fibers, carded, combed, or otherwise processed for spinning.
Sec. 1415. Nitrocellulose.
Sec. 1416. Potassium sorbate.
Sec. 1417. Sorbic acid.
Sec. 1418. Certain capers.
Sec. 1419. Certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid.
Sec. 1420. Certain capers.
Sec. 1421. Certain pepperoncini prepared or preserved by vinegar or acetic acid in concentrations at 0.5 percent or greater.
Sec. 1422. Certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5 percent.
Sec. 1423. Chloral.
Sec. 1424. Imidacloprid technical (imidacloprid).
Sec. 1425. Triadimefon.
Sec. 1426. Polyethylene HE1878.
Sec. 1427. Thiacloprid.
Sec. 1428. Pyrimethanil.
Sec. 1429. Foramsulfuron.
Sec. 1430. Fenamidone.
Sec. 1431. Cyclanilide technical.
Sec. 1432. Para-benzoquinone.
Sec. 1433. O-Anisidine.
Sec. 1434. 2,4-Xylidine.
Sec. 1435. Crotonaldehyde.
Sec. 1436. Butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6,-tetramethyl-1-piperidineethanol.
Sec. 1437. Mixtures of CAS Nos. 106990-43-6 and 65447-77-0.
Sec. 1438. MCPA.
Sec. 1439. Bronate advanced.
Sec. 1440. Bromoxynil octanoate tech.
Sec. 1441. Bromoxynil meo.
Sec. 1442. Hydraulic control units.
Sec. 1443. Shield asy-steering gear.
Sec. 1444. 2,4-Dichloroaniline.
Sec. 1445. 2-Acetylbutyrolactone.
Sec. 1446. Alkylketone.
Sec. 1447. Cyfluthrin (baythroid).

Sec. 1448. Beta-cyfluthrin.
Sec. 1449. Cyclopropane-1,1-dicarboxylic acid, dimethyl ester.
Sec. 1450. Spiroxamine.
Sec. 1451. Spiromesifen.
Sec. 1452. 4-Chlorobenzaldehyde.
Sec. 1453. Oxadiazon.
Sec. 1454. NAHP.
Sec. 1455. Phosphorus thiochloride.
Sec. 1456. Trifloxystrobin.
Sec. 1457. Phosphoric acid, lanthanum salt, cerium terbium-doped.
Sec. 1458. Lutetium oxide.
Sec. 1459. ACM.
Sec. 1460. Permethrin.
Sec. 1461. Thidiazuron.
Sec. 1462. Flutolanil.
Sec. 1463. Resmethrin.
Sec. 1464. Clothianidin.
Sec. 1465. Certain master cylinder assembles.
Sec. 1466. Certain transaxles.
Sec. 1467. Converter asy.
Sec. 1468. Module and bracket asy-power steering.
Sec. 1469. Unit asy-battery hi volt.
Sec. 1470. Certain articles of natural cork.
Sec. 1471. Glyoxylic acid.
Sec. 1472. Cyclopentanone.
Sec. 1473. Mesotrione technical.
Sec. 1474. Malonic acid-dinitrile 50% NMP.
Sec. 1475. Formulations of NOA 446510.
Sec. 1476. DEMBB distilled-ISO tank.
Sec. 1477. Methylionone.
Sec. 1478. Certain acrylic fiber tow.
Sec. 1479. Certain acrylic fiber tow.
Sec. 1480. MKH 6561 isocyanate.
Sec. 1481. Endosulfan.
Sec. 1482. Tetraconazole.
Sec. 1483. M-alcohol.
Sec. 1484. Certain machines for use in the assembly of motorcycle wheels.
Sec. 1485. Deltamethrin.
Sec. 1486. Palm fatty acid distillate.
Sec. 1487. 4-Methoxy-2-methyldiphenylamine.
Sec. 1488. 2-Methylhydroquinone.
Sec. 1489. 1-Fluoro-2-nitrobenzene.
Sec. 1490. Cosmetic bags with a flexible outer surface of reinforced or laminated polyvinyl chloride (PVC).
Sec. 1491. Mixtures of methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)ureidosulfonyl]benzoate, sodium salt (iodosulfuron methyl, sodium salt).
Sec. 1492. Ethyl 4,5-dihydro-5,5-diphenyl-1,2-oxazole-3-carboxylate (isoxadifen-ethyl).
Sec. 1493. (5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)–4-(trifluoromethyl)phenyl]methanone (isoxaflutole).
Sec. 1494. Methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]-α-(methanesulfonamido)-p-toluate (mesosulfuron-methyl) whether or not mixed with application adjuvants.
Sec. 1495. Mixtures of foramsulfuron and iodosulfuron-methyl-sodium.
Sec. 1496. Vulcuren UPKA 1988.
Sec. 1497. Vullcanox 41010 NA/LG.
Sec. 1498. Vulkazon AFS/LG.
Sec. 1499. P-Anisaldehyde.
Sec. 1500. 1,2-Pentanediol.
Sec. 1501. Agrumex.
Sec. 1502. Cohedur RL.
Sec. 1503. Formulations of prosulfuron.
Sec. 1504. Lewatit.
Sec. 1505. Para-Chlorophenol.
Sec. 1506. Cypermethrin.
Sec. 1507. Ion-exchange resin powder.
Sec. 1508. Ion-exchange resin powder.
Sec. 1509. Desmodur E 14.
Sec. 1510. Desmodur VP LS 2253.
Sec. 1511. Desmodur R-E.
Sec. 1512. Walocel MW 3000 PFV.

Sec. 1513. TSME.
Sec. 1514. Walocel VP-M 20660.
Sec. 1515. Xama 2.
Sec. 1516. Xama 7.
Sec. 1517. Certain cases for toys.
Sec. 1518. Certain cases for toys.
Sec. 1519. Aniline 2.5-disulfonic acid.
Sec. 1520. 1,4-benzenedicarboxylic acid, polymer with n,n′-bis(2-aminoethyl)–1,2-ethanediamine, cyclized, methosulfate.
Sec. 1521. Sulfur blue 7.
Sec. 1522. Formaldehyde, reaction products with 1,4-benzenediol and m-phenylenediamine, sulfurized.
Sec. 1523. Isocyanatosulfonyl.
Sec. 1524. Isocyanatosulfonyl.
Sec. 1525. Gemifloxacin, gemifloxacin mesylate, and gemifloxacin mesylate sesquihydrate.
Sec. 1526. Butralin.
Sec. 1527. Spirodiclofen.
Sec. 1528. Propamocarb HCL (PREVICUR).
Sec. 1529. Desmodur IL.
Sec. 1530. Chloroacetone.
Sec. 1531. IPN (isophthalonitrile).
Sec. 1532. NOA 446510 technical.
Sec. 1533. Hexythiazox technical.
Sec. 1534. Crelan (self-blocked cycloaliphatic polyuretdione).
Sec. 1535. Aspirin.
Sec. 1536. Desmodur BL XP 2468.
Sec. 1537. Desmodur RF-E.
Sec. 1538. Desmodur HL.
Sec. 1539. D-Mannose.
Sec. 1540. Certain camel hair.
Sec. 1541. Waste of camel hair.
Sec. 1542. Certain camel hair.
Sec. 1543. Woven fabric of vicuna hair.
Sec. 1544. Certain camel hair.
Sec. 1545. Noils of camel hair.
Sec. 1546. Chloroacetic acid, ethyl ester.
Sec. 1547. Chloroacetic acid, sodium salt.
Sec. 1548. Low expansion laboratory glass.
Sec. 1549. Stoppers, lids, and other closures.
Sec. 1550. Pigment yellow 213.
Sec. 1551. Indoxacarb.
Sec. 1552. Dimethyl carbonate.
Sec. 1553. 5-Chloro-1-indanone (EK179).
Sec. 1554. Mixtures of famoxadone and cymoxanil.
Sec. 1555. Decanedioic acid, bis(2,2,6,6-tetramethyl-4-piperidinyl) ester.
Sec. 1556. Acid blue 80.
Sec. 1557. Pigment brown 25.
Sec. 1558. Formulations of azoxystrobin.
Sec. 1559. Formulations of pinoxaden/cloquintocet.
Sec. 1560. Mixtures of difenoconazole/mefenoxam.
Sec. 1561. Fludioxinil technical.
Sec. 1562. Mixtures of clodinafop-propargyl.
Sec. 1563. Avermectin b, 1,4″-deoxy-4″-methylamino-, (4″r)-, benzoate.
Sec. 1564. Cloquintocet-mexyl.
Sec. 1565. Metalaxyl-M technical.
Sec. 1566. Cyproconazole technical.
Sec. 1567. Pinoxaden technical.
Sec. 1568. Mixtures of tralkoxydim.
Sec. 1569. Certain chemicals.
Sec. 1570. Mixtures of (±)–(cis and trans)–1-[[2-(2,4-dichlorophenyl)–4-propyl-1,3-dioxolan-2-yl]-methyl]-1h-1,2,4-triazole.
Sec. 1571. Paraquat dichloride.
Sec. 1572. Certain basketballs.
Sec. 1573. Certain leather basketballs.
Sec. 1574. Certain rubber basketballs.
Sec. 1575. Certain volleyballs.
Sec. 1576. 4-Chloro-3-[[3-(4-methoxyphenyl)–1,3-dioxopropyl]-amino]-dodecyl ester.
Sec. 1577. Linuron.
Sec. 1578. N,N-Dimethylpiperidinium chloride (mepiquat chloride).
Sec. 1579. Diuron.
Sec. 1580. Formulated product Krovar I DF.

Sec. 1581. Triasulfuron technical.
Sec. 1582. Brodifacoum technical.
Sec. 1583. Pymetrozine technical.
Sec. 1584. Formulations of thiamethoxam, difenoconazole, fludioxinil, and mefenoxam.
Sec. 1585. Trifloxysulfuron-sodium technical.
Sec. 1586. 2 Benzylthio-3-ethyl sulfonyl pyridine.
Sec. 1587. 2-Amino-4-methoxy-6-methyl-1,3,5-triazine.
Sec. 1588. Formulated products containing mixtures of the active ingredient 2-chloro-n-[[(4-methoxy-6-methyl-1,3,5-triazin-2yl) amino]carbonyl] benzenesulfonamide and application adjuvants.
Sec. 1589. 2-methyl-4-methoxy-6-methylamino-1,3,5-triazine.
Sec. 1590. Mixtures of sodium-2-chloro-6-[(4,6 dimethoxypyrimidin-2-yl)thio]benzoate and application adjuvants (pyrithiobac-sodium).
Sec. 1591. Certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
Sec. 1592. Certain music boxes.
Sec. 1593. 2-Methyl-4-chlorophenoxyacetic acid.
Sec. 1594. Phenmedipham.
Sec. 1595. Desmedipham.
Sec. 1596. Certain footwear with open toes or heels.
Sec. 1597. Certain work footwear.
Sec. 1598. Certain refracting and reflecting telescopes.
Sec. 1600. Certain work footwear.
Sec. 1601. Certain footwear for men.
Sec. 1602. Certain rubber or plastic footwear.
Sec. 1604. Zinc dimethyldithiocarbamate.
Sec. 1605. Certain liquid crystal device (LCD) panel assemblies.
Sec. 1606. Certain watertube boilers and reactor vessel heads.

CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1611. Extension of certain existing duty suspensions and reductions.

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

Sec. 1621. Certain tramway cars and associated spare parts.
Sec. 1622. Reliquidation of certain entries of candles.
Sec. 1623. Certain entries of roller chain.
Sec. 1624. Certain entries of soundspa clock radios.

CHAPTER 2—MISCELLANEOUS PROVISIONS

Sec. 1631. Vessel repair duties.
Sec. 1632. Suspension of new shipper review provision.
Sec. 1633. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.
Sec. 1634. Authorities relating to DR–CAFTA Agreement.
Sec. 1635. Technical amendments to Customs modernization.

Subtitle C—Effective Date

Sec. 1641. Effective date.

**SEC. 1402. REFERENCE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

# Subtitle A—Temporary Duty Suspensions and Reductions

## CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

### SEC. 1411. CERTAIN NON-KNIT GLOVES DESIGNED FOR USE BY AUTO MECHANICS.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.14.01 | Mechanics' work gloves, valued not over $3.50 per pair (provided for in subheading 6216.00.58) ..... | 2.8% | No change | No change | On or before 12/31/2009 | |
| | 9902.14.02 | Mechanics' work gloves, valued over $3.50 but not over $3.70 per pair (provided for in subheading 6216.00.58) ..... | 2.8% | No change | No change | On or before 12/31/2009 | ". |
| | 9902.14.03 | Mechanics' work gloves, valued over $3.70 but not over $4.99 per pair (provided for in subheading 6216.00.58) ..... | 2.8% | No change | No change | On or before 12/31/2009 | ". |
| | 9902.14.04 | Mechanics' work gloves, valued over $4.99 but not over $7.72 per pair (provided for in subheading 6216.00.58) ..... | 2.8% | No change | No change | On or before 12/31/2009 | ". |
| | 9902.14.05 | Mechanics' work gloves, valued over $7.72 per pair (provided for in subheading 6216.00.58) ..... | 2.8% | No change | No change | On or before 12/31/2009 | ". |

(b) AMENDMENT TO U.S. NOTES.—Subchapter II of chapter 99 is amended by adding at the end of the U.S. Notes to such subchapter the following new U.S. Note:

"18. For purposes of headings 9902.14.01, 9902.14.02, 9902.14.03, 9902.14.04, and 9902.14.05, the term 'mechanics' work gloves' means gloves, of man-made fibers, having synthetic leather palms and fingers; fourchettes of synthetic leather or of fabric of nylon or elastomeric yarn; backs comprising either one layer of knitted fabric of elastomeric yarn or three layers, with the outer layer of knitted fabric of elastomeric yarn, the center layer of foam and the inner layer of tricot fabric; the foregoing, whether or not including an thermoplastic rubber logo or pad on the back; and elastic wrist straps with molded thermoplastic rubber hook-and-loop enclosures.".

### SEC. 1412. CERTAIN MICROPHONES FOR USE IN AUTOMOTIVE INTERIORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.17 | Unidirectional (cardioid) electret condenser microphone modules for use in motor vehicles provided for in headings 8701 through 8705 (other than such modules designed for handheld, microphone stand, or lapel use), the foregoing each including wire leads for external connection, whether or not including a multi-pin board level type connector but not including a battery compartment; having a typical frequency response of 250 Hertz through 7,000 Hertz with no more than a 20 decibel deviation in that frequency range and an electrostatic discharge immunity of 4,000 V (contact) and 8,000 V (air); and capable of operation and storage in the temperature range of -40°C through 85°C and a humidity of not over 95 percent (provided for in subheading 8518.10.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1413. ACRYLIC OR MODACRYLIC SYNTHETIC FILAMENT TOW.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.21 | Synthetic filament tow: acrylic or modacrylic (provided for in subheading 5501.30.00) ..... | 6.8% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1414. ACRYLIC OR MODACRYLIC SYNTHETIC STAPLE FIBERS, CARDED, COMBED, OR OTHERWISE PROCESSED FOR SPINNING.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.22 | Synthetic staple fibers, carded, combed, or otherwise processed for spinning: acrylic or modacrylic (provided for in subheading 5506.30.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1415. NITROCELLULOSE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.23 | Cellulose nitrates (nitrocellulose, including collodions) (CAS 9004-70-0) (provided for in subheading 3912.20.00) ..... | 4.4% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1416. POTASSIUM SORBATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.24 | Potassium sorbate (CAS No. 24634–61–5) (provided for in subheading 2916.19.10) ..... | 1.4% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1417. SORBIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.25 | Sorbic acid (CAS No. 110–44–1) (provided for in subheading 2916.19.20) ..... | 1.9% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1418. CERTAIN CAPERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.26 | Capers, prepared or preserved by vinegar other than such goods in immediate containers each holding 3.4 kg or less (provided for in subheading 2001.90.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1419. CERTAIN PEPPERONCINI PREPARED OR PRESERVED OTHERWISE THAN BY VINEGAR OR ACETIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.27 | Pepperoncini, prepared or preserved otherwise than by vinegar, not frozen (provided for in subheading 2005.90.55) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1420. CERTAIN CAPERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.28 | Capers, prepared or preserved by vinegar in immediate containers each holding more than 3.4 kg (provided for in subheading 2001.90.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1421. CERTAIN PEPPERONCINI PREPARED OR PRESERVED BY VINEGAR OR ACETIC ACID IN CONCENTRATIONS AT 0.5 PERCENT OR GREATER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.29 | Pepperoncini, prepared or preserved by vinegar (provided for in subheading 2001.90.38) ..... | 2.2% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1422. CERTAIN PEPPERONCINI PREPARED OR PRESERVED OTHERWISE THAN BY VINEGAR OR ACETIC ACID IN CONCENTRATIONS LESS THAN 0.5 PERCENT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.30 | Giardiniera, prepared or preserved otherwise than by vinegar, not frozen (provided for in subheading 2005.90.55) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1423. CHLORAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.31 | Trichloroacetaldehyde (CAS No. 75–87–6) (provided for in subheading 2913.00.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1424. IMIDACLOPRID TECHNICAL (IMIDACLOPRID).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.32 | 1-[(6-Chloro-3-pyrdinyl)methyl]-N-nitro-2-imidazolidinimine (Imidacloprid) (CAS No. 138261–41–3) (provided for in subheading 2933.39.27) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1425. TRIADIMEFON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.33 | 1-(4-Chlorophenoxy)–3,3-dimethyl-1-(1H-1,2,4-triazol-1-y1)–2-butanone (CAS No. 43121–43–3) (Triadimefon) (provided for in subheading 2933.99.22) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1426. POLYETHYLENE HE1878.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.34 | Polyethylene HE1878 (CAS No. 25087–34–7), with l-butene as comonomer (provided for in subheading 3901.20.50) ..... | 3.6% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1427. THIACLOPRID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.35 | (Z)-[3-[(6-chloro-3-pyridinyl)methyl]-2-thiazolidinylidene]cyanamide (thiacloprid) (CAS No. 111988–49–9) (provided for in subheading 2934.10.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1428. PYRIMETHANIL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.36 | 4,6-Dimethyl-N-phenyl-2-pyrimidinamine (pyrimethanil) (CAS No. 53112–28–0) (provided for in subheading 2933.59.15) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1429. FORAMSULFURON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.37 | Foramsulfuron (Benzamide, 2-(((((4,6-dimethoxy-2-pyrimidinyl)amino) carbonyl)amino)sulfonyl)–4-(formylamino)- N,N-dimethyl-,) (CAS No. 173159–57–4), in bulk or put up in forms or packaging for retail sale (provided for in subheading 2935.00.75 or 3808.30.15) | 2.6% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1430. FENAMIDONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.38 | (5S)–3,5-Dihydro-5- methyl-2-(methylthio)- 5-phenyl-3-(phenylamino)-4H-imidazol-4-one (Fenamidone) (CAS No. 161326–34–7) (provided for in subheading 2933.29.35) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1431. CYCLANILIDE TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.39 | 1-(2,4-Dichlorophenylaminocarbonyl)cyclopropane-carboxylic acid (Cyclanilide) (CAS No. 113136–77–9) (provided for in subheading 2924.29.47) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1432. PARA-BENZOQUINONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.40 | 1,4-Benzoquinone (CAS No. 106–51–4) (provided for in subheading 2914.69.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1433. O-ANISIDINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.41 | o-Anisidine (CAS No. 90–04–4) (provided for in subheading 2922.22.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1434. 2,4-XYLIDINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.43 | 2,4-Xylidine (CAS No. 95–68–1) (provided for in subheading 2921.49.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1435. CROTONALDEHYDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.44 | Crotonaldehyde (2-butenaldehyde) (CAS No. 4170–30–3) (provided for in subheading 2912.19.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1436. BUTANEDIOIC ACID, DIMETHYL ESTER, POLYMER WITH 4-HYDROXY-2,2,6,6,-TETRAMETHYL-1-PIPERIDINEETHANOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.47 | Butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6,-tetramethyl-1-piperidineethanol (CAS No. 65447–77–0) (provided for in subheading 3907.99.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1437. MIXTURES OF CAS NOS. 106990-43-6 AND 65447-77-0.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.48 | 1,3,5-Triazine-2,4,6-triamine, N,N‴-[1,2-ethanediylbis[[[4,6-bis[butyl (1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazine-2-yl]imino]-3,1-propanediyl]]bis[N′,N″-dibutyl-N′,N″-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)- (CAS No. 106990–43–6) and Butanedioic acid, dimethylester polymer with 4-hyroxy-2,2,6,6-tetramethyl-1-piperdine ethanol (CAS No. 65447–77–0) (Provided for in subheading 3812.30.90) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1438. MCPA.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.54 | 2-Ethylhexyl (4-chloro-2-methylphenoxy)acetate (CAS No. 29450–45–1) (provided for in subheading 2918.90.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1439. BRONATE ADVANCED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.55 | Formulations of 2,6-dibromo-4-cyanophenyl octanoate (CAS No. 1689–99–2), 2, 6-dibromo-4-cyanophenyl heptanoate (CAS No. 56634–95–8), and 2-ethylhexyl (4-chloro-2-methylphenoxy)acetate (CAS No. 29450–45–1) (provided for in subheading 3808.30.15) ..... | 2.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1440. BROMOXYNIL OCTANOATE TECH.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.56 | 2,6-dibromo-4-cyanophenyl octanoate (CAS No. 1689–99–2) (provided for in subheading 2926.90.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1441. BROMOXYNIL MEO.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.57 | 2,6-Dibromo-4-cyanophenyl octanoate/heptanoate (CAS Nos. 1689–99–2 and 56634–95–8) (provided for in subheading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1442. HYDRAULIC CONTROL UNITS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.62 | Hydraulic control units designed for use in braking systems of hybrid motor vehicles of heading 8703 (provided for in subheading 9032.89.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1443. SHIELD ASY-STEERING GEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.63 | Steering gear assemblies for single-pinion constant-ratio electronic power assisted steering systems rated at 80 amperes at 12V, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8708.99.73) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1444. 2,4-DICHLOROANILINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.64 | 2,4-Dichloroaniline (CAS No. 554–00–7) (provided for in subheading 2921.42.18) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1445. 2-ACETYLBUTYROLACTONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.65 | 2-Acetylbutyrolactone (CAS No. 517–23–7) (provided for in subheading 2932.29.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1446. ALKYLKETONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.66 | 1-(4-Chlorophenyl)–4, 4-dimethyl-3-pentanone (CAS No. 66346–01–8) (provided for in subheading 2914.70.40) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1447. CYFLUTHRIN (BAYTHROID).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.67 | Cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate (Cyfluthrin, excluding β-Cyfluthrin) (CAS No. 68359–37–5) (provided for in subheading 2926.90.30) ..... | 3.5% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1448. BETA-CYFLUTHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.68 | Reaction mixture comprising the enantiomeric pair (R)-α-cyano-4-fluoro-3-phenoxybenzyl (1S,3S)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate and (S)-α-cyano-4-fluoro-3-phenoxybenzyl (1R,3R)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate in ratio 1:2 with the enantiomeric pair (R)-α-cyano-4-fluoro-3-phenoxybenzyl (1S,3R)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate and (S)-α-cyano-4-fluoro-3-phenoxybenzyl (1R,3S)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate (β-Cyfluthrin) (CAS No. 68359–37–5) (provided for in subheading 2926.90.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1449. CYCLOPROPANE-1,1-DICARBOXYLIC ACID, DIMETHYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.69 | Cyclopropane-1,1-dicarboxylic acid, dimethyl ester (CAS No. 6914–71–2) (provided for in subheading 2917.20.00) | 1.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1450. SPIROXAMINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.70 | 8-(1,1-Dimethylethyl)-N-ethyl-N-propyl-1,4-dioxaspiro[4,5]decane-2-methanamine (CAS 118134–30–8) (provided for in subheading 2932.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1451. SPIROMESIFEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.71 | 3,3-Dimethylbutanoic acid, 2-oxo-3-(2,4,6-trimethylphenyl)–1-oxaspiro[4.4]non-3-en-yl ester (CAS 283594–90–1) (provided for in subheading 2932.29.10) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1452. 4-CHLOROBENZALDEHYDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.72 | 4-Chlorobenzaldehyde (CAS No. 104–88–1) (provided for in subheading 2913.00.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1453. OXADIAZON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.73 | 5-*tert*-butyl-3-(2,4-dichloro-5-isopropoxyphenyl)–1,3,4-oxadiazol-2(3H)-one (Oxadiazon) (CAS No. 19666–30–9) (provided for in subheading 2934.99.11) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1454. NAHP.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.74 | 2-(1,1-Dimethylethyl)–5-hydroxypyrimidine, sodium salt (CAS No. 146237–62–9) (provided for in subheading 2933.59.70) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1455. PHOSPHORUS THIOCHLORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.10.75 | Phosphorus Thiochloride (CAS No. 3982–91–0) (provided for in subheading 2851.00.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1456. TRIFLOXYSTROBIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.76. | Methyl (E)-methoxyimino-{(E)-α-[1-(α,α,α-trifluoro-m-tolyl)ethylideneaminooxy]-o-tolyl}acetate (Trifloxystrobin) (CAS No. 141517–21–7) (provided for in subheading 2929.90.20) ..... | 2.4% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1457. PHOSPHORIC ACID, LANTHANUM SALT, CERIUM TERBIUM-DOPED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.77 | Phosphoric acid, lanthanum salt, cerium terbium-doped (CAS No. 95823–34–0) (provided for in subheading 2846.90.80) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1458. LUTETIUM OXIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.78 | Lutetium oxide (CAS No. 12032–20–1) (provided for in subheading 2846.90.80) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1459. ACM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.79 | (3-Acetoxy-3-cyanopropyl) methylphosphinic acid, butyl ester (CAS No. 167004–78–6) (provided for in subheading 2931.00.90) ..... | 0.7% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1460. PERMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.80 | (3-Phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate (Permethrin) (CAS No. 52645–53–1) (provided for in subheading 2916.20.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1461. THIDIAZURON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.81 | N-Phenyl-N -(1,2,3-thiadiazol-5-yl)urea (Thidiazuron) CAS No. 51707–55–2), whether or not mixed with application adjuvants (provided for in subheading 2934.99.15 or 3808.30.15) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1462. FLUTOLANIL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.82 | N-[3-(1-Methylethoxy)phenyl]-2-(trifluoromethyl)benzamide (Flutolanil) (CAS No. 66332–96–5) (provided for in subheading 2924.29.47) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1463. RESMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.83 | [5-(Phenylmethyl)–3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate (Resmethrin) (CAS No. 10453–86–8) (provided for in subheading 2932.19.10) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1464. CLOTHIANIDIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.84 | (E)–1-(2-Chloro-1,3-thiazol-5-ylmethyl)–3-methyl-2-nitroguanidine (Clothianidin) (CAS No. 210880–92–5) (provided for in subheading 2934.10.90) ..... | 5.4% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1465. CERTAIN MASTER CYLINDER ASSEMBLES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.92 | Master cylinder assemblies for braking systems, not incorporating a vacuum booster, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8708.39.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1466. CERTAIN TRANSAXLES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.93 | Transaxles, each incorporating an integral electronic controller, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8708.40.20) ..... | 1.5% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1467. CONVERTER ASY.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.94 | Static converters capable of converting 300 V direct current to 12 V direct current, designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8504.40.95) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1468. MODULE AND BRACKET ASY-POWER STEERING.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.95 | Controllers for electronic power assisted steering systems, rated at 80 amperes at 12 V, designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8537.10.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1469. UNIT ASY-BATTERY HI VOLT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.96 | Nickel metal-hydride storage batteries, exceeding 300 V, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8507.80.80) ..... | 2.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1470. CERTAIN ARTICLES OF NATURAL CORK.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.10.99 | Articles of natural cork, not elsewhere specified or included (provided for in subheading 4503.90.60) .... | 6% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1471. GLYOXYLIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.01 | Glyoxylic acid (CAS No. 298–12–4) (provided for in subheading 2918.30.90) .... | 1.6% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1472. CYCLOPENTANONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.02 | Cyclopentanone (CAS No. 120–92–3) (provided for in subheading 2914.29.50) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1473. MESOTRIONE TECHNICAL.**

(a) CALENDAR YEAR 2006.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.03 | 2-[4-(Methylsulfonyl)–2-nitrobenzoyl]-1,3-cyclohexanedione (Mesotrione) (CAS No. 104206–82–8) (provided for in subheading 2930.90.10) ..... | 6.04% | No change | No change | On or before 12/31/2006 | ". |

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.11.03, as added by subsection (a), is amended—

(A) by striking "6.04%" and inserting "6.08%"; and

(B) by striking "12/31/2006" and inserting "12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.11.03, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "6.08%" and inserting "6.11%"; and

(B) by striking "12/31/2007" and inserting "12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

**SEC. 1474. MALONIC ACID-DINITRILE 50% NMP.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.04 | 50% solution of malononitrile in methyl-2-pyrrolidone solvent (CAS Nos. 109–77–3 and 872–50–4) (provided for in subheading 3824.90.9190) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1475. FORMULATIONS OF NOA 446510.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.05 | Formulations of NOA 446510 which include NOA 446510 Technical, 2-(4-chloro-phenyl)-N-[2-(3-methoxy-4-prop-2-ynyloxy-phenyl)ethyl]-2-prop-2-ynyloxyacetamide (CAS No. 374726–62–2) (provided for in subheading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1476. DEMBB DISTILLED-ISO TANK.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.06 | 2-Bromo-1,3-diethyl-5-methylbenzene (CAS No. 314084–61–2) (DEMBB) (provided for in subheading 2903.69.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1477. METHYLIONONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.10 | 3-Methyl-4-(2,6,6-trimethylcyclohex-2-enyl)but-3-en-2-one (Methylionone) (CAS No. 1335–46–2) (provided for in subheading 2914.23.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1478. CERTAIN ACRYLIC FIBER TOW.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.11 | Acrylic fiber tow (polyacrylonitrile tow) containing by weight a minimum of 92 percent acrylonitrile, not more than 0.1 percent zinc and from 4 to 8 percent water, imported in the form of from 1 to 12 sub-bundles crimped together, each containing 24,000 filaments (plus or minus 0.06 percent) and with average filament denier of 1.5 decitex (plus or minus 0.08 percent) (provided for in subheading 5501.30.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1479. CERTAIN ACRYLIC FIBER TOW.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.12 | Acrylic fiber tow (polyacrylonitrile tow) containing by weight a minimum of 92 percent acrylonitrile, not more than 0.1 percent zinc and from 2 to 8 percent water, imported in the form of 6 sub-bundles crimped together, each containing 45,000 filaments (plus or minus 0.06 percent) and with average filament denier of either 1.48 decitex (plus or minus 0.08 percent) or 1.32 decitex (plus or minus 0.09 percent) (provided for in subheading 5501.30.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1480. MKH 6561 ISOCYANATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.13 | 2-(Carbomethoxy) benzenesulfonyl isocyanate (CAS No. 74222–95–0) (provided for in subheading 2930.90.29) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1481. ENDOSULFAN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.14 | 6,7,8,9,10,10-Hexachlorohexahydromethano-2,4,3-benzodioxathiepin-3-oxide (Endosulfan) (CAS No. 115–29–7) (provided for in subheading 2920.90.50 or 3808.10.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1482. TETRACONAZOLE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.15 | 1-[2-(2,4-dichlorophenyl)–3-(1,1,2,2-tetrafluoroethoxy)propyl]-1H-1,2,4-triazole (Tetraconazole) (CAS No. 112281–77–3) (provided for in subheading 2933.99.22) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1483. M-ALCOHOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.16 | 2-(2,4-Dichlorophenyl)–3-(1H-1,2,4-triazol-1-yl)propanol (CAS No. 112281–82–0) (provided for in subheading 2933.99.82) ..... | 1% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1484. CERTAIN MACHINES FOR USE IN THE ASSEMBLY OF MOTORCYCLE WHEELS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.17 | Wheel spoke tightening machines (provided for in subheading 8479.89.98), for use with wheels of vehicles of heading 8711 ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1485. DELTAMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.26 | (S)-α-Cyano-3-phenoxybenzyl (1R,3R)–3-(2,2-dibromovinyl)–2,2-dimethylcyclopropanecarboxylate (Deltamethrin) (CAS No. 52918–63–5) (provided for in subheading 2926.90.30) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1486. PALM FATTY ACID DISTILLATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.32 | Monocarboxylic fatty acids derived from palm oil (provided for in subheading 3823.19.20) ..... | 1% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1487. 4-METHOXY-2-METHYLDIPHENYLAMINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.35 | 4-Methoxy-2-methyldiphenylamine (CAS No. 41317–15–1) (provided for in subheading 2922.29.60) ..... | 1.1% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1488. 2-METHYLHYDROQUINONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.36 | 2-Methylhydroquinone (CAS No. 95–71–6) (provided for in subheading 2907.29.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1489. 1-FLUORO-2-NITROBENZENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.37 | 1-Fluoro-2-nitrobenzene (CAS No. 1493–27–2) (provided for in subheading 2904.90.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1490. COSMETIC BAGS WITH A FLEXIBLE OUTER SURFACE OF REINFORCED OR LAMINATED POLYVINYL CHLORIDE (PVC).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.43 | Vanity cases that are of a soft sided construction, of reinforced or laminated polyvinyl chloride plastics, and are of a kind normally carried in the pocket or in the handbag and used to contain and apply cosmetic preparations (provided for in subheading 4202.12.20) ..... | 13.3% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1491. MIXTURES OF METHYL 4-IODO-2-[3-(4-METHOXY-6-METHYL-1,3,5-TRIAZIN-2-YL)UREIDOSULFONYL]BENZOATE, SODIUM SALT (IODOSULFURON METHYL, SODIUM SALT).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.44 | Mixtures of methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5- triazin-2-yl) ureidosulfonyl] benzoate, sodium salt (Iodosulfuron methyl, sodium salt) (CAS No. 144550–36–7) and application adjuvants (provided for in subheading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1492. ETHYL 4,5-DIHYDRO-5,5-DIPHENYL-1,2-OXAZOLE-3-CARBOXYLATE (ISOXADIFEN-ETHYL).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.45 | Ethyl 4,5-dihydro-5,5-diphenyl-1,2-oxazole-3-carboxylate (Isoxadifen-ethyl) (CAS No. 163520–33–0) (provided for in subheading 2934.99.39) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1493. (5-CYCLOPROPYL-4-ISOXAZOLYL)[2-(METHYLSULFONYL)–4-(TRIFLUOROMETHYL)PHENYL]METHANONE (ISOXAFLUTOLE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.46 | (5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)–4-(trifluoromethyl) phenyl]methanone (Isoxaflutole) (CAS No. 141112–29–0) (provided for in subheading 2934.99.15) ..... | 4.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1494. METHYL 2-[(4,6-DIMETHOXYPYRIMIDIN-2-YLCARBAMOYL)SULFAMOYL]-α-(METHANESULFONAMIDO)-P-TOLUATE (MESOSULFURON-METHYL) WHETHER OR NOT MIXED WITH APPLICATION ADJUVANTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.48 | Methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]-α-(methanesulfonamido)-p-toluate (Mesosulfuron-methyl) (CAS No. 208465–21–8) whether or not mixed with application adjuvants (provided for in subheading 2935.00.75 or 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1495. MIXTURES OF FORAMSULFURON AND IODOSULFURON-METHYL-SODIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.49 | Mixtures of N,N-dimethyl-2[3-(4,6-dimethoxypyrimidin-2-yl) ureidosulfonyl]-4-formylaminobenzamide (Foramsulfuron) (CAS No. 173159–57–4), methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl) ureidosulfonyl]benzoate, sodium salt (Iodosulfuron-methyl-sodium) (CAS No. 144550–36–7) and application adjuvants (provided for in subheading 3808.30.15) ... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1496. VULCUREN UPKA 1988.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.54 | 1,6-Bis(N,N'-dibenzylthiocarbamoyldithio)hexane (CAS No. 151900–44–6) (provided for in subheading 2930.20.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1497. VULLCANOX 41010 NA/LG.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.55 | N-Isopropyl-N’-phenyl-p-phenylenediamine (CAS No. 101–72–4) (provided for in subheading 2921.51.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1498. VULKAZON AFS/LG.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.56 | Pentaerythritolbis(tetrahydrobenzaldehyde acetal) (CAS No. 6600–31–3) (provided for in subheading 2932.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1499. P-ANISALDEHYDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.57 | P-Anisaldehyde (CAS No. 123–11–5) (Benzoldehyde, 4-methoxy-) (provided for in subheading 2912.49.10) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1500. 1,2-PENTANEDIOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.60 | 1,2-Pentanediol (CAS No. 5343–92–0) (provided for in subheading 2905.39.90) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1501. AGRUMEX.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.62 | o-tert-Butylcyclohexyl acetate, cis form (CAS No. 20298–69–9) (Agrumex) (Cyclohexanol, 2-(1,1-dimethyl-) (provided for in subheading 2915.39.45) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1502. COHEDUR RL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.63 | Mixtures of resorcinol (CAS No. 108–46–3), hexamethylolmelamine ether (CAS No. 3089–11–0) and dibutyl phthalate (CAS No. 84–74–2) (provided for in subheading 3824.90.28) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1503. FORMULATIONS OF PROSULFURON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.64 | Mixtures of Prosulfuron (1-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)–3-[2-(3,3,3-trifluoropropyl)-phenylsulfonyl]urea ) (CAS No. 94125–34–5) and application adjuvants (provided for in sub-heading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1504. LEWATIT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.71 | Ion-exchange resins (cationic H form), consisting of copolymers of acrylic acid and diethylene glycol divinyl ether (CAS No. 359785–58–3) (provided for in subheading 3914.00.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1505. PARA-CHLOROPHENOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.72 | para-Chlorophenol (CAS No. 106–48–9) (provided for in subheading 2908.10.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1506. CYPERMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.74 | Cyano(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate (Cypermethrin) (CAS No. 52315–07–8) (provided for in sub-heading 2926.90.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1507. ION-EXCHANGE RESIN POWDER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.78 | Ion-exchange resin powder comprised of a copolymer of methacrylic acid cross-linked with divinylbenzene, in the hydrogen ionic form, of a nominal partical size between 0.025mm and 0.150 mm, dried to less than 5% moisture (CAS No. 50602–21–6)(provided for in sub-heading 3914.00.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1508. ION-EXCHANGE RESIN POWDER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.79 | Ion-exchange resin powder comprised of a copolymer of methacrylic acid cross-linked with divinylbenzene, in the potassium ionic form, of a nominal particle size between 0.025mm and 0.150 mm, dried to less than 10% moisture (CAS No. 65405–55–2) (provided for in subheading 3914.00.60) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1509. DESMODUR E 14.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.80 | 1,2,3-Propanetriol, polymer with 2,4-diisocyanato-1-methylbenzene, 2-ethyl-2-(hydroxymethyl)–1,3-propanediol, methyloxirane and oxirane (CAS No. 127821–00–5) (provided for in subheading 3909.50.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1510. DESMODUR VP LS 2253.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.82 | Hexane, 1,6-diisocyanato-, homopolymer, 3,5-dimethyl-1H-pyrazole-blocked (CAS No. 163206–31–3) (provided for in subheading 3911.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1511. DESMODUR R-E.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.83 | 4,4′, 4″-TT Desmodur R-E in solvent (CAS No. 2422–91–5) in solvent (provided for in subheading 3824.90.28) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1512. WALOCEL MW 3000 PFV.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.84 | Methyl hydroxyethyl cellulose products containing 30% or greater content of 2-hydroxyethyl methyl ether cellulose (“MHEC” ) reaction products with glyoxal (CAS No. 68441–63–4) (provided for in subheading 3912.39.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1513. TSME.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.85 | ortho/para-Toluenesulfonic acid, methyl ester (TSME) (CAS Nos. 23373–38–8 and 80–48–8) (provided for in subheading 2904.10.32) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1514. WALOCEL VP-M 20660.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.86 | Methyl Hydroxyethyl Cellulose with a 77% or greater content of 2-hydroxyethyl methyl ether cellulose (CAS No. 9032–42–2) (provided for in subheading 3912.39.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1515. XAMA 2.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.87 | Trimethylopropane tris(3-aziridinylpropanoate) (CAS No. 52234–82–9) (provided for in subheading 2933.99.97) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1516. XAMA 7.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.88 | Polyfunctional aziridine (CAS No. 57116–45–7) (provided for in subheading 2933.99.97) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1517. CERTAIN CASES FOR TOYS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.90 | Cases or containers (provided for in subheading 4202.92.90 and not including goods described in heading 9902.01.81), specially shaped or fitted for, and with labeling, logo or other descriptive information on the exterior of the case or container indicating its intention to be used for, electronic drawing toys or electronic games of heading 9503 or 9504 ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1518. CERTAIN CASES FOR TOYS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.91 | Cases or containers (provided for in subheadings 4402.12.80 or 4202.92.90), having one or more molded plastic holders, clips or fasteners, for holding a doll or dolls, whether or not the case or container is also capable of holding other goods ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1519. ANILINE 2.5-DISULFONIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.92 | Aniline 2,5- disulfonic acid (CAS No. 98–44–2) (1,4-Benzenedisnlfonic acid, 2-amino-) (provided for in subheading 2921.42.90) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1520. 1,4-BENZENEDICARBOXYLIC ACID, POLYMER WITH N,N′-BIS(2-AMINOETHYL)–1,2-ETHANEDIAMINE, CYCLIZED, METHOSULFATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.93 | 1,4-Benzenedicarboxylic acid, polymer With N,N′-Bis(2-aminoethyl)–1,2-ethanediamine, cyclized, methosulfate (CAS No. 68187–22–4) (provided for in subheading 3908.90.70) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1521. SULFUR BLUE 7.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.94 | 4-[(4-Amino-3-methylphenyl)amino]phenol, reaction products with sodium sulfide (Sulfur Blue 7) (CAS No. 1327–57–7) (provided for in subheading 3204.19.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1522. FORMALDEHYDE, REACTION PRODUCTS WITH 1,4-BENZENEDIOL AND M-PHENYLENEDIAMINE, SULFURIZED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.11.95 | Formaldehyde, reaction products with 1,4-benzenediol and m-phenylenediamine, sulfurized (CAS No. 110392–46–6) (provided for in subheading 3204.19.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1523. ISOCYANATOSULFONYL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.96 | 2-(Isocyanatosulfonyl)benzoic acid, ethyl ester (CAS No. 77375–79–2) (provided for in subheading 2930.90.29) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1524. ISOCYANATOSULFONYL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.97 | 2-(Isocyanatosulfonyl)benzoic acid, methyl ester (CAS No. 74222–95–0) (provided for in subheading 2930.90.29) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1525. GEMIFLOXACIN, GEMIFLOXACIN MESYLATE, AND GEMIFLOXACIN MESYLATE SESQUIHYDRATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.11.99 | Gemifloxacin (CAS No. 175463–14–6); gemifloxacin mesylate (CAS No. 210353–53–0 or 204519–65–3); and gemifloxacin mesylate sesquihydrate (CAS No. 210353–56–3 ) (the foregoing provided for in subheading 2933.99.46) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1526. BUTRALIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.01 | Butralin (CAS No. 33629-47-9) (Benzenamine, 4-(1,1-dimethylethyl)-N- (1-methylpropyl)-2,6-dintro-) (provided for in subheading 2921.43.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1527. SPIRODICLOFEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.02 | 2,2-Dimethylbutanoic acid, 3-(2,4-dichlorophenyl)–2-oxo-1-oxaspiro(4.5)dec-3-en-4-yl ester (Spirodiclofen) (CAS No. 148477–71–8) (provided for in subheading 2932.29.10) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1528. PROPAMOCARB HCL (PREVICUR).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.03 | Mixtures of propyl 3-(dimethylamino) propylcarbamate monohydrochloride (Propamocarb hydrochloride) (CAS No. 25606–41–1) and application adjuvants (provided for in subheading 3808.20.50) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1529. DESMODUR IL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.04 | Poly(toluene diisocyanate) (CAS No. 26006–20–2) dissolved in organic solvents (provided for in subheading 3911.90.45) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1530. CHLOROACETONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.05 | 1-Chloro-2-propanone (CAS No. 78–95–5) (provided for in subheading 2914.70.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1531. IPN (ISOPHTHALONITRILE).**

(a) CALENDAR YEAR 2006.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.06 | 1,3-Benzenedicarbonitrile (CAS No. 626–17–5) (provided for in subheading 2926.90.48) ..... | 3.04% | No change | No change | On or before 12/31/2006 | ". |

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.12.06, as added by subsection (a), is amended—

(A) by striking "3.04%" and inserting "3.23%"; and

(B) by striking "On or before 12/31/2006" and inserting "On or before 12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.12.06, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "3.23%" and inserting "3.4%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

**SEC. 1532. NOA 446510 TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.07 | 4-Chloro-N-[2-[3-methoxy-4-(2-propynylox-y)phenyl]ethyl]-α-(2-propynylox-y)benzeneacetamide (Mandipropamid) (CAS No. 374726–62–2) (provided for in subheading 2924.29.47) ..... | 1.2% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1533. HEXYTHIAZOX TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.08 | trans-5-(4-Chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide (Hexythiazox Technical) (CAS No. 78587–05–0) (provided for in subheading 2934.10.10) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1534. CRELAN (SELF-BLOCKED CYCLOALIPHATIC POLYURETDIONE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.10 | 2-Oxepanone polymer with 1,4-butanediol and 5-isocyanato-1-(isocyanatomethyl)–1,3,3-trimethylcyclohexane, 2-ethyl-1-hexanol-blocked (CAS No. 189020–69–7) (provided for in subheading 3909.50.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1535. ASPIRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.11 | o-Acetylsalicylic acid (aspirin) (CAS No. 50–78–2) (provided for in subheading 2918.22.10) ..... | 3.0% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1536. DESMODUR BL XP 2468.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.12 | Copolymer of methyl ethyl ketoxime and toluenediisocyanate (CAS No. 352462–03–4) (provided for in subheading 3911.90.45) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1537. DESMODUR RF-E.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.17 | Mixtures of tris(4-isocyanatophenyl)thiophosphate (CAS No. 4151–51–3) and ethyl acetate and monochlorobenzene as solvents (provided for in subheading 3824.90.28) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1538. DESMODUR HL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.18 | Benzene, 1,3-diisocyanatomethyl-, polymer with 1,6-diisocyanatohexane (CAS No. 63368–95–6) dissolved in n-butyl acetate (provided for in subheading 3911.90.45) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1539. D-MANNOSE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.19 | D-Mannose (CAS No. 3458–28–4) (provided for in subheading 2940.00.60) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1540. CERTAIN CAMEL HAIR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.20 | Camel hair, processed beyond the degreased or carbonized condition (provided for in subheading 5102.19.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1541. WASTE OF CAMEL HAIR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.21 | Waste of camel hair (provided for in subheading 5103.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1542. CERTAIN CAMEL HAIR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.22 | Camel hair carded or combed (provided for in subheading 5105.39.00) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1543. WOVEN FABRIC OF VICUNA HAIR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.23 | Woven fabrics containing 85 percent or more by weight of vicuna hair (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.60, or 5112.19.95) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1544. CERTAIN CAMEL HAIR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.24 | Camel hair, not processed in any manner beyond the degreased or carbonized condition (provided for in subheading 5102.19.20) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1545. NOILS OF CAMEL HAIR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.25 | Noils of camel hair (provided for in subheading 5103.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1546. CHLOROACETIC ACID, ETHYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.33 | Chloroacetic acid, ethyl ester (CAS No. 105–39–5) (provided for in subheading 2915.40.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1547. CHLOROACETIC ACID, SODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.34 | Chloroacetic acid, sodium salt (CAS No. 3926–62–3) (provided for in subheading 2915.40.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1548. LOW EXPANSION LABORATORY GLASS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.39 | Laboratory, hygienic, or pharmaceutical glassware, whether or not graduated or calibrated, of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x $10^7$ per Kelvin within a temperature range of 0 to 300° C (provided for in subheading 7017.20.00) ..... | 3.6% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1549. STOPPERS, LIDS, AND OTHER CLOSURES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.40 | Stoppers, lids, and other closures of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x $10^7$ per Kelvin within a temperature range of 0 to 300° C, produced by automatic machine (provided for in subheading 7010.20.20) or produced by hand (provided for in subheading 7010.20.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1550. PIGMENT YELLOW 213.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.41 | 1,4- Benzenedicarboxylic acid, 2-[[2-oxo-1-[[1,2,3,4-tetrahydro-7-methoxy-2,3-dioxo-6-quinoxalinyl) amino]carbonyl] propyl]azo]-, dimethyl ester (Pigment Yellow 213) (CAS No. 220198–21–0) (provided for in subheading 3204.17.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1551. INDOXACARB.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.42 | (4aS) -7-Chloro-2, 5-dihydro-2- [[(methoxycarbonyl)[4-(trifluoromethoxy) phenyl] amino] carbonyl]-indeno [1,2-e][1,3,4] oxadiazine-4a (3H)-carboxylic acid methyl ester (CAS No. 173584–44–6) (provided for in subheading 2934.99.16) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1552. DIMETHYL CARBONATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.43 | Dimethyl carbonate (CAS No. 616–38–6) (provided for in subheading 2920.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1553. 5-CHLORO-1-INDANONE (EK179).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.44 | 5-Chloro-1-indanone (CAS No. 42348–86–7) (provided for in subheading 2914.39.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1554. MIXTURES OF FAMOXADONE AND CYMOXANIL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.45 | Mixtures of 5-methyl-5-(4-phenoxyphenyl)–3-(phenylamino)–2,4-oxazolidinedione] (famoxadone) (CAS No. 131807–57–3), 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide (Cymoxanil) (CAS No. 57966–95–7) and application adjuvants (provided for in subheading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1555. DECANEDIOIC ACID, BIS(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL) ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.47 | Decanedioic acid, bis(2,2,6,6-tetramethyl-4-piperidinyl) ester (CAS No. 52829–07–9) (provided for in subheading 2933.39.91) ..... | Free | No change | No change | On or Before 12/31/2009 | ”. |

**SEC. 1556. ACID BLUE 80.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.49 | Acid Blue 80 (CAS No. 4474–24–2) (provided for in subheading 3204.12.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1557. PIGMENT BROWN 25.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.50 | Pigment Brown 25 (CAS No. 6992–11–6) (provided for in subheading 3204.17.04) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1558. FORMULATIONS OF AZOXYSTROBIN.**

(a) CALENDAR YEAR 2006.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.51 | Mixtures of benzeneacetic acid, (α E)- 2-[[6-(2-cyanophenoxy)–4-pyrimidinyl]oxy]-α-(methoxymethylene)-, methyl ester (Azoxystrobin) (CAS No. 131860–33–8) and application adjuvants (provided for in subheading 3808.20.15) ..... | 6.14% | No change | No change | On or before 12/31/2006 | ". |

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.12.51, as added by subsection (a), is amended—

(A) by striking "6.14%" and inserting "6.15%"; and

(B) by striking "On or before 12/31/2006" and inserting "On or before 12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.12.51, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "6.15%" and inserting "6.17%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

**SEC. 1559. FORMULATIONS OF PINOXADEN/CLOQUINTOCET.**

(a) CALENDAR YEARS 2006 AND 2007.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.52 | Mixtures of 8(2,6-diethyl-p-tolyl)–1,2,4,5-tetrahydro-7-oxo-7H-pyrazolo[[1,2-d][1,4,5] oxadiazepin-9-yl 2,2-dimethylpropionate (Pinoxaden) (CAS No. 243973–20–8), acetic acid, [5-chloro-8-quinolinyl]oxy]-, 1-methylhexyl ester (Cloquintocet) (CAS No. 99607–70–2) and application adjuvants (provided for in subheading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2007 | ". |

(b) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.12.52, as added by subsection (a), is further amended—

(A) by striking "Free" and inserting "1.74%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

**SEC. 1560. MIXTURES OF DIFENOCONAZOLE/MEFENOXAM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.53 | Mixtures of 1H-1,2,4-triazole, 1-((2-chlorophenoxy)phenyl)–4-methyl-1,3-dioxolan-2-yl)methyl)-(Difenoconazole) (CAS No. 119446–68–3), (R,S)–2-((2,6-dimethylphenyl) methoxyacetylamino) propionic acid, methyl ester (Mefenoxam) (CAS Nos. 70630–17–0, and 69516–34–3) and application adjuvants (provided for in subheading 3808.20.15) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1561. FLUDIOXINIL TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.54 | 1H-Pyrrole-3-carbonitrile, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-(fludioxinil) (CAS No. 131341–86–1) (provided for in subheading 2934.99.12) ..... | 1.6% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1562. MIXTURES OF CLODINAFOP-PROPARGYL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.55 | Mixtures of propionic acid, 2-(4-((5-chloro-3-fluoro-2-pyridynyl)oxy)phenoxy-2-propynyl ester, (clodinafop-propargyl) (CAS No. 105512–06–9) (provided for in subheading 3808.30.15) ..... | 1.7% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1563. AVERMECTIN B, 1,4″-DEOXY-4″-METHYLAMINO-, (4″R)-, BENZOATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.56 | Avermectin B, 1,4″-deoxy-4″-methylamino-, (4″R)-, benzoate (CAS No. 155569–91–8) (provided for in subheading 3824.90.91 or 2932.29.50) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1564. CLOQUINTOCET-MEXYL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.57 | Acetic acid, 5-chloro-8-quinolinoxy-, 1-methylhexyl ester (Cloquintocet-mexyl) (CAS No. 99607–70–2) (provided for in subheading 2933.49.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1565. METALAXYL-M TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.58 | (R,S)–2-((2,6-Dimethylphenyl) methoxyacetylamino) propionic acid, methyl ester (Metalaxyl-M and L-Metalaxylfenoxam) (CAS Nos. 70630–17–0 and 69516–34–3) (provided for in subheading 2924.29.47) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1566. CYPROCONAZOLE TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.59 | [α-(4-Chlorophenyl)-α-(1-cyclopropylethyl)–1H-1–1,2,4-triazole-1-ethanol (Cyproconazole) (CAS No. 94361–06–5) (provided for in subheading 2934.99.12) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1567. PINOXADEN TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.60 | 8-(2,6-Diethyl-4-methylphenyl)–1,2,4,5-tetrahydro-7-oxo-7H-pyrazolo[1,2-d][1,4,5]oxadiazepin-9-yl 2,2-dimethylpropanoate (Pinoxaden) (CAS No. 243973–20–8) (provided for in subheading 2934.99.15) ..... | 1.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1568. MIXTURES OF TRALKOXYDIM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.12.61 | Mixtures of 2-[1-(ethoxyimino)propyl]-3-hydroxy-5-(2,4,6-trimethylphenyl)–2-cyclohexen-1-one (Tralkoxydim) (CAS No. 87820–88–0) as the active ingredient and application adjuvants (provided for in subheading 3808.30.15) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1569. CERTAIN CHEMICALS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | |
|---|---|---|---|---|---|---|
| “ | 9902.12.72 | Mixtures of zinc dialkyldithiophosphate (CAS No. 6990–43–8) with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, dispersing agents and silica (provided for in subheading 3812.10.50) | Free | No change | No change | On or before 12/31/2009 |
| | 9902.12.73 | Mixtures of dithiocarbamate, thiazole, thiuram and thiourea with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, and dispersing agents (provided for in subheading 3812.10.50) .... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.12.74 | Mixtures of caprolactam disulfide (CAS No. 23847–08–7) with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, and dispersing agents (provided for in subheading 3812.10.50) .... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.12.75 | Mixtures of N′-(3,4-dichloro-phenyl)-N,N-dimethylurea (CAS No. 330–54–1) with acrylate rubber (provided for in subheading 3812.10.50) ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.12.76 | Mixtures of zinc dicyanato diamine (CAS No. 122012–52–6) with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, and dispersing agents (provided for in subheading 3812.10.50) .... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.12.77 | 4,8-Dicyclohexyl -6–2,10-dimethyl -12*H*-dibenzo [*d*,*g*][1,3,2] dioxaphosphocin (CAS No. 73912–21–7) (provided for in subheading 2920.90.50) ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.12.78 | Mixtures of benzenesulfonic acid, dodecyl-, with 2-aminoethanol (CAS No. 26836–07–7) and Poly (oxy-1,2-ethanediyl), α-[1-oxo-9- octadecenyl]-*w*-hydroxy-, (9Z) (CAS No. 9004–96–0) (provided for in subheading 3402.90.50) ..... | Free | No change | No change | On or before 12/31/2009 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 9902.12.79 | 1,3- Dihydro-3,3-bis (4-hydroxy-m-tolyl) -2H-indol-2-one (CAS No. 47465–97–4) (provided for in subheading 2933.79.08) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1570. MIXTURES OF ( ± )–(CIS AND TRANS)–1-[[2-(2,4-DICHLOROPHENYL)–4-PROPYL-1,3-DIOXOLAN-2-YL]-METHYL]-1H-1,2,4-TRIAZOLE.**

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.12.80 | Mixtures of (±)–(cis and trans)–1-[[2-(2,4-Dichlorophenyl)–4-propyl-1,3-dioxolan-2-yl]-methyl]-1H-1,2,4-triazole (CAS No. 60207–90–1) and application adjuvants (provided for in subheading 3808.20.15) ..... | 1.1% | No change | No change | On or before 12/31/2009 | ". |

(b) CONFORMING AMENDMENT.—Subchapter II of chapter 99 is amended by striking heading 9902.32.04.

**SEC. 1571. PARAQUAT DICHLORIDE.**

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.13.06 | Paraquat dichloride (1,1'dimethyl-4,4'-bipyridinium dichloride) (CAS No. 1910–42–5) (provided for in subheading 2933.39.23) ..... | 3.59% | No change | No change | On or before 12/31/2006 | ". |

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.13.06, as added by subsection (a), is amended—

(A) by striking "3.59%" and inserting "4.02%"; and

(B) by striking "On or before 12/31/2006" and inserting "On or before 12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.13.06, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "4.02%" and inserting "4.41%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

**SEC. 1572. CERTAIN BASKETBALLS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.07 | Basketballs, having an external surface other than leather, rubber, or synthetic (provided for in subheading 9506.62.80) .... | 0.9% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1573. CERTAIN LEATHER BASKETBALLS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.08 | Leather basketballs (provided for in subheading 9506.62.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1574. CERTAIN RUBBER BASKETBALLS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.09 | Rubber basketballs (provided for in subheading 9506.62.80) ..... | 1.5% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1575. CERTAIN VOLLEYBALLS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.10 | Volleyballs (provided for in subheading 9506.62.80) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1576. 4-CHLORO-3-[[3-(4-METHOXYPHENYL)–1,3-DIOXOPROPYL]-AMINO]-DODECYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.11 | 4-Chloro-3-[[3-(4-methoxyphenyl)–1,3-dioxopropyl]-amino]-dodecyl ester (CAS No. 33942–96–0) (provided for in subheading 2924.29.71) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1577. LINURON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.24 | 3-(3,4-Dichlorophenyl)–1-methoxy-1-methylurea (CAS No. 330–55–2) (Linuron) (provided for in subheading 2924.21.16) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1578. N,N-DIMETHYLPIPERIDINIUM CHLORIDE (MEPIQUAT CHLORIDE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.25 | N,N-Dimethylpiperidinium chloride (Mepiquat chloride) (CAS No. 24307–26–4) (provided for in subheading 2933.39.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1579. DIURON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.26 | Formulations of 3-(3,4-dichlorophenyl)–1,1-dimethylurea (CAS No. 330–54–1) (Diuron) and application adjuvants (provided for in subheading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1580. FORMULATED PRODUCT KROVAR I DF.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.27 | Formulations containing 5-bromo-3-sec-butyl-6-methyluracil (Bromacil) (CAS No. 314–40–9), 3-(3,4-Dichlorophenyl)–1,1-dimethylurea (Diuron) (CAS No. 330–54–1), and application adjuvants (provided for in subheading 3808.30.15) ..... | 2.5% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1581. TRIASULFURON TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.28 | 3-(6-Methoxy-4-methyl-1,3,5-triazin-2-yl)–1-[2-(2-chloroethoxy) phenylsulfonyl]urea (Triasulfuron) (CAS No. 82097–50–5) (provided for in subheading 2935.00.75) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1582. BRODIFACOUM TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.29 | 3-[3-(4'-Bromo[1,1'-biphenyl]-4-yl)–1,2,3,4-tetrahydro-1-naphthalenyl]-4-hydroxy-2H-1-benzopyran- 2-one (Brodifacoum) (CAS No. 56073–10–0) (provided for in subheading 2932.29.10) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1583. PYMETROZINE TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.30 | 1,2,4-Triazin-3(2H)-one, 4,5-dihydro-6-methyl-4-[(3-pyridinylmethylen-e)amino]- (Pymetrozine) (CAS No. 123312–89–0) (provided for in sub-heading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1584. FORMULATIONS OF THIAMETHOXAM, DIFENOCONAZOLE, FLUDIOXINIL, AND MEFENOXAM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.31 | Formulations of 3-[(2-chloro-5-thiazoly-l)methyl]tetrahydro-5-methyl-N-nitro-1,3,5-oxadiazin-4-imine) (Thiamethoxam) (CAS No. 153719–23–4 ); 1H-1,2,4-triazole, 1-[[2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl- 1,3-dioxolan-2-yl]methyl]- (Difenoconazole) (CAS No. 119446–68–3); 1H-Pyrrole-3-carbonitrile, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)- (Fludioxinil) (CAS No. 131341–86–1); and (R,S)–2-[(2,6-dimethylphenylmethox-y)acetylamino]-propionic acid methyl ester (Mefenoxam) (CAS Nos. 70630–17–0 and 69516–34–3) (provided for in sub-heading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1585. TRIFLOXYSULFURON-SODIUM TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.32 | N-[[(4,6-Dimethoxy-2-pyrimidiny-l)amino]carbonyl]-3-(2,2,2-trifluoroethoxy)–2-pyridinesulfonamide monosodium salt (CAS No. 199119–58–9) (trifloxysulfuron-sodium) (provided for in sub-heading 2935.00.75) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1586. 2 BENZYLTHIO-3-ETHYL SULFONYL PYRIDINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.41 | 2-Benzylthio-3-ethyl sulfonyl pyridine (CAS No. 175729–82–5) (provided for in subheading 2933.39.61) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1587. 2-AMINO-4-METHOXY-6-METHYL-1,3,5-TRIAZINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.13.42 | 2-Amino-4-methoxy-6-methyl-1,3,5-triazine (CAS No. 1668–54–8) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1588. FORMULATED PRODUCTS CONTAINING MIXTURES OF THE ACTIVE INGREDIENT 2-CHLORO-N-[[(4-METHOXY-6-METHYL-1,3,5-TRIAZIN-2YL) AMINO]CARBONYL] BENZENESULFONAMIDE AND APPLICATION ADJUVANTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.13.43 | Formulated products containing mixtures of the active ingredient 2-chloro-N-[[(4-methoxy-6-methyl-1,3,5-triazin-2yl) amino]carbonyl] benzenesulfonamide and application adjuvants (Chlorosulfuon) (CAS No. 64902–72–3) (provided for in subheading 3808.30.15) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1589. 2-METHYL-4-METHOXY-6-METHYLAMINO-1,3,5-TRIAZINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.13.44 | 2-Methyl-4-methoxy-6-methylamino-1,3,5-triazine (CAS No. 5248–39–5) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1590. MIXTURES OF SODIUM-2-CHLORO-6-[(4,6 DIMETHOXYPYRIMIDIN-2-YL)THIO]BENZOATE AND APPLICATION ADJUVANTS (PYRITHIOBAC-SODIUM).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.13.45 | Mixtures of sodium-2-chloro-6-[(4,6 dimethoxypyrimidin-2-yl)thio]benzoate (CAS No. 123343–16–8) and application adjuvants (Pyrithiobac-sodium) (provided for in subheading 3808.30.15) ..... | 3.5% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1591. CERTAIN DECORATIVE PLATES, DECORATIVE SCULPTURES, DECORATIVE PLAQUES, AND ARCHITECTURAL MINIATURES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.46 | Decorative plates, whether or not with decorative rim or attached sculpture; decorative sculptures, each with plate or plaque attached, and decorative plaques each not over 7.65 cm in thickness; architectural miniatures, whether or not put up in sets; all the foregoing of resin materials and containing agglomerated stone, put up for mail order retail sale, whether for wall or tabletop display and each weighing not over 1.36 kg together with their retail packaging (provided for in subheading 3926.40.00) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1592. CERTAIN MUSIC BOXES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.47 | Music boxes with mechanical musical movements, presented in the immediate packaging for shipment to the ultimate purchaser, and each weighing not over 6 kg together with retail packaging (provided for in subheading 9208.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1593. 2-METHYL-4-CHLOROPHENOXYACETIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.60 | 2-Methyl-4-chlorophenoxyacetic acid (CAS No. 94–74–6) (provided for in subheading 2918.90.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1594. PHENMEDIPHAM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.76 | 3-Methylcarbonylaminophenyl-3-methyl-carbanilate (Phenmedipham) (CAS No. 13684–63–4) in bulk or mixed with application adjuvants (provided for in subheadings 2924.29.47 and 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1595. DESMEDIPHAM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.77 | 3-Ethoxycarbonylaminophenyl-N-phenylcarbamate (Desmedipham) (CAS No. 13684–56–5) in bulk or mixed with application adjuvants (provided for in subheadings 2924.29.43 and 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1596. CERTAIN FOOTWEAR WITH OPEN TOES OR HEELS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.78 | Footwear with outer soles of rubber or plastics and uppers of vegetable fibers, with open toes or open heels, other than house slippers (provided for in subheading 6404.19.25) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1597. CERTAIN WORK FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.85 | House slippers with outer soles of rubber, plastics, leather or composition leather and uppers of leather, valued not over $2.50/pair (provided for in subheading 6403.99.75); Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like, all the foregoing with outer soles of rubber or plastics and uppers of textile materials for women (provided for in subheading 6404.11.20) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1598. CERTAIN REFRACTING AND REFLECTING TELESCOPES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.86 | Refracting telescopes with 50 mm or smaller objective lenses and reflecting telescopes with 76 mm or smaller mirrors, and parts and accessories thereof (provided for in subheading 9005.80.40 or 9005.90.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1600. CERTAIN WORK FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.90 | Welt footwear with outer soles of rubber, plastics, leather or composition leather and uppers of pigskin, incorporating a protective metal toe-cap (provided for in subheading 6403.40.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1601. CERTAIN FOOTWEAR FOR MEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.91 | Other footwear with uppers of vegetable fibers, for men (provided for in subheading 6405.20.30) .... | 4.5% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1602. CERTAIN RUBBER OR PLASTIC FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.92 | Other footwear with uppers of vegetable fibers, other than such footwear for men or women (provided for in subheading 6405.20.30) ..... | 6.5% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1604. ZINC DIMETHYLDITHIOCARBAMATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.13.97 | Zinc dimethyldithiocarbamate (Ziram) (CAS No. 137–30–4) (provided for in subheading 3808.20.28) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1605. CERTAIN LIQUID CRYSTAL DEVICE (LCD) PANEL ASSEMBLIES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.85.21 | Liquid Crystal Device (LCD) panel assemblies for use in LCD direct view televisions (provided for in subheading 9013.80.90) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1606. CERTAIN WATERTUBE BOILERS AND REACTOR VESSEL HEADS.**

(a) WATERTUBE BOILERS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.84.01 | Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear facilities entered after 12/31/2008 and on or before 12/31/2010 if the contract for the purchase of such watertube boilers was entered into on or before 7/31/2006 (provided for in subheading 8402.11.00) ..... | Free | No change | No change | On or before 12/31/2010 | ". |

(b) REACTOR VESSEL HEADS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.84.04 | Reactor vessel heads and pressurizers for nuclear reactors entered after 12/31/2008 and on or before 12/31/2010 if the contract for the purchase of such heads and pressurizers was entered into on or before 7/31/2006 (provided for in subheading 8401.40.00) ..... | Free | No change | No change | On or before 12/31/2010 | ". |

## CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

### SEC. 1611. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS AND REDUCTIONS.

(a) EXISTING DUTY SUSPENSIONS AND REDUCTION.—Each of the following headings is amended by striking the date in the effective period column and inserting "12/31/2009":

(1) Heading 9902.39.08 (relating to ORGASOL polyamide powders).

(2) Heading 9902.30.90 (relating to 3-amino-2′-(sulfatoethyl sulfonyl) ethyl benzamide).

(3) Heading 9902.32.91 (relating to MUB 738 INT).

(4) Heading 9902.30.31 (relating to 5-amino-N-(2-hydroxyethyl)–2,3-xylenesulfonamide).

(5) Heading 9902.01.83 (relating to Ethoprop).

(6) Heading 9902.01.73 (relating to Fosetyl-Al).

(7) Heading 9902.03.38 (relating to Flufenacet (FOE hydroxy)).

(8) Heading 9902.02.02 (relating to Methidathion Technical).

(9) Heading 9902.02.12 (relating to difenoconazole).

(10) Heading 9902.02.09 (relating to Lambda-Cyhalothrin).

(11) Heading 9902.02.08 (relating to cyprodinil).

(12) Heading 9902.02.04 (relating to Wakil XL).

(13) Heading 9902.02.06 (relating to Azoxystrobin Technical).

(14) Heading 9902.02.05 (relating to mucochloric acid).

(15) Heading 9902.03.06 (relating to high tenacity multiple (folded) or cabled yarn of viscose rayon).

(16) Heading 9902.05.07 (relating to high tenacity single yarn of viscose rayon with a decitex equal to or greater than 1,000).

(17) Heading 9902.38.31 (relating to Vulkalent E/C).

(18) Heading 9902.01.71 (relating to hexanedioic acid, polymer with 1,3-benzenedimethanamine).

(19) Heading 9902.29.93 (relating to Trinexapac-ethyl).

(20) Heading 9902.38.52 (relating to formulations of triasulfuron).

(21) Heading 9902.39.30 (relating to certain ion-exchange resins).

(22) Heading 9902.32.82 (relating to 2,6 Dichlorotoluene).

(23) Heading 9902.02.33 (relating to Ion exchange resin comprising a compolymer of styrene crosslinked with ethenylbenzene, aminophosphonic acid sodium form).

(24) Heading 9902.02.32 (relating toIon exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, iminodiacetic acid, sodium form)).

(25) Heading 9902.01.78 (relating to certain bags for toys).

(26) Heading 9902.01.81 (relating to cases for certain children's products).

(27) Heading 9902.01.80 (relating to certain children's products).

(28) Heading 9902.29.34 (relating to certain light absorbing photo dyes).

(29) Heading 9902.85.04 (relating to certain R-core transformers).

(30) Heading 9902.03.04 (relating to reduced vat blue 43).

(31) Heading 9902.03.03 (relating to sulfur black 1).

(32) Heading 9902.01.22 (relating to DMSIP).

(33) Heading 9902.29.35 (relating to 2-(Methoxycarbonyl)benzylsulfonamide).

(34) Heading 9902.02.52 (relating to Imidacloprid pesticides).

(35) Heading 9902.38.15 (relating to Baytron C-R).

(36) Heading 9902.29.87 (relating to 3,4-Ethylenedioxythiophene).

(37) Heading 9902.01.90 (relating to certain filament yarns).

(38) Heading 9902.01.91 (relating to certain filament yarns).

(39) Heading 9902.71.08 (relating to certain semi-manufactured forms of gold).

(40) Heading 9902.04.10 (relating to Crotonic Acid).

(41) Heading 9902.04.09 (relating to 3,6,9-Trioxaundecanedioic acid).

(42) Heading 9902.02.51 (relating to benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester).

(43) Heading 9902.32.73 (relating to Solvent blue 124).

(44) Heading 9902.32.55 (relating to Methyl thioglycolate (MTG)).

(45) Heading 9902.01.48 (relating to Ethyl pyruvate).

(46) Heading 9902.04.11 (relating to 1,3-Benzenedicarboxamide, N, N′-Bis (2,2,6,6-tetramethyl-4-piperidinyl)-).

(47) Heading 9902.04.07 (relating to reaction products of phosphorus trichloride with 1,1′-biphenyl and 2,4-bis(1,1-dimethylethyl)phenol).

(48) Heading 9902.04.05 (relating to preparations based on ethanediamide, N-(2-ethoxyphenyl)-N′-(4-isodecylphenyl)-).

(49) Heading 9902.04.06 (relating to 1-Acetyl-4-(3-dodecyl-2,5-dioxo-1-pyrrolidinyl)–2,2,6,6-tetramethylpiperidine).

(50) Heading 9902.04.12 (relating to 3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)–2,5-pyrrolidinedione).

(51) Heading 9902.29.70 (relating to Tetraacetylethylenediamine).

(52) Heading 9902.34.01 (relating to sodium petroleum sulfonate).

(53) Heading 9902.02.75 (relating to esters and sodium esters of parahydroxybenzoic acid).

(54) Heading 9902.30.16 (relating to Diclofop methyl).

(55) Heading 9902.33.61 (relating to ((3-((Dimethylamino)carbonyl)–2-pyridinyl)sulfonyl) carbamic acid, phenyl ester).

(56) Heading 9902.01.45 (relating to Esfenvalerate).

(57) Heading 9902.05.01 (relating to Methyl 2-[[[[[4-(dimethylamino)–6- (2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]-amino]carbonyl]amino]sulfonyl]-3-methylbenzoate and application adjuvants).

(58) Heading 9902.01.44 (relating to Benzyl carbazate).

(59) Heading 9902.05.14 (relating to Pyromellitic Dianhydride).

(60) Heading 9902.05.13 (relating to 4,4'-Oxydiphthalic Anhydride).

(61) Heading 9902.05.12 (relating to 4,4'-Oxydianiline).

(62) Heading 9902.05.11 (relating to 3,3',4,4'-Biphenyltetracarboxylic Dianhydride).

(63) Heading 9902.29.80 (relating to 1-[[2-(2,4-dichlorophenyl)–4-propyl-1,3-dioxolan-2-yl]-methyl]-1*H*-1,2,4-triazole).

(64) Heading 9902.05.19 (relating to ethofumesate).

(65) Heading 9902.02.60 (relating to Nemacur VL).

(66) Heading 9902.03.77 (relating to thiophanate methyl).

(67) Heading 9902.84.14 (relating to ceiling fans).

(b) OTHER MODIFICATIONS.—

(1) 2-CHLOROBENZYL CHLORIDE.—Heading 9902.01.56 is amended—

(A) by striking "2903.69.70" and inserting "2903.69.80"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(2) TRIETHYLENE GLYCOL BIS[3-(3-TERT-BUTYL-4-HYDROXY-5-METHYLPHENYL)PROPIONATE] .—Heading 9902.01.88 is amended—

(A) by striking "Free" and inserting "4.1%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(3) FORMULATIONS OF TRIASULFURON AND DICAMBA.—Heading 9902.38.21 is amended—

(A) in the article description column—

(i) by inserting "(Triasulfuron)" before "(CAS No. 82097-50-5)"; and

(ii) by inserting "(Dicamba)" before "(CAS No. 1918-00-9)"; and

(B) by striking "12/31/2003" and inserting "12/31/2009".

(4) 11-AMINOUNDECANOIC ACID.—Heading 9902.32.49 is amended—

(A) by striking "Free" and inserting "2.3%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(5) PHBA.—Heading 9902.29.03 is amended—

(A) by striking "Free" and inserting "3.1%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(6) ACETAMIPRID TECHNICAL.—Heading 9902.03.92 is amended—

(A) by striking "Free" and inserting "2.5%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(7) BAYTRON AND BAYTRON P.—Heading 9902.39.15 is amended—

(A) by inserting ", whether or not containing binder resin and organic solvent" before "(CAS No."; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(8) IPRODIONE.—Heading 9902.01.51 is amended—

(A) by striking "4.1%" and inserting "2.0%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(9) ETHANEDIAMIDE, N-(2-ETHOXYPHENYL)-N′-(2-ETHYLPHENYL)-).—Heading 9902.04.13 is amended—

(A) by striking "2924.29.76" and inserting "2924.29.71"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(10) THIAMETHOXAM TECHNICAL.—Heading 9902.03.11 is amended—

(A) by striking "3.2%" and inserting "3.0%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(11) 1,3-BIS(4-AMINOPHENOXY)BENZENE (RODA).—Heading 9902.05.15 is amended—

(A) by inserting "(RODA)" after "benzene"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(12) MIXTURES OF N-[[(4,6-DIMETHOXYPYRIMIDIN-2-YL)AMINO]CARBONYL]-3-(ETHYLSULFONYL)–2-PYRIDINESULFONAMIDE AND APPLICATION ADJUVANTS.—Heading 9902.33.60 is amended—

(A) by striking the article description and inserting the following: "Mixtures of N-[[(4,6-dimethoxypyrimidin-2-yl)amino]carbonyl]-3-(ethylsulfonyl)–2-pyridinesulfonamide and application adjuvants (CAS No. 122931–48–0) (provided for in subheading 3808.30.15)"; and

(B) by striking "12/31/2003" and inserting "12/31/2009".

# Subtitle B—Other Tariff Provisions

## CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

Deadlines.

**SEC. 1621. CERTAIN TRAMWAY CARS AND ASSOCIATED SPARE PARTS.**

Czech Republic. Oregon.

(a) IN GENERAL.—The Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security shall admit free of duty 3 tramway cars (provided for in subheading 8603.10.00 of the Harmonized Tariff Schedule of the United States) manufactured in Ostrava, Czech Republic, for the use by the city of Portland, Oregon, and imported pursuant to a contract with the city of Portland, Oregon, and associated spare parts for such tramway cars (provided for in applicable subheadings of heading 8607 or other headings of the Harmonized Tariff Schedule of the United States) imported pursuant to such contract, the foregoing

to be entered into the customs territory of the United States by not later than December 31, 2006.

(b) RELIQUIDATION; REFUND OF AMOUNTS OWED.— If the liquidation of the entry of any of the tramway cars or associated spare parts described in subsection (a) becomes final before the date of the enactment of this Act, the Commissioner of the Bureau of Customs and Border Protection, notwithstanding any other provision of law, shall—

(1) within 15 days after such date, reliquidate the entry in accordance with the provisions of this section; and

(2) at the time of such reliquidation, make the appropriate refund of any duty paid with respect to the entry.

**SEC. 1622. RELIQUIDATION OF CERTAIN ENTRIES OF CANDLES.** Deadline.

(a) RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act—

(1) reliquidate the entries listed in subsection (b) without assessment of antidumping duties or interest; and

(2) refund any antidumping duties and interest which were previously paid on such entries.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a) are the following:

| Entry number | Date of entry | Port |
|---|---|---|
| 110–3447557–3 | 03/18/00 | Los Angeles |
| 110–3447591–2 | 03/19/00 | Los Angeles |
| 110–3447595–3 | 03/19/00 | Los Angeles |
| 110–1201638–1 | 03/21/00 | Detroit |
| 110–1201639–9 | 03/21/00 | Detroit |
| 110–1201640–7 | 03/21/00 | Detroit |
| 110–3447613–4 | 03/21/00 | Los Angeles |
| 110–1201697–7 | 03/23/00 | Detroit |
| 110–1201695–1 | 03/23/00 | Detroit |
| 110–1201696–9 | 03/23/00 | Detroit |
| 110–1201756–1 | 03/27/00 | Detroit |
| 110–1201757–9 | 03/27/00 | Detroit |
| 110–1201758–7 | 03/27/00 | Detroit |
| 110–1740905–2 | 03/30/00 | Los Angeles |
| 110–1740943–3 | 03/30/00 | Los Angeles |
| 110–1201845–2 | 03/31/00 | Detroit |
| 110–1201813–0 | 04/03/00 | Detroit |
| 110–1201814–8 | 04/03/00 | Detroit |
| 110–1201815–5 | 04/03/00 | Detroit |
| 110–1201875–9 | 04/04/00 | Detroit |
| 110–1201868–4 | 04/04/00 | Detroit |
| 110–1201858–5 | 04/04/00 | Detroit |
| 110–3447959–1 | 04/11/00 | Los Angeles |
| 110–3447958–3 | 04/11/00 | Los Angeles |
| 110–3759536–9 | 04/12/00 | Detroit |
| 110–3759561–7 | 04/12/00 | Detroit |
| 110–3759542–7 | 04/12/00 | Detroit |
| 110–3759540–1 | 04/12/00 | Detroit |
| 110–3447977–3 | 04/12/00 | Los Angeles |
| 110–3759539–3 | 04/12/00 | Detroit |
| 110–3448045–8 | 04/14/00 | Los Angeles |
| 110–3448046–6 | 04/14/00 | Los Angeles |
| 110–3448110–0 | 04/20/00 | Los Angeles |
| 110–3759670–6 | 04/25/00 | Detroit |
| 110–3759673–0 | 04/25/00 | Detroit |
| 110–3759669–8 | 04/25/00 | Detroit |
| 110–3759667–2 | 04/25/00 | Detroit |

| Entry number | Date of entry | Port |
|---|---|---|
| 110–3759671–4 | 04/25/00 | Detroit |
| 110–3759668–0 | 04/25/00 | Detroit |
| 110–3448241–3 | 04/27/00 | Los Angeles |
| 110–3448247–0 | 04/27/00 | Los Angeles |
| 110–3448276–9 | 04/28/00 | Memphis |
| 110–3448274–4 | 04/28/00 | Memphis |
| 110–3448282–7 | 05/04/00 | Memphis |
| 101–4081779–1 | 05/07/00 | Memphis |
| 101–4088945–1 | 05/23/00 | Memphis |
| 101–4089954–3 | 05/23/00 | Memphis |
| 101–4088960–0 | 05/23/00 | Memphis |
| 101–4092192–4 | 05/25/00 | Memphis |
| 101–4089312–3 | 05/26/00 | Detroit |
| 101–4089942–7 | 05/26/00 | Detroit |
| 101–4089893–2 | 05/26/00 | Detroit |
| 101–4092221–1 | 05/26/00 | Memphis |
| 101–4089697–7 | 05/26/00 | Los Angeles |
| 101–4092215–3 | 05/26/00 | Memphis |
| 101–4086053–6 | 05/26/00 | Los Angeles |
| 101–4122700–8 | 07/27/00 | Los Angeles |
| 101–4122707–3 | 07/27/00 | Los Angeles |
| 101–4122712–3 | 07/27/00 | Los Angeles |
| 101–4127147–7 | 08/03/00 | Los Angeles |
| 101–4132485–4 | 08/09/00 | Norfolk |
| 101–4129989–0 | 08/11/00 | Detroit |
| 101–4130345–2 | 08/17/00 | Detroit |
| 101–4129976–7 | 08/23/00 | Detroit |
| 101–4149476–4 | 09/06/00 | Los Angeles |
| 101–4149483–0 | 09/06/00 | Los Angeles |
| 101–4149493–9 | 09/06/00 | Los Angeles |
| 101–4148595–2 | 09/08/00 | Detroit |
| 101–4153301–7 | 09/18/00 | Detroit |
| 101–4154523–5 | 09/14/00 | Los Angeles |
| 101–4153389–2 | 09/18/00 | Detroit |
| 101–4157161–1 | 09/20/00 | Norfolk |
| 101–4153333–0 | 09/21/00 | Detroit |
| 101–4155542–4 | 09/26/00 | Detroit |
| 101–4166291–5 | 10/07/00 | Los Angeles |
| 101–4167325–0 | 10/09/00 | Detroit |
| 101–4167363–1 | 10/12/00 | Detroit |
| 101–4164567–0 | 10/13/00 | Norfolk |
| 101–4168049–5 | 10/14/00 | Los Angeles |
| 101–4172904–5 | 10/21/00 | Los Angeles |
| 101–4175579–2 | 10/30/00 | Los Angeles |
| 101–4183996–8 | 11/07/00 | Detroit |
| 101–4183234–4 | 11/09/00 | Detroit |
| 101–4183251–8 | 11/09/00 | Detroit |
| 101–4183253–4 | 11/09/00 | Detroit |
| 101–4183257–5 | 11/09/00 | Detroit |
| 101–4183264–1 | 11/09/00 | Detroit |
| 101–4183264–1 | 11/09/00 | Detroit |
| 101–4184811–8 | 11/13/00 | Los Angeles |
| 101–4184819–1 | 11/13/00 | Los Angeles |
| 101–4189001–1 | 11/14/00 | Tampa |
| 101–4185526–1 | 11/16/00 | Detroit |
| 101–4185535–2 | 11/16/00 | Detroit |
| 101–4186580–7 | 11/20/00 | Detroit |
| 101–4189830–3 | 11/20/00 | Detroit |
| 101–4189774–3 | 11/21/00 | Detroit |
| 101–4191183–3 | 11/24/00 | Los Angeles |
| 101–4191188–2 | 11/24/00 | Los Angeles |
| 101–4191193–2 | 11/24/00 | Los Angeles |
| 101–4194796–9 | 11/29/00 | Detroit |
| 101–4194801–7 | 11/29/00 | Detroit |
| 101–4196383–4 | 12/01/00 | Los Angeles |
| 101–4196389–1 | 12/01/00 | Los Angeles |
| 101–4199308–8 | 12/13/00 | Detroit |

**SEC. 1623. CERTAIN ENTRIES OF ROLLER CHAIN.** Deadline.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of enactment of this Act, liquidate or reliquidate the entries listed in subsection (b) without assessment of interest and shall refund any interest which was previously paid.

(b) AFFECTED ENTRIES.—The entries referred to in subsections (a) and (b) are the following:

| Entry number | Date of entry | Port |
|---|---|---|
| 858442975 | 08/21/85 | Chicago |
| 868558147 | 01/28/86 | Chicago |
| 868565499 | 03/14/86 | Chicago |
| 858440922 | 07/31/85 | Chicago |
| 868565499 | 03/14/86 | Chicago |
| 868558147 | 01/28/86 | Chicago |
| 858442975 | 08/21/85 | Chicago |
| 858440922 | 07/31/85 | Chicago |
| 847648353 | 06/18/84 | Chicago |
| 858268324 | 01/04/85 | Chicago |
| 858264302 | 11/08/84 | Chicago |
| 858265107 | 11/19/84 | Chicago |
| 847658150 | 07/18/84 | Chicago |
| 847412877 | 05/09/84 | Chicago |
| 837078386 | 03/21/83 | Chicago |
| 837077691 | 02/07/83 | Chicago |
| 837077701 | 02/07/83 | Chicago |
| 826735834 | 01/13/82 | Chicago |
| 826736309 | 01/18/82 | Chicago |
| 821020081 | 02/12/82 | Chicago |
| 821020052 | 02/17/82 | Chicago |
| 821026768 | 04/13/82 | Chicago |
| 827119569 | 06/18/82 | Chicago |
| 837075114 | 10/06/82 | Chicago |
| 826727088 | 10/14/81 | Chicago |
| 837124777 | 05/19/83 | Chicago |
| 847405240 | 11/28/83 | Chicago |
| 837127606 | 08/18/83 | Chicago |
| 837125132 | 06/08/83 | Chicago |
| 847406100 | 12/22/83 | Chicago |
| 847404034 | 11/02/83 | Chicago |
| 837128090 | 09/07/83 | Chicago |
| 837126762 | 08/05/83 | Chicago |
| 837125569 | 06/22/83 | Chicago |
| 837078991 | 04/12/83 | Chicago |
| 837129222 | 10/03/83 | Chicago |
| 847406414 | 12/29/83 | Chicago |
| 847408014 | 01/31/84 | Chicago |
| 868569204 | 07/03/86 | Chicago |
| 868730813 | 08/14/86 | Chicago |

**SEC. 1624. CERTAIN ENTRIES OF SOUNDSPA CLOCK RADIOS.** Deadline.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act—

(1) reliquidate each entry described in subsection (c) containing any merchandise which, on the date of original liquidation, was classified under subheading 8527.19.50 of the Harmonized Tariff Schedule of the United States; and

(2) make such reliquidation at the rate of duty that would have been applicable to such merchandise if the merchandise

had been liquidated under subheading 8527.19.10 of such Schedule on the date of entry of the merchandise.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States under subsection (a) shall be refunded with interest.

(c) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

| Entry number |
|---|
| 110–1199345–7 |
| 110–1199542–9 |
| 110–1199558–5 |
| 110–1201694–4 |
| 110–3759754–8 |
| 110–3759785–2 |
| 101–4082299–9 |
| 101–4088073–2 |
| 101–4089053–3 |
| 101–4120875–0 |
| 101–4133671–8 |
| 101–4138302–5 |
| 101–4145092–3 |
| 101–4148477–3 |
| 101–4153108–6 |
| 101–4159322–7 |
| 101–4158601–5 |
| 101–4163243–9 |
| 101–4164448–3 |
| 101–4168318–4 |
| 101–4172197–6 |
| 101–4172489–7 |
| 101–4193123–7 |
| 101–4264820–2 |
| 101–4271724–7 |
| 101–4277850–4 |
| 101–4287672–0 |
| 101–4301588–0 |
| 101–4306238–7 |
| 101–4306235–3 |
| 101–6011727–0 |
| 101–6012796–4 |
| 101–6015492–7 |
| 101–6021099–2 |
| 101–6026903–0 |
| 101–6024120–3 |
| 101–6028079–7 |
| 101–6027052–5 |
| 101–6036728–9 |
| 101–6048069–4 |
| 101–6079830–1 |
| 101–6082949–4 |
| 101–6115954–5 |
| 101–6119379–1 |
| 101–6127048–2 |
| 101–6150035–9 |
| 101–6148556–9 |
| 101–6172630–1 |
| 101–6172406–6 |
| 101–6186497–9 |
| 101–4208407–7 |
| 101–6035939–3 |

## CHAPTER 2—MISCELLANEOUS PROVISIONS

### SEC. 1631. VESSEL REPAIR DUTIES.

(a) EXEMPTION.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended by striking paragraph (4) and inserting the following:

"(4) the cost of equipment, repair parts, and materials that are installed on a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, in foreign waters, or in a foreign port, and does not involve foreign shipyard repairs by foreign labor.".

(b) AMENDMENT TO HTS.—The U.S. Notes to subchapter XVIII of chapter 98 of the Harmonized Tariff Schedule of the United States are amended by amending U.S. Note 2 to read as follows:

"2. Notwithstanding the provisions of subheadings 9818.00.03 through 9818.00.07, no duty shall apply to the cost of equipment, repair parts, and materials that are installed in a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, in foreign waters, or in a foreign port and does not involve foreign shipyard repairs by foreign labor. Declaration and entry shall not be required with respect to such installation, equipment, parts, and materials.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to vessel equipment, repair parts, and materials installed on or after April 25, 2001. 19 USC 1466 note.

**SEC. 1632. SUSPENSION OF NEW SHIPPER REVIEW PROVISION.**

(a) SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the period beginning on April 1, 2006, and ending on June 30, 2009. 19 USC 1675 note.

(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than December 31, 2008, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing— Deadline.

(1) recommendations on whether the suspension of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a); and

(2) an assessment of the effectiveness of any administrative measure that was implemented to address the difficulties that necessitated the suspension under subsection (a), including—

(A) any problem in the collection of antidumping duties on imports from new shippers; and

(B) any burden imposed on legitimate trade and commerce by the suspension of bonds to new shippers.

(c) REPORT ON COLLECTION PROBLEMS AND ANALYSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Secretary of Commerce, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing— Deadline.

(A) any major problem experienced in the collection of duties during the 4 most recent fiscal years for which

data are available, including any fraudulent activity intended to avoid payment of duties; and

(B) an estimate of the total amount of duties that were uncollected during the most recent fiscal year for which data are available, including, with respect to each product, a description of why the duties were uncollected.

(2) RECOMMENDATIONS.—The report shall include—

(A) recommendations on any additional action needed to address problems related to the collection of duties; and

(B) for each recommendation—

(i) an analysis of how the recommendation would address the specific problem; and

(ii) an assessment of the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses).

**SEC. 1633. EXTENSION AND MODIFICATION OF DUTY SUSPENSION ON WOOL PRODUCTS; WOOL RESEARCH FUND; WOOL DUTY REFUNDS.**

Effective dates.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective period column and inserting "12/31/2009":

(1) Heading 9902.51.11 (relating to fabrics of worsted wool).

(2) Heading 9902.51.13 (relating to yarn of combed wool).

(3) Heading 9902.51.14 (relating to wool fiber, waste, garnetted stock, combed wool, or wool top).

(4) Heading 9902.51.15 (relating to fabrics of combed wool).

(5) Heading 9902.51.16 (relating to fabrics of combed wool).

(b) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—Section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108–429; 118 Stat. 2603 (7 U.S.C. 7101 note)) is amended—

(A) in paragraph (3)—

(i) by striking "2 additional payments" and inserting "annual additional payments"; and

(ii) by adding at the end the following:

Deadline.

"(C) Each subsequent annual payment to be made after January 1 of each subsequent year, but on or before April 15 of such year through calendar year 2010."; and

(B) in paragraph (6)—

Grants.
Extension.

(i) in subparagraph (A), by striking "through 2007" and inserting "through 2009"; and

(ii) by adding at the end the following:

Grants.

"(C) ELIGIBLE MANUFACTURERS.—Only manufacturers who weave worsted wool fabric in the United States shall be eligible for a grant under this paragraph.".

Trust fund.
Extension.
7 USC 7101 note.

(2) SUNSET.—Section 506(f) of the Trade and Development Act of 2000 (Public 106–200; 114 Stat. 303), as amended by section 4002(c)(5) of the Wool Suit and Textile Trade Extension Act of 2004 (Public 108–429; 118 Stat. 2603), is amended by striking "2008" and inserting "2010".

**SEC. 1634. AUTHORITIES RELATING TO DR–CAFTA AGREEMENT.**

(a) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS TO DR–CAFTA AGREEMENT WITH NICARAGUA, EL SALVADOR, HONDURAS, AND GUATEMALA.—

(1) PROCLAMATION AUTHORITY.—The President is authorized to proclaim modifications to the Harmonized Tariff Schedule of the United States as necessary to carry out amendments proposed by the United States and the CAFTA–DR countries to the Agreement, the terms of which are contained in the letters of understanding described in paragraph (2).

(2) LETTERS OF UNDERSTANDING.—The letters of understanding referred to in paragraph (1) are the following: Name listing.

(A) The letter of March 24, 2006, from Nicaraguan Vice Minister of Trade Julio Teran to United States Special Textile Negotiator Scott Quesenberry.

(B) The letter of March 27, 2006, from United States Special Textile Negotiator Scott Quesenberry to Nicaraguan Vice Minister of Trade Julio Teran.

(C) The letter of January 27, 2006, from El Salvadoran Vice Minister of Economy Eduardo Ayala to United States Special Textile Negotiator Scott Quesenberry.

(D) The letter of January 27, 2006, from United States Special Textile Negotiator Scott Quesenberry to El Salvadoran Vice Minister of Economy Eduardo Ayala.

(E) The letter of March 7, 2006, from Honduran Vice Minister of Foreign Trade Jorge Rosa to United States Special Textile Negotiator Scott Quesenberry.

(F) The letter of March 7, 2006, from United States Special Textile Negotiator Scott Quesenberry to Honduran Vice Minister of Foreign Trade Jorge Rosa.

(G) The letter of June 23, 2006, from Guatemalan Minister of Economy Marcio Cuevas Quezada to United States Special Textile Negotiator Scott Quesenberry.

(H) The letter of June 23, 2006, from United States Special Textile Negotiator Scott Quesenberry to Guatemalan Minister of Economy Marcio Cuevas Quezada.

(3) SUNSET.—The authority of the President to proclaim modifications pursuant to paragraph (1) expires on December 31, 2007.

(b) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS TO DR–CAFTA AGREEMENT WITH COSTA RICA AND THE DOMINICAN REPUBLIC.—

(1) PROCLAMATION AUTHORITY.—The President is authorized to proclaim modifications to the Harmonized Tariff Schedule of the United States as necessary to carry out amendments proposed by the United States, Costa Rica, and the Dominican Republic to the Agreement, the terms of which are contained in the letters of understanding described in paragraph (2).

(2) LETTERS OF UNDERSTANDING.—

(A) IN GENERAL.—The letters of understanding referred to in paragraph (1) are letters of understanding exchanged between the countries described in paragraph (1) relating to the rules of origin for articles containing pocket bag fabric described in subparagraph (B).

(B) POCKET BAG FABRIC DESCRIBED.—For purposes of subparagraph (A), the term "pocket bag fabric" means

pocket bag fabric used in an apparel article classifiable under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States that contains a pocket or pockets.

(3) CONSULTATION AND LAYOVER REQUIREMENTS.—Any modification proclaimed by the President pursuant to paragraph (1) shall be subject to the consultation and layover provisions of section 104 of the Dominican Republic–Central America–United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4014).

(4) CONGRESSIONAL DISAPPROVAL.—

(A) IN GENERAL.—Any modification proclaimed by the President pursuant to paragraph (1) shall not be effective if a joint resolution described in subparagraph (B) is enacted into law.

(B) JOINT RESOLUTION DESCRIBED.—For purposes of subparagraph (A), the term "joint resolution" means a joint resolution of Congress, the sole matter after the resolving clause of which is as follows: "That the Congress disapproves the modification proclaimed by the President contained in the report submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives pursuant to section 104(2) of the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4014(2)) on _____.", with the blank space being filled with the appropriate date.

(5) SUNSET.—The authority of the President to proclaim modifications pursuant to paragraph (1) expires on December 31, 2007.

(c) AUTHORITY RELATING TO NICARAGUAN TARIFF PREFERENCE LEVEL UNDER DR–CAFTA AGREEMENT.—

(1) CERTIFICATE OF ELIGIBILITY.—The Commissioner of Customs may require an importer to submit at the time the importer files a claim for preferential tariff treatment under Annex 3.28 of the Agreement a certificate of eligibility, properly completed and signed, or transmitted pursuant to an authorized electronic data interchange system, by an authorized official of the Government of Nicaragua for purposes of implementing the tariff preference level for Nicaragua provided in Annex 3.28 of the Agreement.

(2) ENFORCEMENT OF COMMITMENTS.—The President is authorized to proclaim a reduction in the overall limit in the tariff preference level for Nicaragua provided in Annex 3.28 of the Agreement if the President determines that Nicaragua has failed to comply with a commitment under an agreement between the United States and Nicaragua with regard to the administration of such tariff preference level.

(3) EFFECTIVE DATE.—Paragraph (1) applies with respect to entries made on or after April 1, 2006.

(d) TECHNICAL CORRECTION RELATING TO CO-PRODUCTION OF CERTAIN TEXTILE AND APPAREL GOODS.—Section 205(a)(2) of the Dominican Republic–Central America–United States Free Trade Agreement Implementation Act (19 U.S.C. 4034(a)(2)) is amended by inserting after "with respect to that country" the following: "or any other CAFTA–DR country".

(e) REPORTING REQUIREMENTS ON CERTAIN NEGOTIATIONS AND AMENDMENTS TO DR–CAFTA AGREEMENT.—

Deadline.

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, and at least quarterly thereafter, the United States Trade Representative shall submit to the appropriate congressional committees a report on the status of negotiations and amendments proposed by the United States, Nicaragua, El Salvador, Honduras, Guatemala, Costa Rica, and the Dominican Republic to the Agreement regarding any change to the rule of origin or alteration of the tariff treatment of socks described in paragraph (2) or any technical correction described in paragraph (3). In addition, the United States Trade Representative shall provide to the appropriate congressional committees copies of any amendments to be proposed by the United States before the amendments are offered and copies of any amendments received by the United States relating to such negotiations.

(2) SOCKS DESCRIBED.—For purposes of paragraph (1), the term "socks" means articles classifiable under subheading 6111.20.6050, 6111.30.5050, 6111.90.5050, 6115.91.00, 6115.92.60, 6115.92.90, 6115.93.60, 6115.93.90, 6115.99.14, or 6115.99.18 of the Harmonized Tariff Schedule of the United States.

(3) TECHNICAL CORRECTIONS DESCRIBED.—Technical corrections referred to in paragraph (1) are the following:

(A) Clarification of references to "elastomeric yarns" contained in the notes, subheading notes, additional U.S. notes, and statistical notes to chapters 50 to 63 (section XI) of the Harmonized Tariff Schedule of the United States.

(B) Clarification of the ability to apply short supply provisions to sewing thread, narrow elastics, and visible linings.

(C) Treatment of women's and girls' woven sleep bottoms under Annex 4.1 of the Agreement.

(D) Addition of a rule of origin for women's and girls' woven sleep bottoms to reflect the rule of origin provided for in subheading 6207.11.00 of the Harmonized Tariff Schedule of the United States and contained in Annex 4.1 of the Agreement.

(E) Provision of women's and girls' sleep bottoms under Annex 4.1–A of the Agreement.

(4) DEFINITION.—In this subsection, the term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(5) SUNSET.—The requirements of paragraph (1) expire on the date on which any change is made to the rule of origin pursuant to article 3.25 of the Agreement for any good described in paragraph (2), or December 31, 2007, whichever occurs later.

(f) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term "Agreement" has the meaning given the term in section 3(1) of the Dominican Republic–Central America–United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4002(1)).

(2) CAFTA–DR COUNTRY.—The term "CAFTA–DR country" has the meaning given the term in section 3(2) of the Dominican

Republic–Central America–United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4002(2)).

**SEC. 1635. TECHNICAL AMENDMENTS TO CUSTOMS MODERNIZATION.**

(a) ENTRY OF MERCHANDISE.—Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484(a)) is amended—

(1) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) make entry therefor by filing with the Bureau of Customs and Border Protection such documentation or, pursuant to an authorized electronic data interchange system, such information as is necessary to enable the Bureau of Customs and Border Protection to determine whether the merchandise may be released from custody of the Bureau of Customs and Border Protection;"; and

(2) in paragraph (2)(A), in the second sentence, by inserting after "covering" the following: "merchandise released under a special delivery permit pursuant to section 448(b) and".

(b) REFUNDS AND ERRORS.—Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended—

(1) in paragraph (1), by striking the semicolon at the end and inserting a period;

(2) in paragraph (2), by striking "; and" at the end and inserting a period; and

(3) in paragraph (4)—

(A) by inserting "an importer of record declares or" before "it is ascertained"; and

(B) by striking "by reason of clerical error".

(c) ENTRY FROM WAREHOUSE.—Section 557(a) of the Tariff Act of 1930 (19 U.S.C. 1557(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting after "the date of importation" the following: ", or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown"; and

(B) in subparagraph (A), by inserting after "the date of importation" the following: "or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown"; and

(2) in paragraph (2), by inserting after "the date of importation" the following: ", or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown,".

(d) ABANDONED GOODS.—Section 559 of the Tariff Act of 1930 (19 U.S.C. 1559) is amended by inserting after "the date of importation" each place it appears the following: ", or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown".

(e) MANIPULATION IN WAREHOUSE.—Section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended—

Regulations.

(1) by amending the first sentence to read as follows: "Merchandise shall only be withdrawn from a bonded warehouse

in such quantity and in such condition as the Secretary of the Treasury shall by regulation prescribe."; and

(2) in the second sentence, by striking "All merchandise so withdrawn" and all that follows through "except that upon permission therefor" and inserting "Upon permission".

(f) OTHER TECHNICAL AMENDMENTS.—(1) Section 629(e) of the Tariff Act of 1930 (19 U.S.C. 1629(e)) is amended by striking "insuring" and inserting "ensuring".

(2) Section 135(f)(2)(B) of the Trade Act of 1974, as amended by section 2004(i)(1) of the Miscellaneous Trade and Technical Corrections Act of 2004, is amended by striking "their establishment" and insert "its establishment".

(3) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ", other than subchapter D".

(4) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended—

(A) by striking "1001(5)" and inserting "1001(e)"; and

(B) by striking "1308(5)" and inserting "1308(e)".

(5) Section 13031(e)(6)(C)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(6)(C)(i)) is amended by striking "commonly know" and inserting "commonly known".

(6) Section 2107(a)(4) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3807(a)(4)) is amended—

(A) by striking "paragraph (2)(A)" and inserting "paragraphs (2)(A)"; and

(B) by striking "paragraph (2)(B)" and inserting "paragraphs (2)(B)".

(7) Section 514(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(3)) is amended by moving the last 2 sentences 2 ems to the left as flush left text.

## Subtitle C—Effective Date

19 USC 58c note.

**SEC. 1641. EFFECTIVE DATE.**

Except as otherwise provided in this title, the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Approved August 17, 2006.

---

LEGISLATIVE HISTORY—H.R. 4:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 28, considered and passed House.
Aug. 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Aug. 17, Presidential remarks and statement.

Public Law 109–281
109th Congress

# An Act

To amend the Workforce Investment Act of 1998 to provide for a YouthBuild program.

Sept. 22, 2006
[S. 3534]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

YouthBuild Transfer Act. 29 USC 2801 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "YouthBuild Transfer Act".

**SEC. 2. YOUTHBUILD PROGRAM.**

(a) ESTABLISHMENT OF YOUTHBUILD PROGRAM IN THE DEPARTMENT OF LABOR.—Subtitle D of title I of the Workforce Investment Act of 1998 is amended by inserting before section 174 (29 U.S.C. 2919) the following new section:

**"SEC. 173A. YOUTHBUILD PROGRAM.**

29 USC 2918a.

"(a) STATEMENT OF PURPOSE.—The purposes of this section are—

"(1) to enable disadvantaged youth to obtain the education and employment skills necessary to achieve economic self-sufficiency in occupations in demand and postsecondary education and training opportunities;

"(2) to provide disadvantaged youth with opportunities for meaningful work and service to their communities;

"(3) to foster the development of employment and leadership skills and commitment to community development among youth in low-income communities; and

"(4) to expand the supply of permanent affordable housing for homeless individuals and low-income families by utilizing the energies and talents of disadvantaged youth.

"(b) DEFINITIONS.—In this section:

"(1) ADJUSTED INCOME.—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

"(2) APPLICANT.—The term 'applicant' means an eligible entity that has submitted an application under subsection (c).

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a public or private nonprofit agency or organization (including a consortium of such agencies or organizations), including—

"(A) a community-based organization;

"(B) a faith-based organization;

"(C) an entity carrying out activities under this title, such as a local board;

"(D) a community action agency;

"(E) a State or local housing development agency;

"(F) an Indian tribe or other agency primarily serving Indians;

"(G) a community development corporation;

"(H) a State or local youth service or conservation corps; and

"(I) any other entity eligible to provide education or employment training under a Federal program (other than the program carried out under this section).

"(4) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given the term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).

"(5) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization, that is engaged in providing housing for homeless individuals or low-income families.

"(6) INCOME.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

"(7) INDIAN; INDIAN TRIBE.—The terms 'Indian' and 'Indian tribe' have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(8) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term 'individual of limited English proficiency' means an eligible participant under this section who meets the criteria set forth in section 203(10) of the Adult Education and Family Literacy Act (20 U.S.C. 9202(10)).

"(9) LOW-INCOME FAMILY.—The term 'low-income family' means a family described in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)).

"(10) QUALIFIED NATIONAL NONPROFIT AGENCY.—The term 'qualified national nonprofit agency' means a nonprofit agency that—

"(A) has significant national experience providing services consisting of training, information, technical assistance, and data management to YouthBuild programs or similar projects; and

"(B) has the capacity to provide those services.

"(11) REGISTERED APPRENTICESHIP PROGRAM.—The term 'registered apprenticeship program' means an apprenticeship program—

"(A) registered under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 20 U.S.C. 50 et seq.); and

"(B) that meets such other criteria as may be established by the Secretary under this section.

"(12) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing provided for the purpose of facilitating the movement of homeless individuals to independent living within a reasonable amount of time. The term includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals who are individuals with disabilities or members of families with children.

"(13) YOUTHBUILD PROGRAM.—The term 'YouthBuild program' means any program that receives assistance under this section and provides disadvantaged youth with opportunities

for employment, education, leadership development, and training through the rehabilitation or construction of housing for homeless individuals and low-income families, and of public facilities.

"(c) YOUTHBUILD GRANTS.—

"(1) AMOUNTS OF GRANTS.—The Secretary is authorized to make grants to applicants for the purpose of carrying out YouthBuild programs approved under this section.

"(2) ELIGIBLE ACTIVITIES.—An entity that receives a grant under this subsection shall use the funds made available through the grant to carry out a YouthBuild program, which may include the following activities:

"(A) Education and workforce investment activities including—

"(i) work experience and skills training (coordinated, to the maximum extent feasible, with preapprenticeship and registered apprenticeship programs) in the rehabilitation and construction activities described in subparagraphs (B) and (C);

"(ii) occupational skills training;

"(iii) other paid and unpaid work experiences, including internships and job shadowing;

"(iv) services and activities designed to meet the educational needs of participants, including—

"(I) basic skills instruction and remedial education;

"(II) language instruction educational programs for individuals with limited English proficiency;

"(III) secondary education services and activities, including tutoring, study skills training, and dropout prevention activities, designed to lead to the attainment of a secondary school diploma, General Education Development (GED) credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities);

"(IV) counseling and assistance in obtaining postsecondary education and required financial aid; and

"(V) alternative secondary school services;

"(v) counseling services and related activities, such as comprehensive guidance and counseling on drug and alcohol abuse and referral;

"(vi) activities designed to develop employment and leadership skills, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors, and activities related to youth policy committees that participate in decision-making related to the program;

"(vii) supportive services and provision of need-based stipends necessary to enable individuals to participate in the program and supportive services to assist individuals, for a period not to exceed 12 months after the completion of training, in obtaining or retaining employment, or applying for and transitioning to postsecondary education; and

"(viii) job search and assistance.

"(B) Supervision and training for participants in the rehabilitation or construction of housing, including residential housing for homeless individuals or low-income families, or transitional housing for homeless individuals.

"(C) Supervision and training for participants in the rehabilitation or construction of community and other public facilities, except that not more than 10 percent of funds appropriated to carry out this section may be used for such supervision and training.

"(D) Payment of administrative costs of the applicant, except that not more than 15 percent of the amount of assistance provided under this subsection to the grant recipient may be used for such costs.

"(E) Adult mentoring.

"(F) Provision of wages, stipends, or benefits to participants in the program.

"(G) Ongoing training and technical assistance that are related to developing and carrying out the program.

"(H) Follow-up services.

"(3) APPLICATION.—

"(A) FORM AND PROCEDURE.—To be qualified to receive a grant under this subsection, an eligible entity shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) MINIMUM REQUIREMENTS.—The Secretary shall require that the application contain, at a minimum—

"(i) labor market information for the labor market area where the proposed program will be implemented, including both current data (as of the date of submission of the application) and projections on career opportunities in growing industries;

"(ii) a request for the grant, specifying the amount of the grant requested and its proposed uses;

"(iii) a description of the applicant and a statement of its qualifications, including a description of the applicant's relationship with local boards, one-stop operators, local unions, entities carrying out registered apprenticeship programs, other community groups, and employers, and the applicant's past experience, if any, with rehabilitation or construction of housing or public facilities, and with youth education and employment training programs;

"(iv) a description of the proposed site for the proposed program;

"(v) a description of the educational and job training activities, work opportunities, postsecondary education and training opportunities, and other services that will be provided to participants, and how those activities, opportunities, and services will prepare youth for employment in occupations in demand in the labor market area described in clause (i);

"(vi) a description of the proposed rehabilitation or construction activities to be undertaken under the grant and the anticipated schedule for carrying out such activities;

"(vii) a description of the manner in which eligible youth will be recruited and selected as participants, including a description of arrangements that will be made with local boards, one-stop operators, community- and faith-based organizations, State educational agencies or local educational agencies (including agencies of Indian tribes), public assistance agencies, the courts of jurisdiction, agencies operating shelters for homeless individuals and other agencies that serve youth who are homeless individuals, foster care agencies, and other appropriate public and private agencies;

"(viii) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children) as participants;

"(ix) a description of the specific role of employers in the proposed program, such as their role in developing the proposed program and assisting in service provision and in placement activities;

"(x) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, such as local workforce investment activities, vocational education programs, adult and language instruction educational programs, activities conducted by public schools, activities, conducted by community colleges, national service programs, and other job training provided with funds available under this title;

"(xi) assurances that there will be a sufficient number of adequately trained supervisory personnel in the proposed program;

"(xii) a description of results to be achieved with respect to common indicators of performance for youth and lifelong learning, as identified by the Secretary;

"(xiii) a description of the applicant's relationship with local building trade unions regarding their involvement in training to be provided through the proposed program, the relationship of the proposed program to established registered apprenticeship programs and employers, and the ability of the applicant to grant industry-recognized skill certification through the program;

"(xiv) a description of activities that will be undertaken to develop the leadership skills of participants;

"(xv) a detailed budget and a description of the system of fiscal controls, and auditing and accountability procedures, that will be used to ensure fiscal soundness for the proposed program;

"(xvi) a description of the commitments for any additional resources (in addition to the funds made available through the grant) to be made available to the proposed program from—

"(I) the applicant;

"(II) recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the rehabilitation, construction, operation and maintenance, or other

housing and community development activities undertaken as part of the proposed program; or

"(III) entities carrying out other Federal, State, or local activities or activities conducted by Indian tribes, including vocational education programs, adult and language instruction educational programs, and job training provided with funds available under this title;

"(xvii) information identifying, and a description of, the financing proposed for any—

"(I) rehabilitation of the property involved;

"(II) acquisition of the property; or

"(III) construction of the property;

"(xviii) information identifying, and a description of, the entity that will operate and manage the property;

"(xix) information identifying, and a description of, the data collection systems to be used;

"(xx) a certification, by a public official responsible for the housing strategy for the State or unit of general local government within which the proposed program is located, that the proposed program is consistent with the housing strategy; and

"(xxi) a certification that the applicant will comply with the requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and will affirmatively further fair housing.

"(4) SELECTION CRITERIA.—For an applicant to be eligible to receive a grant under this subsection, the applicant and the applicant's proposed program shall meet such selection criteria as the Secretary shall establish under this section, which shall include criteria relating to—

"(A) the qualifications or potential capabilities of an applicant;

"(B) an applicant's potential for developing a successful YouthBuild program;

"(C) the need for an applicant's proposed program, as determined by the degree of economic distress of the community from which participants would be recruited (measured by indicators such as poverty, youth unemployment, and the number of individuals who have dropped out of secondary school) and of the community in which the housing and public facilities proposed to be rehabilitated or constructed is located (measured by indicators such as incidence of homelessness, shortage of affordable housing, and poverty);

"(D) the commitment of an applicant to providing skills training, leadership development, and education to participants;

"(E) the focus of a proposed program on preparing youth for occupations in demand or postsecondary education and training opportunities;

"(F) the extent of an applicant's coordination of activities to be carried out through the proposed program with local boards, one-stop operators, and one-stop partners participating in the operation of the one-stop delivery

system involved, or the extent of the applicant's good faith efforts in achieving such coordination;

"(G) the extent of the applicant's coordination of activities with public education, criminal justice, housing and community development, national service, or postsecondary education or other systems that relate to the goals of the proposed program;

"(H) the extent of an applicant's coordination of activities with employers in the local area involved;

"(I) the extent to which a proposed program provides for inclusion of tenants who were previously homeless individuals in the rental housing provided through the program;

"(J) the commitment of additional resources (in addition to the funds made available through the grant) to a proposed program by—

"(i) an applicant;

"(ii) recipients of other Federal, State, or local housing and community development assistance who will sponsor any part of the rehabilitation, construction, operation and maintenance, or other housing and community development activities undertaken as part of the proposed program; or

"(iii) entities carrying out other Federal, State, or local activities or activities conducted by Indian tribes, including vocational education programs, adult and language instruction educational programs, and job training provided with funds available under this title;

"(K) the applicant's potential to serve different regions, including rural areas and States that have not previously received grants for YouthBuild programs; and

"(L) such other factors as the Secretary determines to be appropriate for purposes of carrying out the proposed program in an effective and efficient manner.

"(5) APPROVAL.—To the extent practicable, the Secretary shall notify each applicant, not later than 5 months after the date of receipt of the application by the Secretary, whether the application is approved or not approved.

Notification. Deadline.

"(d) USE OF HOUSING UNITS.—Residential housing units rehabilitated or constructed using funds made available under subsection (c) shall be available solely—

"(1) for rental by, or sale to, homeless individuals or low-income families; or

"(2) for use as transitional or permanent housing, for the purpose of assisting in the movement of homeless individuals to independent living.

"(e) ADDITIONAL PROGRAM REQUIREMENTS.—

"(1) ELIGIBLE PARTICIPANTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an individual may participate in a YouthBuild program only if such individual is—

"(i) not less than age 16 and not more than age 24, on the date of enrollment;

"(ii) a member of a low-income family, a youth in foster care (including youth aging out of foster care), a youth offender, a youth who is an individual with

a disability, a child of incarcerated parents, or a migrant youth; and

"(iii) a school dropout.

"(B) EXCEPTION FOR INDIVIDUALS NOT MEETING INCOME OR EDUCATIONAL NEED REQUIREMENTS.—Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of clause (ii) or (iii) of subparagraph (A), but who—

"(i) are basic skills deficient, despite attainment of a secondary school diploma, General Education Development (GED) credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities); or

"(ii) have been referred by a local secondary school for participation in a YouthBuild program leading to the attainment of a secondary school diploma.

"(2) PARTICIPATION LIMITATION.—An eligible individual selected for participation in a YouthBuild program shall be offered full-time participation in the program for a period of not less than 6 months and not more than 24 months.

"(3) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A YouthBuild program receiving assistance under subsection (c) shall be structured so that participants in the program are offered—

"(A) education and related services and activities designed to meet educational needs, such as those specified in clauses (iv) through (vii) of subsection (c)(2)(A), during at least 50 percent of the time during which the participants participate in the program; and

"(B) work and skill development activities such as those specified in clauses (i), (ii), (iii), and (viii) of subsection (c)(2)(A), during at least 40 percent of the time during which the participants participate in the program.

"(4) AUTHORITY RESTRICTION.—No provision of this section may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution (including a school) or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(5) STATE AND LOCAL STANDARDS.—All educational programs and activities supported with funds provided under subsection (c) shall be consistent with applicable State and local educational standards. Standards and procedures for the programs and activities that relate to awarding academic credit for and certifying educational attainment in such programs and activities shall be consistent with applicable State and local educational standards.

"(f) MANAGEMENT AND TECHNICAL ASSISTANCE.—

"(1) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with 1 or more entities to provide assistance to the Secretary in the management, supervision, and coordination of the program carried out under this section.

"(2) TECHNICAL ASSISTANCE.—

"(A) CONTRACTS AND GRANTS.—The Secretary shall enter into contracts with or make grants to 1 or more

qualified national nonprofit agencies, in order to provide training, information, technical assistance, and data management to recipients of grants under subsection (c).

"(B) RESERVATION OF FUNDS.—Of the amounts available under subsection (h) to carry out this section for a fiscal year, the Secretary shall reserve 5 percent to carry out subparagraph (A).

"(3) CAPACITY BUILDING GRANTS.—

"(A) IN GENERAL.—In each fiscal year, the Secretary may use not more than 3 percent of the amounts available under subsection (h) to award grants to 1 or more qualified national nonprofit agencies to pay for the Federal share of the cost of capacity building activities.

"(B) FEDERAL SHARE.—The Federal share of the cost described in subparagraph (A) shall be 25 percent. The non-Federal share shall be provided from private sources.

"(g) SUBGRANTS AND CONTRACTS.—Each recipient of a grant under subsection (c) to carry out a YouthBuild program shall provide the services and activities described in this section directly or through subgrants, contracts, or other arrangements with local educational agencies, postsecondary educational institutions, State or local housing development agencies, other public agencies, including agencies of Indian tribes, or private organizations.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2007 through 2012 such sums as may be necessary to carry out this section.

"(2) FISCAL YEAR.—Notwithstanding section 189(g), appropriations for any fiscal year for programs and activities carried out under this section shall be available for obligation only on the basis of a fiscal year.".

(b) CLERICAL AMENDMENT.—Section 1(b) of the Workforce Investment Act of 1998 (relating to the table of contents) is amended by inserting before the item relating to section 174 the following: 29 USC 2801 prec. note.

"Sec. 173A. YouthBuild program".

(c) EXCEPTION TO PROGRAM YEAR APPROPRIATION CYCLE REQUIREMENT.—Section 189(g)(1)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2939(g)(1)(A)) is amended by inserting "and section 173A" after "Except as provided in subparagraph (B)".

(d) CONFORMING AMENDMENTS.—

(1) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended in paragraphs (1)(B)(iii) and (2)(B) of subsection (c), and paragraphs (1)(B)(iii) and (2)(B) of subsection (d), by striking "Youthbuild" and all that follows and inserting "YouthBuild programs receiving assistance under section 173A of the Workforce Investment Act of 1998.".

(2) Section 507(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4183(b)) is amended by striking "subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act,".

(3) Section 402 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12870) is amended by striking the second sentence of subsections (a) and (b).

(e) REPEAL OF PROVISIONS.—Subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) is repealed.

12 USC 1701u note.

(f) EFFECTIVE DATE.—This section and the amendments made by this section take effect on the earlier of—

(1) the date of enactment of this Act; and

(2) September 30, 2006.

29 USC 2918a note.

**SEC. 3. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.**

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Department of Labor all functions which the Secretary of Housing and Urban Development exercised before the effective date of this section (including all related functions of any officer or employee of the Department of Housing and Urban Development) relating to subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.).

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) PERSONNEL PROVISIONS.—

(1) APPOINTMENTS.—The Secretary of Labor may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the respective functions transferred under this section. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(2) EXPERTS AND CONSULTANTS.—The Secretary of Labor may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The Secretary of Labor may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(e) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Secretary of Labor may delegate any of the functions transferred to the Secretary of Labor by this section and any function transferred or granted to the Secretary of Labor after the effective date of this section to such officers and employees of the Department of Labor as the Secretary of Labor may designate, and may authorize successive redelegations of such functions as may be

necessary or appropriate. No delegation of functions by the Secretary of Labor under this subsection or under any other provision of this section shall relieve the Secretary of Labor of responsibility for the administration of such functions.

(f) REORGANIZATION.—The Secretary of Labor is authorized to allocate or reallocate any function transferred under subsection (b) among the officers of the Department of Labor, and to establish, consolidate, alter, or discontinue such organizational entities in the Department of Labor as may be necessary or appropriate.

(g) RULES.—The Secretary of Labor is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Secretary of Labor determines necessary or appropriate to administer and manage the functions of the Department of Labor.

(h) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.—Except as otherwise provided in this section, the assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of Labor. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(i) TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this section, and to make such dispositions of assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds used, held, arising from, available to, or to be made available in connection with such functions, subject to section 1531 of title 31, United States Code, as may be necessary to carry out the provisions of this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this section; and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Labor or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of Housing and Urban Development at the time this section takes effect, with respect to functions transferred by this section but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Housing and Urban Development, or by or against any individual in the official capacity of such individual as an officer of the Department of Housing and Urban Development, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of Housing and Urban Development relating to a function transferred under this section may be continued by the Department of Labor with the same effect as if this section had not been enacted.

(k) SEPARABILITY.—If a provision of this section or its application to any person or circumstance is held invalid, neither the remainder of this section nor the application of the provision to other persons or circumstances shall be affected.

(l) TRANSITION.—The Secretary of Labor is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department of Housing and Urban Development with respect to functions transferred to the Department of Labor by this section; and

(2) funds appropriated to such functions for such period of time,

as may reasonably be needed to facilitate the orderly implementation of this section.

(m) ACCOMPLISHING ORDERLY TRANSFER.—Consistent with the requirements of this section, the Secretary of Labor and the Secretary of Housing and Urban Development shall take such actions as the Secretaries determine are appropriate to accomplish the orderly transfer of functions as described in subsection (b).

(n) ADMINISTRATION OF PRIOR GRANTS.—Notwithstanding any other provision of this Act, grants awarded under subtitle D of

title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) with funds appropriated for fiscal year 2006 or a preceding fiscal year shall be subject to the continuing authority of the Secretary of Housing and Urban Development under the provisions of such subtitle, as in effect on the day before the date of enactment of this Act, until the authority to expend applicable funds for the grants, as specified by the Secretary of Housing and Urban Development, has expired and the Secretary has completed the administrative responsibilities associated with the grants.

(o) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Secretary of Housing and Urban Development with regard to functions transferred under subsection (b), shall be deemed to refer to the Secretary of Labor; and

(2) the Department of Housing and Urban Development with regard to functions transferred under subsection (b), shall be deemed to refer to the Department of Labor.

(p) EFFECTIVE DATE.—This section takes effect on the earlier of—

(1) the date of enactment of this Act; and

(2) September 30, 2006.

Approved September 22, 2006.

LEGISLATIVE HISTORY—S. 3534:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Aug. 3, considered and passed Senate.
Sept. 6, considered and passed House.

# Public Law 109–282
# 109th Congress

## An Act

Sept. 26, 2006
[S. 2590]

To require full disclosure of all entities and organizations receiving Federal funds.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal Funding Accountability and Transparency Act of 2006.
31 USC 6101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Funding Accountability and Transparency Act of 2006".

31 USC 6101 note.

**SEC. 2. FULL DISCLOSURE OF ENTITIES RECEIVING FEDERAL FUNDING.**

(a) DEFINITIONS.—In this section:

(1) ENTITY.—The term "entity"—

(A) includes, whether for profit or nonprofit—

(i) a corporation;

(ii) an association;

(iii) a partnership;

(iv) a limited liability company;

(v) a limited liability partnership;

(vi) a sole proprietorship;

(vii) any other legal business entity;

(viii) any other grantee or contractor that is not excluded by subparagraph (B) or (C); and

(ix) any State or locality;

(B) on and after January 1, 2009, includes any subcontractor or subgrantee; and

(C) does not include—

(i) an individual recipient of Federal assistance; or

(ii) a Federal employee.

(2) FEDERAL AWARD.—The term "Federal award"—

(A) means Federal financial assistance and expenditures that—

(i) include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

(ii) include contracts, subcontracts, purchase orders, task orders, and delivery orders;

(B) does not include individual transactions below $25,000; and

(C) before October 1, 2008, does not include credit card transactions.

(3) SEARCHABLE WEBSITE.—The term "searchable website" means a website that allows the public to—

(A) search and aggregate Federal funding by any element required by subsection (b)(1);

(B) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(i), by fiscal year;

(C) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(ii), by fiscal year; and

(D) download data included in subparagraph (A) included in the outcome from searches.

(b) IN GENERAL.—

(1) WEBSITE.—Not later than January 1, 2008, the Office of Management and Budget shall, in accordance with this section, section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), ensure the existence and operation of a single searchable website, accessible by the public at no cost to access, that includes for each Federal award— Deadline.

(A) the name of the entity receiving the award;

(B) the amount of the award;

(C) information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;

(D) the location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country;

(E) a unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity; and

(F) any other relevant information specified by the Office of Management and Budget.

(2) SCOPE OF DATA.—The website shall include data for fiscal year 2007, and each fiscal year thereafter.

(3) DESIGNATION OF AGENCIES.—The Director of the Office of Management and Budget is authorized to designate one or more Federal agencies to participate in the development, establishment, operation, and support of the single website. In the initial designation, or in subsequent instructions and guidance, the Director may specify the scope of the responsibilities of each such agency.

(4) AGENCY RESPONSIBILITIES.—Federal agencies shall comply with the instructions and guidance issued by the Director of the Office of Management and Budget under paragraph (3), and shall provide appropriate assistance to the Director upon request, so as to assist the Director in ensuring the existence and operation of the single website.

(c) WEBSITE.—The website established under this section—

(1) may use as the source of its data the Federal Procurement Data System, Federal Assistance Award Data System, and Grants.gov, if all of these data sources are searchable through the website and can be accessed in a search on the website required by this Act, provided that the user may—

(A) specify such search shall be confined to Federal contracts and subcontracts;

(B) specify such search shall be confined to include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

(2) shall not be considered in compliance if it hyperlinks to the Federal Procurement Data System website, Federal Assistance Award Data System website, Grants.gov website, or other existing websites, so that the information elements required by subsection (b)(1) cannot be searched electronically by field in a single search;

Public comments.

(3) shall provide an opportunity for the public to provide input about the utility of the site and recommendations for improvements;

Deadline.

(4) shall be updated not later than 30 days after the award of any Federal award requiring a posting; and

(5) shall provide for separate searches for Federal awards described in subsection (a) to distinguish between the Federal awards described in subsection (a)(2)(A)(i) and those described in subsection (a)(2)(A)(ii).

(d) SUBAWARD DATA.—

(1) PILOT PROGRAM.—

Deadline.

(A) IN GENERAL.—Not later than July 1, 2007, the Director of the Office of Management and Budget shall commence a pilot program to—

(i) test the collection and accession of data about subgrants and subcontracts; and

(ii) determine how to implement a subaward reporting program across the Federal Government, including—

(I) a reporting system under which the entity issuing a subgrant or subcontract is responsible for fulfilling the subaward reporting requirement; and

(II) a mechanism for collecting and incorporating agency and public feedback on the design and utility of the website.

(B) TERMINATION.—The pilot program under subparagraph (A) shall terminate not later than January 1, 2009.

(2) REPORTING OF SUBAWARDS.—

(A) IN GENERAL.—Based on the pilot program conducted under paragraph (1), and, except as provided in subparagraph (B), not later than January 1, 2009, the Director of the Office of Management and Budget—

(i) shall ensure that data regarding subawards are disclosed in the same manner as data regarding other Federal awards, as required by this Act; and

(ii) shall ensure that the method for collecting and distributing data about subawards under clause (i)—

(I) minimizes burdens imposed on Federal award recipients and subaward recipients;

(II) allows Federal award recipients and subaward recipients to allocate reasonable costs for the collection and reporting of subaward data as indirect costs; and

(III) establishes cost-effective requirements for collecting subaward data under block grants, formula grants, and other types of assistance to State and local governments.

(B) EXTENSION OF DEADLINE.—For subaward recipients that receive Federal funds through State, local, or tribal governments, the Director of the Office of Management and Budget may extend the deadline for ensuring that data regarding such subawards are disclosed in the same manner as data regarding other Federal awards for a period not to exceed 18 months, if the Director determines that compliance would impose an undue burden on the subaward recipient.

(e) EXCEPTION.—Any entity that demonstrates to the Director of the Office of Management and Budget that the gross income, from all sources, for such entity did not exceed $300,000 in the previous tax year of such entity shall be exempt from the requirement to report subawards under subsection (d), until the Director determines that the imposition of such reporting requirements will not cause an undue burden on such entities.

(f) CONSTRUCTION.—Nothing in this Act shall prohibit the Office of Management and Budget from including through the website established under this section access to data that is publicly available in any other Federal database.

(g) REPORT.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives an annual report regarding the implementation of the website established under this section.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) data regarding the usage and public feedback on the utility of the site (including recommendations for improving data quality and collection);

(B) an assessment of the reporting burden placed on Federal award and subaward recipients; and

(C) an explanation of any extension of the subaward reporting deadline under subsection (d)(2)(B), if applicable.

(3) PUBLICATION.—The Director of the Office of Management and Budget shall make each report submitted under paragraph (1) publicly available on the website established under this section.

Public information.

**SEC. 3. CLASSIFIED INFORMATION.**

31 USC 6101 note.

Nothing in this Act shall require the disclosure of classified information.

31 USC 6101 note.

**SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORTING REQUIREMENT.**

Not later than January 1, 2010, the Comptroller General shall submit to Congress a report on compliance with this Act.

Approved September 26, 2006.

---

LEGISLATIVE HISTORY—S. 2590:

SENATE REPORTS: No. 109–329 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 7, considered and passed Senate.
Sept. 13, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Sept. 26, Presidential remarks.

# Public Law 109–283
# 109th Congress

## An Act

To implement the United States-Oman Free Trade Agreement.

Sept. 26, 2006
[H.R. 5684]

United States-Oman Free Trade Agreement Implementation Act.
19 USC 3805 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "United States-Oman Free Trade Agreement Implementation Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement.
Sec. 102. Relationship of the Agreement to United States and State law.
Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
Sec. 105. Administration of dispute settlement proceedings.
Sec. 106. Arbitration of claims.
Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.
Sec. 202. Rules of origin.
Sec. 203. Customs user fees.
Sec. 204. Enforcement relating to trade in textile and apparel goods.
Sec. 205. Reliquidation of entries.
Sec. 206. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

Sec. 311. Commencing of action for relief.
Sec. 312. Commission action on petition.
Sec. 313. Provision of relief.
Sec. 314. Termination of relief authority.
Sec. 315. Compensation authority.
Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

Sec. 321. Commencement of action for relief.
Sec. 322. Determination and provision of relief.
Sec. 323. Period of relief.
Sec. 324. Articles exempt from relief.
Sec. 325. Rate after termination of import relief.

Sec. 326. Termination of relief authority.
Sec. 327. Compensation authority.
Sec. 328. Confidential business information.

TITLE IV—PROCUREMENT

Sec. 401. Eligible products.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States and Oman entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

(2) to strengthen and develop economic relations between the United States and Oman for their mutual benefit;

(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term "Agreement" means the United States-Oman Free Trade Agreement approved by Congress under section 101(a)(1).

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

(3) TEXTILE OR APPAREL GOOD.—The term "textile or apparel good" means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

# TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

**SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.**

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the United States-Oman Free Trade Agreement entered into on January 19, 2006, with Oman and submitted to Congress on June 26, 2006; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on June 26, 2006.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Oman has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Oman providing for the entry into force, on or after January 1, 2007, of the Agreement with respect to the United States.

**SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.**

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

**SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.**

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the Agreement enters into force of any action proclaimed under this section.

Deadlines.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

**SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.**

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the United States International Trade Commission;

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

(4) the President has consulted with the Committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

**SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.**

(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2006 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

**SEC. 106. ARBITRATION OF CLAIMS.**

The United States is authorized to resolve any claim against the United States covered by article 10.15.1(a)(i)(C) or article 10.15.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

**SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.**

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

# TITLE II—CUSTOMS PROVISIONS

**SEC. 201. TARIFF MODIFICATIONS.**

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

(1) PROCLAMATION AUTHORITY.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment, or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and Annex 2–B of the Agreement.

(2) EFFECT ON OMANI GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Oman as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

President.
Effective date.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with Oman regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Oman provided for by the Agreement.

(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

**SEC. 202. RULES OF ORIGIN.**

(a) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

(b) ORIGINATING GOODS.—

(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

(A) the good is imported directly—

(i) from the territory of Oman into the territory of the United States; or

(ii) from the territory of the United States into the territory of Oman; and

(B)(i) the good is a good wholly the growth, product, or manufacture of Oman or the United States, or both;

(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Oman or the United States, or both, and meets the requirements of paragraph (2); or

(iii)(I) the good is a good covered by Annex 3–A or 4–A of the Agreement;

(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Oman or the United States, or both; or

(bb) the good otherwise satisfies the requirements specified in such Annex; and

(III) the good satisfies all other applicable requirements of this section.

(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

(A) the value of each material produced in the territory of Oman or the United States, or both, and

(B) the direct costs of processing operations performed in the territory of Oman or the United States, or both,

is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

(c) CUMULATION.—

(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good, or a material produced in the territory of Oman or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

(2) MULTIPLE PRODUCERS.—A good that is grown, produced, or manufactured in the territory of Oman or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Oman or the United States, or both, includes the following:

(A) The price actually paid or payable for the material by the producer of the good.

(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

(D) Taxes or customs duties imposed on the material by Oman or the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Oman or the United States, as the case may be.

(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Oman or the United States, or both, includes the following:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

(B) A reasonable amount for profit.

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers has been included in meeting the requirements set forth in subsection (b)(2).

(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Oman or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Oman or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Oman or the United States.

(h) TEXTILE AND APPAREL GOODS.—

(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Oman or the United States.

(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term "component of the good that determines the tariff classification of the good" means all of the fibers in the yarn, fabric, or group of fibers.

(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 3–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

(i) DEFINITIONS.—In this section:

(1) DIRECT COSTS OF PROCESSING OPERATIONS.—

(A) IN GENERAL.—The term "direct costs of processing operations", with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Oman or the United States, as the case may be, the following:

(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel.

(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

(iv) Costs of inspecting and testing the good.

(v) Costs of packaging the good for export to the territory of the other country.

(B) EXCEPTIONS.—The term "direct costs of processing operations" does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

(i) profit; and

(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

(2) GOOD.—The term "good" means any merchandise, product, article, or material.

(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF OMAN OR THE UNITED STATES, OR BOTH.—The term "good

wholly the growth, product, or manufacture of Oman or the United States, or both" means—

(A) a mineral good extracted in the territory of Oman or the United States, or both;

(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Oman or the United States, or both;

(C) a live animal born and raised in the territory of Oman or the United States, or both;

(D) a good obtained from live animals raised in the territory of Oman or the United States, or both;

(E) a good obtained from hunting, trapping, or fishing in the territory of Oman or the United States, or both;

(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Oman or the United States and flying the flag of that country;

(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Oman or the United States and flying the flag of that country;

(H) a good taken by Oman or the United States or a person of Oman or the United States from the seabed or beneath the seabed outside territorial waters, if Oman or the United States, as the case may be, has rights to exploit such seabed;

(I) a good taken from outer space, if such good is obtained by Oman or the United States or a person of Oman or the United States and not processed in the territory of a country other than Oman or the United States;

(J) waste and scrap derived from—

(i) production or manufacture in the territory of Oman or the United States, or both; or

(ii) used goods collected in the territory of Oman or the United States, or both, if such goods are fit only for the recovery of raw materials;

(K) a recovered good derived in the territory of Oman or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

(L) a good produced in the territory of Oman or the United States, or both, exclusively—

(i) from goods referred to in subparagraphs (A) through (J), or

(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

(4) INDIRECT MATERIAL.—The term "indirect material" means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment and buildings;

(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

(5) MATERIAL.—The term "material" means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Oman or the United States, or both.

(6) MATERIAL PRODUCED IN THE TERRITORY OF OMAN OR THE UNITED STATES, OR BOTH.—The term "material produced in the territory of Oman or the United States, or both" means a good that is either wholly the growth, product, or manufacture of Oman or the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Oman or the United States, or both.

(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

(A) IN GENERAL.—The term "new or different article of commerce" means, except as provided in subparagraph (B), a good that—

(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Oman or the United States, or both; and

(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

(8) RECOVERED GOODS.—The term "recovered goods" means materials in the form of individual parts that result from—

(A) the disassembly of used goods into individual parts; and

(B) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition.

(9) REMANUFACTURED GOOD.—The term "remanufactured good" means an industrial good that is assembled in the territory of Oman or the United States and that—

(A) is entirely or partially comprised of recovered goods;

(B) has a similar life expectancy to a like good that is new; and

(C) enjoys a factory warranty similar to that of a like good that is new.

(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term "simple combining or packaging operations" means operations such as adding batteries to devices, fitting together a small number of components by bolting, gluing, or soldering, and repacking or packaging components together.

(11) SUBSTANTIALLY TRANSFORMED.—The term "substantially transformed" means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that—

(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

(ii) the physical properties of the good or material are changed to a significant extent; or

(iii) the operation undergone by the good or material is complex by reason of the number of different processes and materials involved and the time and level of skill required to perform those processes; and

(B) the good or material loses its separate identity in the manufacturing or processing operation.

(j) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set forth in Annex 3–A and Annex 4–A of the Agreement; and

(B) any additional subordinate category that is necessary to carry out this title, consistent with the Agreement.

(2) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Oman pursuant to article 3.2.5 of the Agreement; and

(ii) before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

**SEC. 203. CUSTOMS USER FEES.**

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding after paragraph (16) the following:

"(17) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section

202 of the United States-Oman Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.".

**SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.**

(a) ACTION DURING VERIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Oman to conduct a verification pursuant to article 3.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) DETERMINATION.—A determination under this paragraph is a determination—

(A) that an exporter or producer in Oman is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 202, or

(ii) is a good of Oman,

is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such good; and

(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

(1) publication of the name and address of the person that is the subject of the verification;

(2) denial of preferential tariff treatment under the Agreement to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred

to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

(3) denial of entry into the United States of—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

**SEC. 205. RELIQUIDATION OF ENTRIES.**

Subsection (d) of section 520 of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "or"; and

(B) by striking "for which" and inserting ", or section 202 of the United States-Oman Free Trade Agreement Implementation Act for which"; and

(2) in paragraph (3), by inserting "and information" after "documentation".

**SEC. 206. REGULATIONS.**

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (i) of section 202;

(2) the amendment made by section 203; and

(3) proclamations issued under section 202(j).

# TITLE III—RELIEF FROM IMPORTS

**SEC. 301. DEFINITIONS.**

In this title:

(1) OMANI ARTICLE.—The term "Omani article" means an article that—

(A) qualifies as an originating good under section 202(b); or

(B) receives preferential tariff treatment under paragraphs 8 through 11 of article 3.2 of the Agreement.

(2) OMANI TEXTILE OR APPAREL ARTICLE.—The term "Omani textile or apparel article" means an article that—

(A) is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

(B) is an Omani article.

(3) COMMISSION.—The term "Commission" means the United States International Trade Commission.

# Subtitle A—Relief From Imports Benefiting From the Agreement

**SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, an Omani article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Omani article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Omani article if, after the date on which the Agreement enters into force with respect to the United States, import relief has been provided with respect to that Omani article under this subtitle.

**SEC. 312. COMMISSION ACTION ON PETITION.**

Deadline.

(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—

(1) IN GENERAL.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that

is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(2) LIMITATION ON RELIEF.—The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c).

(3) VOTING; SEPARATE VIEWS.—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

Federal Register, publication.

**SEC. 313. PROVISION OF RELIEF.**

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Deadline. President.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

President. Effective date.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not, in the aggregate, be in effect for more than 3 years.

(2) EXTENSION.—

(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 3 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—

Deadline.

(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

Federal Register, publication.

(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to

the presentations of other parties and consumers, and otherwise to be heard.

(iii) REPORT.—The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date. Deadline.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief under this subtitle after the date on which the Agreement enters into force.

**SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force. Deadline.

(b) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of an Omani article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Oman has consented to such relief.

**SEC. 315. COMPENSATION AUTHORITY.**

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

**SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking "and"; and

(2) by inserting before the period at the end ", and title III of the United States-Oman Free Trade Agreement Implementation Act".

# Subtitle B—Textile and Apparel Safeguard Measures

**SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.**

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments Public comments.

regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

**SEC. 322. DETERMINATION AND PROVISION OF RELIEF.**

President.

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, an Omani textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

**SEC. 323. PERIOD OF RELIEF.**

(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(2) there is evidence that the industry is making a positive adjustment to import competition.

**SEC. 324. ARTICLES EXEMPT FROM RELIEF.**

The President may not provide import relief under this subtitle with respect to any article if—

(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force; or

(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

**SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.**

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

**SEC. 326. TERMINATION OF RELIEF AUTHORITY.**

No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

**SEC. 327. COMPENSATION AUTHORITY.**

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

**SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.**

The President may not release information that is submitted in a proceeding under this subtitle and that the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party shall also submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

# TITLE IV—PROCUREMENT

**SEC. 401. ELIGIBLE PRODUCTS.**

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

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

(2) by striking the period at the end of clause (v) and inserting "; or"; and

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

"(vi) a party to the United States-Oman Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States.".

Approved September 26, 2006.

LEGISLATIVE HISTORY—H.R. 5684 (S. 3569):

HOUSE REPORTS: No. 109–574 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 20, considered and passed House.
Sept. 15, 19, considered and passed Senate.

Public Law 109–284
109th Congress

# An Act

To make technical corrections to the United States Code.

Sept. 27, 2006
[H.R. 866]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PURPOSE.**

10 USC 2701 note.

The purpose of this Act is to make technical corrections to the United States Code relating to cross references, typographical errors, and stylistic matters.

**SEC. 2. TITLE 10, UNITED STATES CODE.**

In section 2701(i)(1) of title 10, United States Code, in the paragraph catchline, strike "MILLER ACT" and substitute "SECTIONS 3131 AND 3133 OF TITLE 40".

**SEC. 3. TITLE 23, UNITED STATES CODE.**

Title 23, United States Code, is amended as follows:

(1) In section 107(a), strike "the Act of February 26, 1931, 46 Stat. 1421" and substitute "sections 3114 to 3116 and 3118 of title 40".

(2) In section 210(e), strike "the Act of February 26, 1931; 46 Stat. 1421" and substitute "sections 3114 to 3116 and 3118 of title 40".

**SEC. 4. TITLE 28, UNITED STATES CODE.**

Title 28, United States Code, is amended as follows:

(1) In the analysis for chapter 91, in the item related to section 1499, strike "Contract Work Hours and Safety Standards Act" and substitute "chapter 37 of title 40".

(2) In section 1499, in the section heading, strike "**Contract Work Hours and Safety Standards Act**" and substitute "**chapter 37 of title 40**".

**SEC. 5. TITLE 36, UNITED STATES CODE.**

Title 36, United States Code, is amended as follows:

(1) In the analysis for chapter 5, after the item related to section 509, insert the following:

"510. Disclosure of and prohibition on certain donations".

(2) In the analysis for chapter 5, in the last item, which is related to "Authorization of appropriations", strike "510" and substitute "511".

(3) In the analysis for chapter 23, in the item related to section 2306, strike "museum" and substitute "Museum".

(4) In section 2301, in the first sentence, strike "United State Government" and substitute "United States Government".

(5) In section 20908(c), strike "board or directors" and substitute "board of directors".

(6) In section 40103(13), strike "laws of the each State" and substitute "laws of each State".

(7) In section 70912(b), strike "Corporation" and substitute "corporation".

(8) In section 150511(b), strike "with secretary" and substitute "with the secretary".

(9) In section 151303(c), strike "The Chairman" and substitute "The chairman".

(10) In section 153513(a)(1), strike "(16 U.S.C. 1 et seq.), known as the National Park Service Organic Act))" and substitute "(16 U.S.C. 1 et seq.) (known as the National Park Service Organic Act)".

(11) In section 220104(a)(2)(B), strike "State" and substitute "Defense".

(12) In the analysis for chapter 2205, in the item related to section 220501, strike "Definitions." and substitute "Short title and definitions.".

(13) In section 220501, in the section heading, strike "**Title and Definitions**" and substitute "**Short title and definitions**".

(14) In section 220501(a), in the subsection catchline, strike "TITLE" and substitute "SHORT TITLE".

(15) In section 220505(b)(9), strike "this Act" and substitute "this chapter".

(16) In section 220506(d)(3)(A), strike "subsections" and substitute "subsection".

(17) In section 220509(b)(1)(A), strike "a" before "paralympic sports organizations".

(18) In section 220511, in the section heading, strike "**Annual report**" and substitute "REPORT".

(19) In section 220512, strike "Corporation" and substitute "corporation".

(20) In section 220521(a), strike "subsections" and substitute "subsection".

**SEC. 6. TITLE 40, UNITED STATES CODE.**

Title 40, United States Code, is amended as follows:

(1) In section 522(a), strike "of this section".

(2) In section 522(b), in the subsection catchline, strike "AT" and substitute "AT".

(3) In section 552(a), strike "(a) AUTHORITY TO TAKE PROPERTY Administrator" and substitute "(a) AUTHORITY TO TAKE PROPERTY.—The Administrator".

(4) In section 554(c), in the subsection catchline, strike "TRANSPORTATION." and substitute "TRANSPORTATION.—".

(5) In section 581(b), strike "The Administrator may—" and substitute "The Administrator of General Services may—".

(6) In section 593(b), strike "available to the Administration" and substitute "available to the General Services Administration".

(7) In section 611—

(A) after "under section 1343, 1344, or 1349(b)", insert "of title 31"; and

(B) after "under section 641", insert "of title 18".

(8) In section 3131(e), in the subsection catchline, strike "TO" and substitute "To".

(9) In section 3133(b), in the subsection catchline, strike "TO" and substitute "To".

(10) In section 3133(c), strike "(c) A waiver" and substitute "(c) WAIVER OF RIGHT TO CIVIL ACTION.—A waiver".

(11) In section 3141(1), strike "1494" and substitute "1494)".

(12) In section 3142(d), after "amount referred to in section 3141(2)(B)", insert "of this title".

(13) In section 3142(e), after "determined under section 3141(2)(B)", insert "of this title".

(14) In section 3701(b)(3)(B)—

(A) in the subparagraph catchline, strike "3902" and substitute "3702";

(B) strike "3902" and substitute "3702"; and

(C) strike "subsection (a)(2)(C)" and substitute "paragraph (1)(B)(iii)".

(15) In section 3702(d), in the subsection catchline, strike "TO" and substitute "To".

(16) In section 3704(a)(1), after "authorized by section 553", insert "of title 5".

(17) In section 3704(a)(2), strike "of this section".

(18) In section 6111(b), in the subsection catchline, strike the second period.

(19) In the analysis for chapter 65, in the first item, which is related to "Definition", strike "6581" and substitute "6501".

(20) In the analysis for chapter 67, in the item related to subchapter I, strike "ASSIGMENT" and substitute "ASSIGNMENT".

(21) In chapter 67, in the heading for subchapter I, strike "ASSIGMENT" and substitute "ASSIGNMENT".

(22) In section 8104(b), strike "Commission on Fine Arts" and substitute "Commission of Fine Arts".

(23) In section 8105, strike "post-office" and substitute "post office".

(24) In section 8501(b)(1)(A), after "sections 5101 and 5102", insert "of this title".

(25) In section 8502(a), strike "5314" and substitute "5315".

(26) In section 8502(c)(2), after "sections 5101 and 5102", insert "of this title".

(27) In section 8711(a), after "sections 5101 and 5102", insert "of this title".

(28) In section 8712(a)(2), after "sections 5101 and 5102", insert "of this title".

(29) In section 8722(d)—

(A) strike "52 Stat. 802" and substitute "52 Stat. 797"; and

(B) strike "is subject" and substitute "are subject".

(30) In section 9302(b), in the subsection catchline, strike "WITH" and substitute "WITH".

(31) In section 14308(b)(2), strike "section (a)(2)" and substitute "subsection (a)(2)".

(32) In section 17504(b), in the subsection catchline, strike "WITH" and substitute "WITH".

Approved September 27, 2006.

LEGISLATIVE HISTORY—H.R. 866:

HOUSE REPORTS: No. 109–48 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed House.
Vol. 152 (2006): Sept. 12, considered and passed Senate.

Public Law 109–285
109th Congress

# An Act

To require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

Sept. 27, 2006
[H.R. 2808]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Abraham Lincoln Commemorative Coin Act.
31 USC 5112 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Abraham Lincoln Commemorative Coin Act".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Abraham Lincoln, the 16th President, was one of the Nation's greatest leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation's history.

(2) Born of humble roots in present-day LaRue County, Kentucky, on February 12, 1809, Abraham Lincoln rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

(3) With the belief that all men were created equal, Abraham Lincoln led the effort to free all slaves in the United States.

(4) Abraham Lincoln had a generous heart, with malice toward none and with charity for all.

(5) Abraham Lincoln gave the ultimate sacrifice for his country, dying from an assassin's bullet on April 15, 1865.

(6) The year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln.

(7) The Abraham Lincoln Bicentennial Commission has been charged by Congress with planning the celebration of Lincoln's bicentennial.

(8) The proceeds from a commemorative coin will help fund the celebration and the continued study of the life of Lincoln.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—All coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the life and legacy of President Abraham Lincoln.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2009"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts and the Abraham Lincoln Bicentennial Commission; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2009.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f)(1), title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Abraham Lincoln Bicentennial Commission to further the work of the Commission.

(c) AUDITS.—The Abraham Lincoln Bicentennial Commission shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code.

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

Approved September 27, 2006.

LEGISLATIVE HISTORY—H.R. 2808 (S. 811):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 6, considered and passed House.
Sept. 8, considered and passed Senate.

# Public Law 109–286
# 109th Congress

## An Act

Sept. 27, 2006
[S. 1773]

To resolve certain Native American claims in New Mexico, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pueblo de San Ildefonso Claims Settlement Act of 2005.
25 USC 1780 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pueblo de San Ildefonso Claims Settlement Act of 2005".

25 USC 1780.

**SEC. 2. DEFINITIONS AND PURPOSES.**

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATIVE ACCESS.—The term "administrative access" means the unrestricted use of land and interests in land for ingress and egress by an agency of the United States (including a permittee, contractor, agent, or assignee of the United States) in order to carry out an activity authorized by law or regulation, or otherwise in furtherance of the management of federally-owned land and resources.

(2) COUNTY.—The term "County" means the incorporated county of Los Alamos, New Mexico.

(3) LOS ALAMOS AGREEMENT.—The term "Los Alamos Agreement" means the agreement among the County, the Pueblo, the Department of Agriculture Forest Service, and the Bureau of Indian Affairs dated January 22, 2004.

(4) LOS ALAMOS TOWNSITE LAND.—"Los Alamos Townsite Land" means the land identified as Attachment B (dated December 12, 2003) to the Los Alamos Agreement.

(5) NORTHERN TIER LAND.—"Northern Tier Land" means the land comprising approximately 739.71 acres and identified as "Northern Tier Lands" in Appendix B (dated August 3, 2004) to the Settlement Agreement.

(6) PENDING LITIGATION.—The term "Pending Litigation" means the case styled Pueblo of San Ildefonso v. United States, Docket Number 354, originally filed with the Indian Claims Commission and pending in the United States Court of Federal Claims on the date of enactment of this Act.

(7) PUEBLO.—The term "Pueblo" means the Pueblo de San Ildefonso, a federally recognized Indian tribe (also known as the "Pueblo of San Ildefonso").

(8) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement entitled "Settlement Agreement between the United States and the Pueblo de San Ildefonso to Resolve All of the Pueblo's Land Title and Trespass Claims" and dated June 7, 2005.

(9) SETTLEMENT AREA LAND.—The term "Settlement Area Land" means the National Forest System land located within the Santa Fe National Forest, as described in Appendix B to the Settlement Agreement, that is available for purchase by the Pueblo under section 9(a) of the Settlement Agreement.

(10) SETTLEMENT FUND.—The term "Settlement Fund" means the Pueblo de San Ildefonso Land Claims Settlement Fund established by section 6.

(11) SISK ACT.—The term "Sisk Act" means Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(12) WATER SYSTEM LAND.—The term "Water System Land" means the federally-owned land located within the Santa Fe National Forest to be conveyed to the County under the Los Alamos Agreement.

(b) PURPOSES.—The purposes of this Act are—

(1) to finally dispose, as set forth in sections 4 and 5, of all rights, claims, or demands that the Pueblo has asserted or could have asserted against the United States with respect to any and all claims in the Pending Litigation;

(2) to extinguish claims based on aboriginal title, Indian title, or recognized title, or any other title claims under section 5;

(3) to authorize the Pueblo to acquire the Settlement Area Land, and to authorize the Secretary of Agriculture to convey the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land for market value consideration, and for such consideration to be paid to the Secretary of Agriculture for the acquisition of replacement National Forest land elsewhere in New Mexico;

(4) to provide that the Settlement Area Land acquired by the Pueblo shall be held by the Secretary of the Interior in trust for the benefit of the Pueblo;

(5) to facilitate government-to-government relations between the United States and the Pueblo regarding cooperation in the management of certain land administered by the National Park Service and the Bureau of Land Management as described in sections 7 and 8 of the Settlement Agreement;

(6) to ratify the Settlement Agreement; and,

(7) to ratify the Los Alamos Agreement.

**SEC. 3. RATIFICATION OF AGREEMENTS.** 25 USC 1780a.

(a) RATIFICATION.—The Settlement Agreement and Los Alamos Agreement are ratified under Federal law, and the parties to those agreements are authorized to carry out the provisions of the agreements.

(b) CORRECTIONS AND MODIFICATIONS.—The respective parties to the Settlement Agreement and the Los Alamos Agreement are authorized, by mutual agreement, to correct errors in any legal description or maps, and to make minor modifications to those agreements.

**SEC. 4. JUDGMENT AND DISMISSAL OF LITIGATION.** 25 USC 1780b.

(a) DISMISSAL.—Not later than 90 days after the date of enactment of this Act, the United States and the Pueblo shall execute and file with the United States Court of Federal Claims in the Pending Litigation a motion for entry of final judgment in accordance with section 5 of the Settlement Agreement. Deadline.

(b) COMPENSATION.—Upon entry of the final judgment under subsection (a), $6,900,000 shall be paid into the Settlement Fund as compensation to the Pueblo in accordance with section 1304 of title 31, United States Code.

25 USC 1780c.

**SEC. 5. RESOLUTION OF CLAIMS.**

(a) EXTINGUISHMENTS.—Except as provided in subsection (b), in consideration of the benefits of the Settlement Agreement, and in recognition of the agreement of the Pueblo to the Settlement Agreement, all claims of the Pueblo against the United States (including any claim against an agency, officer, or instrumentality of the United States) are relinquished and extinguished, including—

(1) any claim to land based on aboriginal title, Indian title, or recognized title;

(2) any claim for damages or other judicial relief or for administrative remedies that were brought, or that were knowable and could have been brought, on or before the date of the Settlement Agreement;

(3) any claim relating to—

(A) any federally-administered land, including National Park System land, National Forest System land, Public land administered by the Bureau of Land Management, the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land; and

(B) any land owned by, or held for the benefit of, any Indian tribe other than the Pueblo; and

(4) any claim that was, or that could have been, asserted in the Pending Litigation.

(b) EXCEPTIONS.—Nothing in this Act or the Settlement Agreement shall in any way extinguish or otherwise impair—

(1) the title of record of the Pueblo to land held by or for the benefit of the Pueblo, as identified in Appendix D to the Settlement Agreement, on or before the date of enactment of this Act; and,

(2) the title of the Pueblo to the Pueblo de San Ildefonso Grant, including, as identified in Appendix D to the Settlement Agreement—

(A) the title found by the United States District Court for the District of New Mexico in the case styled United States v. Apodoca (Number 2031, equity: December 5, 1930) not to have been extinguished; and

(B) title to any land that has been reacquired by the Pueblo pursuant to the Act entitled "An Act to quiet the title to lands within Pueblo Indian land grants, and for other purposes", approved June 7, 1924 (43 Stat. 636, chapter 331);

(3) the water rights of the Pueblo appurtenant to the land described in paragraphs (1) and (2); and

(4) any rights of the Pueblo or a member of the Pueblo under Federal law relating to religious or cultural access to, and use of, Federal land.

(c) PREVIOUS EXTINGUISHMENTS UNIMPAIRED.—Nothing in this Act affects any prior extinguishments of rights or claims of the Pueblo which may have occurred by operation of law.

(d) BOUNDARIES AND TITLE UNAFFECTED.—

(1) BOUNDARIES.—Nothing in this Act affects the location of the boundaries of the Pueblo de San Ildefonso Grant.

(2) RIGHTS, TITLE, AND INTEREST.—Nothing in this Act affects, ratifies, or confirms the right, title, or interest of the Pueblo in the land held by, or for the benefit of, the Pueblo, including the land described in Appendix D of the Settlement Agreement.

**SEC. 6. SETTLEMENT FUND.** 25 USC 1780d.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the "Pueblo de San Ildefonso Land Claims Settlement Fund".

(b) CONDITIONS.—Monies deposited in the Settlement Fund shall be subject to the following conditions:

(1) MAINTENANCE AND INVESTMENT.—The Settlement Fund shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(2) USE OF FUNDS.—Subject to paragraph (3), monies deposited into the Settlement Fund shall be expended by the Pueblo—

(A) to acquire the federally administered Settlement Area Land;

(B) to pay for the acquisition of the Water System Land, as provided in the Los Alamos Agreement; and

(C) at the option of the Pueblo, to acquire other land.

(3) EFFECT OF WITHDRAWAL.—If the Pueblo withdraws monies from the Settlement Fund, neither the Secretary of the Interior nor the Secretary of the Treasury shall retain any oversight over, or liability for, the accounting, disbursement, or investment of the withdrawn funds.

(4) PER CAPITA DISTRIBUTION.—No portion of the funds in the Settlement Fund may be paid to Pueblo members on a per capita basis.

(5) ACQUISITION OF LAND.—The acquisition of land with funds from the Settlement Fund shall be on a willing-seller, willing-buyer basis, and no eminent domain authority may be exercised for purposes of acquiring land for the benefit of the Pueblo under this Act.

(6) EFFECT OF OTHER LAWS.—The Act of October 19, 1973 (Public Law 93–134; 87 Stat. 466) and section 203 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4023) shall not apply to the Settlement Fund.

**SEC. 7. LAND OWNERSHIP ADJUSTMENTS.** 25 USC 1780e.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Agriculture may sell the Settlement Area Land, Water System Land, and Los Alamos Townsite Land, on such terms and conditions as are agreed upon and described in the Settlement Agreement and the Los Alamos Agreement, including reservations for administrative access and other access as shown on Appendix B of the Settlement Agreement.

(2) EFFECT OF CLAIMS AND CAUSE OF ACTION.—Consideration for any land authorized for sale by the Secretary of Agriculture shall not be offset or reduced by any claim or cause of action by any party to whom the land is conveyed.

(b) CONSIDERATION.—The consideration to be paid for the Federal land authorized for sale in subsection (a) shall be—

(1) for the Settlement Area Land and Water System Land, the consideration agreed upon in the Settlement Agreement; and

(2) for the Los Alamos Townsite Land, the current market value based on an appraisal approved by the Forest Service as being in conformity with the latest edition of the Uniform Appraisal Standards for Federal Land Acquisitions.

(c) DISPOSITION OF RECEIPTS.—

(1) IN GENERAL.—All monies received by the Secretary of Agriculture from the sale of National Forest System land as authorized by this Act, including receipts from the Northern Tier Land, shall be deposited into the fund established in the Treasury of the United States pursuant to the Sisk Act and shall be available, without further appropriation, authorization, or administrative apportionment for the purchase of land by the Secretary of Agriculture for National Forest System purposes in the State of New Mexico, and for associated administrative costs.

(2) USE OF FUNDS.—Funds deposited in a Sisk Act fund pursuant to this Act shall not be subject to transfer or reprogramming for wildlands fire management or any other emergency purposes, or used to reimburse any other account.

(3) ACQUISITIONS OF LAND.—In expending funds to exercise its rights under the Settlement Agreement and the Los Alamos Agreement with respect to the acquisition of the Settlement Area Land, the County's acquisitions of the Water System Land, and the Northern Tier Land (if the Pueblo exercises an option to purchase the Northern Tier Land as provided in section 12(b)(2)(A), the Pueblo shall use only funds in the Settlement Fund and shall not augment those funds from any other source.

(d) VALID EXISTING RIGHTS AND RESERVATIONS.—

(1) IN GENERAL.—The Settlement Area Land acquired by the Pueblo shall be subject to all valid existing rights on the date of enactment of this Act, including rights of administrative access.

(2) WATER RIGHTS.—No water rights shall be conveyed by the United States.

(3) SPECIAL USE AUTHORIZATION.—

(A) IN GENERAL.—Nothing in this Act shall affect the validity of any special use authorization issued by the Forest Service within the Settlement Area Land, except that such authorizations shall not be renewed upon expiration.

(B) REASONABLE ACCESS.—For access to valid occupancies within the Settlement Area Land, the Pueblo and the Secretary of the Interior shall afford rights of reasonable access commensurate with that provided by the Secretary of Agriculture on or before the date of enactment of this Act.

(4) WATER SYSTEM LAND AND LOS ALAMOS TOWNSITE LAND.—The Water System Land and Los Alamos Townsite Land acquired by the County shall be subject to—

(A) all valid existing rights; and

(B) the rights reserved by the United States under the Los Alamos Agreement.

(5) PRIVATE LANDOWNERS.—

(A) IN GENERAL.—Upon acquisition by the Pueblo of the Settlement Area Land, the Secretary of the Interior, acting on behalf of the Pueblo and the United States, shall execute easements in accordance with any right reserved by the United States for the benefit of private landowners owning property that requires the use of Forest Development Road 416 (as in existence on the date of enactment of this Act) and other roads that may be necessary to provide legal access into the property of the landowners, as the property is used on the date of this Act.

(B) MAINTENANCE OF ROADS.—Neither the Pueblo nor the United States shall be required to maintain roads for the benefit of private landowners.

(C) EASEMENTS.—Easements shall be granted, without consideration, to private landowners only upon application of such landowners to the Secretary.

(e) FOREST DEVELOPMENT ROADS.—

(1) UNITED STATES RIGHT TO USE.—Subject to any right-of-way to use, cross, and recross a road, the United States shall reserve and have free and unrestricted rights to use, operate, maintain, and reconstruct (at the same level of development, as in existence on the date of the Settlement Agreement), those sections of Forest Development Roads 57, 442, 416, 416v, 445 and 445ca referenced in Appendix B of the Settlement Agreement for any and all public and administrative access and other Federal governmental purposes, including access by Federal employees, their agents, contractors, and assigns (including those holding Forest Service permits).

(2) CERTAIN ROADS.—Notwithstanding paragraph (1), the United States—

(A) may improve Forest Development Road 416v beyond the existing condition of that road to a high clearance standard road (level 2); and

(B) shall have unrestricted administrative access and non-motorized public trail access to the portion of Forest Development Road 442 depicted in Appendix B to the Settlement Agreement.

(f) PRIVATE MINING OPERATIONS.—

(1) COPAR PUMICE MINE.—The United States and the Pueblo shall allow the COPAR Pumice Mine to continue to operate as provided in the Contract For The Sale Of Mineral Materials dated May 4, 1994, and for COPAR to use portions of Forest Development Roads 57, 442, 416, and other designated roads within the area described in the contract, for the period of the contract and thereafter for a period necessary to reclaim the site.

(2) CONTINUING JURISDICTION.—

(A) ADMINISTRATION.—Continuing jurisdiction of the United States over the contract for the sale of mineral materials shall be administered by the Secretary of the Interior.

(B) EXPIRATION OF CONTRACT.—Upon expiration of the contract described in subparagraph (A), jurisdiction over reclamation shall be assumed by the Secretary of the Interior.

(3) EFFECT ON EXISTING RIGHTS.—Nothing in this Act limits or enhances the rights of COPAR under the Contract For The Sale Of Mineral Materials dated May 4, 1994.

25 USC 1780f.

**SEC. 8. CONVEYANCES.**

(a) AUTHORIZATION.—

(1) CONSIDERATION FROM PUEBLO.—Upon receipt of the consideration from the Pueblo for the Settlement Area Land and the Water System Land, the Secretary of Agriculture shall execute and deliver—

(A) to the Pueblo, a quitclaim deed to the Settlement Area Land; and

(B) to the County, a quitclaim deed to the Water System Land, reserving—

(i) a contingent remainder in the United States in trust for the benefit of the Pueblo in accordance with the Los Alamos Agreement; and

(ii) a right of access for the United States for the Pueblo for ceremonial and other cultural purposes.

(2) CONSIDERATION FROM COUNTY.—Upon receipt of the consideration from the County for all or a portion of the Los Alamos Townsite Land, the Secretary of Agriculture shall execute and deliver to the County a quitclaim deed to all or portions of such land, as appropriate.

(3) EXECUTION.—An easement or deed of conveyance by the Secretary of Agriculture under this Act shall be executed by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(b) AUTHORIZATION FOR PUEBLO TO CONVEY IN TRUST.—Upon receipt by the Pueblo of the quitclaim deed to the Settlement Land under subsection (a)(1), the Pueblo may quitclaim the Settlement Land to the United States, in trust for the Pueblo.

(c) ADEQUACY OF CONVEYANCE INSTRUMENTS.—Notwithstanding the status of the Federal land as public domain or acquired land, no instrument of conveyance other than a quitclaim deed shall be required to convey the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land under this Act.

(d) SURVEYS.—The Secretary of Agriculture is authorized to perform and approve any required cadastral survey.

(e) CONTRIBUTIONS.—Notwithstanding section 3302 of title 31, United States Code, or any other provision of law, the Secretary of Agriculture may accept and use contributions of cash or services from the Pueblo, other governmental entities, or other persons—

(1) to perform and complete required cadastral surveys for the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land, as described in the Settlement Agreement or the Los Alamos Agreement; and

(2) to carry out any other project or activity under—

(A) this Act;

(B) the Settlement Agreement; or

(C) the Los Alamos Agreement.

25 USC 1780g.

**SEC. 9. TRUST STATUS AND NATIONAL FOREST BOUNDARIES.**

(a) OPERATION OF LAW.—Without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior—

(1) on recording the quitclaim deed or deeds from the Pueblo to the United States in trust for the Pueblo under section 8(b) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs—

(A) the Settlement Area Land shall be held in trust by the United States for the benefit of the Pueblo; and

(B) the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Settlement Area Land; and

(2) on recording the quitclaim deed or deeds from the Secretary of Agriculture to the County of the Water System Land in the county land records, the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Water System Land.

(b) FUTURE INTERESTS.—If fee title to the Water System Land vests in the Pueblo by conveyance or operation of law, the Water System Land shall be deemed to be held in trust by the United States for the benefit of the Pueblo, without further administrative procedures or environmental or other analyses.

(c) NONINTERCOURSE ACT.—Any land conveyed to the Secretary of the Interior in trust for the Pueblo or any other tribe in accordance with this Act shall be—

(1) subject to the Act of June 30, 1834 (25 U.S.C. 177); and

(2) treated as reservation land.

**SEC. 10. INTERIM MANAGEMENT.** 25 USC 1780h.

Subject to valid existing rights, prior to the conveyance under section 9, the Secretary of Agriculture, with respect to the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land—

(1) shall not encumber or dispose of the land by sale, exchange, or special use authorization, in such a manner as to substantially reduce the market value of the land;

(2) shall take any action that the Secretary determines to be necessary or desirable—

(A) to protect the land from fire, disease, or insect infestation; or

(B) to protect lives or property; and

(3) may, in consultation with the Pueblo or the County, as appropriate, authorize a special use of the Settlement Area Land, not to exceed 1 year in duration.

**SEC. 11. WITHDRAWAL.** 25 USC 1780i.

Subject to valid existing rights, the land referenced in the notices of withdrawal of land in New Mexico (67 Fed. Reg. 7193; 68 Fed. Reg. 75628) is withdrawn from all location, entry, and patent under the public land laws and mining and mineral leasing laws of the United States, including geothermal leasing laws.

**SEC. 12. CONVEYANCE OF THE NORTHERN TIER LAND.** 25 USC 1780j.

(a) CONVEYANCE AUTHORIZATION.—

(1) IN GENERAL.—Subject to valid existing rights, including reservations in the United States and any right under this section, the Secretary of Agriculture shall sell the Northern Tier Land on such terms and conditions as the Secretary may prescribe as being in the public interest and in accordance with this section.

(2) EFFECT OF PARAGRAPH.—The authorization under paragraph (1) is solely for the purpose of consolidating Federal and non-Federal land to increase management efficiency and is not in settlement or compromise of any claim of title by any Pueblo, Indian tribe, or other entity.

(b) RIGHTS OF REFUSAL.—

(1) PUEBLO OF SANTA CLARA.—

Deadline.

(A) IN GENERAL.—In consideration for an easement under subsection (e)(2), the Pueblo of Santa Clara shall have an exclusive option to purchase the Northern Tier Land for the period beginning on the date of enactment of this Act and ending 90 days thereafter.

(B) RESOLUTION.—Within the period prescribed in subparagraph (A), the Pueblo of Santa Clara may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture, a resolution of the Santa Clara Tribal Council expressing the unqualified intent of the Pueblo of Santa Clara to purchase the land at the offered price.

(C) FAILURE TO ACT.—If the Pueblo of Santa Clara does not exercise its option to purchase the Northern Tier Land within the 90-day period under subparagraph (A), or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised, the Secretary of Agriculture shall offer the Northern Tier Land for sale to the Pueblo.

(2) OFFER TO PUEBLO.—

Deadline.

(A) IN GENERAL.—Not later than 90 days after receiving a written offer from the Secretary of Agriculture under paragraph (1)(C), the Pueblo may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, a resolution of the Pueblo Tribal Council expressing the unqualified intent of the Pueblo to purchase the land at the offered price.

(B) FAILURE OF PUEBLO TO ACT.—If the Pueblo fails to exercise its option to purchase the Northern Tier Land within 90 days after receiving an offer from the Secretary of Agriculture, or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised under subparagraph (A), the Secretary of Agriculture may sell or exchange the land to any third party in such manner and on such terms and conditions as the Secretary determines to be in the public interest, including by a competitive process.

(3) EXTENSION OF TIME PERIOD.—The Secretary of Agriculture may extend the time period for closing beyond the 1 year prescribed in subsection (b), if the Secretary determines that additional time is required to meet the administrative processing requirements of the Federal Government, or for other reasons beyond the control of either party.

(c) TERMS AND CONDITIONS OF SALE.—

(1) PURCHASE PRICE.—Subject to valid existing rights and reservations, the purchase price for the Northern Tier Land sold to the Pueblo of Santa Clara or the Pueblo under subsection (b) shall be the consideration agreed to by the Pueblo of Santa

Clara pursuant to that certain Pueblo of Santa Clara Tribal Council Resolution No. 05–01 "Approving Proposed San Ildefonso Claims Settlement Act of 2005, and Terms for Purchase of Northern Tier Lands" that was signed by Governor J. Bruce Tafoya in January 2005.

(2) RESERVED RIGHTS.—On the Northern Tier Land, the United States shall reserve the right to operate, maintain, reconstruct (at standards in existence on the date of the Settlement Agreement), replace, and use the stream gauge, and to have unrestricted administrative access over the associated roads to the gauge (as depicted in Appendix B of the Settlement Agreement).

(3) CONVEYANCE BY QUITCLAIM DEED.—The conveyance of the Northern Tier Land shall be by quitclaim deed executed on behalf of the United States by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(d) TRUST STATUS AND FOREST BOUNDARIES.—

(1) ACQUISITION OF LAND BY INDIAN TRIBE.—If the Northern Tier Land is acquired by an Indian tribe (including a Pueblo tribe), the land may be reconveyed by quitclaim deed or deeds back to the United States to be held in trust by the Secretary of the Interior for the benefit of the tribe, and the Secretary of the Interior shall accept the conveyance without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior.

(2) LAND HELD IN TRUST.—On recording a quitclaim deed described in paragraph (1) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs, the Northern Tier Land shall be deemed to be held in trust by the United States for the benefit of the Indian tribe.

Effective date.

(3) BOUNDARIES OF SANTA FE NATIONAL FOREST.—Effective on the date of a deed described in paragraph (1), the boundaries of the Santa Fe National Forest shall be deemed modified to exclude from the National Forest System the land conveyed by the deed.

(e) INHOLDER AND ADMINISTRATIVE ACCESS.—

(1) FAILURE OF PUEBLO OF SANTA CLARA TO ACT.—

(A) IN GENERAL.—If the Pueblo of Santa Clara does not exercise its option to acquire the Northern Tier Land, the Secretary of Agriculture or the Secretary of the Interior, as appropriate, shall by deed reservations or grants on land under their respective jurisdiction provide for inholder and public access across the Northern Tier Land in order to provide reasonable ingress and egress to private and Federal land as shown in Appendix B of the Settlement Agreement.

(B) ADMINISTRATION OF RESERVATIONS.—The Secretary of the Interior shall administer any such reservations on land acquired by any Indian tribe.

Applicability.

(2) EFFECT OF ACCEPTANCE.—If the Pueblo of Santa Clara exercises its option to acquire all of the Northern Tier Land, the following shall apply:

(A) EASEMENTS TO UNITED STATES.—

(i) DEFINITION OF ADMINISTRATIVE ACCESS.—In this subparagraph, the term "administrative access" means access to Federal land by Federal employees acting

in the course of their official capacities in carrying out activities on Federal land authorized by law or regulation, and by agents and contractors of Federal agencies who have been engaged to perform services necessary or desirable for fire management and the health of forest resources, including the cutting and removal of vegetation, and for the health and safety of persons on the Federal land.

(ii) EASEMENTS.—

(I) IN GENERAL.—The Pueblo of Santa Clara shall grant and convey at closing perpetual easements over the existing roads to the United States that are acceptable to the Secretary of Agriculture for administrative access over the Santa Clara Reservation Highway 601 (the Puye Road), from its intersection with New Mexico State Highway 30, westerly to its intersection with the Sawyer Canyon Road (also known as Forest Development Road 445), thence southwesterly on the Sawyer Canyon Road to the point at which it exits the Santa Clara Reservation.

(II) MAINTENANCE OF ROADWAY.—An easement under this subparagraph shall provide that the United States shall be obligated to contribute to maintenance of the roadway commensurate with actual use.

Deadline.

(B) EASEMENTS TO PRIVATE LANDOWNERS.—Not later than 180 days after the date of enactment of this Act, the Pueblo of Santa Clara, in consultation with private landowners, shall grant and convey a perpetual easement to the private owners of land within the Northern Tier Land for private access over Santa Clara Reservation Highway 601 (Puye Road) across the Santa Clara Indian Reservation from its intersection with New Mexico State Highway 30, or other designated public road, on Forest Development Roads 416, 445 and other roads that may be necessary to provide access to each individually owned private tract.

(3) APPROVAL.—The Secretary of the Interior shall approve the conveyance of an easement under paragraph (2) upon receipt of written approval of the terms of the easement by the Secretary of Agriculture.

(4) ADEQUATE ACCESS PROVIDED BY PUEBLO OF SANTA CLARA.—If adequate administrative and inholder access is provided over the Santa Clara Indian Reservation under paragraph (2), the Secretary of the Interior—

(A) shall vacate the inholder access over that portion of Forest Development Road 416 referenced in section 7(e)(5); but

(B) shall not vacate the reservations over the Northern Tier Land for administrative access under subsection (c)(2).

25 USC 1780k.

**SEC. 13. INTER–PUEBLO COOPERATION.**

(a) DEMARCATION OF BOUNDARY.—The Pueblo of Santa Clara and the Pueblo may, by agreement, demarcate a boundary between their respective tribal land within Township 20 North, Range 7 East, in Rio Arriba County, New Mexico, and may exchange or otherwise convey land between them in that township.

(b) ACTION BY SECRETARY OF THE INTERIOR.—In accordance with any agreement under subsection (a), the Secretary of the Interior shall, without further administrative procedures or environmental or other analyses—

(1) recognize a boundary between the Pueblo of Santa Clara and the Pueblo;

(2) provide for a boundary survey;

(3) approve land exchanges and conveyances as agreed upon by the Pueblo of Santa Clara and the Pueblo; and

(4) accept conveyances of exchanged lands into trust for the benefit of the grantee tribe.

**SEC. 14. DISTRIBUTION OF FUNDS PLAN.** 25 USC 1780*l*.

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall act in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) with respect to the award entered in the compromise and settlement of claims under the case styled Pueblo of San Ildefonso v. United States, No. 660–87L, United States Court of Federal Claims. Deadline.

**SEC. 15. RULE OF CONSTRUCTION AND JUDICIAL REVIEW.** 25 USC 1780m.

Notwithstanding any provision of State law, the Settlement Agreement and the Los Alamos Agreement (including any real property conveyance under the agreements) shall be interpreted and implemented as matters of Federal law.

**SEC. 16. EFFECTIVE DATE.** 25 USC 1780n.

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

**SEC. 17. TIMING OF ACTIONS.** 25 USC 1780o.

It is the intent of Congress that the land conveyances and adjustments contemplated in this Act (except the conveyances and adjustments relating to Los Alamos Townsite Land) shall be completed not later than 180 days after the date of enactment of this Act. Deadline.

25 USC 1780p.

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

There are authorized to be appropriated such funds as are necessary to carry out this Act.

Approved September 27, 2006.

LEGISLATIVE HISTORY—S. 1773:

HOUSE REPORTS: No. 109–633 (Comm. on Resources).
SENATE REPORTS: No. 109–252 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 24, considered and passed Senate.
Sept. 12, considered and passed House.

Public Law 109–287
109th Congress

# An Act

To award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, non-violence, human rights, and religious understanding.

Sept. 27, 2006
[S. 2784]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Fourteenth Dalai Lama Congressional Gold Medal Act.
31 USC 5111 note.

**SECTION 1. SHORT TITLE.**

This Act may cited as the "Fourteenth Dalai Lama Congressional Gold Medal Act".

**SEC. 2. FINDINGS.**

Congress finds that Tenzin Gyatso, the Fourteenth Dalai Lama—

(1) is recognized in the United States and throughout the world as a leading figure of moral and religious authority;

(2) is the unrivaled spiritual and cultural leader of the Tibetan people, and has used his leadership to promote democracy, freedom, and peace for the Tibetan people through a negotiated settlement of the Tibet issue, based on autonomy within the People's Republic of China;

(3) has led the effort to preserve the rich cultural, religious, and linguistic heritage of the Tibetan people and to promote the safeguarding of other endangered cultures throughout the world;

(4) was awarded the Nobel Peace Prize in 1989 for his efforts to promote peace and non-violence throughout the globe, and to find democratic reconciliation for the Tibetan people through his "Middle Way" approach;

(5) has significantly advanced the goal of greater understanding, tolerance, harmony, and respect among the different religious faiths of the world through interfaith dialogue and outreach to other religious leaders; and

(6) has used his moral authority to promote the concept of universal responsibility as a guiding tenet for how human beings should treat one another and the planet we share.

**SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design, to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring contributions to peace and religious understanding.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

**SEC. 4. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 5. STATUS OF MEDALS.**

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

**SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

Approved September 27, 2006.

LEGISLATIVE HISTORY—S. 2784:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 25, considered and passed Senate.
Sept. 13, considered and passed House.

Public Law 109–288
109th Congress

# An Act

To amend part B of title IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.

Sept. 28, 2006
[S. 3525]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Child and Family Services Improvement Act of 2006.
Inter-governmental relations.
42 USC 1305 note.
42 USC 621 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Child and Family Services Improvement Act of 2006".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) For Federal fiscal year 2004, child protective services (CPS) staff nationwide reported investigating or assessing an estimated 3,000,000 allegations of child maltreatment, and determined that 872,000 children had been abused or neglected by their parents or other caregivers.

(2) Combined, the Child Welfare Services (CWS) and Promoting Safe and Stable Families (PSSF) programs provide States about $700,000,000 per year, the largest source of targeted Federal funding in the child protection system for services to ensure that children are not abused or neglected and, whenever possible, help children remain safely with their families.

(3) A 2003 report by the Government Accountability Office (GAO) reported that little research is available on the effectiveness of activities supported by CWS funds—evaluations of services supported by PSSF funds have generally shown little or no effect.

(4) Further, the Department of Health and Human Services recently completed initial Child and Family Service Reviews (CFSRs) in each State. No State was in full compliance with all measures of the CFSRs. The CFSRs also revealed that States need to work to prevent repeat abuse and neglect of children, improve services provided to families to reduce the risk of future harm (including by better monitoring the participation of families in services), and strengthen upfront services provided to families to prevent unnecessary family break-up and protect children who remain at home.

(5) Federal policy should encourage States to invest their CWS and PSSF funds in services that promote and protect the welfare of children, support strong, healthy families, and reduce the reliance on out-of-home care, which will help ensure all children are raised in safe, loving families.

(6) CFSRs also found a strong correlation between frequent caseworker visits with children and positive outcomes for these

children, such as timely achievement of permanency and other indicators of child well-being.

(7) However, a December 2005 report by the Department of Health and Human Services Office of Inspector General found that only 20 States were able to produce reports to show whether caseworkers actually visited children in foster care on at least a monthly basis, despite the fact that nearly all States had written standards suggesting monthly visits were State policy.

(8) A 2003 GAO report found that the average tenure for a child welfare caseworker is less than 2 years and this level of turnover negatively affects safety and permanency for children.

(9) Targeting CWS and PSSF funds to ensure children in foster care are visited on at least a monthly basis will promote better outcomes for vulnerable children, including by preventing further abuse and neglect.

(10) According to the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration, the annual number of new uses of Methamphetamine, also known as "meth," has increased 72 percent over the past decade. According to a study conducted by the National Association of Counties which surveyed 500 county law enforcement agencies in 45 states, 88 percent of the agencies surveyed reported increases in meth related arrests starting 5 years ago.

(11) According to the 2004 National Survey on Drug Use and Health, nearly 12,000,000 Americans have tried methamphetamine. Meth making operations have been uncovered in all 50 states, but the most wide-spread abuse has been concentrated in the western, southwestern, and Midwestern United States.

(12) Methamphetamine abuse is on the increase, particularly among women of child-bearing age. This is having an impact on child welfare systems in many States. According to a survey administered by the National Association of Counties ("The Impact of Meth on Children"), conducted in 300 counties in 13 states, meth is a major cause of child abuse and neglect. Forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements because of meth in 2005.

(13) It is appropriate also to target PSSF funds to address this issue because of the unique strain the meth epidemic puts on child welfare agencies. Outcomes for children affected by meth are enhanced when services provided by law enforcement, child welfare and substance abuse agencies are integrated.

**SEC. 3. REAUTHORIZATION OF THE PROMOTING SAFE AND STABLE FAMILIES PROGRAM.**

Effective date.

(a) FUNDING OF MANDATORY GRANTS AT $345 MILLION PER FISCAL YEAR.—Effective October 1, 2006, section 436(a) of the Social Security Act (42 U.S.C. 629f(a)) is amended by striking "fiscal year 2006." and all that follows and inserting "each of fiscal years 2007 through 2011".

(b) FUNDING OF DISCRETIONARY GRANTS.—Section 437(a) of such Act (42 U.S.C. 629g(a)) is amended by striking "2002 through 2006" and inserting "2007 through 2011".

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—

(1) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services $40,000,000 for fiscal year 2006 to carry out section 436 of the Social Security Act, in addition to any amount otherwise made available for fiscal year 2006 to carry out such section.

(2) AVAILABILITY OF FUNDS.—Notwithstanding sections 434(b)(2) and 436(b)(3) of such Act, the amount appropriated under paragraph (1) of this subsection—

(A) shall remain available for expenditure through fiscal year 2009 solely for the purpose described in section 436(b)(4)(B)(i) of such Act;

(B) shall not be used to supplant any Federal funds paid under part E of title IV of such Act that could be used for that purpose; and

(C) shall not be made available to any Indian tribe or tribal consortium.

(d) ELIMINATION OF FINDINGS.—Section 430 of such Act (42 U.S.C. 629) is amended by striking all through "(b) PURPOSE.—The purpose" and inserting the following:

**"SEC. 430. PURPOSE.**

"The purpose".

(e) ANNUAL BUDGET REQUESTS, SUMMARIES, AND EXPENDITURE REPORTS.—

(1) IN GENERAL.—Section 432(a)(8) of such Act (42 U.S.C. 629b(a)(8)) is amended—

(A) by inserting "(A)" after "(8)"; and

(B) by adding at the end the following:

"(B) provides that, not later than June 30 of each year, the State will submit to the Secretary—

"(i) copies of forms CFS 101–Part I and CFS 101–Part II (or any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

"(ii) copies of forms CFS 101–Part I and CFS 101–Part II (or any successor forms) that provide, with respect to the programs authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete—

"(I) the numbers of families and of children served by the State agency;

"(II) the population served by the State agency;

"(III) the geographic areas served by the State agency; and

"(IV) the actual expenditures of funds provided to the State agency; and".

(2) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—Section 432 of such Act (42 U.S.C. 629b) is amended by adding at the end the following:

"(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—The Secretary shall compile the reports required under subsection (a)(8)(B) and, not later than September 30 of each year, submit such compilation to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate.".

42 USC 629b note.

(3) EFFECTIVE DATE; INITIAL DEADLINES FOR SUBMISSIONS.—The amendments made by this subsection take effect on the date of enactment of this Act. Each State with an approved plan under subpart 1 or 2 of part B of title IV of the Social Security Act shall make its initial submission of the forms required under section 432(a)(8)(B) of the Social Security Act to the Secretary of Health and Human Services by June 30, 2007, and the Secretary of Health and Human Services shall submit the first compilation required under section 432(c) of the Social Security Act by September 30, 2007.

(f) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(1) IN GENERAL.—Section 434 of such Act (42 U.S.C. 629d) is amended—

(A) in subsection (a), by inserting ", subject to subsection (d)," after "shall"; and

(B) by adding at the end the following:

"(d) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—The Secretary shall not make a payment to a State under this section with respect to expenditures for administrative costs during a fiscal year, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year under the State plan approved under section 432.".

42 USC 629d note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to expenditures made on or after October 1, 2007.

**SEC. 4. TARGETING OF PROMOTING SAFE AND STABLE FAMILIES PROGRAM RESOURCES.**

(a) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

(1) RESERVATION AND USE OF FUNDS.—Section 436(b) of the Social Security Act (42 U.S.C. 629f(b)) is amended by adding at the end the following:

"(4) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

"(A) RESERVATION.—The Secretary shall reserve for allotment in accordance with section 433(e)—

"(i) $5,000,000 for fiscal year 2008;

"(ii) $10,000,000 for fiscal year 2009; and

"(iii) $20,000,000 for each of fiscal years 2010 and 2011.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to support monthly caseworker visits with children who are in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

"(ii) NONSUPPLANTATION.—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i).".

(2) ALLOTMENT OF FUNDS.—Section 433 of such Act (42 U.S.C. 629c) is amended—

(A) in subsection (d), by inserting "subsection (a), (b), or (c) of" before "this section" the 1st and 2nd places it appears; and

(B) by adding at the end the following:

"(e) ALLOTMENT OF FUNDS RESERVED TO SUPPORT MONTHLY CASEWORKER VISITS.—

"(1) TERRITORIES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year, the Secretary shall allot to each jurisdiction specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the jurisdiction has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423 (without regard to the initial allotment of $70,000 to each State).

"(2) OTHER STATES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year that remains after applying paragraph (1) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) not specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the State has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount equal to such remaining amount multiplied by the food stamp percentage of the State (as defined in subsection (c)(2) of this section) for the fiscal year, except that in applying subsection (c)(2)(A) of this section, 'subsection (e)(2)' shall be substituted for 'such paragraph (1)'.".

(3) PAYMENTS TO STATES.—Section 434(a) of such Act (42 U.S.C. 629d(a)), as amended by section 3(f)(1) of this Act, is amended by striking "the lesser of—" and all that follows and inserting the following: "the sum of—

"(1) the lesser of—

"(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under subsection (a), (b), or (c) of section 433, whichever is applicable, for the fiscal year; and

"(2) the lesser of—

"(A) 75 percent of the total expenditures by the State in accordance with section 436(b)(4)(B) during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under section 433(e) for the fiscal year.".

(b) SUPPORT FOR TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

(1) RESERVATION OF FUNDS.—Section 436(b) of such Act (42 U.S.C. 629f(b)), as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

"(5) REGIONAL PARTNERSHIP GRANTS.—The Secretary shall reserve for awarding grants under section 437(f)—

"(A) $40,000,000 for fiscal year 2007;

"(B) $35,000,000 for fiscal year 2008;

"(C) $30,000,000 for fiscal year 2009; and

"(D) $20,000,000 for each of fiscal years 2010 and 2011.".

(2) TARGETED GRANTS.—

(A) IN GENERAL.—Section 437 of such Act (42 U.S.C. 629g) is amended by adding at the end the following:

"(f) TARGETED GRANTS TO INCREASE THE WELL-BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

"(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's methamphetamine or other substance abuse.

"(2) REGIONAL PARTNERSHIP DEFINED.—

"(A) IN GENERAL.—In this subsection, the term 'regional partnership' means a collaborative agreement (which may be established on an interstate or intrastate basis) entered into by at least 2 of the following:

"(i) The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

"(ii) The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.

"(iii) An Indian tribe or tribal consortium.

"(iv) Nonprofit child welfare service providers.

"(v) For-profit child welfare service providers.

"(vi) Community health service providers.

"(vii) Community mental health providers.

"(viii) Local law enforcement agencies.

"(ix) Judges and court personnel.

"(x) Juvenile justice officials.

"(xi) School personnel.

"(xii) Tribal child welfare agencies (or a consortia of such agencies).

"(xiii) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under this subpart.

"(B) REQUIREMENTS.—

"(i) STATE CHILD WELFARE AGENCY PARTNER.—Subject to clause (ii)(I), a regional partnership entered into for purposes of this subsection shall include the State child welfare agency that is responsible for the administration of the State plan under this part and part E as 1 of the partners.

"(ii) REGIONAL PARTNERSHIPS ENTERED INTO BY INDIAN TRIBES OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

"(I) may (but is not required to) include such State child welfare agency as a partner in the collaborative agreement; and

"(II) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of such agencies).

"(iii) NO STATE AGENCY ONLY PARTNERSHIPS.—If a State agency described in clause (i) or (ii) of subparagraph (A) enters into a regional partnership for purposes of this subsection, the State agency may not enter into a collaborative agreement only with the other State agency described in such clause (i) or (ii).

"(3) AUTHORITY TO AWARD GRANTS.—

"(A) IN GENERAL.—In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years 2007 through 2011 under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than $500,000 and not more than $1,000,000 per grant per fiscal year.

"(B) REQUIRED MINIMUM PERIOD OF APPROVAL.—A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years.

"(4) APPLICATION REQUIREMENTS.—To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

"(A) Recent evidence demonstrating that methamphetamine or other substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

"(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will—

"(i) enhance the well-being of children receiving services or taking part in activities conducted with funds provided under the grant;

"(ii) lead to safety and permanence for such children; and

"(iii) decrease the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

"(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

"(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and where appropriate, the child's family.

"(E) A description of the strategies for—

"(i) collaborating with the State child welfare agency described in paragraph (2)(A)(i) (unless that agency is the lead applicant for the regional partnership); and

"(ii) consulting, as appropriate, with—

"(I) the State agency described in paragraph (2)(A)(ii); and

"(II) the State law enforcement and judicial agencies.

To the extent the Secretary determines that the requirement of this subparagraph would be inappropriate to apply to a regional partnership that includes an Indian tribe, tribal consortium, or a tribal child welfare agency or a consortium of such agencies, the Secretary may exempt the regional partnership from the requirement.

"(F) Such other information as the Secretary may require.

"(5) USE OF FUNDS.—Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

"(A) Family-based comprehensive long-term substance abuse treatment services.

"(B) Early intervention and preventative services.

"(C) Children and family counseling.

"(D) Mental health services.

"(E) Parenting skills training.

"(F) Replication of successful models for providing family-based comprehensive long-term substance abuse treatment services.

"(6) MATCHING REQUIREMENT.—

"(A) FEDERAL SHARE.—A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed—

"(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

"(ii) 80 percent for the third and fourth such fiscal years; and

"(iii) 75 percent for the fifth such fiscal year.

"(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

"(7) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this subsection, the Secretary shall—

"(A) take into consideration the extent to which applicant regional partnerships—

"(i) demonstrate that methamphetamine or other substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

"(ii) have limited resources for addressing the needs of children affected by such abuse;

"(iii) have a lack of capacity for, or access to, comprehensive family treatment services; and

"(iv) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period; and

"(B) after taking such factors into consideration, give greater weight to awarding grants to regional partnerships that propose to address methamphetamine abuse and addiction in the partnership region (alone or in combination with other drug abuse and addiction) and which demonstrate that methamphetamine abuse and addiction (alone or in combination with other drug abuse and addiction) is adversely affecting child welfare in the partnership region.

"(8) PERFORMANCE INDICATORS.—

"(A) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall establish indicators that will be used to assess periodically the performance of the grant recipients under this subsection in using funds made available under such grants to achieve the purpose of this subsection. Deadline.

"(B) CONSULTATION REQUIRED.—In establishing the performance indicators required by subparagraph (A), the Secretary shall consult with the following:

"(i) The Assistant Secretary for the Administration for Children and Families.

"(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

"(iii) Representatives of States in which a State agency described in clause (i) or (ii) of paragraph (2)(A) is a member of a regional partnership that is a grant recipient under this subsection.

"(iv) Representatives of Indian tribes, tribal consortia, or tribal child welfare agencies that are members of a regional partnership that is a grant recipient under this subsection.

"(9) REPORTS.—

"(A) GRANTEE REPORTS.—

"(i) ANNUAL REPORT.—Not later than September 30 of the first fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and annually thereafter until September 30 of the last fiscal year in which the recipient is paid funds under the grant, the recipient shall submit to the Secretary a report on the services provided or activities carried out during that fiscal year with such funds. The report shall contain such information as the Secretary determines is necessary to provide an accurate description of the services provided or activities conducted with such funds.

"(ii) INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS.—Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

"(B) REPORTS TO CONGRESS.—On the basis of the reports submitted under subparagraph (A), the Secretary

annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

"(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

"(ii) the performance indicators established under paragraph (8); and

"(iii) the progress that has been made in addressing the needs of families with methamphetamine or other substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.".

(B) CONFORMING AMENDMENTS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(i) in the section heading, by inserting "**AND TARGETED**" after "**DISCRETIONARY**"; and

(ii) in subsection (e), by striking "this section" and inserting "subsection (a)".

(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Section 435(c) of such Act (42 U.S.C. 629e(c)) is amended to read as follows :

"(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Of the amount reserved under section 436(b)(1) for a fiscal year, the Secretary shall use not less than—

"(1) $1,000,000 for evaluations, research, and providing technical assistance with respect to supporting monthly caseworker visits with children who are in foster care under the responsibility of the State, in accordance with section 436(b)(4)(B)(i); and

"(2) $1,000,000 for evaluations, research, and providing technical assistance with respect to grants under section 437(f).".

**SEC. 5. ALLOTMENTS AND GRANTS TO INDIAN TRIBES.**

(a) INCREASE IN SET-ASIDES FOR INDIAN TRIBES.—

(1) MANDATORY GRANTS.—Section 436(b)(3) of the Social Security Act (42 U.S.C. 629f(b)(3)) is amended by striking "1" and inserting "3".

(2) DISCRETIONARY GRANTS.—Section 437(b)(3) of such Act (42 U.S.C. 629g(b)(3)) is amended by striking "2" and inserting "3".

(3) EFFECT OF RESERVATION OF FUNDS FOR TARGETED PROGRAM RESOURCES ON AMOUNTS RESERVED FOR INDIAN TRIBES.—Section 436(b)(3) of such Act (42 U.S.C. 629b(b)(3)) is amended by striking "The" and inserting "After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the".

42 USC 629f.

(b) AUTHORITY FOR TRIBAL CONSORTIA TO RECEIVE ALLOTMENTS.—

(1) ALLOTMENT OF MANDATORY FUNDS.—

(A) IN GENERAL.—Section 433(a) of such Act (42 U.S.C. 629c(a)) is amended—

(i) in the subsection heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by adding at the end the following new sentence: "If a consortium of Indian tribes submits a plan approved under this subpart, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.".

(B) CONFORMING AMENDMENT.—Section 436(b)(3) of such Act (42 U.S.C. 629f(b)(3)) is amended—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by inserting "or tribal consortia" after "Indian tribes".

(2) ALLOTMENT OF ANY DISCRETIONARY FUNDS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(A) in subsection (b)(3)—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by inserting "or tribal consortia" after "Indian tribes"; and

(B) in subsection (c)(1)—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by adding at the end the following new sentence: "If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PLANS OF INDIAN TRIBES.—Section 432(b)(2) of such Act (42 U.S.C. 629b(b)(2)) is amended—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES";

(ii) in subparagraph (A), by inserting "or tribal consortium" after "Indian tribe" each place it appears; and

(iii) in subparagraph (B)—

(I) by inserting "or tribal consortium" after "Indian tribe"; and

(II) by inserting "and tribal consortia" after "Indian tribes".

(B) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS.—Section 434(c) of such Act (42 U.S.C. 629d(c)) is amended—

(i) in the subsection heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by inserting "or tribal consortium" after "Indian tribe" the first place it appears; and

(iii) by inserting "or in the case of a payment to a tribal consortium, such tribal organizations of, or entity established by, the Indian tribes that are part of the consortium as the consortium shall designate" before the period.

(C) EVALUATIONS; RESEARCH; TECHNICAL ASSISTANCE.—Section 435(d) of such Act (42 U.S.C. 629e(d)) is amended in the matter preceding paragraph (1), by inserting "or tribal consortia" after "Indian tribes".

(c) COLLECTION OF DATA ON TRIBAL PROMOTING SAFE AND STABLE FAMILIES PLANS.—Section 432(b)(2)(A) of such Act (42 U.S.C. 629b(b)(2)(A)), as amended by subsection (b)(3)(A)(ii) of this section, is amended by striking "any requirement of this section that the Secretary determines" and inserting "the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements".

**SEC. 6. IMPROVEMENTS TO THE CHILD WELFARE SERVICES PROGRAM.**

(a) FUNDING.—Subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620–628b) is amended by striking sections 420 and 425 and inserting after section 424 the following:

42 USC 620, 625.

"LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

"SEC. 425. To carry out this subpart, there are authorized to be appropriated to the Secretary not more than $325,000,000 for each of fiscal years 2007 through 2011.".

(b) PURPOSE OF PROGRAM.—Such subpart is further amended—

42 USC 624.

(1) by striking section 424;

42 USC 623, 624.

(2) by redesignating sections 421 and 423 as sections 423 and 424, respectively, and by transferring section 423 (as so redesignated) so that it appears after section 422; and

(3) by inserting after the subpart heading the following:

"PURPOSE

42 USC 621.

"SEC. 421. The purpose of this subpart is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families, by—

"(1) protecting and promoting the welfare of all children;

"(2) preventing the neglect, abuse, or exploitation of children;

"(3) supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;

"(4) promoting the safety, permanence, and well-being of children in foster care and adoptive families; and

"(5) providing training, professional development and support to ensure a well-qualified child welfare workforce.".

(c) MODIFICATION OF STATE PLAN REQUIREMENTS.—Section 422 of such Act (42 U.S.C. 622) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (3) through (5) and inserting the following:

"(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;";

(B) by striking paragraph (6) and inserting after paragraph (3) (as added by subparagraph (A) of this paragraph) the following:

"(4) contain a description of—

"(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

"(B) the child welfare services staff development and training plans of the State;";

(C) by redesignating paragraphs (7) through (9) as paragraphs (5) through (7), respectively;

(D) in paragraph (10)—

(i) by striking subparagraph (A);

(ii) in subparagraph (B)(iii)(II), by inserting ", which may include a residential educational program" after "in some other planned, permanent living arrangement";

(iii) by redesignating subparagraph (B) as subparagraph (A); and

(iv) by striking subparagraph (C) and inserting after subparagraph (A) the following:

"(B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;";

(E) in paragraph (14), by striking "and" at the end;

(F) in paragraph (15), by striking the period and inserting a semicolon;

(G) by redesignating paragraphs (10) through (15) as paragraphs (8) through (13), respectively; and

(H) by adding at the end the following:

"(14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs; Deadline.

"(15) describe how the State actively consults with and involves physicians or other appropriate medical professionals in—

"(A) assessing the health and well-being of children in foster care under the responsibility of the State; and

"(B) determining appropriate medical treatment for the children; and

"(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would— Deadline.

"(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

"(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

"(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

"(D) preserve essential program records; and

"(E) coordinate services and share information with other States."; and

(2) by adding at the end the following:

"(c) DEFINITIONS.—In this subpart:

"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

"(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.".

42 USC 623.

(d) PROVISIONS RELATING TO STATE ALLOTMENTS.—Section 423 of such Act, as so redesignated by subsection (b)(2) of this section, is amended—

(1) in subsection (a)—

(A) by inserting "IN GENERAL.—" after "(a)"; and

(B) by striking "420" and inserting "425"; and

(2) in subsection (b), by inserting "DETERMINATION OF STATE ALLOTMENT PERCENTAGES.—" after "(b)";

(3) in subsection (c), by inserting "PROMULGATION OF STATE ALLOTMENT PERCENTAGES.—" after "(c)";

(4) in subsection (d)—

(A) by inserting "UNITED STATES DEFINED.—" after "(d)"; and

(B) by striking "fifty" and inserting "50"; and

(5) by adding at the end the following:

"(e) REALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—The amount of any allotment to a State for a fiscal year under the preceding provisions of this section which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

"(A) need sums in excess of the amounts allotted to such other States under the preceding provisions of this section, in carrying out their State plans so developed; and

"(B) will be able to so use such excess sums during the fiscal year.

"(2) CONSIDERATIONS.—The Secretary shall make the reallotments on the basis of the State plans so developed, after taking into consideration—

"(A) the population under 21 years of age;

"(B) the per capita income of each of such other States as compared with the population under 21 years of age; and

"(C) the per capita income of all such other States with respect to which such a determination by the Secretary has been made.

"(3) AMOUNTS REALLOTTED TO A STATE DEEMED PART OF STATE ALLOTMENT.—Any amount so reallotted to a State is deemed part of the allotment of the State under this section.".

(e) PAYMENTS TO STATES; LIMITATIONS ON USE OF FUNDS.—

(1) LIMITATIONS RELATED TO STATE EXPENDITURES FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, AND ADOPTION ASSISTANCE PAYMENTS.—Section 424 of such Act, as so redesignated by subsection (b)(2) of this section, is amended by striking subsections (c) and (d) and inserting the following: 42 USC 624.

"(c) LIMITATION ON USE OF FEDERAL FUNDS FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, OR ADOPTION ASSISTANCE PAYMENTS.—The total amount of Federal payments under this subpart for a fiscal year beginning after September 30, 2007, that may be used by a State for expenditures for child care, foster care maintenance payments, or adoption assistance payments shall not exceed the total amount of such payments for fiscal year 2005 that were so used by the State.

"(d) LIMITATION ON USE BY STATES OF NON-FEDERAL FUNDS FOR FOSTER CARE MAINTENANCE PAYMENTS TO MATCH FEDERAL FUNDS.—For any fiscal year beginning after September 30, 2007, State expenditures of non-Federal funds for foster care maintenance payments shall not be considered to be expenditures under the State plan developed under this subpart for the fiscal year to the extent that the total of such expenditures for the fiscal year exceeds the total of such expenditures under the State plan developed under this subpart for fiscal year 2005.".

(2) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(A) IN GENERAL.—Section 424 of such Act (42 U.S.C. 623), as so redesignated by subsection (b)(2) of this section, is amended by adding at the end the following: 42 USC 624.

"(e) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—A payment may not be made to a State under this section with respect to expenditures during a fiscal year for administrative costs, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year for activities funded from amounts provided under this subpart.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to expenditures made on or after October 1, 2007. 42 USC 624 note.

(f) CONFORMING AMENDMENTS.—

(1) Section 428(b) of such Act (42 U.S.C. 628(b)) is amended by striking "421" and inserting "423".

(2) Section 429 of such Act (42 U.S.C. 628a) is amended— 42 USC 628a, 626.

(A)(i) by striking the following:

"CHILD WELFARE TRAINEESHIPS

"SEC. 429. The Secretary"; and

(ii) inserting the following:

"(c) CHILD WELFARE TRAINEESHIPS.—The Secretary"; and

(B) by transferring the provision to the end of section 426 (as amended by section 11(b) of this Act).

(3) Section 429A of such Act (42 U.S.C. 628b) is redesignated as section 429.

(4) Section 433(b) of such Act (42 U.S.C. 629c(b)) is amended by striking "421" and inserting "423".

(5) Section 437(c)(2) of such Act (42 U.S.C. 629g(c)(2)) is amended by striking "421" and inserting "423".

(6) Section 472(d) of such Act (42 U.S.C. 672(d)) is amended by striking "422(b)(10)" and inserting "422(b)(8)".

(7) Section 473A(f) of such Act (42 U.S.C. 673b(f)) is amended by striking "423" and inserting "424".

(8) Section 1130(b)(1) of such Act (42 U.S.C. 1320a–9(b)(1)) is amended to read as follows:

"(1) any provision of section 422(b)(8), or section 479; or".

(9) Section 104(b)(3) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914(b)(3)) is amended by striking "422(b)(14) of the Social Security Act, as amended by section 205 of this Act" and inserting "422(b)(12) of the Social Security Act".

**SEC. 7. MONTHLY CASEWORKER STANDARD.**

(a) STATE PLAN REQUIREMENT.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)), as amended by section 6(c) of this Act, is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

Deadline.

"(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children.".

42 USC 624.

(b) ENFORCEMENT.—Section 424 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act, is amended by adding at the end the following:

"(e)(1) The Secretary may not make a payment to a State under this subpart for a period in fiscal year 2008, unless the State has provided to the Secretary data which shows, for fiscal year 2007—

"(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

"(B) the percentage of the visits that occurred in the residence of the child.

Deadline.

"(2)(A) Based on the data provided by a State pursuant to paragraph (1), the Secretary, in consultation with the State, shall establish, not later than June 30, 2008, an outline of the steps to be taken to ensure, by October 1, 2011, that at least 90 percent of the children in foster care under the responsibility of the State are visited by their caseworkers on a monthly basis, and that the majority of the visits occur in the residence of the child. The outline shall include target percentages to be reached each fiscal year, and should include a description of how the steps will be implemented. The steps may include activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

Effective date.
Applicability.

"(B) Beginning October 1, 2008, if the Secretary determines that a State has not made the requisite progress in meeting the goal described in subparagraph (A) of this paragraph, then the percentage that shall apply for purposes of subsection (a) of this section for the period involved shall be the percentage set forth in such subsection (a) reduced by—

"(i) 1, if the number of full percentage points by which the State fell short of the target percentage established for the State for the period pursuant to such subparagraph is less than 10;

"(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

"(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.".

(c) REPORTS.—

(1) PROGRESS REPORT.—Not later than March 31, 2010, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that outlines the progress made by the States in meeting the standards referred to in section 422(b)(17) of the Social Security Act, and offers recommendations developed in consultation with State officials responsible for administering child welfare programs and members of the State legislature to assist States in their efforts to ensure that foster children are visited on a monthly basis.

(2) INCLUSION OF INFORMATION ON CASEWORKER VISITS IN ANNUAL CHILD WELL-BEING OUTCOME REPORTS.—Section 479A of such Act (42 U.S.C. 679b) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following:

"(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

"(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

"(B) the percentage of the visits that occurred in the residence of the child.".

**SEC. 8. REAUTHORIZATION OF PROGRAM FOR MENTORING CHILDREN OF PRISONERS.**

(a) IN GENERAL.—Section 439 of the Social Security Act (42 U.S.C. 629i) is amended—

(1) in subsection (c), by striking "2002 through 2006" and inserting "2007 through 2011"; and

(2) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

"(1) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2007 through 2011."; and

(B) in paragraph (2), by striking "2.5" and inserting "4".

(b) SERVICE DELIVERY DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g) SERVICE DELIVERY DEMONSTRATION PROJECT.—

"(1) PURPOSE; AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with an eligible entity that meets the requirements of paragraph (2) for the purpose of requiring the entity to conduct a demonstration project consistent with this subsection under which the entity shall—

"(A) identify children of prisoners in need of mentoring services who have not been matched with a mentor by an applicant awarded a grant under this section, with a priority for identifying children who—

"(i) reside in an area not served by a recipient of a grant under this section;

"(ii) reside in an area that has a substantial number of children of prisoners;

"(iii) reside in a rural area; or

"(iv) are Indians;

"(B) provide the families of the children so identified with—

"(i) a voucher for mentoring services that meets the requirements of paragraph (5); and

"(ii) a list of the providers of mentoring services in the area in which the family resides that satisfy the requirements of paragraph (6); and

"(C) monitor and oversee the delivery of mentoring services by providers that accept the vouchers.

"(2) ELIGIBLE ENTITY.—

"(A) IN GENERAL.—Subject to subparagraph (B), an eligible entity under this subsection is an organization that the Secretary determines, on a competitive basis—

"(i) has substantial experience—

"(I) in working with organizations that provide mentoring services for children of prisoners; and

"(II) in developing quality standards for the identification and assessment of mentoring programs for children of prisoners; and

"(ii) submits an application that satisfies the requirements of paragraph (3).

"(B) LIMITATION.—An organization that provides mentoring services may not be an eligible entity for purposes of being awarded a cooperative agreement under this subsection.

"(3) APPLICATION REQUIREMENTS.—To be eligible to be awarded a cooperative agreement under this subsection, an entity shall submit to the Secretary an application that includes the following:

"(A) QUALIFICATIONS.—Evidence that the entity—

"(i) meets the experience requirements of paragraph (2)(A)(i); and

"(ii) is able to carry out—

"(I) the purposes of this subsection identified in paragraph (1); and

"(II) the requirements of the cooperative agreement specified in paragraph (4).

"(B) SERVICE DELIVERY PLAN.—

"(i) DISTRIBUTION REQUIREMENTS.—Subject to clause (iii), a description of the plan of the entity to ensure the distribution of not less than—

"(I) 3,000 vouchers for mentoring services in the first year in which the cooperative agreement is in effect with that entity;

"(II) 8,000 vouchers for mentoring services in the second year in which the agreement is in effect with that entity; and

"(III) 13,000 vouchers for mentoring services in any subsequent year in which the agreement is in effect with that entity.

"(ii) SATISFACTION OF PRIORITIES.—A description of how the plan will ensure the delivery of mentoring services to children identified in accordance with the requirements of paragraph (1)(A).

"(iii) SECRETARIAL AUTHORITY TO MODIFY DISTRIBUTION REQUIREMENT.—The Secretary may modify the number of vouchers specified in subclauses (I) through (III) of clause (i) to take into account the availability of appropriations and the need to ensure that the vouchers distributed by the entity are for amounts that are adequate to ensure the provision of mentoring services for a 12-month period.

"(C) COLLABORATION AND COOPERATION.—A description of how the entity will ensure collaboration and cooperation with other interested parties, including courts and prisons, with respect to the delivery of mentoring services under the demonstration project.

"(D) OTHER.—Any other information that the Secretary may find necessary to demonstrate the capacity of the entity to satisfy the requirements of this subsection.

"(4) COOPERATIVE AGREEMENT REQUIREMENTS.—A cooperative agreement awarded under this subsection shall require the eligible entity to do the following:

"(A) IDENTIFY QUALITY STANDARDS FOR PROVIDERS.—To work with the Secretary to identify the quality standards that a provider of mentoring services must meet in order to participate in the demonstration project and which, at a minimum, shall include criminal records checks for individuals who are prospective mentors and shall prohibit approving any individual to be a mentor if the criminal records check of the individual reveals a conviction which would prevent the individual from being approved as a foster or adoptive parent under section 471(a)(20)(A).

Law enforcement and crime.

"(B) IDENTIFY ELIGIBLE PROVIDERS.—To identify and compile a list of those providers of mentoring services in any of the 50 States or the District of Columbia that meet the quality standards identified pursuant to subparagraph (A).

Records.

"(C) IDENTIFY ELIGIBLE CHILDREN.—To identify children of prisoners who require mentoring services, consistent with the priorities specified in paragraph (1)(A).

"(D) MONITOR AND OVERSEE DELIVERY OF MENTORING SERVICES.—To satisfy specific requirements of the Secretary for monitoring and overseeing the delivery of mentoring

services under the demonstration project, which shall include a requirement to ensure that providers of mentoring services under the project report data on the children served and the types of mentoring services provided.

"(E) RECORDS, REPORTS, AND AUDITS.—To maintain any records, make any reports, and cooperate with any reviews and audits that the Secretary determines are necessary to oversee the activities of the entity in carrying out the demonstration project under this subsection.

"(F) EVALUATIONS.—To cooperate fully with any evaluations of the demonstration project, including collecting and monitoring data and providing the Secretary or the Secretary's designee with access to records and staff related to the conduct of the project.

"(G) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—To ensure that administrative expenditures incurred by the entity in conducting the demonstration project with respect to a fiscal year do not exceed the amount equal to 10 percent of the amount awarded to carry out the project for that year.

"(5) VOUCHER REQUIREMENTS.—A voucher for mentoring services provided to the family of a child identified in accordance with paragraph (1)(A) shall meet the following requirements:

"(A) TOTAL PAYMENT AMOUNT; 12-MONTH SERVICE PERIOD.—The voucher shall specify the total amount to be paid a provider of mentoring services for providing the child on whose behalf the voucher is issued with mentoring services for a 12-month period.

"(B) PERIODIC PAYMENTS AS SERVICES PROVIDED.—

"(i) IN GENERAL.—The voucher shall specify that it may be redeemed with the eligible entity by the provider accepting the voucher in return for agreeing to provide mentoring services for the child on whose behalf the voucher is issued.

"(ii) DEMONSTRATION OF THE PROVISION OF SERVICES.—A provider that redeems a voucher issued by the eligible entity shall receive periodic payments from the eligible entity during the 12-month period that the voucher is in effect upon demonstration of the provision of significant services and activities related to the provision of mentoring services to the child on whose behalf the voucher is issued.

"(6) PROVIDER REQUIREMENTS.—In order to participate in the demonstration project, a provider of mentoring services shall—

"(A) meet the quality standards identified by the eligible entity in accordance with paragraph (1);

"(B) agree to accept a voucher meeting the requirements of paragraph (5) as payment for the provision of mentoring services to a child on whose behalf the voucher is issued;

"(C) demonstrate that the provider has the capacity, and has or will have nonfederal resources, to continue supporting the provision of mentoring services to the child on whose behalf the voucher is issued, as appropriate,

after the conclusion of the 12-month period during which the voucher is in effect; and

"(D) if the provider is a recipient of a grant under this section, demonstrate that the provider has exhausted its capacity for providing mentoring services under the grant.

"(7) 3-YEAR PERIOD; OPTION FOR RENEWAL.—

"(A) IN GENERAL.—A cooperative agreement awarded under this subsection shall be effective for a 3-year period.

"(B) RENEWAL.—The cooperative agreement may be renewed for an additional period, not to exceed 2 years and subject to any conditions that the Secretary may specify that are not inconsistent with the requirements of this subsection or subsection (i)(2)(B), if the Secretary determines that the entity has satisfied the requirements of the agreement and evaluations of the service delivery demonstration project demonstrate that the voucher service delivery method is effective in providing mentoring services to children of prisoners.

"(8) INDEPENDENT EVALUATION AND REPORT.—

Contracts.

"(A) IN GENERAL.—The Secretary shall enter into a contract with an independent, private organization to evaluate and prepare a report on the first 2 fiscal years in which the demonstration project is conducted under this subsection.

"(B) DEADLINE FOR REPORT.—Not later than 90 days after the end of the second fiscal year in which the demonstration project is conducted under this subsection, the Secretary shall submit the report required under subparagraph (A) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include—

"(i) the number of children as of the end of such second fiscal year who received vouchers for mentoring services; and

"(ii) any conclusions regarding the use of vouchers for the delivery of mentoring services for children of prisoners.

"(9) NO EFFECT ON ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—A voucher provided to a family under the demonstration project conducted under this subsection shall be disregarded for purposes of determining the eligibility for, or the amount of, any other Federal or federally-supported assistance for the family.".

(2) CONFORMING AMENDMENTS.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section and paragraph (1) of this subsection, is amended—

(A) in subsection (a)—

(i) in the subsection heading, by striking "PURPOSE" and inserting "PURPOSES"; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking "PURPOSE" and inserting "PURPOSES";

(II) by striking "The purpose of this section is to authorize the Secretary to make competitive" and inserting "The purposes of this section are to authorize the Secretary—

"(A) to make competitive";

(iii) by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(B) to enter into on a competitive basis a cooperative agreement to conduct a service delivery demonstration project in accordance with the requirements of subsection (g).";

(B) in subsection (c)—

(i) by striking "(h)" and inserting "(i)"; and

(ii) by striking "(h)(2)" and inserting "(i)(2)";

(C) by amending subsection (h) (as so redesignated by paragraph (1)(A) of this subsection) to read as follows:

"(h) INDEPENDENT EVALUATION; REPORTS.—

Grants.
Contracts.

"(1) INDEPENDENT EVALUATION.—The Secretary shall conduct by grant, contract, or cooperative agreement an independent evaluation of the programs authorized under this section, including the service delivery demonstration project authorized under subsection (g).

"(2) REPORTS.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall submit a report to the Congress that includes the following:

"(A) The characteristics of the mentoring programs funded under this section.

"(B) The plan for implementation of the service delivery demonstration project authorized under subsection (g).

"(C) A description of the outcome-based evaluation of the programs authorized under this section that the Secretary is conducting as of that date of enactment and how the evaluation has been expanded to include an evaluation of the demonstration project authorized under subsection (g).

"(D) The date on which the Secretary shall submit a final report on the evaluation to the Congress."; and

(D) in subsection (i) (as so redesignated)—

(i) in the subsection heading, by striking "RESERVATION" and inserting "RESERVATIONS"; and

(ii) in paragraph (2)—

(I) by amending the paragraph heading to read as follows: "RESERVATIONS";

(II) by striking "The" and inserting the following:

"(A) RESEARCH, TECHNICAL ASSISTANCE, AND EVALUATION.—The"; and

(III) by adding at the end the following:

"(B) SERVICE DELIVERY DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of awarding a cooperative agreement to conduct the service delivery demonstration project authorized under subsection (g), the Secretary shall reserve not more than—

"(I) $5,000,000 of the amount appropriated under paragraph (1) for the first fiscal year in which funds are to be awarded for the agreement;

"(II) $10,000,000 of the amount appropriated under paragraph (1) for the second fiscal year in

which funds are to be awarded for the agreement; and

"(III) $15,000,000 of the amount appropriated under paragraph (1) for the third fiscal year in which funds are to be awarded for the agreement.

"(ii) ASSURANCE OF FUNDING FOR GENERAL PROGRAM GRANTS.—With respect to any fiscal year, no funds may be awarded for a cooperative agreement under subsection (g), unless at least $25,000,000 of the amount appropriated under paragraph (1) for that fiscal year is used by the Secretary for making grants under this section for that fiscal year.".

**SEC. 9. REAUTHORIZATION OF THE COURT IMPROVEMENT PROGRAM.**

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended in each of subsections (c)(1)(A) and (d) by striking "2006" and inserting "2011".

**SEC. 10. REQUIREMENT FOR FOSTER CARE PROCEEDING TO INCLUDE, IN AN AGE-APPROPRIATE MANNER, CONSULTATION WITH THE CHILD THAT IS THE SUBJECT OF THE PROCEEDING.**

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by inserting "(i)" after "with respect to each such child,";

(2) by striking "and procedural safeguards shall also" and inserting "(ii) procedural safeguards shall"; and

(3) by inserting "and (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;" after "parents;".

**SEC. 11. TECHNICAL AMENDMENTS.**

(a) UPDATING OF ARCHAIC LANGUAGE.—

(1) Section 423 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act—

(A) is amended by striking "per centum" and inserting "percent"; and

(B) by striking "He" and inserting "The Secretary".

(2) Section 424(a) of such Act, as so redesignated by section 6(b)(2) of this Act, is amended by striking "per centum" and inserting "percent".

(b) ELIMINATION OF OBSOLETE PROVISION.—Section 426 of such Act (42 U.S.C. 626) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(c) TECHNICAL CORRECTION.—Section 431(a)(6) of such Act (42 U.S.C. 629a(a)(6)) is amended by striking "1986" and inserting "1996".

**SEC. 12. EFFECTIVE DATES.** 42 USC 621 note.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning

on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to subpart 1 of part B, or a State plan approved under subpart 2 of part B or part E, of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

Effective date.

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—Section 3(c) shall take effect on the date of the enactment of this Act.

Approved September 28, 2006.

LEGISLATIVE HISTORY—S. 3525:

SENATE REPORTS: No. 109–269 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 13, considered and passed Senate.
July 25, considered and passed House, amended.
Sept. 20, Senate concurred in House amendments with amendments.
Sept. 26, House concurred in Senate amendments.

Public Law 109–289
109th Congress

# An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

Sept. 29, 2006
[H.R. 5631]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Department of Defense Appropriations Act, 2007.

## DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007, for military functions administered by the Department of Defense and for other purposes, namely:

## TITLE I

## MILITARY PERSONNEL

### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $25,911,349,000.

### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $19,049,454,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $7,932,749,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $20,285,871,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,043,170,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,551,838,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified

in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $498,686,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,259,620,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,751,971,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,067,752,000.

## TITLE II

## OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and

extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,397,581,000: *Provided*, That of funds made available under this heading, $2,000,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading "Operation and Maintenance, Army", in Public Law 107–117.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,129,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $29,751,721,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,338,296,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $28,774,928,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $19,948,799,000: *Provided,* That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: *Provided further,* That not to exceed $36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That of the funds made available under this heading, $5,000,000 is available for contractor support to coordinate a wind test demonstration project on an Air Force installation using wind turbines manufactured in the United States that are new to the United States market and to execute the renewable energy purchasing plan: *Provided further,* That of the funds provided under this heading, not less than $26,837,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000

shall be available for centers defined in 10 U.S.C. 2411(1)(D): *Provided further,* That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further,* That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further,* That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,957,888,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,223,628,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $199,032,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,563,751,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,323,783,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,831,185,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,721,000, of which not to exceed $5,000 may be used for official representation purposes.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $63,204,000, to remain available until September 30, 2008.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense

and military contacts, $372,128,000, to remain available until September 30, 2009: *Provided,* That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

## TITLE III

## PROCUREMENT

### AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $3,502,483,000, to remain available for obligation until September 30, 2009: *Provided,* That $19,200,000 of the funds provided in this paragraph are available only for the purpose of acquiring one HH–60L medical evacuation variant Blackhawk helicopter only for the Army Reserve.

### MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,278,967,000, to remain available for obligation until September 30, 2009.

### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other

expenses necessary for the foregoing purposes, $1,906,368,000, to remain available for obligation until September 30, 2009.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,719,879,000, to remain available for obligation until September 30, 2009.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $7,004,914,000, to remain available for obligation until September 30, 2009.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $10,393,316,000, to remain available for obligation until September 30, 2009.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary

therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,573,820,000, to remain available for obligation until September 30, 2009.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $767,314,000, to remain available for obligation until September 30, 2009.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $791,893,000;
NSSN, $1,775,472,000;
NSSN (AP), $676,582,000;
CVN Refuelings, $954,495,000;
CVN Refuelings (AP), $117,139,000;
SSBN Submarine Refuelings, $189,022,000;
SSBN Submarine Refuelings (AP), $37,154,000;
DDG–1000 Program, $2,568,111,000;
DDG–51 Destroyer, $355,849,000;
Littoral Combat Ship, $520,670,000;
LPD–17 (AP), $297,492,000;
LHA–R, $1,135,917,000;
Special Purpose Craft, $2,900,000;
T–AGS Oceanographic Survey Ship, $117,000,000;
LCAC Service Life Extension Program, $110,692,000;
Prior year shipbuilding costs, $512,849,000;
Service Craft, $45,245,000; and
For outfitting, post delivery, conversions, and first destination transportation, $370,643,000.

In all: $10,579,125,000, to remain available for obligation until September 30, 2011: *Provided,* That additional obligations may be incurred after September 30, 2011, for engineering services, tests, evaluations, and other such budgeted work that must be

performed in the final stage of ship construction: *Provided further,* That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further,* That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 10 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $4,927,676,000, to remain available for obligation until September 30, 2009.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $894,571,000, to remain available for obligation until September 30, 2009.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $11,643,356,000, to remain available for obligation until September 30, 2009.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $3,914,703,000, to remain available for obligation until September 30, 2009.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,054,302,000, to remain available for obligation until September 30, 2009.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $15,493,486,000, to remain available for obligation until September 30, 2009.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger

vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,903,292,000, to remain available for obligation until September 30, 2009.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $290,000,000, to remain available for obligation until September 30, 2009: *Provided,* That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

Deadline.
Assessment.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $63,184,000, to remain available until expended.

## TITLE IV

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $11,054,958,000, to remain available for obligation until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,673,894,000, to remain available for obligation until September 30, 2008: *Provided,* That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further,* That funds appropriated in this paragraph shall be available for the Cobra Judy program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment,

$24,516,276,000, to remain available for obligation until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,291,056,000, to remain available for obligation until September 30, 2008.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $185,420,000, to remain available for obligation until September 30, 2008.

## TITLE V

## REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $1,345,998,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,071,932,000, to remain available until expended: *Provided,* That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further,* That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further,* That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a

timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

PENTAGON RESERVATION MAINTENANCE REVOLVING FUND

For the Pentagon Reservation Maintenance Revolving Fund, $18,500,000, to remain available until September 30, 2011.

## TITLE VI

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,277,304,000, of which $1,046,290,000 shall be for Operation and maintenance; $231,014,000 shall be for Research, development, test and evaluation, of which $215,944,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2008; and no less than $111,283,000 shall be for the Chemical Stockpile Emergency Preparedness Program, of which $41,074,000 shall be for activities on military installations and of which $70,209,000, to remain available until September 30, 2008, shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $977,632,000: *Provided,* That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $216,297,000, of which $214,897,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be

expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,400,000, to remain available until September 30, 2009, shall be for Procurement.

## TITLE VII

## RELATED AGENCIES

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $256,400,000.

### INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $621,611,000, of which $36,268,000 for the Advanced Research and Development Committee shall remain available until September 30, 2008: *Provided*, That of the funds appropriated under this heading, $39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2009 and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2008: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

## TITLE VIII

## GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

10 USC 1584 note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees,

Wages.

whichever is higher: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $4,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further,* That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further,* That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2007: *Provided further,* That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section: *Provided further,* That no obligation of funds may be made pursuant to section 1206 of Public Law 109–163 (or any successor provision) unless the Secretary of Defense has notified the congressional defense committees prior to any such obligation.

Notification.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time

for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds: *Provided further,* That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in advance to the congressional defense committees.

10 USC 2306b note.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

Notification. Deadline.

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract and, in the case of a contract for procurement of aircraft, that includes, for any aircraft unit to be procured through the contract for which procurement funds are requested in that budget request for production beyond advance procurement activities in the fiscal year covered by the budget, full funding of procurement of such unit in that fiscal year;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

C–17 Globemaster; F–22A; MH–60R Helicopters; MH–60R Helicopter mission equipment; and V–22 Osprey.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2007, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2008 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2008 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2008.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8012. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this section shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this section applies only to active components of the Army.

SEC. 8013. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsection (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8014. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8015. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided,* That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further,* That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further,* That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8016. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8017. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8018. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974

(25 U.S.C. 1544): *Provided,* That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code, shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further,* That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code, or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code: *Provided further,* That, during the current fiscal year and hereafter, businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

15 USC 637 note.

SEC. 8019. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8020. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

Kuwait.

SEC. 8021. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided,* That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8022. (a) Of the funds made available in this Act, not less than $35,975,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $25,087,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $10,193,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) $695,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8023. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided,* That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2007 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2007, not more than 5,517 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided,* That of the specific amount referred to previously in this subsection, not more than 1,060 staff years may be funded for the defense studies and analysis FFRDCs: *Provided further,* That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP) and the Military Intelligence Program (MIP).

Reports.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2008 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $53,200,000.

SEC. 8024. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided,* That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further,* That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing

to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further,* That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

10 USC 101 note.

SEC. 8025. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8026. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided,* That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further,* That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

Certification.

41 USC 10b–2 note.

SEC. 8027. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

Reports.
Commerce and trade.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2007. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

10 USC 374 note.

SEC. 8028. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

SEC. 8029. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8030. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

Housing. Native Americans.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8031. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8032. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

Budget.

(b) The fiscal year 2008 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2008 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2008 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8033. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available

for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2008: *Provided,* That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further,* That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2008.

50 USC 403u note.

SEC. 8034. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8035. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8036. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

Labeling. Fraud.

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8037. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided,* That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8038. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8039. The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the Joint Explanatory Statement of the Committee of Conference to accompany the conference report on the bill H.R. 5631.

(RESCISSIONS)

SEC. 8040. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

Shipbuilding and Conversion, Navy, 2005/2009, $11,245,000;

Aircraft Procurement, Air Force, 2005/2007, $108,000,000;

Other Procurement, Army, 2006/2008, $120,200,000;

Aircraft Procurement, Navy, 2006/2008, $76,700,000;

Aircraft Procurement, Air Force, 2006/2008, $141,100,000;

Missile Procurement, Air Force, 2006/2008, $142,000,000;

Research, Development, Test and Evaluation, Army, 2006/2007, $21,600,000;

Research, Development, Test and Evaluation, Navy, 2006/2007, $35,798,000;

Research, Development, Test and Evaluation, Air Force, 2006/2007, $92,800,000;

Research, Development, Test and Evaluation, Defense-Wide, 2006/2007, $120,700,000.

SEC. 8041. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

North Korea.

SEC. 8042. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8043. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: *Provided,* That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8044. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003, level: *Provided,* That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

10 USC 374 note.

SEC. 8045. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

50 USC 403f note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

SEC. 8046. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided,* That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must

be made in order to acquire capability for national security purposes: *Provided further,* That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8047. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

10 USC 2304 note.

SEC. 8048. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year and hereafter for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8049. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided,* That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

Notification. Deadline.

SEC. 8050. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8051. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8052. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8053. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided,* That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall

be reversed and recorded against the expired account: *Provided further,* That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8054. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

Germany.

SEC. 8055. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided,* That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further,* That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8056. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided,* That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further,* That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

American Samoa. Native Americans.

SEC. 8057. Notwithstanding any other provision of law, funds available to the Department of Defense in this Act shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8058. None of the funds made available in this Act may be used to approve or license the sale of the F–22A advanced tactical fighter to any foreign government.

SEC. 8059. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and

the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8060. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

Human rights.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

Deadline.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8061. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T–AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8062. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations

Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8063. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

Reports. Confidential information.

SEC. 8064. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8065. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8066. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include a statement confirming that the following steps have been taken with respect to the system: Notification.

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

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

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8067. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided,* That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8068. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8069. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor

penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8070. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8071. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Alcohol.
States.
District of Columbia.

SEC. 8072. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8073. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", $78,300,000 shall remain available until expended: *Provided,* That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further,* That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects carrying out the purposes of this section: *Provided further,* That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines

to be necessary: *Provided further,* That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8074. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2007. 10 USC 113 note.

SEC. 8075. In addition to amounts provided elsewhere in this Act, $2,500,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8076. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment. Government property. Native Americans.

SEC. 8077. Amounts appropriated in title II of this Act are hereby reduced by $158,100,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From "Operation and Maintenance, Army", $31,100,000.

(2) From "Operation and Maintenance, Navy", $35,000,000.

(3) From "Operation and Maintenance, Marine Corps", $5,000,000.

(4) From "Operation and Maintenance, Air Force", $87,000,000.

SEC. 8078. The total amount appropriated or otherwise made available in this Act is hereby reduced by $71,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

"Operation and Maintenance, Army", $32,000,000.

"Operation and Maintenance, Navy", $34,000,000.

"Operation and Maintenance, Marine Corps", $5,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8079. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $137,894,000 shall be made available for the Arrow missile defense program: *Provided,* That of this amount, $53,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures, and $20,400,000

shall be available for the purpose of the initiation of a joint feasibility study designated the Short Range Ballistic Missile Defense (SRBMD) initiative: *Provided further,* That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further,* That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8080. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $512,849,000 shall be available until September 30, 2007, to fund prior year shipbuilding cost increases: *Provided,* That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further,* That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading "Shipbuilding and Conversion, Navy, 1999/2007":

New SSN, $20,000,000;

Under the heading "Shipbuilding and Conversion, Navy, 2000/2007":

LPD–17 Amphibious Transport Dock Ship Program, $66,049,000;

Under the heading "Shipbuilding and Conversion, Navy, 2001/2007":

New SSN, $41,000,000;

Carrier Replacement Program, $318,400,000;

Under the heading "Shipbuilding and Conversion, Navy, 2002/2007":

New SSN, $28,000,000;

Under the heading "Shipbuilding and Conversion, Navy, 2003/2007":

New SSN, $22,000,000; and

Under the heading "Shipbuilding and Conversion, Navy, 2005/2009":

LPD–17 Amphibious Transport Dock Ship Program, $17,400,000.

SEC. 8081. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under section 7622 of title 10, United States Code, arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided,* That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8082. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code, for occupations listed in section 7403(a)(2) of title 38, United States Code, as well as the following:

Pharmacists, Audiologists, and Dental Hygienists:

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code, shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code, shall not apply.

SEC. 8083. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2007 until the enactment of the Intelligence Authorization Act for fiscal year 2007.

SEC. 8084. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8085. (a) In addition to the amounts provided elsewhere in this Act, the amount of $5,400,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $5,400,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8086. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES. The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon (NLOS–C) and a compatible large caliber ammunition resupply capability for this system supported by the Future Combat Systems (FCS) Brigade Combat Team (BCT) in order to field this system in fiscal year 2010: *Provided*, That the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

SEC. 8087. Up to $2,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8088. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $11,100,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2007: *Provided*, That the Secretary of Defense shall

Grants.

make grants in the amounts specified as follows: $4,500,000 to the Intrepid Sea-Air-Space Foundation; $2,600,000 to the Center for Applied Science and Technologies at Jordan Valley Innovation Center; $1,000,000 to the Women in Military Service for America Memorial Foundation; $2,000,000 to The Presidio Trust; and, $1,000,000 to the Red Cross Consolidated Blood Services Facility.

Budget, Federal.
10 USC 221 note.

SEC. 8089. The budget of the President for fiscal year 2008 submitted to the Congress pursuant to section 1105 of title 31, United States Code, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided,* That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further,* That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further,* That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8090. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8091. Of the amounts provided in title II of this Act under the heading "Operation and Maintenance, Defense-Wide", $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8092. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: *Provided,* That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8093. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided,* That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

Notification.
Deployment.

SEC. 8094. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member

shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

SEC. 8095. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: *Provided,* That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8096. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committees on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8097. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $85,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8098. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided,* That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further,* That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): *Provided further,* That up to $2,000,000 shall be available for the Department

of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: *Provided further,* That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8099. The Secretary of the Air Force is authorized, using funds available under the heading "Operation and Maintenance, Air Force", to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the operational ranges managed by the Air Force in Alaska: *Provided,* That the total cost of such phased projects shall not exceed $50,000,000.

SEC. 8100. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading "Shipbuilding and Conversion, Navy" that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in the current fiscal year or any prior fiscal year.

SEC. 8101. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

SEC. 8102. Of the funds provided in this Act, $8,100,000 shall be available for the operations and development of training and technology for the Joint Interagency Training Center-East and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other Federal agency, and State and local first responder personnel at the Joint Interagency Training Center-East.

Extension. Research and development.

SEC. 8103. The authority to conduct a continuing cooperative program in the proviso in title II of Public Law 102–368 under the heading "Research, Development, Test and Evaluation, Defense Agencies" (106 Stat. 1121) shall be extended through September 30, 2008, in cooperation with NELHA.

SEC. 8104. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations.

SEC. 8105. Up to $10,000,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" may be made available for the Asia Pacific Regional Initiative Program for the purpose of enabling the Pacific Command to execute Theater Security Cooperation activities such as humanitarian assistance, and payment of incremental and personnel costs of training and exercising with foreign security forces: *Provided,* That funds made available for this purpose may be used, notwithstanding any other funding authorities for humanitarian assistance, security assistance or combined exercise expenses: *Provided further,* That funds may not be obligated to provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

SEC. 8106. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions the total amount appropriated in title II of this Act is hereby reduced by $401,925,000, the total amount appropriated in title III of this Act is hereby reduced by $325,000,000, the total amount appropriated in title IV of this Act is hereby reduced by $286,000,000, the total amount appropriated in title V of this Act is hereby reduced by $9,500,000, the total amount appropriated in title VI of this Act is hereby reduced by $9,500,000, and the total amount appropriated in title VII of this Act is hereby reduced by $2,500,000: *Provided*, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, subactivity group, and each program, project, and activity, within each appropriation account: *Provided further,* That this reduction shall not apply to "Central Intelligence Agency Retirement and Disability System Fund".

Reports. Deadline. Dyslexia. Students.

SEC. 8107. The Secretary of Defense shall, not later than 90 days after the enactment of this Act, submit to the congressional defense committees a report detailing the efforts by the Department of Defense Education Activity (DoDEA) to address dyslexia in students at DoDEA schools: *Provided,* That this report shall include a description of funding provided in this and other Department of Defense Appropriations Acts used by DoDEA schools to address dyslexia.

SEC. 8108. (a) LIMITATION ON RETIREMENT PENDING REPORT ON BOMBER FORCE STRUCTURE.—No funds appropriated for the Department of Defense may be obligated or expended for retiring or dismantling any of the 93 B–52H bomber aircraft in service in the Air Force as of June 1, 2006, until 30 days after the Secretary of the Air Force transmits to the congressional defense committees a report on the bomber force structure of the Air Force meeting the requirements of subsection (b).

(b) ELEMENTS.—The report under subsection (a) shall set forth the following:

(1) The plan of the Air Force for the modernization of the B–52H bomber aircraft fleet.

(2) The plans of the Air Force for the modernization of the balance of the bomber force structure.

(3) The amount and type of bombers in the bomber force structure that is appropriate to meet the requirements of the national security strategy of the United States.

(4) An analyses and justification of the cost and projected savings of any reductions to the B–52H bomber fleet as a

result of the retirement or dismantlement of the B–52H bomber aircraft covered by the report.

(5) The current assessments for the useful life of each of the bomber aircraft in the Air Force inventory under the Aircraft Structural Integrity Program, any flight restrictions against each of the bomber aircraft in the Air Force inventory, and an analysis of any funding required for modifications designed to correct a problem that threatens grounding all or a portion of that aircraft fleet.

(6) The date by which any new bomber aircraft must reach initial operational capability and the capabilities of the bomber force structure that would be replaced or superseded by any new bomber aircraft.

(7) An assessment of the likelihood that the development of a new bomber aircraft will meet the current schedule of reaching initial operational capability by 2018.

(8) An assessment of the risk to national security of retiring a substantial portion of our bomber fleet, including a consideration of the additional risk if the development of a new bomber aircraft does not meet the current schedule of reaching initial operational capability by 2018.

(c) PREPARATION OF REPORT.—A report under this section shall be prepared and submitted by the Institute of Defense Analyses to the Secretary of the Air Force for transmittal by the Secretary in accordance with subsection (a).

(d) FORM.—The report under subsection (a) shall be in unclassified form, but may include a classified annex.

SEC. 8109. Notwithstanding the first section of Public Law 85–804 (50 U.S.C. 1431), in the event a notice on the modification of a contract described in that section is submitted to the Committees on Armed Services of the Senate and the House of Representatives by the Army Contract Adjustment Board during the period beginning on July 28, 2006, and ending on the date of the adjournment of the 109th Congress sine die, such contract may be modified in accordance with such notice commencing on the earlier of—

(1) the date that is 60 calendar days after the date of such notice; or

(2) the date of the adjournment of the 109th Congress sine die.

Deadline.
Analysis.

SEC. 8110. (a) Except as provided in subsection (b), the Secretary of the Air Force shall, not later than March 31, 2007, submit to the congressional defense committees a cost-benefit analysis of significant proposed realignments or closures of research and development or test and evaluation installations, activities, facilities, laboratories, units, functions, or capabilities of the Air Force. The analysis shall include an evaluation of missions served and alternatives considered and of the benefits, costs, risks, and other considerations associated with each such proposed realignment or closure.

(b) The requirement under subsection (a) does not apply to realignment and closure activities carried out in accordance with the final recommendations of the Defense Base Closure and Realignment Commission under the 2005 round of defense base closure and realignment.

(c) None of the funds appropriated or otherwise made available in this Act may be used to transfer from Eglin Air Force Base, Florida, to any other location, or otherwise to divest from that

base, any test and evaluation facility or test and evaluation activity that as of the beginning of fiscal year 2007 is located or conducted at that base.

SEC. 8111. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to implement any provision of the National Security Personnel System under chapter 99 of title 5, United States Code, that deviates from any provision relating to labor-management relations, adverse actions, or appeals under chapter 71, 75, or 77 of title 5, United States Code, or from any regulations prescribed under such chapter 71, 75, or 77: *Provided,* That the limitation in this section shall cease to apply to the extent that the decision of the court in AFGE v. Rumsfeld (442 F. Supp. 2d 16 (D.D.C. 2006)) is reversed on appeal.

SEC. 8112. Except as expressly provided otherwise, any reference to "this Act" contained in this division shall be referring only to the provisions of this division. 1 USC 1 note.

## TITLE IX

## ADDITIONAL APPROPRIATIONS

## MILITARY PERSONNEL

### MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $4,346,710,000.

### MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $143,296,000.

### MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $145,576,000.

### MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $351,788,000.

### RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $87,756,000.

### RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $15,420,000.

### NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $295,959,000.

## OPERATION AND MAINTENANCE

### OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $28,364,102,000.

### OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Navy", $1,615,288,000: *Provided,* That up to $90,000,000 shall be transferred to the Coast Guard "Operating Expenses" account.

### OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $2,689,006,000.

### OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $2,688,189,000.

### OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $2,774,963,000, of which up to $900,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

Reports.

### OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $211,600,000.

### OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $9,886,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $48,000,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $65,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $424,000,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $200,000,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", $50,000,000, to remain available for transfer until September 30, 2008, only to support operations in Iraq or Afghanistan: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification. Deadline.

Reports. Deadline.

AFGHANISTAN SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Afghanistan Security Forces Fund", $1,500,000,000, to remain available until September 30, 2008: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Office of Security Cooperation—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan,

including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further,* That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further,* That the Secretary of Defense shall, not fewer than five days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification.

Notification. Deadline.

Reports. Deadline.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Iraq Security Forces Fund", $1,700,000,000, to remain available until September 30, 2008: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further,* That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That contributions of funds for the purposes provided

herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further,* That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further,* That the Secretary of Defense shall, not fewer than five days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification.

Notification. Deadline.

Reports. Deadline.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

For the "Joint Improvised Explosive Device Defeat Fund", $1,920,700,000, to remain available until September 30, 2009: *Provided,* That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further,* That within 60 days of the enactment of this Act, a plan for the intended management and use of the Fund is provided to the congressional defense committees: *Provided further,* That the Secretary of Defense shall submit a report not later than 30 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of this Fund: *Provided further,* That the Secretary of Defense may transfer funds provided herein to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon determination that all or part of the funds so transferred from this appropriation are not necessary for the purpose provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

Management plan. Deadline.

Reports. Deadline.

Notification. Deadline.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $1,461,300,000, to remain available for obligation until September 30, 2009.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $3,393,230,000, to remain available for obligation until September 30, 2009.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $237,750,000, to remain available for obligation until September 30, 2009.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $5,003,995,000, to remain available for obligation until September 30, 2009.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $486,881,000, to remain available for obligation until September 30, 2009.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $109,400,000, to remain available for obligation until September 30, 2009.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $127,880,000, to remain available for obligation until September 30, 2009.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $319,965,000, to remain available for obligation until September 30, 2009.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,898,269,000, to remain available for obligation until September 30, 2009.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $2,291,300,000, to remain available for obligation until September 30, 2009.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", $32,650,000, to remain available for obligation until September 30, 2009.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $1,317,607,000, to remain available for obligation until September 30, 2009.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $145,555,000, to remain available for obligation until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $231,106,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $36,964,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $139,644,000, to remain available until September 30, 2008.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $100,000,000.

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For an additional amount for "Intelligence Community Management Account", $19,265,000, to remain available until September 30, 2008.

GENERAL PROVISIONS

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2007, unless otherwise so provided in this title.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer

Notification.

between appropriations up to $3,000,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2006 or 2007 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 9006. (a) From funds made available in this title to the Department of Defense, not to exceed $500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

Deadline.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2007), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 9007. Amounts provided in this title for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of up to 20 heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in this Act, or any other provision of law: *Provided,* That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

Reports.
Deadline.

SEC. 9008. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

Reports.

SEC. 9009. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided,* That for the purpose of this section, supervision and administration costs include all in-house Government costs.

Reports. Deadline. Iraq.

SEC. 9010. (a) Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2007, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2007.

SEC. 9011. Amounts provided in chapter 1 of title V of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 are hereby designated as emergency requirements pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 9012. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

SEC. 9013. Each amount appropriated or otherwise made available in this title is designated as making appropriations for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 818 (109th Congress), and as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109–234.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9014. (a) Congress makes the following findings: Sudan.

(1) Despite the signing of the Darfur Peace Agreement on May 5, 2006, the violence in Darfur, Sudan, continues to escalate and threatens to spread to other areas of Sudan and throughout the region.

(2) The African Union Mission in Sudan (AMIS) currently serves as the primary security force in Darfur, but it is hoped that a United Nations peacekeeping force can be deployed to the region.

(3) The continued presence of a peacekeeping force in Darfur, Sudan, is critical to curbing the spread of violence in the region.

(b) Of the funds appropriated in this title under the heading "Operation and Maintenance, Defense-Wide", $20,000,000 shall be made available only for transfer to the Department of State "Peacekeeping Operations" account to support peacekeeping activities in Sudan: *Provided,* That these funds shall be transferred by the Secretary of Defense if he determines such amounts are required to assist in peacekeeping activities.

(c) The transfer authority in this section is in addition to any other transfer authority available to the Department of Defense.

(d) The Secretary shall, not fewer than five days prior to making transfers under this authority, notify the congressional defense committees in writing of the details of any such transfer. Notification. Deadline.

SEC. 9015. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code.

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and any regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 9016. PROHIBITION ON PAYMENT OF AWARD FEES TO DEFENSE CONTRACTORS IN CASES OF CONTRACT NON-PERFORMANCE. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor for performance that does not meet the requirements of the contract.

SEC. 9017. No funds appropriated or otherwise made available by this Act may be used by the Government of the United States to enter into an agreement with the Government of Iraq that would subject members of the Armed Forces of the United States to the jurisdiction of Iraq criminal courts or punishment under Iraq law.

SEC. 9018. Notwithstanding any other provision of law, the Secretary of the Army may reimburse a member for expenses incurred by the member or family member when such expenses are otherwise not reimbursable under law: *Provided,* That such expenses must have been incurred in good faith as a direct consequence of reasonable preparation for, or execution of, military orders: *Provided further,* That reimbursement under this section shall be allowed only in situations wherein other authorities are insufficient to remedy a hardship determined by the Secretary, and only when the Secretary determines that reimbursement of the expense is in the best interest of the member and the United States.

## TITLE X

## FISCAL YEAR 2006 WILDLAND FIRE EMERGENCY APPROPRIATIONS

### DEPARTMENT OF THE INTERIOR

#### BUREAU OF LAND MANAGEMENT

##### WILDLAND FIRE MANAGEMENT

For an additional amount for "Wildland Fire Management", $100,000,000, to be available for obligation upon enactment of this Act and to remain available until expended, for wildland fire suppression, emergency rehabilitation activities and for repayment to other appropriation accounts from which funds were transferred on an emergency basis for wildfire suppression: *Provided,* That the amount provided is designated as an emergency requirement pursuant to section 501 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 818 (109th Congress) and as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109–234.

### DEPARTMENT OF AGRICULTURE

#### FOREST SERVICE

##### WILDLAND FIRE MANAGEMENT

For an additional amount for "Wildland Fire Management", $100,000,000, to be available for obligation upon enactment of this Act and to remain available until expended, for wildland fire

suppression, emergency rehabilitation activities and for repayment to other appropriation accounts from which funds were transferred on an emergency basis for wildfire suppression: *Provided,* That the amount provided is designated as an emergency requirement pursuant to section 501 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 818 (109th Congress) and as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109–234.

This Act may be cited as the "Department of Defense Appropriations Act, 2007".

## DIVISION B—CONTINUING APPROPRIATIONS RESOLUTION, 2007

Continuing Appropriations Resolution, 2007.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2007, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2006 for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this division, that were conducted in fiscal year 2006, and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2007.

(2) The Energy and Water Development Appropriations Act, 2007 (in the House of Representatives), or the Energy and Water Appropriations Act, 2007 (in the Senate).

(3) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2007 (in the House of Representatives), or the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2007 (in the Senate).

(4) The Department of Homeland Security Appropriations Act, 2007.

(5) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2007.

(6) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2007.

(7) The Legislative Branch Appropriations Act, 2007.

(8) The Military Construction, Military Quality of Life and Veterans Affairs Appropriations Act, 2007 (in the House of Representatives), or the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2007 (in the Senate).

(9) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2007 (in the House of Representatives), or the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2007 (in the Senate).

(10) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2007 (in the House of Representatives), or the Transportation, Treasury, Housing and

Urban Development, the Judiciary, and Related Agencies Appropriations Act, 2007 (in the Senate) and the District of Columbia Appropriations Act, 2007 (in the Senate).

(b) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2006, is the same as the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2006—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the actions of the House and the Senate, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2006; or

(2) if no amount or authority is made available or granted for the project or activity by the actions of the House and the Senate, the project or activity shall not be continued.

(c) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2006, is different from the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2006—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lowest, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2006; or

(2) if the project or activity is included in the pertinent Act of only one of the Houses, the project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2006.

(d) Whenever the pertinent Act covering a project or activity has been passed by only the House of Representatives as of October 1, 2006—

(1) the project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2006; or

(2) if the project or activity is funded in applicable appropriations Acts for fiscal year 2006 and not included in the pertinent Act of the House as of October 1, 2006, the project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for fiscal year 2006 at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2006.

(e) Whenever the pertinent Act covering a project or activity has been passed by neither the House of Representatives nor the Senate as of October 1, 2006, the project or activity shall be continued under the appropriation, fund, or authority granted by

applicable appropriations Acts for fiscal year 2006 at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2006.

SEC. 102. (a) For purposes of section 101, the pertinent appropriations Acts for fiscal year 2007 covering the activities specified in subsection (c) shall be the Act listed in section 101(a)(8) as passed by the House of Representatives, and H.R. 5631 (109th Congress) as passed by the Senate.

(b) For purposes of sections 106(2) and 107, the applicable appropriations Act for fiscal year 2007 covering the activities specified in subsection (c) shall be the Act listed in section 101(a)(8).

(c) The activities referred to in subsections (a) and (b) are the following activities of the Department of Defense:

(1) Activities under the "Basic Allowance for Housing" accounts, and the basic allowance for housing activities under the "Military Personnel" accounts.

(2) Activities under the "Facilities Sustainment, Restoration and Modernization" accounts, and the facilities sustainment, restoration and modernization activities under the "Operation and Maintenance" accounts.

(3) Activities under the "Environmental Restoration" accounts.

(4) Activities under the "Defense Health Program" account.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2006.

SEC. 105. Appropriations made and authority granted pursuant to this division shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this division.

Expiration date.

SEC. 106. Unless otherwise provided for in this division or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this division shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this division; (2) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (3) November 17, 2006.

SEC. 107. Expenditures made pursuant to this division shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations and funds made available by or authority granted pursuant to this division may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this division may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this division, except section 106, for those programs that had high initial rates

of operation or complete distribution of fiscal year 2006 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 2007 shall not be made and no grants shall be awarded for such programs funded by this division that would impinge on final funding prerogatives.

SEC. 110. This division shall be implemented so that only the most limited funding action of that permitted in the division shall be taken in order to provide for continuation of projects and activities.

SEC. 111. No provision that is included in an appropriations Act listed in section 101(a), but that was not included in the applicable appropriations Act for fiscal year 2006 and by its terms is applicable to more than one appropriation, fund, or authority, shall be applicable to any appropriation, fund, or authority provided in this division.

SEC. 112. No provision that is included in an appropriations Act listed in section 101(a), and that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation, shall be effective before the date set forth in section 106(3).

SEC. 113. Funds appropriated by this division may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2006, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2006, to be continued through the date specified in section 106(3) of this division.

(b) Notwithstanding section 106 of this division, funds shall be available and obligations for mandatory payments due on or about November 1, 2006, and December 1, 2006, may continue to be made.

Contracts.

SEC. 115. Notwithstanding the second proviso under the heading "Rental Assistance Program" in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Public Law 109–97), the Secretary of Agriculture is authorized to enter into or renew contracts under section 521(a)(2) of the Housing Act of 1949 for one year.

SEC. 116. The Secretary of Agriculture shall continue, through the date specified in section 106(3) of this division, the Water and Waste Systems Direct Loan Program under the authority and conditions (including the borrower's interest rate and fees as of September 1, 2006) provided by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Public Law 109–97).

Applicability.

SEC. 117. Section 14704 of title 40, United States Code, shall be applied by substituting the date specified in section 106(3) of this division for "October 1, 2006".

SEC. 118. The authorities provided by sections 2(b)(9) and 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9) and 635f), and section 1 of Public Law 103–428 shall continue in effect through the date specified in section 106(3) of this division.

SEC. 119. Section 501(i) of H.R. 3425, as enacted into law by section 1000(a)(5) of division B of Public Law 106–113 (Appendix E, 113 Stat. 1501A–313), as amended by section 591(b) of division D of Public Law 108–447 (118 Stat. 3037), shall continue in effect through the date specified in section 106(3) of this division.

SEC. 120. In addition to the amounts provided under section 101 of this division, amounts obligated in fiscal year 2006 from funding provided in section 458(a)(1) of the Higher Education Act (as reduced by the amount of account maintenance fees obligated to guaranty agencies for fiscal year 2006 pursuant to section 458(a)(1)(B) of that Act), shall be deemed to have been provided in an applicable appropriations Act for fiscal year 2006.

SEC. 121. The authority provided by section 2011 of title 38, United States Code, shall continue in effect through the date specified in section 106(3) of this division.

SEC. 122. The authority provided by section 2808 of Public Law 108–136, as amended by section 2809 of Public Law 109–163, shall continue in effect through the date specified in section 106(3) of this division.

SEC. 123. The authority provided by subsection (a) of section 221 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 (Public Law 108–170) shall continue in effect, notwithstanding subsection (d) of that section, through the earlier of: (1) the date specified in section 106(3) of this division; or (2) the date of the enactment into law of an authorization Act relating to major medical facility projects for the Department of Veterans Affairs.

SEC. 124. Title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108–447, division B), shall continue in effect through the date specified in section 106(3) of this division.

SEC. 125. Funds appropriated by section 101 of this division for International Space Station Cargo Crew Services/International Partner Purchases within the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in the pertinent Acts specified in section 101(a)(9).

SEC. 126. Except as provided for in section 101(b)(2), amounts made available under section 101 of this division for civilian personnel compensation and benefits in each department and agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with enacted appropriations for fiscal year 2006, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 127. (a) Notwithstanding any other provision of this division, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for such programs and activities under title V of H.R. 5576 (109th Congress), as passed by the House of Representatives, at the rate set forth under "District of Columbia Funds, Summary of Expenses" as included in the Fiscal Year 2007

Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 5, 2006.

(b) Sections 131 and 132 of division B of Public Law 109–115 shall be applied by substituting the date specified in section 106(3) of this division for "September 30, 2006".

SEC. 128. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of: (1) the date specified in section 106(3) of this division; or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 129. Funds appropriated by section 101 of this division for the Internal Revenue Service may be obligated in the account and budget structure set forth in title II of H.R. 5576 (109th Congress), as passed by the House of Representatives.

SEC. 130. Activities authorized by title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 may continue through the date specified in section 106(3) of this division.

SEC. 131. Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "250,000" and inserting "275,000".

Applicability.

SEC. 132. Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this division for "October 1, 2006".

This division may be cited as the "Continuing Appropriations Resolution, 2007".

Approved September 29, 2006.

---

LEGISLATIVE HISTORY—H.R. 5631:

HOUSE REPORTS: No. 109–504 (Comm. on Appropriations) and 109–676 (Comm. of Conference).
SENATE REPORTS: No. 109–292 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 152 (2006):
June 20, considered and passed House.
Aug. 1–3, Sept. 5–7, considered and passed Senate.
Sept. 26, House agreed to conference report.
Sept. 29, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Sept. 29, Presidential statement.

# Public Law 109–290
# 109th Congress

## An Act

To protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products.

Sept. 29, 2006
[S. 418]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Military Personnel Financial Services Protection Act. 10 USC 992 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Military Personnel Financial Services Protection Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Congressional findings.
Sec. 3. Definitions.
Sec. 4. Prohibition on future sales of periodic payment plans.
Sec. 5. Required disclosures regarding offers or sales of securities on military installations.
Sec. 6. Method of maintaining broker and dealer registration, disciplinary, and other data.
Sec. 7. Filing depositories for investment advisers.
Sec. 8. State insurance and securities jurisdiction on military installations.
Sec. 9. Required development of military personnel protection standards regarding insurance sales; administrative coordination.
Sec. 10. Required disclosures regarding life insurance products.
Sec. 11. Improving life insurance product standards.
Sec. 12. Required reporting of disciplinary actions.
Sec. 13. Reporting barred persons selling insurance or securities.
Sec. 14. Study and reports by Inspector General of the Department of Defense.

**SEC. 2. CONGRESSIONAL FINDINGS.**

10 USC 992 note.

Congress finds that—

(1) members of the Armed Forces perform great sacrifices in protecting our Nation in the War on Terror;

(2) the brave men and women in uniform deserve to be offered first-rate financial products in order to provide for their families and to save and invest for retirement;

(3) members of the Armed Forces are being offered high-cost securities and life insurance products by some financial services companies engaging in abusive and misleading sales practices;

(4) one securities product offered to service members, known as the "mutual fund contractual plan", largely disappeared from the civilian market in the 1980s, due to excessive sales charges;

(5) with respect to a mutual fund contractual plan, a 50 percent sales commission is assessed against the first year of contributions, despite an average commission on other securities products of less than 6 percent on each sale;

(6) excessive sales charges allow abusive and misleading sales practices in connection with mutual fund contractual plan;

(7) certain life insurance products being offered to members of the Armed Forces are improperly marketed as investment products, providing minimal death benefits in exchange for excessive premiums that are front-loaded in the first few years, making them entirely inappropriate for most military personnel; and

(8) the need for regulation of the marketing and sale of securities and life insurance products on military bases necessitates Congressional action.

10 USC 992 note.

**SEC. 3. DEFINITIONS.**

For purposes of this Act, the following definitions shall apply:

(1) LIFE INSURANCE PRODUCT.—

(A) IN GENERAL.—The term "life insurance product" means any product, including individual and group life insurance, funding agreements, and annuities, that provides insurance for which the probabilities of the duration of human life or the rate of mortality are an element or condition of insurance.

(B) INCLUDED INSURANCE.—The term "life insurance product" includes the granting of—

(i) endowment benefits;

(ii) additional benefits in the event of death by accident or accidental means;

(iii) disability income benefits;

(iv) additional disability benefits that operate to safeguard the contract from lapse or to provide a special surrender value, or special benefit in the event of total and permanent disability;

(v) benefits that provide payment or reimbursement for long-term home health care, or long-term care in a nursing home or other related facility;

(vi) burial insurance; and

(vii) optional modes of settlement or proceeds of life insurance.

(C) EXCLUSIONS.—Such term does not include workers compensation insurance, medical indemnity health insurance, or property and casualty insurance.

(2) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners (or any successor thereto).

10 USC 992 note.

**SEC. 4. PROHIBITION ON FUTURE SALES OF PERIODIC PAYMENT PLANS.**

(a) AMENDMENT.—Section 27 of the Investment Company Act of 1940 (15 U.S.C. 80a–27) is amended by adding at the end the following new subsection:

"(j) TERMINATION OF SALES.—

"(1) TERMINATION.—Effective 30 days after the date of enactment of the Military Personnel Financial Services Protection Act, it shall be unlawful, subject to subsection (i)—

"(A) for any registered investment company to issue any periodic payment plan certificate; or

"(B) for such company, or any depositor of or underwriter for any such company, or any other person, to sell such a certificate.

"(2) NO INVALIDATION OF EXISTING CERTIFICATES.—Paragraph (1) shall not be construed to alter, invalidate, or otherwise affect any rights or obligations, including rights of redemption, under any periodic payment plan certificate issued and sold before 30 days after such date of enactment.".

(b) TECHNICAL AMENDMENT.—Section 27(i)(2)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–27(i)(2)(B)) is amended by striking "section 26(e)" each place that term appears and inserting "section 26(f)".

(c) REPORT ON REFUNDS, SALES PRACTICES, AND REVENUES FROM PERIODIC PAYMENT PLANS.—Not later than 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report describing—

(1) any measures taken by a broker or dealer registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) to voluntarily refund payments made by military service members on any periodic payment plan certificate, and the amounts of such refunds;

(2) after such consultation with the Secretary of Defense, as the Commission considers appropriate, the sales practices of such brokers or dealers on military installations over the 5 years preceding the date of submission of the report and any legislative or regulatory recommendations to improve such practices; and

(3) the revenues generated by such brokers or dealers in the sales of periodic payment plan certificates over the 5 years preceding the date of submission of the report, and the products marketed by such brokers or dealers to replace the revenue generated from the sales of periodic payment plan certificates prohibited under subsection (a).

**SEC. 5. REQUIRED DISCLOSURES REGARDING OFFERS OR SALES OF SECURITIES ON MILITARY INSTALLATIONS.** 10 USC 992 note.

Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by inserting immediately after paragraph (13) the following:

"(14) The rules of the association include provisions governing the sales, or offers of sales, of securities on the premises of any military installation to any member of the Armed Forces or a dependent thereof, which rules require—

"(A) the broker or dealer performing brokerage services to clearly and conspicuously disclose to potential investors—

"(i) that the securities offered are not being offered or provided by the broker or dealer on behalf of the Federal Government, and that its offer is not sanctioned, recommended, or encouraged by the Federal Government; and

"(ii) the identity of the registered broker-dealer offering the securities;

"(B) such broker or dealer to perform an appropriate suitability determination, including consideration of costs

and knowledge about securities, prior to making a recommendation of a security to a member of the Armed Forces or a dependent thereof; and

"(C) that no person receive any referral fee or incentive compensation in connection with a sale or offer of sale of securities, unless such person is an associated person of a registered broker or dealer and is qualified pursuant to the rules of a self-regulatory organization.".

10 USC 992 note.

**SEC. 6. METHOD OF MAINTAINING BROKER AND DEALER REGISTRATION, DISCIPLINARY, AND OTHER DATA.**

Section 15A(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(i)) is amended to read as follows:

"(i) OBLIGATION TO MAINTAIN REGISTRATION, DISCIPLINARY, AND OTHER DATA.—

"(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—A registered securities association shall—

"(A) establish and maintain a system for collecting and retaining registration information;

Communications and telecommunications.

"(B) establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding—

"(i) registration information on its members and their associated persons; and

"(ii) registration information on the members and their associated persons of any registered national securities exchange that uses the system described in subparagraph (A) for the registration of its members and their associated persons; and

Regulations.

"(C) adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries in consultation with any registered national securities exchange providing information pursuant to subparagraph (B)(ii).

"(2) RECOVERY OF COSTS.—A registered securities association may charge persons making inquiries described in paragraph (1)(B), other than individual investors, reasonable fees for responses to such inquiries.

Regulations.

"(3) PROCESS FOR DISPUTED INFORMATION.—Each registered securities association shall adopt rules establishing an administrative process for disputing the accuracy of information provided in response to inquiries under this subsection in consultation with any registered national securities exchange providing information pursuant to paragraph (1)(B)(ii).

"(4) LIMITATION ON LIABILITY.—A registered securities association, or an exchange reporting information to such an association, shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

"(5) DEFINITION.—For purposes of this subsection, the term 'registration information' means the information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information.".

**SEC. 7. FILING DEPOSITORIES FOR INVESTMENT ADVISERS.** 10 USC 992 note.

(a) INVESTMENT ADVISERS.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by striking "Every investment" and inserting the following:

"(a) IN GENERAL.—Every investment"; and

(2) by adding at the end the following:

"(b) FILING DEPOSITORIES.—The Commission may, by rule, require an investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

"(c) ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

"(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—

"(A) IN GENERAL.—The Commission shall require the entity designated by the Commission under subsection (b)(1) to establish and maintain a toll-free telephone listing, or a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or rule to be reported) involving investment advisers and persons associated with investment advisers. Communication and telecommunications.

"(B) APPLICABILITY.—This subsection shall apply to any investment adviser (and the persons associated with that adviser), whether the investment adviser is registered with the Commission under section 203 or regulated solely by a State, as described in section 203A.

"(2) RECOVERY OF COSTS.—An entity designated by the Commission under subsection (b)(1) may charge persons making inquiries, other than individual investors, reasonable fees for responses to inquiries described in paragraph (1).

"(3) LIMITATION ON LIABILITY.—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) INVESTMENT ADVISERS ACT OF 1940.—Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3a) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) NATIONAL SECURITIES MARKETS IMPROVEMENT ACT OF 1996.—Section 306 of the National Securities Markets Improvement Act of 1996 (15 U.S.C. 80b–10, note) is repealed.

**SEC. 8. STATE INSURANCE AND SECURITIES JURISDICTION ON MILITARY INSTALLATIONS.** 10 USC 992 note.

(a) CLARIFICATION OF JURISDICTION.—Any provision of law, regulation, or order of a State with respect to regulating the business of insurance or securities shall apply to insurance or securities activities conducted on Federal land or facilities in the United Applicability.

States and abroad, including military installations, except to the extent that such law, regulation, or order—

(1) directly conflicts with any applicable Federal law, regulation, or authorized directive; or

(2) would not apply if such activity were conducted on State land.

(b) PRIMARY STATE JURISDICTION.—To the extent that multiple State laws would otherwise apply pursuant to subsection (a) to an insurance or securities activity of an individual or entity on Federal land or facilities, the State having the primary duty to regulate such activity and the laws of which shall apply to such activity in the case of a conflict shall be—

(1) the State within which the Federal land or facility is located; or

(2) if the Federal land or facility is located outside of the United States, the State in which—

(A) in the case of an individual engaged in the business of insurance, such individual has been issued a resident license;

(B) in the case of an entity engaged in the business of insurance, such entity is domiciled;

(C) in the case of an individual engaged in the offer or sale (or both) of securities, such individual is registered or required to be registered to do business or the person solicited by such individual resides; or

(D) in the case of an entity engaged in the offer or sale (or both) of securities, such entity is registered or is required to be registered to do business or the person solicited by such entity resides.

10 USC 992 note.

**SEC. 9. REQUIRED DEVELOPMENT OF MILITARY PERSONNEL PROTECTION STANDARDS REGARDING INSURANCE SALES; ADMINISTRATIVE COORDINATION.**

(a) STATE STANDARDS.—Congress intends that—

(1) the States collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation of the United States (including installations located outside of the United States); and

Deadline.

(2) each State identify its role in promoting the standards described in paragraph (1) in a uniform manner, not later than 12 months after the date of enactment of this Act.

(b) STATE REPORT.—It is the sense of Congress that the NAIC should, after consultation with the Secretary of Defense and, not later than 12 months after the date of enactment of this Act, conduct a study to determine the extent to which the States have met the requirement of subsection (a), and report the results of such study to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) ADMINISTRATIVE COORDINATION; SENSE OF CONGRESS.—It is the sense of the Congress that senior representatives of the Secretary of Defense, the Securities and Exchange Commission, and the NAIC should meet not less frequently than twice a year to coordinate their activities to implement this Act and monitor

the enforcement of relevant regulations relating to the sale of financial products on military installations of the United States.

**SEC. 10. REQUIRED DISCLOSURES REGARDING LIFE INSURANCE PRODUCTS.** 10 USC 992 note.

(a) REQUIREMENT.—Except as provided in subsection (e), no person may sell, or offer for sale, any life insurance product to any member of the Armed Forces or a dependent thereof on a military installation of the United States, unless a disclosure in accordance with this section is provided to such member or dependent at the time of the sale or offer.

(b) DISCLOSURE.—A disclosure in accordance with this section is a written disclosure that—

(1) states that subsidized life insurance is available to the member of the Armed Forces from the Federal Government under the Servicemembers' Group Life Insurance program (also referred to as "SGLI"), under subchapter III of chapter 19 of title 38, United States Code;

(2) states the amount of insurance coverage available under the SGLI program, together with the costs to the member of the Armed Forces for such coverage;

(3) states that the life insurance product that is the subject of the disclosure is not offered or provided by the Federal Government, and that the Federal Government has in no way sanctioned, recommended, or encouraged the sale of the life insurance product being offered;

(4) fully discloses any terms and circumstances under which amounts accumulated in a savings fund or savings feature under the life insurance product that is the subject of the disclosure may be diverted to pay, or reduced to offset, premiums due for continuation of coverage under such product;

(5) states that no person has received any referral fee or incentive compensation in connection with the offer or sale of the life insurance product, unless such person is a licensed agent of the person engaged in the business of insurance that is issuing such product;

(6) is made in plain and readily understandable language and in a type font at least as large as the font used for the majority of the solicitation material used with respect to or relating to the life insurance product; and

(7) with respect to a sale or solicitation on Federal land or facilities located outside of the United States, lists the address and phone number at which consumer complaints are received by the State insurance commissioner for the State having the primary jurisdiction and duty to regulate the sale of such life insurance products pursuant to section 8.

(c) VOIDABILITY.—The sale of a life insurance product in violation of this section shall be voidable from its inception, at the sole option of the member of the Armed Forces, or dependent thereof, as applicable, to whom the product was sold.

(d) ENFORCEMENT.—If it is determined by a Federal or State agency, or in a final court proceeding, that any person has intentionally violated, or willfully disregarded the provisions of, this section, in addition to any other penalty under applicable Federal or State law, such person shall be prohibited from further engaging in the business of insurance with respect to employees of the Federal Government on Federal land, except—

(1) with respect to existing policies; and

(2) to the extent required by the Federal Government pursuant to previous commitments.

(e) EXCEPTIONS.—This section shall not apply to any life insurance product specifically contracted by or through the Federal Government.

**SEC. 11. IMPROVING LIFE INSURANCE PRODUCT STANDARDS.**

Deadline.
10 USC 992 note.

(a) IN GENERAL.—It is the sense of Congress that the NAIC should, after consultation with the Secretary of Defense, and not later than 6 months after the date of enactment of this Act, conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on—

(1) ways of improving the quality of and sale of life insurance products sold on military installations of the United States, which may include—

(A) limiting such sales authority to persons that are certified as meeting appropriate best practices procedures; and

(B) creating standards for products specifically designed to meet the particular needs of members of the Armed Forces, regardless of the sales location; and

(2) the extent to which life insurance products marketed to members of the Armed Forces comply with otherwise applicable provisions of State law.

(b) CONDITIONAL GAO REPORT.—If the NAIC does not submit the report as described in subsection (a), the Comptroller General of the United States shall—

(1) study any proposals that have been made to improve the quality of and sale of life insurance products sold on military installations of the United States; and

(2) not later than 6 months after the expiration of the period referred to in subsection (a), submit a report on such proposals to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

10 USC 992 note.

**SEC. 12. REQUIRED REPORTING OF DISCIPLINARY ACTIONS.**

Effective date.

(a) REPORTING BY INSURERS.—Beginning 1 year after the date of enactment of this Act, no insurer may enter into or renew a contractual relationship with any other person that sells or solicits the sale of any life insurance product on any military installation of the United States, unless the insurer has implemented a system to report to the State insurance commissioner of the State of domicile of the insurer and the State of residence of that other person—

(1) any disciplinary action taken by any Federal or State government entity with respect to sales or solicitations of life insurance products on a military installation that the insurer knows, or in the exercise of due diligence should have known, to have been taken; and

(2) any significant disciplinary action taken by the insurer with respect to sales or solicitations of life insurance products on a military installation of the United States.

(b) REPORTING BY STATES.—It is the sense of Congress that, not later than 1 year after the date of enactment of this Act, the States should collectively implement a system to—

(1) receive reports of disciplinary actions taken against persons that sell or solicit the sale of any life insurance product on any military installation of the United States by insurers or Federal or State government entities with respect to such sales or solicitations; and

(2) disseminate such information to all other States and to the Secretary of Defense.

(c) DEFINITION.—As used in this section, the term "insurer" means a person engaged in the business of insurance.

**SEC. 13. REPORTING BARRED PERSONS SELLING INSURANCE OR SECURITIES.**

Records.
10 USC 992 note.

(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a list of the name, address, and other appropriate information relating to persons engaged in the business of securities or insurance that have been barred or otherwise limited in any manner that is not generally applicable to all such type of persons, from any or all military installations of the United States, or that have engaged in any transaction that is prohibited by this Act.

(b) NOTICE AND ACCESS.—The Secretary of Defense shall ensure that—

(1) the appropriate Federal and State agencies responsible for securities and insurance regulation are promptly notified upon the inclusion in or removal from the list required by subsection (a) of a person under the jurisdiction of one or more of such agencies; and

(2) the list is kept current and easily accessible—

(A) for use by such agencies; and

(B) for purposes of enforcing or considering any such bar or limitation by the appropriate Federal personnel, including commanders of military installations.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Defense shall issue regulations in accordance with this subsection to provide for the establishment and maintenance of the list required by this section, including appropriate due process considerations.

(2) TIMING.—

(A) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of enactment of this Act, the Secretary of Defense shall prepare and submit to the appropriate Committees of Congress a copy of the regulations required by this subsection that are proposed to be published for comment. The Secretary may not publish such regulations for comment in the Federal Register until the expiration of the 15-day period beginning on the date of such submission to the appropriate Committees of Congress.

Deadline.

Federal Register, publication.

(B) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall submit to the appropriate Committees of Congress a copy of the regulations under this section to be published in final form.

Deadline.

(C) EFFECTIVE DATE.—Final regulations under this paragraph shall become effective 30 days after the date of their submission to the appropriate Committees of Congress under subparagraph (B).

(d) DEFINITION.—For purposes of this section, the term "appropriate Committees of Congress" means—

(1) the Committee on Financial Services and the Committee on Armed Services of the House of Representatives; and

(2) the Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

10 USC 992 note.

**SEC. 14. STUDY AND REPORTS BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.**

(a) STUDY.—The Inspector General of the Department of Defense shall conduct a study on the impact of Department of Defense Instruction 1344.07 (as in effect on the date of enactment of this Act) and the reforms included in this Act on the quality and suitability of sales of securities and insurance products marketed or otherwise offered to members of the Armed Forces.

(b) REPORTS.—Not later than 12 months after the date of enactment of this Act, the Inspector General of the Department of Defense shall submit an initial report on the results of the study conducted under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and shall submit followup reports to those committees on December 31, 2008 and December 31, 2010.

Approved September 29, 2006.

---

LEGISLATIVE HISTORY—S. 418 (H.R. 458):

SENATE REPORTS: No. 109–282 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 152 (2006):

July 19, considered and passed Senate.

Sept. 20, 21, considered and passed House.

# Public Law 109–291
# 109th Congress

## An Act

To improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

Sept. 29, 2006
[S. 3850]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Credit Rating Agency Reform Act of 2006.
15 USC 78a note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Credit Rating Agency Reform Act of 2006".

15 USC 78o–7 note.

**SEC. 2. FINDINGS.**

Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 702 of the Sarbanes-Oxley Act of 2002 (116 Stat. 797), hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives during the 108th and 109th Congresses, comment letters to the concept releases and proposed rules of the Commission, and facts otherwise disclosed and ascertained, Congress finds that credit rating agencies are of national importance, in that, among other things—

(1) their ratings, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their ratings, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on securities exchanges and in interstate over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System;

(3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, the securities markets, the national banking system, and the national economy;

(4) the oversight of such credit rating agencies serves the compelling interest of investor protection;

(5) the 2 largest credit rating agencies serve the vast majority of the market, and additional competition is in the public interest; and

(6) the Commission has indicated that it needs statutory authority to oversee the credit rating industry.

**SEC. 3. DEFINITIONS.**

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

"(60) CREDIT RATING.—The term 'credit rating' means an assessment of the creditworthiness of an obligor as an entity or with respect to specific securities or money market instruments.

"(61) CREDIT RATING AGENCY.—The term 'credit rating agency' means any person—

"(A) engaged in the business of issuing credit ratings on the Internet or through another readily accessible means, for free or for a reasonable fee, but does not include a commercial credit reporting company;

"(B) employing either a quantitative or qualitative model, or both, to determine credit ratings; and

"(C) receiving fees from either issuers, investors, or other market participants, or a combination thereof.

"(62) NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term 'nationally recognized statistical rating organization' means a credit rating agency that—

"(A) has been in business as a credit rating agency for at least the 3 consecutive years immediately preceding the date of its application for registration under section 15E;

"(B) issues credit ratings certified by qualified institutional buyers, in accordance with section 15E(a)(1)(B)(ix), with respect to—

"(i) financial institutions, brokers, or dealers;

"(ii) insurance companies;

"(iii) corporate issuers;

"(iv) issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph);

"(v) issuers of government securities, municipal securities, or securities issued by a foreign government; or

"(vi) a combination of one or more categories of obligors described in any of clauses (i) through (v); and

"(C) is registered under section 15E.

"(63) PERSON ASSOCIATED WITH A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term 'person associated with' a nationally recognized statistical rating organization means any partner, officer, director, or branch manager of a nationally recognized statistical rating organization (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a nationally recognized statistical rating organization, or any employee of a nationally recognized statistical rating organization.

"(64) QUALIFIED INSTITUTIONAL BUYER.—The term 'qualified institutional buyer' has the meaning given such term in section 230.144A(a) of title 17, Code of Federal Regulations, or any successor thereto.".

15 USC 78o–7 note.

(b) APPLICABLE DEFINITIONS.—As used in this Act—

(1) the term "Commission" means the Securities and Exchange Commission; and

(2) the term "nationally recognized statistical rating organization" has the same meaning as in section 3(a)(62) of the Securities Exchange Act of 1934, as added by this Act.

**SEC. 4. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.**

(a) AMENDMENT.—The Securities Exchange Act of 1934 is amended by inserting after section 15D (15 U.S.C. 78o–6) the following new section:

**"SEC. 15E. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.** 15 USC 78o–7.

"(a) REGISTRATION PROCEDURES.—

"(1) APPLICATION FOR REGISTRATION.—

"(A) IN GENERAL.—A credit rating agency that elects to be treated as a nationally recognized statistical rating organization for purposes of this title (in this section referred to as the 'applicant'), shall furnish to the Commission an application for registration, in such form as the Commission shall require, by rule or regulation issued in accordance with subsection (n), and containing the information described in subparagraph (B).

"(B) REQUIRED INFORMATION.—An application for registration under this section shall contain information regarding—

"(i) credit ratings performance measurement statistics over short-term, mid-term, and long-term periods (as applicable) of the applicant;

"(ii) the procedures and methodologies that the applicant uses in determining credit ratings;

"(iii) policies or procedures adopted and implemented by the applicant to prevent the misuse, in violation of this title (or the rules and regulations hereunder), of material, nonpublic information;

"(iv) the organizational structure of the applicant;

"(v) whether or not the applicant has in effect a code of ethics, and if not, the reasons therefor;

"(vi) any conflict of interest relating to the issuance of credit ratings by the applicant;

"(vii) the categories described in any of clauses (i) through (v) of section 3(a)(62)(B) with respect to which the applicant intends to apply for registration under this section;

"(viii) on a confidential basis, a list of the 20 largest issuers and subscribers that use the credit rating services of the applicant, by amount of net revenues received therefrom in the fiscal year immediately preceding the date of submission of the application;

"(ix) on a confidential basis, as to each applicable category of obligor described in any of clauses (i) through (v) of section 3(a)(62)(B), written certifications described in subparagraph (C), except as provided in subparagraph (D); and

"(x) any other information and documents concerning the applicant and any person associated with

such applicant as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(C) WRITTEN CERTIFICATIONS.—Written certifications required by subparagraph (B)(ix)—

"(i) shall be provided from not fewer than 10 qualified institutional buyers, none of which is affiliated with the applicant;

"(ii) may address more than one category of obligors described in any of clauses (i) through (v) of section 3(a)(62)(B);

"(iii) shall include not fewer than 2 certifications for each such category of obligor; and

"(iv) shall state that the qualified institutional buyer—

"(I) meets the definition of a qualified institutional buyer under section 3(a)(64); and

"(II) has used the credit ratings of the applicant for at least the 3 years immediately preceding the date of the certification in the subject category or categories of obligors.

"(D) EXEMPTION FROM CERTIFICATION REQUIREMENT.—A written certification under subparagraph (B)(ix) is not required with respect to any credit rating agency which has received, or been the subject of, a no-action letter from the staff of the Commission prior to August 2, 2006, stating that such staff would not recommend enforcement action against any broker or dealer that considers credit ratings issued by such credit rating agency to be ratings from a nationally recognized statistical rating organization.

"(E) LIMITATION ON LIABILITY OF QUALIFIED INSTITUTIONAL BUYERS.—No qualified institutional buyer shall be liable in any private right of action for any opinion or statement expressed in a certification made pursuant to subparagraph (B)(ix).

"(2) REVIEW OF APPLICATION.—

Deadline.

"(A) INITIAL DETERMINATION.—Not later than 90 days after the date on which the application for registration is furnished to the Commission under paragraph (1) (or within such longer period as to which the applicant consents) the Commission shall—

"(i) by order, grant such registration for ratings in the subject category or categories of obligors, as described in clauses (i) through (v) of section 3(a)(62)(B); or

"(ii) institute proceedings to determine whether registration should be denied.

"(B) CONDUCT OF PROCEEDINGS.—

"(i) CONTENT.—Proceedings referred to in subparagraph (A)(ii) shall—

"(I) include notice of the grounds for denial under consideration and an opportunity for hearing; and

"(II) be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission under paragraph (1).

"(ii) DETERMINATION.—At the conclusion of such proceedings, the Commission, by order, shall grant or deny such application for registration.

"(iii) EXTENSION AUTHORIZED.—The Commission may extend the time for conclusion of such proceedings for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents.

"(C) GROUNDS FOR DECISION.—The Commission shall grant registration under this subsection—

"(i) if the Commission finds that the requirements of this section are satisfied; and

"(ii) unless the Commission finds (in which case the Commission shall deny such registration) that—

"(I) the applicant does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under paragraph (1)(B) and with subsections (g), (h), (i), and (j); or

"(II) if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (d).

"(3) PUBLIC AVAILABILITY OF INFORMATION.—Subject to section 24, the Commission shall, by rule, require a nationally recognized statistical rating organization, upon the granting of registration under this section, to make the information and documents submitted to the Commission in its completed application for registration, or in any amendment submitted under paragraph (1) or (2) of subsection (b), publicly available on its website, or through another comparable, readily accessible means, except as provided in clauses (viii) and (ix) of paragraph (1)(B).

"(b) UPDATE OF REGISTRATION.—

"(1) UPDATE.—Each nationally recognized statistical rating organization shall promptly amend its application for registration under this section if any information or document provided therein becomes materially inaccurate, except that a nationally recognized statistical rating organization is not required to amend—

"(A) the information required to be furnished under subsection (a)(1)(B)(i) by furnishing information under this paragraph, but shall amend such information in the annual submission of the organization under paragraph (2) of this subsection; or

"(B) the certifications required to be provided under subsection (a)(1)(B)(ix) by furnishing information under this paragraph.

"(2) CERTIFICATION.—Not later than 90 days after the end of each calendar year, each nationally recognized statistical rating organization shall furnish to the Commission an amendment to its registration, in such form as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors— Deadline.

"(A) certifying that the information and documents in the application for registration of such nationally recognized statistical rating organization (other than the certifications required under subsection (a)(1)(B)(ix)) continue to be accurate; and

"(B) listing any material change that occurred to such information or documents during the previous calendar year.

"(c) ACCOUNTABILITY FOR RATINGS PROCEDURES.—

"(1) AUTHORITY.—The Commission shall have exclusive authority to enforce the provisions of this section in accordance with this title with respect to any nationally recognized statistical rating organization, if such nationally recognized statistical rating organization issues credit ratings in material contravention of those procedures relating to such nationally recognized statistical rating organization, including procedures relating to the prevention of misuse of nonpublic information and conflicts of interest, that such nationally recognized statistical rating organization—

"(A) includes in its application for registration under subsection (a)(1)(B)(ii); or

"(B) makes and disseminates in reports pursuant to section 17(a) or the rules and regulations thereunder.

"(2) LIMITATION.—The rules and regulations that the Commission may prescribe pursuant to this title, as they apply to nationally recognized statistical rating organizations, shall be narrowly tailored to meet the requirements of this title applicable to nationally recognized statistical rating organizations. Notwithstanding any other provision of law, neither the Commission nor any State (or political subdivision thereof) may regulate the substance of credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings.

"(d) CENSURE, DENIAL, OR SUSPENSION OF REGISTRATION; NOTICE AND HEARING.—The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is necessary for the protection of investors and in the public interest and that such nationally recognized statistical rating organization, or any person associated with such an organization, whether prior to or subsequent to becoming so associated—

"(1) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of section 15(b)(4), has been convicted of any offense specified in section 15(b)(4)(B), or is enjoined from any action, conduct, or practice specified in subparagraph (C) of section 15(b)(4), during the 10-year period preceding the date of commencement of the proceedings under this subsection, or at any time thereafter;

"(2) has been convicted during the 10-year period preceding the date on which an application for registration is furnished to the Commission under this section, or at any time thereafter, of—

"(A) any crime that is punishable by imprisonment for 1 or more years, and that is not described in section 15(b)(4)(B); or

"(B) a substantially equivalent crime by a foreign court of competent jurisdiction;

"(3) is subject to any order of the Commission barring or suspending the right of the person to be associated with a nationally recognized statistical rating organization;

"(4) fails to furnish the certifications required under subsection (b)(2); or

"(5) fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity.

"(e) TERMINATION OF REGISTRATION.—

"(1) VOLUNTARY WITHDRAWAL.—A nationally recognized statistical rating organization may, upon such terms and conditions as the Commission may establish as necessary in the public interest or for the protection of investors, withdraw from registration by furnishing a written notice of withdrawal to the Commission.

"(2) COMMISSION AUTHORITY.—In addition to any other authority of the Commission under this title, if the Commission finds that a nationally recognized statistical rating organization is no longer in existence or has ceased to do business as a credit rating agency, the Commission, by order, shall cancel the registration under this section of such nationally recognized statistical rating organization.

"(f) REPRESENTATIONS.—

"(1) BAN ON REPRESENTATIONS OF SPONSORSHIP BY UNITED STATES OR AGENCY THEREOF.—It shall be unlawful for any nationally recognized statistical rating organization to represent or imply in any manner whatsoever that such nationally recognized statistical rating organization has been designated, sponsored, recommended, or approved, or that the abilities or qualifications thereof have in any respect been passed upon, by the United States or any agency, officer, or employee thereof.

"(2) BAN ON REPRESENTATION AS NRSRO OF UNREGISTERED CREDIT RATING AGENCIES.—It shall be unlawful for any credit rating agency that is not registered under this section as a nationally recognized statistical rating organization to state that such credit rating agency is a nationally recognized statistical rating organization registered under this title.

"(3) STATEMENT OF REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934 PROVISIONS.—No provision of paragraph (1) shall be construed to prohibit a statement that a nationally recognized statistical rating organization is a nationally recognized statistical rating organization under this title, if such statement is true in fact and if the effect of such registration is not misrepresented.

"(g) PREVENTION OF MISUSE OF NONPUBLIC INFORMATION.—

"(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization, to prevent the misuse in violation of this title, or the rules or regulations hereunder, of material, nonpublic information by such nationally recognized statistical rating

organization or any person associated with such nationally recognized statistical rating organization.

Regulations.

"(2) COMMISSION AUTHORITY.—The Commission shall issue final rules in accordance with subsection (n) to require specific policies or procedures that are reasonably designed to prevent misuse in violation of this title (or the rules or regulations hereunder) of material, nonpublic information.

"(h) MANAGEMENT OF CONFLICTS OF INTEREST.—

"(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address and manage any conflicts of interest that can arise from such business.

Regulations.

"(2) COMMISSION AUTHORITY.—The Commission shall issue final rules in accordance with subsection (n) to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including, without limitation, conflicts of interest relating to—

"(A) the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

"(B) the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, to the obligor, or any affiliate of the obligor;

"(C) business relationships, ownership interests, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

"(D) any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites the securities or money market instruments that are the subject of a credit rating; and

"(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

"(i) PROHIBITED CONDUCT.—

Regulations.

"(1) PROHIBITED ACTS AND PRACTICES.—The Commission shall issue final rules in accordance with subsection (n) to prohibit any act or practice relating to the issuance of credit ratings by a nationally recognized statistical rating organization that the Commission determines to be unfair, coercive, or abusive, including any act or practice relating to—

"(A) conditioning or threatening to condition the issuance of a credit rating on the purchase by the obligor or an affiliate thereof of other services or products, including pre-credit rating assessment products, of the nationally recognized statistical rating organization or any

person associated with such nationally recognized statistical rating organization;

"(B) lowering or threatening to lower a credit rating on, or refusing to rate, securities or money market instruments issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction, unless a portion of the assets within such pool or part of such transaction, as applicable, also is rated by the nationally recognized statistical rating organization; or

"(C) modifying or threatening to modify a credit rating or otherwise departing from its adopted systematic procedures and methodologies in determining credit ratings, based on whether the obligor, or an affiliate of the obligor, purchases or will purchase the credit rating or any other service or product of the nationally recognized statistical rating organization or any person associated with such organization.

"(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1), or in any rules or regulations adopted thereunder, may be construed to modify, impair, or supersede the operation of any of the antitrust laws (as defined in the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act, to the extent that such section 5 applies to unfair methods of competition).

"(j) DESIGNATION OF COMPLIANCE OFFICER.—Each nationally recognized statistical rating organization shall designate an individual responsible for administering the policies and procedures that are required to be established pursuant to subsections (g) and (h), and for ensuring compliance with the securities laws and the rules and regulations thereunder, including those promulgated by the Commission pursuant to this section.

"(k) STATEMENTS OF FINANCIAL CONDITION.—Each nationally recognized statistical rating organization shall, on a confidential basis, furnish to the Commission, at intervals determined by the Commission, such financial statements, certified (if required by the rules or regulations of the Commission) by an independent public accountant, and information concerning its financial condition, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

Confidential information.

"(l) SOLE METHOD OF REGISTRATION.—

"(1) IN GENERAL.—On and after the effective date of this section, a credit rating agency may only be registered as a nationally recognized statistical rating organization for any purpose in accordance with this section.

"(2) PROHIBITION ON RELIANCE ON NO-ACTION RELIEF.—On and after the effective date of this section—

"(A) an entity that, before that date, received advice, approval, or a no-action letter from the Commission or staff thereof to be treated as a nationally recognized statistical rating organization pursuant to the Commission rule at section 240.15c3–1 of title 17, Code of Federal Regulations, may represent itself or act as a nationally recognized statistical rating organization only—

"(i) during Commission consideration of the application, if such entity has furnished an application for registration under this section; and

"(ii) on and after the date of approval of its application for registration under this section; and

"(B) the advice, approval, or no-action letter described in subparagraph (A) shall be void.

Deadline.

"(3) NOTICE TO OTHER AGENCIES.—Not later than 30 days after the date of enactment of this section, the Commission shall give notice of the actions undertaken pursuant to this section to each Federal agency which employs in its rules and regulations the term 'nationally recognized statistical rating organization' (as that term is used under Commission rule 15c3–1 (17 C.F.R. 240.15c3–1), as in effect on the date of enactment of this section).

"(m) RULES OF CONSTRUCTION.—

"(1) NO WAIVER OF RIGHTS, PRIVILEGES, OR DEFENSES.—Registration under and compliance with this section does not constitute a waiver of, or otherwise diminish, any right, privilege, or defense that a nationally recognized statistical rating organization may otherwise have under any provision of State or Federal law, including any rule, regulation, or order thereunder.

"(2) NO PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed as creating any private right of action, and no report furnished by a nationally recognized statistical rating organization in accordance with this section or section 17 shall create a private right of action under section 18 or any other provision of law.

"(n) REGULATIONS.—

"(1) NEW PROVISIONS.—Such rules and regulations as are required by this section or are otherwise necessary to carry out this section, including the application form required under subsection (a)—

Deadline.

"(A) shall be issued by the Commission in final form, not later than 270 days after the date of enactment of this section; and

Effective date.

"(B) shall become effective not later than 270 days after the date of enactment of this section.

Deadline.

"(2) REVIEW OF EXISTING REGULATIONS.—Not later than 270 days after the date of enactment of this section, the Commission shall—

"(A) review its existing rules and regulations which employ the term 'nationally recognized statistical rating organization' or 'NRSRO'; and

"(B) amend or revise such rules and regulations in accordance with the purposes of this section, as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(o) NRSROs SUBJECT TO COMMISSION AUTHORITY.—

"(1) IN GENERAL.—No provision of the laws of any State or political subdivision thereof requiring the registration, licensing, or qualification as a credit rating agency or a nationally recognized statistical rating organization shall apply to any nationally recognized statistical rating organization or person employed by or working under the control of a nationally recognized statistical rating organization.

"(2) LIMITATION.—Nothing in this subsection prohibits the securities commission (or any agency or office performing like functions) of any State from investigating and bringing an

enforcement action with respect to fraud or deceit against any nationally recognized statistical rating organization or person associated with a nationally recognized statistical rating organization.

"(p) APPLICABILITY.—This section, other than subsection (n), which shall apply on the date of enactment of this section, shall apply on the earlier of— Effective date.

"(1) the date on which regulations are issued in final form under subsection (n)(1); or

"(2) 270 days after the date of enactment of this section.".

(b) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended—

(A) in section 15(b)(4) (15 U.S.C. 78o(b)(4))—

(i) in subparagraph (B)(ii), by inserting "nationally recognized statistical rating organization," after "transfer agent,"; and

(ii) in subparagraph (C), by inserting "nationally recognized statistical rating organization," after "transfer agent,"; and

(B) in section 21B(a) (15 U.S.C. 78u–2(a)), by inserting "15E," after "15C,".

(2) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a et seq.) is amended—

(A) in section 2(a) (15 U.S.C. 80a–2(a)), by adding at the end the following new paragraph:

"(53) The term 'credit rating agency' has the same meaning as in section 3 of the Securities Exchange Act of 1934."; and

(B) in section 9(a) (15 U.S.C. 80a–9(a))—

(i) in paragraph (1), by inserting "credit rating agency," after "transfer agent,"; and

(ii) in paragraph (2), by inserting "credit rating agency," after "transfer agent,".

(3) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended—

(A) in section 202(a) (15 U.S.C. 80b–2(a)), by adding at the end the following new paragraph:

"(28) The term 'credit rating agency' has the same meaning as in section 3 of the Securities Exchange Act of 1934.";

(B) in section 202(a)(11) (15 U.S.C. 80b–2(a)(11)), by striking "or (F)" and inserting the following: "(F) any nationally recognized statistical rating organization, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934, unless such organization engages in issuing recommendations as to purchasing, selling, or holding securities or in managing assets, consisting in whole or in part of securities, on behalf of others; or (G)"; and

(C) in section 203(e) (15 U.S.C. 80b–3(e))—

(i) in paragraph (2)(B), by inserting "credit rating agency," after "transfer agent,"; and

(ii) in paragraph (4), by inserting "credit rating agency," after "transfer agent,".

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended by striking "effectively" and all that follows through "broker-dealers" and inserting

"that is a nationally recognized statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934".

(5) HIGHER EDUCATION ACT OF 1965.—Section 439(r)(15)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)(15)(A)) is amended by striking "means any entity recognized as such by the Securities and Exchange Commission" and inserting "means any nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934".

(6) TITLE 23.—Section 181(11) of title 23, United States Code, is amended by striking "identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization" and inserting "registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934".

**SEC. 5. ANNUAL AND OTHER REPORTS.**

Section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)) is amended—

(1) by inserting "nationally recognized statistical rating organization," after "registered transfer agent,"; and

(2) by adding at the end the following: "Any report that a nationally recognized statistical rating organization is required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission.".

15 USC 78o–7 note.

**SEC. 6. COMMISSION ANNUAL REPORT.**

The Commission shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that, with respect to the year to which the report relates—

(1) identifies applicants for registration under section 15E of the Securities Exchange Act of 1934, as added by this Act;

(2) specifies the number of and actions taken on such applications; and

(3) specifies the views of the Commission on the state of competition, transparency, and conflicts of interest among nationally recognized statistical rating organizations.

**SEC. 7. GAO STUDY AND REPORT REGARDING NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.**

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to determine the impact of this Act and the amendments made by this Act on—

(A) the quality of credit ratings issued by nationally recognized statistical ratings organizations;

(B) the financial markets;

(C) competition among credit rating agencies;

(D) the incidence of inappropriate conflicts of interest and sales practices by nationally recognized statistical rating organizations;

(E) the process for registering as a nationally recognized statistical rating organization; and

(F) such other matters relevant to the implementation of this Act and the amendments made by this Act, as the Comptroller General deems necessary to bring to the attention of the Congress;

(2) to identify problems, if any, that have resulted from the implementation of this Act and the amendments made by this Act; and

(3) to recommend solutions, including any legislative or regulatory solutions, to any problems identified under paragraphs (1) and (2).

(b) REPORT REQUIRED.—Not earlier than 3 years nor later than 4 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

Deadline.

Approved September 29, 2006.

LEGISLATIVE HISTORY—S. 3850:

SENATE REPORTS: No. 109–326 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 22, considered and passed Senate.
Sept. 27, considered and passed House.

# Public Law 109–292
# 109th Congress

## An Act

Sept. 30, 2006
[H.R. 6138]

To temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Third Higher Education Extension Act of 2006.
20 USC 1001 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Third Higher Education Extension Act of 2006".

**SEC. 2. EXTENSION OF PROGRAMS.**

Section 2(a) of the Higher Education Extension Act of 2005 (P.L. 109–81; 20 U.S.C. 1001 note) is amended by striking "September 30, 2006" and inserting "June 30, 2007".

**SEC. 3. ELIGIBLE LENDER TRUSTEE RELATIONSHIPS WITH ELIGIBLE INSTITUTIONS.**

(a) AMENDMENT.—Section 435(d) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)) is amended by adding at the end the following new paragraph:

"(7) ELIGIBLE LENDER TRUSTEES.—Notwithstanding any other provision of this subsection, an eligible lender may not make or hold a loan under this part as trustee for an institution of higher education, or for an organization affiliated with an institution of higher education, unless—

"(A) the eligible lender is serving as trustee for that institution or organization as of the date of enactment of the Third Higher Education Extension Act of 2006 under a contract that was originally entered into before the date of enactment of such Act and that continues in effect or is renewed after such date; and

"(B) the institution or organization, and the eligible lender, with respect to its duties as trustee, each comply on and after January 1, 2007, with the requirements of paragraph (2), except that—

"(i) the requirements of clauses (i), (ii), (vi), and (viii) of paragraph (2)(A) shall, subject to clause (ii) of this subparagraph, only apply to the institution (including both an institution for which the lender serves as trustee and an institution affiliated with an organization for which the lender serves as trustee);

"(ii) in the case of an organization affiliated with an institution—

"(I) the requirements of clauses (iii) and (v) of paragraph (2)(A) shall apply to the organization; and

"(II) the requirements of clause (viii) of paragraph (2)(A) shall apply to the institution or the organization (or both), if the institution or organization receives (directly or indirectly) the proceeds described in such clause;

"(iii) the requirements of clauses (iv) and (ix) of paragraph (2)(A) shall not apply to the eligible lender, institution, or organization; and

"(iv) the eligible lender, institution, and organization shall ensure that the loans made or held by the eligible lender as trustee for the institution or organization, as the case may be, are included in a compliance audit in accordance with clause (vii) of paragraph (2)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to any loan under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) disbursed before January 1, 2007.

20 USC 1085 note.

**SEC. 4. HISPANIC-SERVING INSTITUTIONS.**

(a) DEFINITION CHANGES.—Section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "at the time of application,"; and

(ii) by inserting "at the end of the award year immediately preceding the date of application" after "Hispanic students";

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

(D) by striking subparagraph (C); and

(2) by striking paragraph (7).

(b) WAIT-OUT PERIOD ELIMINATED.—Section 504(a) of such Act (20 U.S.C. 1101c(a)) is amended to read as follows:

"(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.".

**SEC. 5. GUARANTY AGENCY ACCOUNT MAINTENANCE FEES.**

Section 458(b) of the Higher Education Act of 1965 (20 U.S.C. 1087h(b)) is amended by striking "shall not exceed" and inserting "shall be calculated on".

**SEC. 6. CANCELLATION OF STUDENT LOAN INDEBTEDNESS FOR SURVIVORS OF VICTIMS OF THE SEPTEMBER 11, 2001, ATTACKS.**

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

(1) ELIGIBLE PUBLIC SERVANT.—The term "eligible public servant" means an individual who, as determined in accordance with regulations of the Secretary—

(A) served as a police officer, firefighter, other safety or rescue personnel, or as a member of the Armed Forces; and

(B) died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001.

(2) ELIGIBLE VICTIM.—The term "eligible victim" means an individual who, as determined in accordance with regulations of the Secretary, died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001.

(3) ELIGIBLE PARENT.—The term "eligible parent" means the parent of an eligible victim if—

(A) the parent owes a Federal student loan that is a consolidation loan that was used to repay a PLUS loan incurred on behalf of such eligible victim; or

(B) the parent owes a Federal student loan that is a PLUS loan incurred on behalf of an eligible victim.

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) FEDERAL STUDENT LOAN.—The term "Federal student loan" means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965.

(b) RELIEF FROM INDEBTEDNESS.—

(1) IN GENERAL.—The Secretary shall provide for the discharge or cancellation of—

(A) the Federal student loan indebtedness of the spouse of an eligible public servant, as determined in accordance with regulations of the Secretary, including any consolidation loan that was used jointly by the eligible public servant and his or her spouse to repay the Federal student loans of the spouse and the eligible public servant;

(B) the portion incurred on behalf of the eligible victim (other than an eligible public servant), of a Federal student loan that is a consolidation loan that was used jointly by the eligible victim and his or her spouse, as determined in accordance with regulations of the Secretary, to repay the Federal student loans of the eligible victim and his or her spouse;

(C) the portion of the consolidation loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim; and

(D) the PLUS loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim.

(2) METHOD OF DISCHARGE OR CANCELLATION.—A loan required to be discharged or canceled under paragraph (1) shall be discharged or canceled by the method used under section 437(a), 455(a)(1), or 464(c)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087(a), 1087e(a)(1), 1087dd(c)(1)(F)), whichever is applicable to such loan.

Procedures.
Regulations.
Deadline.

(c) FACILITATION OF CLAIMS.—The Secretary shall—

(1) establish procedures for the filing of applications for discharge or cancellation under this section by regulations that shall be prescribed and published within 90 days after the date of enactment of this Act and without regard to the requirements of section 553 of title 5, United States Code, and section 437 of the General Education Provisions Act (20 U.S.C. 1232); and

(2) take such actions as may be necessary to publicize the availability of discharge or cancellation of Federal student loan indebtedness under this section.

(d) AVAILABILITY OF FUNDS FOR PAYMENTS.—Funds available for the purposes of making payments to lenders in accordance with section 437(a) for the discharge of indebtedness of deceased or disabled individuals shall be available for making payments under section 437(a) to lenders of loans as required by this section.

(e) APPLICABLE TO OUTSTANDING DEBT.—The provisions of this section shall be applied to discharge or cancel only Federal student loans (including consolidation loans) on which amounts were owed on September 11, 2001, except that nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) DEADLINES AND PROCEDURES.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098(a)) shall not apply to any regulations required by this section.

**SEC. 7. RULE OF CONSTRUCTION.**

20 USC 1001 note.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (P.L. 109–171) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

Approved September 30, 2006.

---

LEGISLATIVE HISTORY—H.R. 6138:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–293
109th Congress

# An Act

Sept. 30, 2006
[H.R. 6198]

To hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Iran Freedom Support Act. 50 USC 1701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Iran Freedom Support Act".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

Sec. 101. Codification of sanctions.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

Sec. 201. Multilateral regime.
Sec. 202. Imposition of sanctions.
Sec. 203. Termination of sanctions.
Sec. 204. Sunset.
Sec. 205. Technical and conforming amendments.

TITLE III—PROMOTION OF DEMOCRACY FOR IRAN

Sec. 301. Declaration of policy.
Sec. 302. Assistance to support democracy for Iran.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NUCLEAR NONPROLIFERATION OF IRAN

Sec. 401. Sense of Congress.

TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

Sec. 501. Prevention of money laundering for weapons of mass destruction.

# TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

50 USC 1701 note.

**SEC. 101. CODIFICATION OF SANCTIONS.**

(a) CODIFICATION OF SANCTIONS.—Except as otherwise provided in this section, United States sanctions with respect to Iran imposed pursuant to sections 1 and 3 of Executive Order No. 12957, sections 1(e), (1)(g), and (3) of Executive Order No. 12959, and sections 2, 3, and 5 of Executive Order No. 13059 (relating to exports

and certain other transactions with Iran) as in effect on January 1, 2006, shall remain in effect. The President may terminate such sanctions, in whole or in part, if the President notifies Congress at least 15 days in advance of such termination. In the event of exigent circumstances, the President may exercise the authority set forth in the preceding sentence without regard to the notification requirement stated therein, except that such notification shall be provided as early as practicable, but in no event later than three working days after such exercise of authority. Deadline.

(b) NO EFFECT ON OTHER SANCTIONS RELATING TO SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.—Nothing in this Act shall affect any United States sanction, control, or regulation as in effect on January 1, 2006, relating to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) that the Government of Iran has repeatedly provided support for acts of international terrorism.

# TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

**SEC. 201. MULTILATERAL REGIME.**

(a) WAIVER.—Section 4(c) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

"(c) WAIVER.—

"(1) IN GENERAL.—The President may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that such waiver is vital to the national security interests of the United States.

"(2) SUBSEQUENT RENEWAL OF WAIVER.—If the President determines that, in accordance with paragraph (1), such a waiver is appropriate, the President may, at the conclusion of the period of a waiver under paragraph (1), renew such waiver for subsequent periods of not more than six months each.".

(b) INVESTIGATIONS.—Section 4 of such Act (50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

"(f) INVESTIGATIONS.—

"(1) IN GENERAL.—The President should initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section.

"(2) DETERMINATION AND NOTIFICATION.—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President should determine, pursuant to section 5(a), if a person has engaged in investment activity Deadline.

in Iran as described in such section and shall notify the appropriate congressional committees of the basis for any such determination.".

**SEC. 202. IMPOSITION OF SANCTIONS.**

(a) SANCTIONS WITH RESPECT TO DEVELOPMENT OF PETROLEUM RESOURCES.—Section 5(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended in the heading, by striking "TO IRAN" and inserting "TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN".

(b) SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Section 5(b) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

"(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—The President shall impose two or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items knowing that the provision of such goods, services, technology, or other items would contribute materially to the ability of Iran to—

"(1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

"(2) acquire or develop destabilizing numbers and types of advanced conventional weapons.".

50 USC 1701 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions taken on or after June 6, 2006.

**SEC. 203. TERMINATION OF SANCTIONS.**

Section 8(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (1)(C), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

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

"(3) poses no significant threat to United States national security, interests, or allies.".

**SEC. 204. SUNSET.**

Section 13 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "on September 29, 2006" and inserting "on December 31, 2011".

**SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) FINDINGS.—Section 2 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking paragraph (4).

(b) DECLARATION OF POLICY.—Section 3 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking "(a) POLICY WITH RESPECT TO IRAN.—"; and

(2) by striking subsection (b).

(c) TERMINATION OF SANCTIONS.—Section 8 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking "(a) IRAN.—"; and

(2) by striking subsection (b).

(d) DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.—Section 9(c)(2)(C) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

"(C) an estimate of the significance of the provision of the items described in section 5(a) or section 5(b) to Iran's ability to, respectively, develop its petroleum resources or its weapons of mass destruction or other military capabilities; and".

(e) REPORTS REQUIRED.—Section 10(b)(1) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "and Libya" each place it appears.

(f) DEFINITIONS.—Section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (9)—

(A) in the matter preceding subparagraph (A), by—

(i) striking ", or with the Government of Libya or a nongovernmental entity in Libya,"; and

(ii) by striking "nongovenmental" and inserting "nongovernmental"; and

(B) in subparagraph (A), by striking "or Libya (as the case may be)";

(2) by striking paragraph (12); and

(3) by redesignating paragraphs (13), (14), (15), (16), and (17) as paragraphs (12), (13), (14), (15), and (16), respectively.

(g) SHORT TITLE.—

(1) IN GENERAL.—Section 1 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "and Libya".

(2) REFERENCES.—Any reference in any other provision of law, regulation, document, or other record of the United States to the "Iran and Libya Sanctions Act of 1996" shall be deemed to be a reference to the "Iran Sanctions Act of 1996". 50 USC 1701 note.

# TITLE III—PROMOTION OF DEMOCRACY FOR IRAN

22 USC 2151 note.

**SEC. 301. DECLARATION OF POLICY.**

(a) IN GENERAL.—Congress declares that it should be the policy of the United States—

(1) to support efforts by the people of Iran to exercise self-determination over the form of government of their country; and

(2) to support independent human rights and peaceful pro-democracy forces in Iran.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as authorizing the use of force against Iran.

**SEC. 302. ASSISTANCE TO SUPPORT DEMOCRACY FOR IRAN.**

(a) AUTHORIZATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide financial and political assistance (including the award of grants) to foreign and domestic individuals, organizations, and entities working for the purpose of supporting and promoting democracy for Iran. Such assistance may include the award of grants to eligible

independent pro-democracy radio and television broadcasting organizations that broadcast into Iran.

(2) LIMITATION ON ASSISTANCE.—In accordance with the rule of construction described in subsection (b) of section 301, none of the funds authorized under this section shall be used to support the use of force against Iran.

(b) ELIGIBILITY FOR ASSISTANCE.—Financial and political assistance under this section should be provided only to an individual, organization, or entity that—

(1) officially opposes the use of violence and terrorism and has not been designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) at any time during the preceding four years;

(2) advocates the adherence by Iran to nonproliferation regimes for nuclear, chemical, and biological weapons and materiel;

(3) is dedicated to democratic values and supports the adoption of a democratic form of government in Iran;

(4) is dedicated to respect for human rights, including the fundamental equality of women;

(5) works to establish equality of opportunity for people; and

(6) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

(c) FUNDING.—The President may provide assistance under this section using—

(1) funds available to the Middle East Partnership Initiative (MEPI), the Broader Middle East and North Africa Initiative, and the Human Rights and Democracy Fund; and

(2) amounts made available pursuant to the authorization of appropriations under subsection (g).

Deadline.

(d) NOTIFICATION.—Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–l), the President shall notify the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(e) SENSE OF CONGRESS REGARDING DIPLOMATIC ASSISTANCE.—It is the sense of Congress that—

(1) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

(2) officials and representatives of the United States should—

(A) strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections; and

(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

(f) DURATION.—The authority to provide assistance under this section shall expire on December 31, 2011.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

# TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NUCLEAR NONPROLIFERATION OF IRAN

**SEC. 401. SENSE OF CONGRESS.**

(a) SENSE OF CONGRESS.—It should be the policy of the United States not to bring into force an agreement for cooperation with the government of any country that is assisting the nuclear program of Iran or transferring advanced conventional weapons or missiles to Iran unless the President has determined that—

(1) Iran has suspended all enrichment-related and reprocessing-related activity (including uranium conversion and research and development, manufacturing, testing, and assembly relating to enrichment and reprocessing), has committed to verifiably refrain permanently from such activity in the future (except potentially the conversion of uranium exclusively for export to foreign nuclear fuel production facilities pursuant to internationally agreed arrangements and subject to strict international safeguards), and is abiding by that commitment; or

(2) the government of that country—

(A) has, either on its own initiative or pursuant to a binding decision of the United Nations Security Council, suspended all nuclear assistance to Iran and all transfers of advanced conventional weapons and missiles to Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

(B) is committed to maintaining that suspension until Iran has implemented measures that would permit the President to make such determination.

(b) DEFINITIONS.—In this section:

(1) AGREEMENT FOR COOPERATION.—The term "agreement for cooperation" has the meaning given that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

(2) ASSISTING THE NUCLEAR PROGRAM OF IRAN.—The term "assisting the nuclear program of Iran" means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, with the knowledge and acquiescence of that government, of goods, services, or technology listed on the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 1, and subsequent revisions) or Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 2 and subsequent revisions).

(3) TRANSFERRING ADVANCED CONVENTIONAL WEAPONS OR MISSILES TO IRAN.—The term "transferring advanced conventional weapons or missiles to Iran" means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, with the knowledge and acquiescence of that government, of—

(A) advanced conventional weapons; or

(B) goods, services, or technology listed on the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions.

# TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

**SEC. 501. PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION.**

Section 5318A(c)(2) of title 31, United States Code, is amended—

(1) in subparagraph (A)(i), by striking "or both," and inserting "or entities involved in the proliferation of weapons of mass destruction or missiles"; and

(2) in subparagraph (B)(i), by inserting ", including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles" before the semicolon at the end.

Approved September 30, 2006.

LEGISLATIVE HISTORY—H.R. 6198:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–294
# 109th Congress

## An Act

To authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

Oct. 3, 2006
[S. 260]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Partners for Fish and Wildlife Act.
16 USC 3771 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Partners for Fish and Wildlife Act".

**SEC. 2. FINDINGS AND PURPOSE.**

16 USC 3771.

(a) FINDINGS.—Congress finds that—

(1) approximately 60 percent of fish and wildlife in the United States are on private land;

(2) it is imperative to facilitate private landowner-centered and results-oriented efforts that promote efficient and innovative ways to protect and enhance natural resources;

(3) there is no readily available source of technical biological information that the public can access to assist with the application of state-of-the-art techniques to restore, enhance, and manage fish and wildlife habitats;

(4) a voluntary cost-effective program that leverages public and private funds to assist private landowners in the conduct of state-of-the-art fish and wildlife habitat restoration, enhancement, and management projects is needed;

(5) durable partnerships working collaboratively with willing private landowners to implement on-the-ground projects has lead to the reduction of endangered species listings;

(6) Executive Order No. 13352 (69 Fed. Reg. 52989) directs the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency to pursue new cooperative conservation programs involving the collaboration of Federal, State, local, and tribal governments, private for-profit and non-profit institutions, non-governmental entities, and individuals;

(7) since 1987, the Partners for Fish and Wildlife Program has exemplified cooperative conservation as an innovative, voluntary partnership program that helps private landowners restore wetland and other important fish and wildlife habitat; and

(8) through 33,103 agreements with private landowners, the Partners for Fish and Wildlife Program has accomplished the restoration of 677,000 acres of wetland, 1,253,700 acres

of prairie and native grasslands, and 5,560 miles of riparian and in-stream habitat since 1987, demonstrating much of that success since only 2001.

(b) PURPOSE.—The purpose of this Act is to provide for the restoration, enhancement, and management of fish and wildlife habitats on private land through the Partners for Fish and Wildlife Program, a program that works with private landowners to conduct cost-effective habitat projects for the benefit of fish and wildlife resources in the United States.

16 USC 3772.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) FEDERAL TRUST SPECIES.—The term "Federal trust species" means migratory birds, threatened species, endangered species, interjurisdictional fish, marine mammals, and other species of concern.

(2) HABITAT ENHANCEMENT.—

(A) IN GENERAL.—The term "habitat enhancement" means the manipulation of the physical, chemical, or biological characteristics of a habitat to change a specific function or seral stage of the habitat.

(B) INCLUSIONS.—The term "habitat enhancement" includes—

(i) an activity conducted to increase or decrease a specific function for the purpose of benefitting species, including—

(I) increasing the hydroperiod and water depth of a stream or wetland beyond what would naturally occur;

(II) improving waterfowl habitat conditions;

(III) establishing water level management capabilities for native plant communities;

(IV) creating mud flat conditions important for shorebirds; and

(V) cross fencing or establishing a rotational grazing system on native range to improve grassland nesting bird habitat conditions; and

(ii) an activity conducted to shift a native plant community successional stage, including—

(I) burning an established native grass community to reduce or eliminate invading brush or exotic species;

(II) brush shearing to set back early successional plant communities; and

(III) forest management that promotes a particular seral stage.

(C) EXCLUSIONS.—The term "habitat enhancement" does not include regularly scheduled and routine maintenance and management activities, such as annual mowing or spraying of unwanted vegetation.

(3) HABITAT ESTABLISHMENT.—The term "habitat establishment" means the manipulation of physical, chemical, or biological characteristics of a project site to create and maintain habitat that did not previously exist on the project site, including construction of—

(A) shallow water impoundments on non-hydric soils; and

(B) side channel spawning and rearing habitat.

(4) HABITAT IMPROVEMENT.—The term "habitat improvement" means restoring, enhancing, or establishing physiographic, hydrological, or disturbance conditions necessary to establish or maintain native plant and animal communities, including periodic manipulations to maintain intended habitat conditions on completed project sites.

(5) HABITAT RESTORATION.—

(A) IN GENERAL.—The term "habitat restoration" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning the majority of natural functions to the lost or degraded native habitat.

(B) INCLUSIONS.—The term "habitat restoration" includes—

(i) an activity conducted to return a project site, to the maximum extent practicable, to the ecological condition that existed prior to the loss or degradation, including—

(I) removing tile drains or plugging drainage ditches in former or degraded wetland;

(II) returning meanders and sustainable profiles to straightened streams;

(III) burning grass communities heavily invaded by exotic species to reestablish native grass and plant communities; and

(IV) planting plant communities that are native to the project site;

(ii) if restoration of a project site to its original ecological condition is not practicable, an activity that repairs 1 or more of the original habitat functions and that involve the use of native vegetation, including—

(I) the installation of a water control structure in a swale on land isolated from overbank flooding by a major levee to simulate natural hydrological processes; and

(II) the placement of streambank or instream habitat diversity structures in streams that cannot be restored to original conditions or profile; and

(iii) removal of a disturbing or degrading element to enable the native habitat to reestablish or become fully functional.

(6) PRIVATE LAND.—

(A) IN GENERAL.—The term "private land" means any land that is not owned by the Federal Government or a State.

(B) INCLUSIONS.—The term "private land" includes tribal land and Hawaiian homeland.

(7) PROJECT.—The term "project" means a project carried out under the Partners for Fish and Wildlife Program established by section 4.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

16 USC 3773.

**SEC. 4. PARTNERS FOR FISH AND WILDLIFE PROGRAM.**

The Secretary shall carry out the Partners for Fish and Wildlife Program within the United States Fish and Wildlife Service to provide—

(1) technical and financial assistance to private landowners for the conduct of voluntary projects to benefit Federal trust species by promoting habitat improvement, habitat restoration, habitat enhancement, and habitat establishment; and

(2) technical assistance to other public and private entities regarding fish and wildlife habitat restoration on private land.

16 USC 3774.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act not more than $75,000,000 for each of fiscal years 2006 through 2011.

Approved October 3, 2006.

LEGISLATIVE HISTORY—S. 260:

HOUSE REPORTS: No. 109–562 (Comm. on Resources).
SENATE REPORTS: No. 109–86 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 151 (2005): June 27, considered and passed Senate.
Vol. 152 (2006): Sept. 20, considered and passed House.

Public Law 109–295
109th Congress

# An Act

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

Oct. 4, 2006
[H.R. 5441]

Department of Homeland Security Appropriations Act, 2007.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007, for the Department of Homeland Security and for other purposes, namely:

## TITLE I

## DEPARTMENTAL MANAGEMENT AND OPERATIONS

### OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $94,470,000: *Provided,* That not to exceed $40,000 shall be for official reception and representation expenses: *Provided further,* That of the funds provided under this heading, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits a comprehensive port, container, and cargo security strategic plan to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate that requires screening all inbound cargo, doubles the percentage of inbound cargo currently inspected, sets minimum standards for securing inbound cargo, and includes the fiscal year 2007 performance requirements for port, container, and cargo security as specified in the joint explanatory statement accompanying this Act: *Provided further,* That of the funds provided under this heading, $10,000,000 shall not be available for obligation until the Secretary submits the Secure Border Initiative multi-year strategic plan to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on the Judiciary of the Senate and the House of Representatives no later than December 1, 2006, that includes: a comprehensive

mission statement, an identification of long-term goals, an explanation of how long-term goals will be achieved, schedule and resource requirements for goal achievement, an identification of annual performance goals and how they link to long-term goals, an identification of annual performance measures used to gauge effectiveness towards goal achievement by goal, and an identification of major capital assets critical to program success.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $153,640,000: *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses: *Provided further,* That of the total amount provided, $8,206,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $26,000,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $349,013,000; of which $79,521,000 shall be available for salaries and expenses; and of which $269,492,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: *Provided,* That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further,* That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided further,* That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

Expenditure plan. Deadline.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland

Security Act of 2002 (6 U.S.C. 121 et seq.), $299,663,000, to remain available until September 30, 2008, of which not to exceed $5,000 shall be for official reception and representation expenses.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $3,000,000: *Provided,* That $1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $85,185,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General: *Provided,* That the Department of Homeland Security Inspector General shall investigate whether, and to what extent, in adjusting and settling claims resulting from Hurricane Katrina, insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44, Code of Federal Regulations, improperly attributed damages from such hurricane to flooding covered under the insurance coverage provided under the national flood insurance program rather than to windstorms covered under coverage provided by such insurers or by windstorm insurance pools in which such insurers participated: *Provided further,* That the Department of Homeland Security Inspector General shall submit a report to Congress not later than April 1, 2007, setting forth the conclusions of such investigation.

Reports. Deadline.

## TITLE II

## SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $362,494,000, to remain available until expended: *Provided,* That of the total amount made available under this heading, $200,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget;

(6) is reviewed by the Government Accountability Office;

(7) includes a comprehensive strategic plan for the United States Visitor and Immigrant Status Indicator Technology project; and

(8) includes a complete schedule for the full implementation of a biometric exit program.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; purchase and lease of up to 4,500 (3,500 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $5,562,186,000; of which $379,602,000 shall be used to hire additional border patrol agents, of which $93,000,000 shall be available until September 30, 2008; of which $3,026,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $175,796,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: *Provided,* That of the amount provided under this heading, $100,000,000 of inspection and detection technology investments funding is designated as described in section 520 of this Act: *Provided further,* That for fiscal year 2007, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by

the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $451,440,000, to remain available until expended, of which not less than $316,800,000 shall be for the development of the Automated Commercial Environment: *Provided,* That of the total amount made available under this heading, $216,800,000 may not be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $1,187,565,000, to remain available until expended: *Provided,* That of the amount provided under this heading, $1,159,200,000 is designated as described in section 520 of this Act: *Provided further,* That of the amount provided under this heading, $950,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted within 60 days after the date of enactment of this Act, to establish a security barrier along the border of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that—

Expenditure plan. Deadline.

(1) defines activities, milestones, and costs for implementing the program;

(2) demonstrates how activities will further the goals and objectives of the Secure Border Initiative (SBI), as defined in the SBI multi-year strategic plan;

(3) identifies funding and the organization staffing (including full-time equivalents, contractors, and detailees) requirements by activity;

(4) reports on costs incurred, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(5) includes a certification by the Chief Procurement Officer of the Department of Homeland Security that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(6) complies with all applicable acquisition rules, requirements, guidelines, and best systems acquisition management practices of the Federal Government;

(7) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(8) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(9) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $602,187,000, to remain available until expended: *Provided,* That of the amount provided under this heading, $232,000,000 of procurement is designated as described in section 520 of this Act: *Provided further,* That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2007 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $232,978,000, to remain available until expended: *Provided,* That of the amount provided under this heading, $110,000,000 is designated as described in section 520 of this Act.

## IMMIGRATION AND CUSTOMS ENFORCEMENT

### SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $3,887,000,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,400,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided,* That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further,* That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2007, of which not to exceed $6,000,000 shall remain available until expended.

### FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: *Provided,* That the Secretary submit a report, approved by the Office of Management and Budget, to the Committees on Appropriations of the Senate and the House of Representatives no later than November 1, 2006, demonstrating how the operations of the Federal Protective Service will be fully funded in fiscal year 2007 through revenues and collection of security fees.

Reports. Deadline.

### AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $15,000,000, to remain available until expended: *Provided,* That of the funds made available under this heading, $13,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $56,281,000, to remain available until expended: *Provided,* That of the amount provided under this heading, $30,000,000 is designated as described in section 520 of this Act.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,731,814,000, to remain available until September 30, 2008, of which not to exceed $10,000 shall be for official reception and representation expenses: *Provided,* That of the total amount made available under this heading, not to exceed $3,768,266,000 shall be for screening operations, of which $141,400,000 shall be available only for procurement of checked baggage explosive detection systems and $138,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $963,548,000 shall be for aviation security direction and enforcement: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed report in response to findings in the Department of Homeland Security Office of Inspector General report (OIG–04–44) concerning contractor fees: *Provided further,* That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2007, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,311,814,000: *Provided further,* That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2008: *Provided further,* That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government

Reports.

for a project under any letter of intent shall be 75 percent for any medium or large hub airport and not more than 90 percent for any other airport, and all funding provided by section 44923(h) of title 49, United States Code, or from appropriations authorized under section 44923(i)(1) of title 49, United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: *Provided further,* That by December 1, 2006, the Transportation Security Administration shall submit a detailed air cargo security action plan addressing each of the recommendations contained in the 2005 Government Accountability Office Report (GAO–06–76) on domestic air cargo security to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate: *Provided further,* That Members of the United States House of Representatives and United States Senate, including the leadership; and the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening: *Provided further,* That beginning in fiscal year 2007 and thereafter, reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for those purposes: *Provided further,* That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

Plan. Deadline.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $37,200,000, to remain available until September 30, 2008.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $39,700,000, to remain available until September 30, 2008.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $525,283,000, to remain available until September 30, 2008: *Provided,* That of the funds appropriated under this heading, $5,000,000 may not be obligated until the Secretary of Homeland

Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed expenditure plan for explosive detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2007: *Provided further,* That this plan shall be submitted no later than 60 days after the date of enactment of this Act.

Plan.
Deadline.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $714,294,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $5,477,657,000, of which $340,000,000 shall be for defense-related activities; of which $24,255,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $10,000 shall be for official reception and representation expenses: *Provided,* That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further,* That not to exceed five percent of this appropriation may be transferred to the "Acquisition, Construction, and Improvements" appropriation for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects without detrimentally affecting the management and oversight of other projects: *Provided further,* That the amount made available for "Personnel, Compensation, and Benefits" in the "Acquisition, Construction, and Improvements" appropriation shall not be increased by more than 10 percent by such transfers: *Provided further,* That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed by the Treasury.

Notification.
Deadline.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $10,880,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program;

personnel and training costs; and equipment and services; $122,448,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,330,245,000, of which $19,800,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $26,550,000 shall be available until September 30, 2011, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $15,000,000 shall be available until September 30, 2011, to increase aviation capability; of which $119,823,000 shall be available until September 30, 2009, for other equipment; of which $22,000,000 shall be available until September 30, 2009, for shore facilities and aids to navigation facilities; of which $81,000,000 shall be available for personnel compensation and benefits and related costs; and of which $1,065,872,000 shall be available until September 30, 2011, for the Integrated Deepwater Systems program: *Provided,* That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2009: *Provided further,* That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2008 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets; a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; and the earned value management system gold card data for each Deepwater asset: *Provided further,* That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: *Provided further,* That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

Review.

Reports.

Review.
Deadline.
14 USC 663 note.

Plan.
Deadline.
14 USC 663 note.

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

*Provided further*, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: *Provided further,* That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: *Provided further,* That of the amount provided under this heading, $175,800,000 is designated as described in section 520 of this Act.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,000,000, to remain available until expended, of which $495,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): *Provided,* That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,063,323,000.

UNITED STATES SECRET SERVICE

PROTECTION, ADMINISTRATION, AND TRAINING

For necessary expenses of the United States Secret Service, including purchase of not to exceed 755 vehicles for police-type use, of which 624 shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting,

guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $961,779,000, of which not to exceed $25,000 shall be for official reception and representation expenses: *Provided,* That up to $18,000,000 provided for protective travel shall remain available until September 30, 2008: *Provided further,* That up to $18,400,000 for candidate nominee protection shall remain available until September 30, 2009: *Provided further,* That up to $1,000,000 for National Special Security Events shall remain available until expended: *Provided further,* That of the total amount provided under this heading, $2,000,000 shall not be available for obligation until the Director of the Secret Service submits a comprehensive workload re-balancing report to the Committees on Appropriations of the Senate and the House of Representatives that includes funding and position requirements for current investigative and protective operations: *Provided further,* That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

Reports.

INVESTIGATIONS AND FIELD OPERATIONS

For necessary expenses for investigations and field operations of the United States Secret Service, not otherwise provided for, including costs related to office space and services of expert witnesses at such rate as may be determined by the Director of the Secret Service, $311,154,000; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,725,000, to remain

available until expended: *Provided,* That of the total amount provided under this heading, $500,000 shall not be available for obligation until the Director of the Secret Service submits a revised master plan to the Committees on Appropriations of the Senate and the House of Representatives for the James J. Rowley Training Center.

## TITLE III

## PREPAREDNESS AND RECOVERY

## PREPAREDNESS

### MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, $30,572,000, of which no less than $2,741,000 may be used for the Office of National Capital Region Coordination, and of which $6,459,000 shall be for the National Preparedness Integration Program: *Provided,* That none of the funds made available under this heading may be obligated for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: *Provided further,* That not to exceed $7,000 shall be for official reception and representation expenses: *Provided further*, That for purposes of planning, coordination and execution of mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be included in efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

West Virginia.
Pennsylvania.

### OFFICE OF GRANTS AND TRAINING

#### STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,531,000,000, which shall be allocated as follows:

(1) $525,000,000 for formula-based grants and $375,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): *Provided,* That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Office of Grants and Training shall act within 90 days after receipt of an application: *Provided further,* That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph

Puerto Rico.
Deadline.

shall be made available to local governments within 60 days after the receipt of the funds.

(2) $1,229,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $770,000,000 shall be for use in high-threat, high-density urban areas: *Provided,* That not later than September 30, 2007, the Secretary shall distribute any unallocated funds made available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack under title III of the Department of Homeland Security Appropriations Act, 2006 under the heading "Office for Domestic Preparedness—State and Local Programs" (Public Law 109–90; 119 Stat. 2075) in paragraph (2)(A): *Provided further,* That applicants shall identify for the Secretary's consideration prior threats or attacks (within or outside the United States) by a terrorist organization, network, or cell against an organization described in the previous proviso, and the Secretary shall consider prior threats or attacks (within or outside the United States) against like organizations when determining risk: *Provided further,* That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives the high risk or potential high risk to each designated tax exempt grantee at least five full business days in advance of the announcement of any grant award;

Notification. Deadline.

(B) $210,000,000 shall be for port security grants pursuant to the purposes of section 70107(a) through (h) of title 46, United States Code, which shall be awarded based on risk notwithstanding subsection (a), for eligible costs as described in subsections (b)(2) through (4);

(C) $12,000,000 shall be for trucking industry security grants;

(D) $12,000,000 shall be for intercity bus security grants;

(E) $175,000,000 shall be for intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

*Provided,* That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of Grants and Training shall act within 90 days after receipt of an application: *Provided further,* That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: *Provided further*, That for grants under subparagraphs (B) through (F), the applications for such grants shall be made available to eligible applicants not later than 75 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 45 days after the date of the grant

Deadlines.

announcement, and the Office of Grants and Training shall act on such applications not later than 60 days after the date on which such an application is received.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $352,000,000 for training, exercises, technical assistance, and other programs:

*Provided,* That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: *Provided further,* That the preceding proviso shall not apply to grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: *Provided further,* That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: *Provided further,* That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) of this heading and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with the Office of Grants and Training certified training, as needed: *Provided further,* That the Government Accountability Office shall report on the validity, relevance, reliability, timeliness, and availability of the risk factors (including threat, vulnerability, and consequence) used by the Secretary for the purpose of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds to the Committees on Appropriations of the Senate and the House of Representatives on its findings not later than 45 days after the date of enactment of this Act: *Provided further,* That within seven days after the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the risk methodology and other factors that will be used to allocate discretionary grants funded under this heading.

Risk factors.
Reports.
Deadline.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $662,000,000, of which $547,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $115,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a), to remain available until September 30, 2008: *Provided,* That not to exceed five percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $200,000,000: *Provided,* That total administrative costs shall not exceed three percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2007, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided,* That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further,* That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2007, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland security Act of 2002 (6 U.S.C. 101 et seq.), $46,849,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $547,633,000, of which $470,633,000 shall remain available until September 30, 2008: *Provided,* That of the amount made available under this heading, $10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and House of Representatives the report required in House Report 109–241 accompanying the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90) on Department of Homeland Security resources necessary to implement mandatory security requirements for the Nation's chemical sector and to create a system for auditing and ensuring compliance with the security standards.

Reports.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, $282,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses.

READINESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for readiness, mitigation, response, and recovery activities, $244,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided,* That of the total amount made available under this heading, $25,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

PUBLIC HEALTH PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

42 USC 300hh–11 note.

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $33,885,000: *Provided,* That the total amount appropriated and, notwithstanding any other provision of law, the functions, personnel, assets, and liabilities of the National Disaster Medical System established under section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)), including any functions of the Secretary of Homeland Security relating to such System, shall be permanently transferred to the Secretary of the Department of Health and Human Services effective January 1, 2007.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,500,000,000, to remain available until expended: *Provided,* That of the total amount provided, not to exceed $13,500,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to natural disasters subject to section 503 of this Act.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $569,000: *Provided,* That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: *Provided further,* That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $198,980,000, and

such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: *Provided,* That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $128,588,000, which is available as follows: (1) not to exceed $38,230,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) not to exceed $90,358,000 for flood hazard mitigation which shall be derived from offsetting collections assessed and collected under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), to remain available until September 30, 2008, including up to $31,000,000 for flood mitigation expenses under section 1366 of that Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2008: *Provided,* That in fiscal year 2007, no funds shall be available from the National Flood Insurance Fund in excess of: (1) $70,000,000 for operating expenses; (2) $692,999,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $50,000,000 for flood mitigation actions with respect to severe repetitive loss properties under section 1361A of that Act (42 U.S.C. 4102a) and repetitive insurance claims properties under section 1323 of that Act (42 U.S.C. 4030), which shall remain available until expended: *Provided further,* That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $31,000,000, to remain available until September 30, 2008, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $31,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $100,000,000, to remain available until expended: *Provided,* That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): *Provided further,* That total administrative costs shall not exceed three percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $151,470,000, to remain available until expended: *Provided,* That total administrative costs shall not exceed 3.5 percent of the total appropriation.

## TITLE IV

## RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $181,990,000, of which $93,500,000 is available until expended: *Provided,* That $47,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a strategic transformation plan for United States Citizenship and Immigration Services that has been reviewed and approved by the Secretary of Homeland Security and reviewed by the Government Accountability Office.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $211,033,000, of which up to $43,910,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2008; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided,* That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further,* That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note) is amended by striking "5 years after the date of the enactment of this Act" and inserting "December 31, 2007", and by striking "250" and inserting "350".

42 USC 3771 note.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $64,246,000, to remain available until expended: *Provided,* That of the amount provided under this heading, $22,000,000 is designated as described in section 520 of this Act: *Provided further,* That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

## SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $135,000,000: *Provided,* That of the amount provided under this heading, $60,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan by program, project, and activity; with a detailed breakdown and justification of the management and administrative costs for each; prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office: *Provided further,* That the expenditure plan shall describe the method utilized to derive administration costs in fiscal year 2006 and the fiscal year 2007 budget request: *Provided further,* That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); and the purchase or lease of not to exceed five vehicles, $838,109,000, to remain available until expended: *Provided,* That of the amounts made available under this heading, $50,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a report prepared by the Under Secretary of Science and Technology that describes the progress to address financial management deficiencies, improve its management controls, and implement performance measures and evaluations.

Reports.

## DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office and for management and administration of programs and activities, $30,468,000: *Provided,* That no funds will be made available for the reimbursement of individuals from other Federal agencies or organizations in fiscal year 2009: *Provided further,* That

not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

Notification.

For necessary expenses for radiological and nuclear research, development, testing, evaluation and operations, $272,500,000, to remain available until expended: *Provided,* That of the amount provided under this heading, $15,000,000 shall not be obligated until the Secretary of Homeland Security provides notification to the Committees on Appropriations of the Senate and the House of Representatives that the Domestic Nuclear Detection Office has entered into a Memorandum of Understanding with each Federal entity and organization: *Provided further,* That each Memorandum of Understanding shall include a description of the role, responsibilities, and resource commitment of each Federal entity or organization for the global architecture.

SYSTEMS ACQUISITION

Certification.
Reports.

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $178,000,000, to remain available until September 30, 2009; and of which no less than $143,000,000 shall be for radiation portal monitors; and of which not to exceed $5,000,000 shall be for the Surge program: *Provided,* That none of the funds appropriated under this heading shall be obligated for full scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness will be achieved.

## TITLE V

## GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided,* That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2007, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed

for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any function or activity for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

Notification. Deadline.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2007, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

Notification. Deadline.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided,* That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

Notification. Deadline.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the "Department of Homeland Security Working Capital Fund", except for the activities and amounts allowed in the President's fiscal year 2007 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing: *Provided,* That any additional activities and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

Deadline.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2007 from appropriations for salaries and expenses for fiscal year 2007 in this Act shall remain available through September 30, 2008, in the account and for the purposes for which the appropriations were provided: *Provided,* That prior to the obligation of such funds, a request shall be submitted to

Deadlines.

the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

Termination date.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2007 until the enactment of an Act authorizing intelligence activities for fiscal year 2007.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: *Provided,* That no notification shall involve funds that are not available for obligation: *Provided further,* That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism prevention grants; or high-threat, high-density urban areas grants.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

6 USC 111 note.

SEC. 513. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update

investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: *Provided,* That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: *Provided further,* That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected pursuant to section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

Termination date.

SEC. 514. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

Reports. Deadline.

(c) Within 90 days of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes: (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

Deadline. Plan. Certification.

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: *Provided,* That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 515. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 516. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 517. (a) None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: *Provided,* That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

18 USC 3056 note.

(b) Beginning in fiscal year 2008, none of the funds appropriated by this or any other Act to the United States Secret Service shall be made available for the protection of a person, other than persons granted protection under section 3056(a) of title 18, United States Code, and the Secretary of Homeland Security: *Provided,* That the Director of the United States Secret Service may enter into an agreement to perform such protection on a fully reimbursable basis for protectees not designated under section 3056(a) of title 18, United States Code.

49 USC 44901 note.

SEC. 518. The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 519. (a) The Secretary of Homeland Security is directed to research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft at the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

Reports. Deadline.

(c) The Transportation Security Administration shall report air cargo inspection statistics quarterly to the Committees on Appropriations of the Senate and the House of Representatives, by airport and air carrier, within 45 days after the end of the quarter including any reason for non-compliance with the second proviso of section 513 of the Department of Homeland Security Appropriations Act, 2005 (Public Law 108–334, 118 Stat. 1317).

SEC. 520. For purposes of this Act, any designation referring to this section is the designation of an amount as making appropriations for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 818 (109th Congress), and as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109–234.

SEC. 521. (a) RESCISSION.—From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and

Improvements" account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying Public Law 109–90 for the Fast Response Cutter, the service life extension program of the current 110-foot Island Class patrol boat fleet, and accelerated design and production of the Fast Response Cutter, $78,693,508 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Coast Guard for "Acquisition, Construction, and Improvements", there is appropriated an additional $78,693,508, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and the acquisition of traditional patrol boats ("parent craft").

SEC. 522. None of the funds made available in this Act may be used by any person other than the Privacy Officer appointed under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 523. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR), or anyone acting in a similar or like capacity, who has not received COTR training.

SEC. 524. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration "Aviation Security", "Administration" and "Transportation Security Support" in fiscal years 2004, 2005, and 2006 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems, subject to notification.

SEC. 525. (a) Within 30 days after enactment of this Act, the Secretary of Homeland Security shall revise Department of Homeland Security (DHS) Management Directive (MD) 11056 to provide for the following: Deadline. Revision.

(1) That when a lawful request is made to publicly release a document containing information designated as sensitive security information (SSI), the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law and regulation and shall further provide that all portions that no longer require SSI designation be released, subject to applicable law, including sections 552 and 552a of title 5, United States Code;

(2) That sensitive security information that is three years old and not incorporated in a current transportation security directive, security plan, contingency plan, or information circular; or does not contain current information in one of the following SSI categories: equipment or personnel performance specifications, vulnerability assessments, security inspection or investigative information, threat information, security measures, security screening information, security training materials, identifying information of designated transportation security personnel, critical aviation or maritime infrastructure asset information, systems security information, confidential business information, or research and development information shall be subject to release upon request unless:

(A) the Secretary or his designee makes a written determination that identifies a rational reason why the information must remain SSI; or

(B) such information is otherwise exempt from disclosure under applicable law:

*Provided,* That any determination made by the Secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information and to the Committees on Appropriations of the Senate and the House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90; 119 Stat. 2088); and

(3) Common and extensive examples of the individual categories of SSI information cited under 49 CFR 1520(b)(1) through (16) in order to minimize and standardize judgment by covered persons in the application of SSI marking.

Reports. Deadline.

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the requirements of this section and of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90; 119 Stat. 2088).

Reports. Deadline.

(c) Not later than one year from the date of enactment of this Act, the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives on DHS progress and procedures in implementing the requirements of this section.

(d) That in civil proceedings in the United States District Courts, where a party seeking access to SSI demonstrates that the party has substantial need of relevant SSI in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the information by other means, the party or party's counsel shall be designated as a covered person under 49 CFR Part 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge enters an order that protects the SSI from unauthorized or unnecessary disclosure and specifies the terms and conditions of access, unless upon completion of a criminal history check and terrorist assessment like that done for aviation workers on the persons seeking access to SSI, or based on the sensitivity of the information, the Transportation Security Administration or DHS demonstrates that such access to the information for the proceeding presents a risk of harm to the nation: *Provided,* That notwithstanding any other provision of law, an order granting access to SSI under this section shall be immediately appealable to the United States Courts of Appeals, which shall have plenary review over both the evidentiary finding and the sufficiency of the order specifying the terms and conditions of access to the SSI in question: *Provided further,* That notwithstanding any other provision of law, the Secretary may assess a civil penalty of up to $50,000 for each violation of 49 CFR Part 1520 by persons provided access to SSI under this provision.

31 USC 501 note.

SEC. 526. The Department of Homeland Security Working Capital Fund, established, pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2007.

SEC. 527. RESCISSION. Of the unobligated balances from prior year appropriations made available for the "Counterterrorism Fund", $16,000,000 are rescinded.

SEC. 528. (a) The report required by Public Law 109–62 and Public Law 109–90 detailing the allocation and obligation of funds for "Disaster Relief" shall hereafter be submitted monthly and include: (1) status of the Disaster Relief Fund (DRF) including obligations, allocations, and amounts undistributed/unallocated; (2) allocations, obligations, and expenditures for Hurricanes Katrina, Rita, and Wilma; (3) information on national flood insurance claims; (4) information on manufactured housing data; (5) information on hotel/motel data; (6) obligations, allocations and expenditures by State for unemployment, crisis counseling, inspections, housing assistance, manufactured housing, public assistance and individual assistance; (7) mission assignment obligations by agency, including: (i) the amounts reimbursed to other agencies that are in suspense because FEMA has not yet reviewed and approved the documentation supporting the expenditure; and (ii) a disclaimer if the amounts of reported obligations and expenditures do not reflect the status of such obligations and expenditures from a government-wide perspective; (8) the amount of credit card purchases by agency and mission assignment; (9) specific reasons for all waivers granted and a description of each waiver; and (10) a list of all contracts that were awarded on a sole source or limited competition basis, including the dollar amount, the purpose of the contract and the reason for the lack of competitive award.

Reports. Deadline. Disaster assistance.

(b) The Secretary of Homeland Security shall at least quarterly obtain and report from agencies performing mission assignments each such agency's actual obligation and expenditure data.

Reports. Deadline.

(c) For any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Stafford Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department of Homeland Security for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department of Homeland Security policies on—

(1) the detailed information required in supporting documentation for reimbursements, and

(2) the necessity for timeliness of agency billings.

SEC. 529. RESCISSION. Of the unobligated balances from prior year appropriations made available for Science and Technology, $125,000,000 from "Research, Development, Acquisition, and Operations" are rescinded.

SEC. 530. None of the funds made available in this Act may be used to enforce section 4025(1) of Public Law 108–458 if the Assistant Secretary (Transportation Security Administration) determines that butane lighters are not a significant threat to civil aviation security: *Provided,* That the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days in advance of such determination including a report on whether the effectiveness of screening operations is enhanced by suspending enforcement of the prohibition.

Notification. Reports. Deadline.

SEC. 531. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing

Reports. Deadline.

report that includes total obligations and on-board versus funded full-time equivalent staffing levels.

SEC. 532. (a) UNITED STATES SECRET SERVICE USE OF PROCEEDS DERIVED FROM CRIMINAL INVESTIGATIONS.—During fiscal year 2007, with respect to any undercover investigative operation of the United States Secret Service (hereafter referred to in this section as the "Secret Service") that is necessary for the detection and prosecution of crimes against the United States—

(1) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to sections 1341 and 3324 of title 31, United States Code, section 8141 of title 40, United States Code, sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and sections 304(a) and 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C 254(a) and 255);

(2) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used to establish or to acquire proprietary corporations or business entities as part of such undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(3) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18, and section 3302 of title 31, United States Code; and

(4) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31, United States Code.

(b) WRITTEN CERTIFICATION.—The authority set forth in subsection (a) may be exercised only upon the written certification of the Director of the Secret Service or designee that any action authorized by any paragraph of such subsection is necessary for the conduct of an undercover investigative operation. Such certification shall continue in effect for the duration of such operation, without regard to fiscal years.

(c) DEPOSIT OF PROCEEDS IN TREASURY.—As soon as practicable after the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) REPORTING AND DEPOSIT OF PROCEEDS UPON DISPOSITION OF CERTAIN BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover investigative operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Secret Service, as much in advance as the Director or designee

determines is practicable, shall report the circumstance to the Secretary of Homeland Security. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) FINANCIAL AUDITS AND REPORTS.—

(1) The Secret Service shall conduct detailed financial audits of closed undercover investigative operations for which a written certification was made pursuant to subsection (b) on a quarterly basis and shall report the results of the audits in writing to the Secretary of Homeland Security.

(2) The Secretary of Homeland Security shall annually submit to the Committees on Appropriations of the Senate and House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a summary of such audits.

SEC. 533. The Director of the Domestic Nuclear Detection Office shall operate extramural and intramural research, development, demonstrations, testing and evaluation programs so as to distribute funding through grants, cooperative agreements, other transactions and contracts.

Mississippi. Louisiana.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider the Hancock County Port and Harbor Commission in Mississippi eligible under the Federal Emergency Management Agency Public Assistance Program for all costs incurred for dredging from navigation channel in Little Lake, Louisiana, sediment deposited as a result of Hurricane George in 1998: *Provided,* That the appropriate Federal share shall apply to approval of this project.

Canada. Drugs.

SEC. 535. None of the funds made available in this Act for United States Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: *Provided,* That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: *Provided further,* That the prescription drug may not be—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 536. The Department of Homeland Security shall, in approving standards for State and local emergency preparedness operational plans under section 613(b)(3) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5196b(b)(3)), account for the needs of individuals with household pets and service animals before, during, and following a major disaster or emergency: *Provided,* That Federal agencies may provide assistance as described in section 403(a) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5170b(a)) to carry out the plans described in the previous proviso.

SEC. 537. RESCISSION. From the unobligated balances from prior year appropriations made available for Transportation Security Administration "Aviation Security" and "Headquarters Administration", $4,776,000 are rescinded.

SEC. 538. RESCISSION. From the unobligated balances from prior year appropriations made available for Transportation Security Administration "Aviation Security", $61,936,000 are rescinded.

SEC. 539. RESCISSION. From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109–90) for the development of the Offshore Patrol Cutter, $20,000,000 are rescinded.

SEC. 540. RESCISSION. From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109–90) for the Automatic Identification System, $4,100,000 are rescinded.

SEC. 541. Notwithstanding the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Army Corps of Engineers may use Lot 19, Block 1 of the Meadowview Acres Addition and Lot 8, Block 5 of the Meadowview Acres Addition in Augusta, Kansas, for building portions of the flood-control levee.

SEC. 542. Notwithstanding any time limitation established for a grant awarded under title I, chapter 6, Public Law 106–31, in the item relating to Federal Emergency Management Agency—Disaster Assistance for Unmet Needs, the City of Cuero, Texas, may use funds received under such grant program until September 30, 2007.

SEC. 543. None of the funds made available by this Act shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).

SEC. 544. The Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 545. None of the funds made available in this Act may be used in contravention of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

SEC. 546. Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking from "(1) DEVELOPMENT OF PLAN.—The Secretary" through "7208(k))." and inserting the following:

"(1) DEVELOPMENT OF PLAN AND IMPLEMENTATION.—

"(A) The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented not

later than three months after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier. The plan shall seek to expedite the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k)).

"(B) The Secretary of Homeland Security and the Secretary of State shall jointly certify to the Committees on Appropriations of the Senate and the House of Representatives that the following criteria have been met prior to implementation of section 7209(b)(1)(A)—

"(i) the National Institute of Standards and Technology certifies that the Departments of Homeland Security and State have selected a card architecture that meets or exceeds International Organization for Standardization (ISO) security standards and meets or exceeds best available practices for protection of personal identification documents: *Provided,* That the National Institute of Standards and Technology shall also assist the Departments of Homeland Security and State to incorporate into the architecture of the card the best available practices to prevent the unauthorized use of information on the card: *Provided further,* That to facilitate efficient cross-border travel, the Departments of Homeland Security and State shall, to the maximum extent possible, develop an architecture that is compatible with information technology systems and infrastructure used by United States Customs and Border Protection;

"(ii) the technology to be used by the United States for the passport card, and any subsequent change to that technology, has been shared with the governments of Canada and Mexico;

"(iii) an agreement has been reached with the United States Postal Service on the fee to be charged individuals for the passport card, and a detailed justification has been submitted to the Committees on Appropriations of the Senate and the House of Representatives;

"(iv) an alternative procedure has been developed for groups of children traveling across an international border under adult supervision with parental consent;

"(v) the necessary technological infrastructure to process the passport cards has been installed, and all employees at ports of entry have been properly trained in the use of the new technology;

"(vi) the passport card has been made available for the purpose of international travel by United States citizens through land and sea ports of entry between the United States and Canada, Mexico, the Caribbean and Bermuda; and

"(vii) a single implementation date for sea and land borders has been established.".

SEC. 547. None of the funds made available in this Act may be used to award any contract for major disaster or emergency

Deadline.
Certification.

assistance activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act except in accordance with section 307 of such Act (42 U.S.C. 5150).

SEC. 548. None of the funds made available in the Act may be used to reimburse L.B.& B. Associates, Inc. or Olgoonik Logistics, LLC (or both) for attorneys fees related to pending litigation against Local 30 of the International Union of Operating Engineers.

SEC. 549. Notwithstanding any other provision of law, the acquisition management system of the Transportation Security Administration shall be subject to the provisions of the Small Business Act (15 U.S.C. 631 et seq.).

Regulations. Deadline. 6 USC 121 note.

SEC. 550. (a) No later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall issue interim final regulations establishing risk-based performance standards for security of chemical facilities and requiring vulnerability assessments and the development and implementation of site security plans for chemical facilities: *Provided,* That such regulations shall apply to chemical facilities that, in the discretion of the Secretary, present high levels of security risk: *Provided further,* That such regulations shall permit each such facility, in developing and implementing site security plans, to select layered security measures that, in combination, appropriately address the vulnerability assessment and the risk-based performance standards for security for the facility: *Provided further,* That the Secretary may not disapprove a site security plan submitted under this section based on the presence or absence of a particular security measure, but the Secretary may disapprove a site security plan if the plan fails to satisfy the risk-based performance standards established by this section: *Provided further,* That the Secretary may approve alternative security programs established by private sector entities, Federal, State, or local authorities, or other applicable laws if the Secretary determines that the requirements of such programs meet the requirements of this section and the interim regulations: *Provided further,* That the Secretary shall review and approve each vulnerability assessment and site security plan required under this section: *Provided further,* That the Secretary shall not apply regulations issued pursuant to this section to facilities regulated pursuant to the Maritime Transportation Security Act of 2002, Public Law 107–295, as amended; Public Water Systems, as defined by section 1401 of the Safe Drinking Water Act, Public Law 93–523, as amended; Treatment Works as defined in section 212 of the Federal Water Pollution Control Act, Public Law 92–500, as amended; any facility owned or operated by the Department of Defense or the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission.

Termination date. Regulations.

(b) Interim regulations issued under this section shall apply until the effective date of interim or final regulations promulgated under other laws that establish requirements and standards referred to in subsection (a) and expressly supersede this section: *Provided,* That the authority provided by this section shall terminate three years after the date of enactment of this Act.

(c) Notwithstanding any other provision of law and subsection (b), information developed under this section, including vulnerability assessments, site security plans, and other security related information, records, and documents shall be given protections from public disclosure consistent with similar information developed by chemical facilities subject to regulation under section 70103 of title

46, United States Code: *Provided,* That this subsection does not prohibit the sharing of such information, as the Secretary deems appropriate, with State and local government officials possessing the necessary security clearances, including law enforcement officials and first responders, for the purpose of carrying out this section, provided that such information may not be disclosed pursuant to any State or local law: *Provided further,* That in any proceeding to enforce this section, vulnerability assessments, site security plans, and other information submitted to or obtained by the Secretary under this section, and related vulnerability or security information, shall be treated as if the information were classified material.

(d) Any person who violates an order issued under this section shall be liable for a civil penalty under section 70119(a) of title 46, United States Code: *Provided,* That nothing in this section confers upon any person except the Secretary a right of action against an owner or operator of a chemical facility to enforce any provision of this section.

(e) The Secretary of Homeland Security shall audit and inspect chemical facilities for the purposes of determining compliance with the regulations issued pursuant to this section.

(f) Nothing in this section shall be construed to supersede, amend, alter, or affect any Federal law that regulates the manufacture, distribution in commerce, use, sale, other treatment, or disposal of chemical substances or mixtures.

(g) If the Secretary determines that a chemical facility is not in compliance with this section, the Secretary shall provide the owner or operator with written notification (including a clear explanation of deficiencies in the vulnerability assessment and site security plan) and opportunity for consultation, and issue an order to comply by such date as the Secretary determines to be appropriate under the circumstances: *Provided*, That if the owner or operator continues to be in noncompliance, the Secretary may issue an order for the facility to cease operation, until the owner or operator complies with the order.

SEC. 551. (a) CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

**"§ 554. Border tunnels and passages**

"(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

"(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

"(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 2339B(g)(6)) shall be subject to a maximum term of imprisonment that is twice the maximum term of

imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 554. Border tunnels and passages.".

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting "554," before "1425,".

28 USC 994 note.

(d) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by subsection (a).

(2) REQUIREMENTS.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(B) provide adequate base offense levels for offenses under such section;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(i) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(D) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(E) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(F) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 552. The Secretary of Homeland Security may not take any action to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design and construction centers, the Coast Guard Academy, and the Coast Guard Research and Development Center until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan on changes to the Civil Engineering Program of the Coast Guard: *Provided,* That the plan shall include a description of the current functions of the Civil Engineering Program and a description of any proposed modifications of such functions and of any proposed modification of personnel and offices, including the rationale for such modification; an assessment of the costs and benefits of such modification; any proposed alternatives to such modification; and

the processes utilized by the Coast Guard and the Office of Management and Budget to analyze and assess such modification.

SEC. 553. None of the funds made available by this Act may be used to take an action that would violate Executive Order No. 13149 (65 Fed. Reg. 24607; relating to greening the government through Federal fleet and transportation efficiency).

SEC. 554. (a) The Transportation Security Administration shall require each air carrier and foreign air carrier that provides air transportation or intrastate air transportation to submit plans to the Transportation Security Administration on how such air carrier will participate in the voluntary provision of emergency services program established by section 44944(a) of title 49, United States Code.

(b)(1) Not more than 90 days after the date of the enactment of this Act, the Transportation Security Administration shall prepare a report that contains the following:

Reports. Deadline.

(A) Procedures that qualified individuals need to follow in order to participate in the program described in subsection (a).

(B) Relevant contacts for individuals interested in participating in the program described in subsection (a).

(2) The Transportation Security Administration shall make the report required by paragraph (1) available, by Internet web site or other appropriate method, to the following:

(A) The Congress.

(B) The emergency response agency of each State.

(C) The relevant organizations representing individuals to participate in the program.

SEC. 555. Not later than 90 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency in conjunction with the Director of the National Institute of Standards and Technology shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives outlining Federal earthquake response plans for high-risk earthquake regions in the United States as determined by the United States Geological Survey.

Reports. Deadline.

SEC. 556. Not later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall establish revised procedures for expeditiously clearing individuals whose names have been mistakenly placed on a terrorist database list or who have names identical or similar to individuals on a terrorist database list. The Secretary shall advise Congress of the procedures established.

Deadline. Procedures. 6 USC 485 note.

SEC. 557. Title VII of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5201) is amended by adding at the end the following:

**"SEC. 706. FIREARMS POLICIES.**

42 USC 5207.

"(a) PROHIBITION ON CONFISCATION OF FIREARMS.—No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may—

"(1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under

Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

"(2) require registration of any firearm for which registration is not required by Federal, State, or local law;

"(3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or

"(4) prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency in support of relief from the major disaster or emergency.

"(b) LIMITATION.—Nothing in this section shall be construed to prohibit any person in subsection (a) from requiring the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency, provided that such temporarily surrendered firearm is returned at the completion of such rescue or evacuation.

"(c) PRIVATE RIGHTS OF ACTION.—

"(1) IN GENERAL.—Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.

"(2) REMEDIES.—In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.

"(3) ATTORNEY FEES.—In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

6 USC 981a.

SEC. 558. PILOT INTEGRATED SCANNING SYSTEM. (a) DESIGNATIONS.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the "Secretary") shall designate three foreign seaports through which containers pass or are transshipped to the United States to pilot an integrated scanning system that couples nonintrusive imaging equipment and radiation detection equipment, which may be provided by the Megaports Initiative of the Department of Energy. In making designations under this subsection, the Secretary shall consider three distinct ports with unique features and differing levels of trade volume.

(2) COLLABORATION AND COOPERATION.—The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and host foreign government to implement the pilot program under this subsection.

Deadline.

(b) IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act, the Secretary shall achieve a full-

scale implementation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the terminal;

(2) electronically transmit the images and information to the container security initiative personnel in the host country and/or Customs and Border Protection personnel in the United States for evaluation and analysis;

(3) resolve every radiation alarm according to established Department procedures;

(4) utilize the information collected to enhance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(c) EVALUATION.—The Secretary shall evaluate the pilot program in subsection (b) to determine whether such a system—

(1) has a sufficiently low false alarm rate for use in the supply chain;

(2) is capable of being deployed and operated at ports overseas, including consideration of cost, personnel, and infrastructure required to operate the system;

(3) is capable of integrating, where necessary, with existing systems;

(4) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(5) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(d) REPORT.—Not later than 120 days after achieving full-scale implementation under subsection (b), the Secretary, in consultation with the Secretary of Energy and the Secretary of State, shall submit a report, to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot program implemented under this section;

(2) an analysis of the efficacy of the Automated Targeted System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of software that is capable of automatically identifying potential anomalies in scanned containers; and

(4) a plan and schedule to expand the integrated scanning system developed under this section to other container security initiative ports.

(e) IMPLEMENTATION.—If the Secretary determines the available technology meets the criteria outlined in subsection (c), the Secretary, in cooperation with the Secretary of State, shall seek to secure the cooperation of foreign governments to initiate and maximize the use of such technology at foreign ports to scan all cargo bound for the United States as quickly as possible.

SEC. 559. (a) RESCISSION.—From the unexpended balances of the United States Secret Service "Salaries and Expenses" account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109–90) for National Special Security Events, $2,500,000 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Secret Service "Protection, Administration, and

Training", there is appropriated an additional $2,500,000, to remain available until expended for National Special Security Events.

SEC. 560. Transfer authority contained in section 505 of the Homeland Security Act, as amended by title VI of this Act, shall be used in accordance with the provisions of section 1531(a)(2) of title 31, United States Code.

# TITLE VI—NATIONAL EMERGENCY MANAGEMENT

Post-Katrina Emergency Management Reform Act of 2006.
6 USC 701 note.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Post-Katrina Emergency Management Reform Act of 2006".

6 USC 701.

**SEC. 602. DEFINITIONS.**

In this title—

(1) the term "Administrator" means the Administrator of the Agency;

(2) the term "Agency" means the Federal Emergency Management Agency;

(3) the term "appropriate committees of Congress" means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) those committees of the House of Representatives that the Speaker of the House of Representatives determines appropriate;

(4) the term "catastrophic incident" means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(5) the term "Department" means the Department of Homeland Security;

(6) the terms "emergency" and "major disaster" have the meanings given the terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(7) the term "emergency management" means the governmental function that coordinates and integrates all activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural disasters, acts of terrorism, or other man-made disasters;

(8) the term "emergency response provider" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act;

(9) the term "Federal coordinating officer" means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

(10) the term "individual with a disability" has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(11) the terms "local government" and "State" have the meaning given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101);

(12) the term "National Incident Management System" means a system to enable effective, efficient, and collaborative incident management;

(13) the term "National Response Plan" means the National Response Plan or any successor plan prepared under section 502(a)(6) of the Homeland Security Act of 2002 (as amended by this Act);

(14) the term "Secretary" means the Secretary of Homeland Security;

(15) the term "surge capacity" means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and

(16) the term "tribal government" means the government of an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation.

## Subtitle A—Federal Emergency Management Agency

**SEC. 611. STRUCTURING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.**

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) by striking the title heading and inserting the following:

## "TITLE V—NATIONAL EMERGENCY MANAGEMENT";

(2) by striking section 501;

(3) by striking section 503;

(4) by striking section 507;

(5) by striking section 510 (relating to urban and other high risk area communications capabilities);

(6) by redesignating sections 504, 505, 508, and 509 as sections 517, 518, 519, and 520, respectively;

(7) by redesignating section 510 (relating to procurement of security countermeasures for the strategic national stockpile) as section 521;

(8) by redesignating section 502 as section 504;

(9) by redesignating section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(10) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

**"SEC. 501. DEFINITIONS.**

"In this title—

"(1) the term 'Administrator' means the Administrator of the Agency;

"(2) the term 'Agency' means the Federal Emergency Management Agency;

"(3) the term 'catastrophic incident' means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

"(4) the term 'Federal coordinating officer' means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

"(5) the term 'interoperable' has the meaning given the term 'interoperable communications' under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));

"(6) the term 'National Incident Management System' means a system to enable effective, efficient, and collaborative incident management;

"(7) the term 'National Response Plan' means the National Response Plan or any successor plan prepared under section 502(a)(6);

"(8) the term 'Regional Administrator' means a Regional Administrator appointed under section 507;

"(9) the term 'Regional Office' means a Regional Office established under section 507;

"(10) the term 'surge capacity' means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and

"(11) the term 'tribal government' means the government of any entity described in section 2(10)(B).";

(11) by inserting after section 502, as redesignated and transferred by paragraph (9) of this section, the following:

6 USC 313.

**"SEC. 503. FEDERAL EMERGENCY MANAGEMENT AGENCY.**

"(a) IN GENERAL.—There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

"(b) MISSION.—

"(1) PRIMARY MISSION.—The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

"(2) SPECIFIC ACTIVITIES.—In support of the primary mission of the Agency, the Administrator shall—

"(A) lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

"(B) partner with State, local, and tribal governments and emergency response providers, with other Federal

agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

"(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

"(D) integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

"(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

"(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

"(G) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

"(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

"(c) ADMINISTRATOR.—

"(1) IN GENERAL.—The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Administrator shall be appointed from among individuals who have—

"(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

"(B) not less than 5 years of executive leadership and management experience in the public or private sector.

"(3) REPORTING.—The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

"(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—

"(A) IN GENERAL.—The Administrator is the principal advisor to the President, the Homeland Security Council,

and the Secretary for all matters relating to emergency management in the United States.

"(B) ADVICE AND RECOMMENDATIONS.—

"(i) IN GENERAL.—In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

"(ii) ADVICE ON REQUEST.—The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

"(iii) RECOMMENDATIONS TO CONGRESS.—After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

"(5) CABINET STATUS.—

"(A) IN GENERAL.—The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

"(B) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.";

6 USC 314.

(12) in section 504, as redesignated by paragraph (8) of this section—

(A) in the section heading, by inserting "authority and" before "responsibilities";

(B) by striking the matter preceding paragraph (1) and inserting the following:

"(a) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—";

(C) in paragraph (6), by striking "and" at the end; and

(D) by striking paragraph (7) and inserting the following:

"(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

"(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act;

"(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

"(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

"(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

"(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

"(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;

"(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;

"(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;

"(12) supervising grant programs administered by the Agency;

"(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;

"(14) coordinating with the National Advisory Council established under section 508;

"(15) preparing and implementing the plans and programs of the Federal Government for—

"(A) continuity of operations;

"(B) continuity of government; and

"(C) continuity of plans;

"(16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

"(17) maintaining and operating within the Agency the National Response Coordination Center or its successor;

"(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

"(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Administrator under the national preparedness System;

"(20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and

"(21) otherwise carrying out the mission of the Agency as described in section 503(b).

"(b) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that builds

those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation."; and

(13) by inserting after section 504, as redesignated by paragraph (8) of this section, the following:

6 USC 315.

**"SEC. 505. FUNCTIONS TRANSFERRED.**

"(a) IN GENERAL.—Except as provided in subsection (b), there are transferred to the Agency the following:

"(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

"(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

"(b) EXCEPTIONS.—The following within the Preparedness Directorate shall not be transferred:

"(1) The Office of Infrastructure Protection.

"(2) The National Communications System.

"(3) The National Cybersecurity Division.

"(4) The Office of the Chief Medical Officer.

"(5) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (4).

6 USC 316.

**"SEC. 506. PRESERVING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.**

"(a) DISTINCT ENTITY.—The Agency shall be maintained as a distinct entity within the Department.

"(b) REORGANIZATION.—Section 872 shall not apply to the Agency, including any function or organizational unit of the Agency.

"(c) PROHIBITION ON CHANGES TO MISSIONS.—

"(1) IN GENERAL.—The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

"(2) CERTAIN TRANSFERS PROHIBITED.—No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

"(d) REPROGRAMMING AND TRANSFER OF FUNDS.—In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the

Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

**"SEC. 507. REGIONAL OFFICES.** 6 USC 317.

"(a) IN GENERAL.—There are in the Agency 10 regional offices, as identified by the Administrator.

"(b) MANAGEMENT OF REGIONAL OFFICES.—

"(1) REGIONAL ADMINISTRATOR.—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

"(B) CONSIDERATIONS.—In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

"(c) RESPONSIBILITIES.—

"(1) IN GENERAL.—The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

"(2) RESPONSIBILITIES.—The responsibilities of a Regional Administrator include—

"(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

"(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

"(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

"(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

"(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

"(F) fostering the development of mutual aid and other cooperative agreements;

"(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

"(H) maintaining and operating a Regional Response Coordination Center or its successor; and

"(I) performing such other duties relating to such responsibilities as the Administrator may require.

"(3) TRAINING AND EXERCISE REQUIREMENTS.—

"(A) TRAINING.—The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

"(B) EXERCISES.—The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

"(d) AREA OFFICES.—

"(1) IN GENERAL.—There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

"(2) ALASKA.—The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

"(e) REGIONAL ADVISORY COUNCIL.—

"(1) ESTABLISHMENT.—Each Regional Administrator shall establish a Regional Advisory Council.

"(2) NOMINATIONS.—A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

"(3) RESPONSIBILITIES.—Each Regional Advisory Council shall—

"(A) advise the Regional Administrator on emergency management issues specific to that region;

"(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

"(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

"(f) REGIONAL OFFICE STRIKE TEAMS.—

"(1) IN GENERAL.—In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of—

"(A) a designated Federal coordinating officer;

"(B) personnel trained in incident management;

"(C) public affairs, response and recovery, and communications support personnel;

"(D) a defense coordinating officer;

"(E) liaisons to other Federal agencies;

"(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

"(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

"(2) OTHER DUTIES.—The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

"(3) LOCATION OF MEMBERS.—The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

"(4) COORDINATION.—Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

"(5) PREPAREDNESS.—Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

"(6) AUTHORITIES.—If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

**"SEC. 508. NATIONAL ADVISORY COUNCIL.**

6 USC 318.

Deadline.

"(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

"(b) RESPONSIBILITIES.—The National Advisory Council shall advise the Administrator on all aspects of emergency management. The National Advisory Council shall incorporate State, local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from

State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

"(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

"(B) health scientists, emergency and inpatient medical providers, and public health professionals;

"(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

"(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

"(E) elected State, local, and tribal government executives;

"(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

"(G) representatives of individuals with disabilities and other populations with special needs; and

"(H) such other individuals as the Administrator determines to be appropriate.

"(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.—In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

"(3) EX OFFICIO MEMBERS.—The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

"(4) TERMS OF OFFICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

"(B) INITIAL APPOINTMENTS.—Of the members initially appointed to the National Advisory Council—

"(i) one-third shall be appointed for a term of 1 year; and

"(ii) one-third shall be appointed for a term of 2 years.

"(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) IN GENERAL.—Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

"(2) TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

**"SEC. 509. NATIONAL INTEGRATION CENTER.** 6 USC 319.

"(a) IN GENERAL.—There is established in the Agency a National Integration Center.

"(b) RESPONSIBILITIES.—

"(1) IN GENERAL.—The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan.

"(2) SPECIFIC RESPONSIBILITIES.—The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

"(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

"(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

"(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

"(c) INCIDENT MANAGEMENT.—

"(1) IN GENERAL.—

"(A) NATIONAL RESPONSE PLAN.—The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

"(B) ADMINISTRATOR.—The chain of the command specified in the National Response Plan shall—

"(i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 503(c)(4) and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and

"(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

"(2) PRINCIPAL FEDERAL OFFICIAL.—The Principal Federal Official (or the successor thereto) shall not—

"(A) direct or replace the incident command structure established at the incident; or

"(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

6 USC 320.

**"SEC. 510. CREDENTIALING AND TYPING.**

"The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

6 USC 321.

**"SEC. 511. THE NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.**

"(a) DEFINITION.—In this section, the term 'National Infrastructure Simulation and Analysis Center' means the National Infrastructure Simulation and Analysis Center established under section 1016(d) of the USA PATRIOT Act (42 U.S.C. 5195c(d)).

"(b) AUTHORITY.—

"(1) IN GENERAL.—There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to—

"(A) counterterrorism, threat assessment, and risk mitigation; and

"(B) a natural disaster, act of terrorism, or other man-made disaster.

"(2) INFRASTRUCTURE MODELING.—

"(A) PARTICULAR SUPPORT.—The support provided under paragraph (1) shall include modeling, simulation, and analysis of the systems and assets comprising critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

"(B) RELATIONSHIP WITH OTHER AGENCIES.—Each Federal agency and department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

"(C) PURPOSE.—

"(i) IN GENERAL.—The purpose of the relationship under subparagraph (B) shall be to permit each Federal agency and department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and consequence analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.

"(ii) RECIPIENT OF CERTAIN SUPPORT.—Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and

departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive.

**"SEC. 512. EVACUATION PLANS AND EXERCISES.** 6 USC 321a.

"(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal governments by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

"(1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and

"(3) conduct exercises of such plans.

"(b) PLAN DEVELOPMENT.—In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

"(1) establish incident command and decision making processes;

"(2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;

"(3) identify primary and alternative evacuation routes and methods to increase evacuation capabilities along such routes such as conversion of two-way traffic to one-way evacuation routes;

"(4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all populations including for those individuals located in hospitals, nursing homes, and other institutional living facilities;

"(5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals—

"(A) with disabilities or other special needs;

"(B) with limited English proficiency; or

"(C) who might otherwise have difficulty in obtaining such information; and

"(6) identify shelter locations and capabilities.

"(c) ASSISTANCE.—

"(1) IN GENERAL.—The Administrator may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

"(2) REQUESTED ASSISTANCE.—The Administrator shall make assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to establish, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.

"(d) MULTIPURPOSE FUNDS.—Nothing in this section may be construed to preclude a State, local, or tribal government from using grant funds in a manner that enhances preparedness for

a natural or man-made disaster unrelated to an act of terrorism, if such use assists such government in building capabilities for terrorism preparedness.

6 USC 321b.

**"SEC. 513. DISABILITY COORDINATOR.**

"(a) IN GENERAL.—After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, established under Executive Order No. 13347 (6 U.S.C. 312 note), the Administrator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.

"(b) RESPONSIBILITIES.—The Disability Coordinator shall be responsible for—

"(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), other agencies of the Federal Government, and State, local, and tribal government authorities regarding the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

"(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

"(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

"(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

"(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

"(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

"(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national

preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of 2006; and

"(11) any other duties as assigned by the Administrator.

**"SEC. 514. DEPARTMENT AND AGENCY OFFICIALS.** 6 USC 321c.

"(a) DEPUTY ADMINISTRATORS.—The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this title.

"(b) CYBERSECURITY AND COMMUNICATIONS.—There is in the Department an Assistant Secretary for Cybersecurity and Communications.

"(c) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

**"SEC. 515. NATIONAL OPERATIONS CENTER.** 6 USC 321d.

"(a) DEFINITION.—In this section, the term 'situational awareness' means information gathered from a variety of sources that, when communicated to emergency managers and decision makers, can form the basis for incident management decisionmaking.

"(b) ESTABLISHMENT.—The National Operations Center is the principal operations center for the Department and shall—

"(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster; and

"(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

**"SEC. 516. CHIEF MEDICAL OFFICER.** 6 USC 321e.

"(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) QUALIFICATIONS.—The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

"(c) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—

"(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

"(2) coordinating the biodefense activities of the Department;

"(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

"(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

"(5) serving as the Department's primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;

"(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and

"(7) performing such other duties relating to such responsibilities as the Secretary may require.".

**SEC. 612. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) EXECUTIVE SCHEDULE.—

(1) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Administrator of the Federal Emergency Management Agency.".

(2) DEPUTY ADMINISTRATORS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Administrators, Federal Emergency Management Agency.".

(3) CHIEF MEDICAL OFFICER.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Medical Officer, Department of Homeland Security.".

(b) OFFICERS OF THE DEPARTMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

"(5) An Administrator of the Federal Emergency Management Agency.";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (10) (as amended by this subsection) as paragraphs (2) through (9), respectively.

6 USC 313 note.

(c) REFERENCES.—Any reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.

(d) DEFINITION.—Section 2(6) of the Homeland Security Act of 2002 (6 U.S.C. 101(6)) is amended by inserting "fire," after "safety,".

(e) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking the items relating to title V and sections 501 through 509 and inserting the following:

"TITLE V—NATIONAL EMERGENCY MANAGEMENT

"Sec. 501. Definitions.
"Sec. 502. Definition.
"Sec. 503. Federal Emergency Management Agency.
"Sec. 504. Authorities and responsibilities.
"Sec. 505. Functions transferred.
"Sec. 506. Preserving the Federal Emergency Management Agency.
"Sec. 507. Regional Offices.
"Sec. 508. National Advisory Council.
"Sec. 509. National Integration Center.
"Sec. 510. Credentialing and typing.
"Sec. 511. The National Infrastructure Simulation and Analysis Center.
"Sec. 512. Evacuation plans and exercises.
"Sec. 513. Disability Coordinator.
"Sec. 514. Department and Agency officials.
"Sec. 515. National Operations Center.
"Sec. 516. Chief Medical Officer.
"Sec. 517. Nuclear incident response.
"Sec. 518. Conduct of certain public health-related activities.

"Sec. 519. Use of national private sector networks in emergency response.
"Sec. 520. Use of commercially available technology, goods, and services.
"Sec. 521. Procurement of security countermeasures for strategic national stockpile.".

(f) INTERIM ACTIONS.—

(1) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on March 31, 2007, the Secretary, the Under Secretary for Preparedness, and the Director of the Federal Emergency Management Agency shall take such actions as are necessary to provide for the orderly implementation of any amendment under this subtitle that takes effect on March 31, 2007. 6 USC 311 note.

(2) REFERENCES.—Any reference to the Administrator of the Federal Emergency Management Agency in this title or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency until March 31, 2007. 6 USC 313 note.

**SEC. 613. NATIONAL WEATHER SERVICE.** 6 USC 701 note.

Nothing in this title shall alter or otherwise affect the authorities and activities of the National Weather Service to protect life and property, including under the Act of October 1, 1890 (26 Stat. 653-55).

**SEC. 614. EFFECTIVE DATE.** 6 USC 701 note.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) EXCEPTIONS.—The following shall take effect on March 31, 2007:

(1) The amendments made by section 611(11).

(2) The amendments made by section 611(12).

(3) Sections 505, 507, 508, and 514 of the Homeland Security Act of 2002, as amended by section 611(13) of this Act.

(4) The amendments made by subsection (a).

(5) The amendments made by subsection (b)(1).

# Subtitle B—Personnel Provisions

## CHAPTER 1—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

**SEC. 621. WORKFORCE DEVELOPMENT.**

(a) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

## "CHAPTER 101—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

"Sec.
"10101. Definitions.
"10102. Strategic human capital plan.
"10103. Career paths.
"10104. Recruitment bonuses.
"10105. Retention bonuses.
"10106. Quarterly report on vacancy rate in employee positions.

### "§ 10101. Definitions

"For purposes of this chapter—

"(1) the term 'Agency' means the Federal Emergency Management Agency;

"(2) the term 'Administrator' means the Administrator of the Federal Emergency Management Agency;

"(3) the term 'appropriate committees of Congress' has the meaning given the term in section 602 of the Post-Katrina Emergency Management Reform Act of 2006;

"(4) the term 'Department' means the Department of Homeland Security; and

"(5) the term 'Surge Capacity Force' refers to the Surge Capacity Force, described under section 624 of the Post-Katrina Emergency Management Reform Act of 2006.

**"§ 10102. Strategic human capital plan**

Deadline.

"(a) PLAN DEVELOPMENT.—Not later than 6 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a strategic human capital plan to shape and improve the workforce of the Agency.

"(b) CONTENTS.—The strategic human capital plan shall include—

"(1) a workforce gap analysis, including an assessment of—

"(A) the critical skills and competencies that will be needed in the workforce of the Agency to support the mission and responsibilities of, and effectively manage, the Agency during the 10-year period beginning on the date of enactment of this chapter;

"(B) the skills and competencies of the workforce of the Agency on the day before the date of enactment of this chapter and projected trends in that workforce, based on expected losses due to retirement and other attrition; and

"(C) the staffing levels of each category of employee, including gaps in the workforce of the Agency on the day before the date of enactment of this chapter and in the projected workforce of the Agency that should be addressed to ensure that the Agency has continued access to the critical skills and competencies described in subparagraph (A);

"(2) a plan of action for developing and reshaping the workforce of the Agency to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

"(A) specific recruitment and retention goals, including the use of the bonus authorities under this chapter as well as other bonus authorities (including the program objective of the Agency to be achieved through such goals);

"(B) specific strategies for developing, training, deploying, compensating, and motivating and retaining the Agency workforce and its ability to fulfill the Agency's mission and responsibilities (including the program objectives of the Department and the Agency to be achieved through such strategies);

"(C) specific strategies for recruiting individuals who have served in multiple State agencies with emergency management responsibilities; and

"(D) specific strategies for the development, training, and coordinated and rapid deployment of the Surge Capacity Force; and

"(3) a discussion that—

"(A) details the number of employees of the Department not employed by the Agency serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

"(B) details the number of individuals not employed by the Department serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

"(C) describes the training given to the Surge Capacity Force during the calendar year preceding the year of submission of the plan under subsection (c);

"(D) states whether the Surge Capacity Force is able to adequately prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

"(E) describes any additional authorities or resources necessary to address any deficiencies in the Surge Capacity Force.

"(c) ANNUAL UPDATES.—Not later than May 1, 2007, and May 1st of each of the next 5 succeeding years, the Administrator shall submit to the appropriate committees of Congress an update of the strategic human capital plan, including an assessment by the Administrator, using results-oriented performance measures, of the progress of the Department and the Agency in implementing the strategic human capital plan.

**"§ 10103. Career paths**

"(a) IN GENERAL.—The Administrator shall—

"(1) ensure that appropriate career paths for personnel of the Agency are identified, including the education, training, experience, and assignments necessary for career progression within the Agency; and

"(2) publish information on the career paths described in paragraph (1).

"(b) EDUCATION, TRAINING, AND EXPERIENCE.—The Administrator shall ensure that all personnel of the Agency are provided the opportunity to acquire the education, training, and experience necessary to qualify for promotion within the Agency, including, as appropriate, the opportunity to participate in the Rotation Program established under section 844 of the Homeland Security Act of 2002.

"(c) POLICY.—The Administrator shall establish a policy for assigning Agency personnel to positions that provides for a balance between—

"(1) the need for such personnel to serve in career enhancing positions; and

"(2) the need to require service in a position for a sufficient period of time to provide the stability necessary—

"(A) to carry out the duties of that position; and

"(B) for responsibility and accountability for actions taken in that position.

**"§ 10104. Recruitment bonuses**

"(a) IN GENERAL.—The Administrator may pay a bonus to an individual in order to recruit the individual for a position within the Agency that would otherwise be difficult to fill in the absence of such a bonus. Upon completion of the strategic human capital plan, such bonuses shall be paid in accordance with that plan.

"(b) BONUS AMOUNT.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the Administrator, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(c) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Agency. The agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

"(d) ELIGIBILITY.—A bonus under this section may not be paid to an individual who is appointed to or holds—

"(1) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(2) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(3) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(e) TERMINATION.—The authority to pay bonuses under this section shall terminate 5 years after the date of enactment of this chapter.

"(f) REPORTS.—

"(1) IN GENERAL.—The Agency shall submit to the appropriate committees of Congress, annually for each of the 5 years during which this section is in effect, a report on the operation of this section.

"(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, including—

"(A) the number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

"(B) a determination of the extent to which such bonuses furthered the purposes of this section.

**"§ 10105. Retention bonuses**

"(a) AUTHORITY.—The Administrator may pay, on a case-by-case basis, a bonus under this section to an employee of the Agency if—

"(1) the unusually high or unique qualifications of the employee or a special need of the Agency for the employee's services makes it essential to retain the employee; and

"(2) the Administrator determines that, in the absence of such a bonus, the employee would be likely to leave—

"(A) the Federal service; or

"(B) for a different position in the Federal service.

"(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Agency to complete a period of service with the Agency. Such agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

"(c) BONUS AMOUNT.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the Administrator, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(d) LIMITATION.—A bonus under this section—

"(1) may not be based on any period of service which is the basis for a recruitment bonus under section 10104;

"(2) may not be paid to an individual who is appointed to or holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; and

"(3) upon completion of the strategic human capital plan, shall be paid in accordance with that plan.

"(e) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this section shall expire 5 years after the date of enactment of this chapter.

"(f) REPORTS.—

"(1) IN GENERAL.—The Office of Personnel Management shall submit to the appropriate committees of Congress, annually for each of the first 5 years during which this section is in effect, a report on the operation of this section.

"(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, including, with respect to each such agency—

"(A) the number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

"(B) a determination of the extent to which such bonuses furthered the purposes of this section.

**"§ 10106. Quarterly report on vacancy rate in employee positions**

"(a) INITIAL REPORT.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a report on the vacancies in employee positions of the Agency.

"(2) CONTENTS.—The report under this subsection shall include—

"(A) vacancies of each category of employee position;

"(B) the number of applicants for each vacancy for which public notice has been given;

"(C) the length of time that each vacancy has been pending;

"(D) hiring-cycle time for each vacancy that has been filled; and

"(E) a plan for reducing the hiring-cycle time and reducing the current and anticipated vacancies with highly-qualified personnel.

"(b) QUARTERLY UPDATES.—Not later than 3 months after submission of the initial report, and every 3 months thereafter until 5 years after the date of enactment of this chapter, the Administrator shall submit to the appropriate committees of Congress an update of the report under subsection (a), including an assessment by the Administrator of the progress of the Agency in filling vacant employee positions of the Agency.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for part III title 5, United States Code, is amended by inserting after the item relating to chapter 99 the following:

"101 Federal Emergency Management Agency Personnel .....10101".

**SEC. 622. ESTABLISHMENT OF HOMELAND SECURITY ROTATION PROGRAM AT THE DEPARTMENT OF HOMELAND SECURITY.**

(a) ESTABLISHMENT.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 843 the following:

6 USC 414.

**"SEC. 844. HOMELAND SECURITY ROTATION PROGRAM.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish the Homeland Security Rotation Program (in this section referred to as the 'Rotation Program') for employees of the Department. The Rotation Program shall use applicable best practices, including those from the Chief Human Capital Officers Council.

"(2) GOALS.—The Rotation Program established by the Secretary shall—

"(A) be established in accordance with the Human Capital Strategic Plan of the Department;

"(B) provide middle and senior level employees in the Department the opportunity to broaden their knowledge through exposure to other components of the Department;

"(C) expand the knowledge base of the Department by providing for rotational assignments of employees to other components;

"(D) build professional relationships and contacts among the employees in the Department;

"(E) invigorate the workforce with exciting and professionally rewarding opportunities;

"(F) incorporate Department human capital strategic plans and activities, and address critical human capital deficiencies, recruitment and retention efforts, and succession planning within the Federal workforce of the Department; and

"(G) complement and incorporate (but not replace) rotational programs within the Department in effect on the date of enactment of this section.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—The Chief Human Capital Officer shall administer the Rotation Program.

"(B) RESPONSIBILITIES.—The Chief Human Capital Officer shall—

"(i) provide oversight of the establishment and implementation of the Rotation Program;

"(ii) establish a framework that supports the goals of the Rotation Program and promotes cross-disciplinary rotational opportunities;

"(iii) establish eligibility for employees to participate in the Rotation Program and select participants from employees who apply;

"(iv) establish incentives for employees to participate in the Rotation Program, including promotions and employment preferences;

"(v) ensure that the Rotation Program provides professional education and training;

"(vi) ensure that the Rotation Program develops qualified employees and future leaders with broad-based experience throughout the Department;

"(vii) provide for greater interaction among employees in components of the Department; and

"(viii) coordinate with rotational programs within the Department in effect on the date of enactment of this section.

"(4) ALLOWANCES, PRIVILEGES, AND BENEFITS.—All allowances, privileges, rights, seniority, and other benefits of employees participating in the Rotation Program shall be preserved.

"(5) REPORTING.—Not later than 180 days after the date of the establishment of the Rotation Program, the Secretary shall submit a report on the status of the Rotation Program, including a description of the Rotation Program, the number of employees participating, and how the Rotation Program is used in succession planning and leadership development to the appropriate committees of Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 843 the following:

"Sec. 844. Homeland Security Rotation Program.".

**SEC. 623. HOMELAND SECURITY EDUCATION PROGRAM.**

(a) ESTABLISHMENT.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 844 (as added by section 622 of this Act) the following:

6 USC 415.

**"SEC. 845. HOMELAND SECURITY EDUCATION PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator, shall establish a graduate-level Homeland Security Education Program in the National Capital Region to provide educational opportunities to senior Federal officials and selected State and local officials with homeland security and emergency management responsibilities. The Administrator shall appoint an individual to administer the activities under this section.

"(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, exercise systems and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.

"(c) STUDENT ENROLLMENT.—

"(1) SOURCES.—The student body of the Program shall include officials from Federal, State, local, and tribal governments, and from other sources designated by the Administrator.

"(2) ENROLLMENT PRIORITIES AND SELECTION CRITERIA.—The Administrator shall establish policies governing student enrollment priorities and selection criteria that are consistent with the mission of the Program.

"(3) DIVERSITY.—The Administrator shall take reasonable steps to ensure that the student body represents racial, gender, and ethnic diversity.

"(d) SERVICE COMMITMENT.—

"(1) IN GENERAL.—Before any employee selected for the Program may be assigned to participate in the program, the employee shall agree in writing—

"(A) to continue in the service of the agency sponsoring the employee during the 2-year period beginning on the date on which the employee completes the program, unless the employee is involuntarily separated from the service of that agency for reasons other than a reduction in force; and

"(B) to pay to the Government the amount of the additional expenses incurred by the Government in connection with the employee's education if the employee is voluntarily separated from the service to the agency before the end of the period described in subparagraph (A).

"(2) PAYMENT OF EXPENSES.—

"(A) EXEMPTION.—An employee who leaves the service of the sponsoring agency to enter into the service of another agency in any branch of the Government shall not be required to make a payment under paragraph (1)(B), unless the head of the agency that sponsored the education of the employee notifies that employee before the date on

which the employee enters the service of the other agency that payment is required under that paragraph.

"(B) AMOUNT OF PAYMENT.—If an employee is required to make a payment under paragraph (1)(B), the agency that sponsored the education of the employee shall determine the amount of the payment, except that such amount may not exceed the pro rata share of the expenses incurred for the time remaining in the 2-year period.

"(3) RECOVERY OF PAYMENT.—If an employee who is required to make a payment under this subsection does not make the payment, a sum equal to the amount of the expenses incurred by the Government for the education of that employee is recoverable by the Government from the employee or his estate by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

"(B) such other method as is provided by lay for the recovery of amounts owing to the Government.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. et seq.), as amended by section 622, is amended by inserting after the item relating to section 844 the following:

"Sec. 845. Homeland Security Education Program.".

**SEC. 624. SURGE CAPACITY FORCE.**

6 USC 711.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall prepare and submit to the appropriate committees of Congress a plan to establish and implement a Surge Capacity Force for deployment of individuals to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

Deadline.
Plan.

(2) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the plan shall provide for individuals in the Surge Capacity Force to be trained and deployed under the authorities set forth in the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(B) EXCEPTION.—If the Administrator determines that the existing authorities are inadequate for the training and deployment of individuals in the Surge Capacity Force, the Administrator shall report to Congress as to the additional statutory authorities that the Administrator determines necessary.

(b) EMPLOYEES DESIGNATED TO SERVE.—The plan shall include procedures under which the Secretary shall designate employees of the Department who are not employees of the Agency and shall, in conjunction with the heads of other Executive agencies, designate employees of those other Executive agencies, as appropriate, to serve on the Surge Capacity Force.

(c) CAPABILITIES.—The plan shall ensure that the Surge Capacity Force—

(1) includes a sufficient number of individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, that are capable of deploying

rapidly and efficiently after activation to prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

(2) includes a sufficient number of full-time, highly trained individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, to lead and manage the Surge Capacity Force.

(d) TRAINING.—The plan shall ensure that the Administrator provides appropriate and continuous training to members of the Surge Capacity Force to ensure such personnel are adequately trained on the Agency's programs and policies for natural disasters, acts of terrorism, and other man-made disasters.

(e) NO IMPACT ON AGENCY PERSONNEL CEILING.—Surge Capacity Force members shall not be counted against any personnel ceiling applicable to the Federal Emergency Management Agency.

(f) EXPENSES.—The Administrator may provide members of the Surge Capacity Force with travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for the purpose of participating in any training that relates to service as a member of the Surge Capacity Force.

(g) IMMEDIATE IMPLEMENTATION OF SURGE CAPACITY FORCE INVOLVING FEDERAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Administrator shall develop and implement—

(1) the procedures under subsection (b); and

(2) other elements of the plan needed to establish the portion of the Surge Capacity Force consisting of individuals designated under those procedures.

## CHAPTER 2—EMERGENCY MANAGEMENT CAPABILITIES

### SEC. 631. STATE CATASTROPHIC INCIDENT ANNEX.

Section 613 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b) is amended—

(1) in subsection (b)(3) by inserting "including a catastrophic incident annex," after "plans,"; and

(2) by redesignating subsections (c) through (g) and subsections (d) through (h), respectively; and

(3) by inserting after subsection (b) the following:

"(c) CATASTROPHIC INCIDENT ANNEX.—

"(1) CONSISTENCY.—A catastrophic incident annex submitted under subsection (b)(3) shall be—

"(A) modeled after the catastrophic incident annex of the National Response Plan; and

"(B) consistent with the national preparedness goal established under section 643 of the Post-Katrina Emergency Management Reform Act of 2006, the National Incident Management System, the National Response Plan, and other related plans and strategies.

"(2) CONSULTATION.—In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.".

**SEC. 632. EVACUATION PREPAREDNESS TECHNICAL ASSISTANCE.** 6 USC 721.

The Administrator, in coordination with the heads of other appropriate Federal agencies, shall provide evacuation preparedness technical assistance to State, local, and tribal governments, including the preparation of hurricane evacuation studies and technical assistance in developing evacuation plans, assessing storm surge estimates, evacuation zones, evacuation clearance times, transportation capacity, and shelter capacity.

**SEC. 633. EMERGENCY RESPONSE TEAMS.**

Section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) is amended—

(1) by striking "sec. 303." and all that follows through "The President shall" and inserting the following:

**"SEC. 303. EMERGENCY SUPPORT AND RESPONSE TEAMS.**

"(a) EMERGENCY SUPPORT TEAMS.—The President shall"; and

(2) by adding at the end the following:

"(b) EMERGENCY RESPONSE TEAMS.—

"(1) ESTABLISHMENT.—In carrying out subsection (a), the President, acting through the Director of the Federal Emergency Management Agency, shall establish—

"(A) at a minimum 3 national response teams; and

"(B) sufficient regional response teams, including Regional Office strike teams under section 507 of the Homeland Security Act of 2002; and

"(C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.

"(2) TARGET CAPABILITY LEVEL.—The Director shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.

"(3) PERSONNEL.—The President, acting through the Director, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

"(4) READINESS REPORTING.—The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.".

**SEC. 634. URBAN SEARCH AND RESCUE RESPONSE SYSTEM.** 6 USC 722.

(a) IN GENERAL.—There is in the Agency a system known as the Urban Search and Rescue Response System.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the system for fiscal year 2008, an amount equal to the amount appropriated for the system for fiscal year 2007 and an additional $20,000,000.

**SEC. 635. METROPOLITAN MEDICAL RESPONSE GRANT PROGRAM.** 6 USC 723.

(a) IN GENERAL.—There is a Metropolitan Medical Response Program.

(b) PURPOSES.—The program shall include each purpose of the program as it existed on June 1, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $30,000,000.

6 USC 724.

**SEC. 636. LOGISTICS.**

The Administrator shall develop an efficient, transparent, and flexible logistics system for procurement and delivery of goods and services necessary for an effective and timely response to natural disasters, acts of terrorism, and other man-made disasters and for real-time visibility of items at each point throughout the logistics system.

6 USC 725.

**SEC. 637. PREPOSITIONED EQUIPMENT PROGRAM.**

(a) IN GENERAL.—The Administrator shall establish a prepositioned equipment program to preposition standardized emergency equipment in at least 11 locations to sustain and replenish critical assets used by State, local, and tribal governments in response to (or rendered inoperable by the effects of) natural disasters, acts of terrorism, and other man-made disasters.

Deadline.

(b) NOTICE.—The Administrator shall notify State, local, and tribal officials in an area in which a location for the prepositioned equipment program will be closed not later than 60 days before the date of such closure.

**SEC. 638. HURRICANE KATRINA AND HURRICANE RITA RECOVERY OFFICES.**

(a) ESTABLISHMENT.—In order to provide all eligible Federal assistance to individuals and State, local, and tribal governments affected by Hurricane Katrina or Hurricane Rita in a customer-focused, expeditious, effective, and consistent manner, the Administrator shall establish, in coordination with the appropriate States, a recovery office. The Administrator may establish recovery offices for each of the following States, if necessary:

(1) Mississippi.
(2) Louisiana.
(3) Alabama.
(4) Texas.

(b) STRUCTURE.—Each recovery office shall have an executive director, appointed by the Administrator, and a senior management team.

(c) RESPONSIBILITIES.—Each executive director, in coordination with State, local, and tribal governments, private sector entities, and nongovernmental organizations, including faith-based and other community humanitarian relief entities, shall provide assistance in a timely and effective manner to residents of the Gulf Coast region for recovering from Hurricane Katrina or Hurricane Rita.

(d) STAFFING.—

(1) IN GENERAL.—Each recovery office shall be staffed by multi-year term, temporary employees and permanent employees.

(2) STAFFING LEVELS.—Staffing levels of a recovery office shall be commensurate with current and projected workload and shall be evaluated on a regular basis.

(e) PERFORMANCE MEASURES.—To ensure that each recovery office is meeting its objectives, the Administrator shall identify

performance measures that are specific, measurable, achievable, relevant, and timed, including—

(1) public assistance program project worksheet completion rates; and

(2) public assistance reimbursement times.

(f) CLOSEOUT INCENTIVES.—The Administrator shall provide incentives for the timely closeout of public assistance projects under sections 406 and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172 and 5173).

(g) TERMINATION.—Each recovery office shall terminate at the discretion of the Administrator.

**SEC. 639. BASIC LIFE SUPPORTING FIRST AID AND EDUCATION.** 6 USC 726.

The Administrator shall enter into agreements with organizations to provide funds to emergency response providers to provide education and training in life supporting first aid to children.

**SEC. 640. IMPROVEMENTS TO INFORMATION TECHNOLOGY SYSTEMS.** 6 USC 727.

(a) MEASURES TO IMPROVE INFORMATION TECHNOLOGY SYSTEMS.—The Administrator, in coordination with the Chief Information Officer of the Department, shall take appropriate measures to update and improve the information technology systems of the Agency, including measures to—

(1) ensure that the multiple information technology systems of the Agency (including the National Emergency Management Information System, the Logistics Information Management System III, and the Automated Deployment Database) are, to the extent practicable, fully compatible and can share and access information, as appropriate, from each other;

(2) ensure technology enhancements reach the headquarters and regional offices of the Agency in a timely fashion, to allow seamless integration;

(3) develop and maintain a testing environment that ensures that all system components are properly and thoroughly tested before their release;

(4) ensure that the information technology systems of the Agency have the capacity to track disaster response personnel, mission assignments task orders, commodities, and supplies used in response to a natural disaster, act of terrorism, or other man-made disaster;

(5) make appropriate improvements to the National Emergency Management Information System to address shortcomings in such system on the date of enactment of this Act; and

(6) provide training, manuals, and guidance on information technology systems to personnel, including disaster response personnel, to help ensure employees can properly use information technology systems.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing the implementation of this section, including a description of any actions taken, improvements made, and remaining problems and a description of any additional funding needed to make necessary and appropriate improvements to the information technology systems of the Agency. Deadline.

6 USC 728.

**SEC. 640a. DISCLOSURE OF CERTAIN INFORMATION TO LAW ENFORCEMENT AGENCIES.**

In the event of circumstances requiring an evacuation, sheltering, or mass relocation, the Administrator may disclose information in any individual assistance database of the Agency in accordance with section 552a(b) of title 5, United States Code (commonly referred to as the "Privacy Act"), to any law enforcement agency of the Federal Government or a State, local, or tribal government in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws.

# Subtitle C—Comprehensive Preparedness System

## CHAPTER 1—NATIONAL PREPAREDNESS SYSTEM

6 USC 741.

**SEC. 641. DEFINITIONS.**

In this chapter:

(1) CAPABILITY.—The term "capability" means the ability to provide the means to accomplish one or more tasks under specific conditions and to specific performance standards. A capability may be achieved with any combination of properly planned, organized, equipped, trained, and exercised personnel that achieves the intended outcome.

(2) HAZARD.—The term "hazard" has the meaning given that term under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5195a).

(3) MISSION ASSIGNMENT.—The term "mission assignment" means a work order issued to a Federal agency by the Agency, directing completion by that agency of a specified task and setting forth funding, other managerial controls, and guidance.

(4) NATIONAL PREPAREDNESS GOAL.—The term "national preparedness goal" means the national preparedness goal established under section 643.

(5) NATIONAL PREPAREDNESS SYSTEM.—The term "national preparedness system" means the national preparedness system established under section 644.

(6) NATIONAL TRAINING PROGRAM.—The term "national training program" means the national training program established under section 648(a).

(7) OPERATIONAL READINESS.—The term "operational readiness" means the capability of an organization, an asset, a system, or equipment to perform the missions or functions for which it is organized or designed.

(8) PERFORMANCE MEASURE.—The term "performance measure" means a quantitative or qualitative characteristic used to gauge the results of an outcome compared to its intended purpose.

(9) PERFORMANCE METRIC.—The term "performance metric" means a particular value or characteristic used to measure the outcome that is generally expressed in terms of a baseline and a target.

(10) PREVENTION.—The term "prevention" means any activity undertaken to avoid, prevent, or stop a threatened or actual act of terrorism.

**SEC. 642. NATIONAL PREPAREDNESS.** 6 USC 742.

In order to prepare the Nation for all hazards, including natural disasters, acts of terrorism, and other man-made disasters, the President, consistent with the declaration of policy under section 601 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195) and title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by this Act, shall develop a national preparedness goal and a national preparedness system.

**SEC. 643. NATIONAL PREPAREDNESS GOAL.** 6 USC 743.

(a) ESTABLISHMENT.—The President, acting through the Administrator, shall complete, revise, and update, as necessary, a national preparedness goal that defines the target level of preparedness to ensure the Nation's ability to prevent, respond to, recover from, and mitigate against natural disasters, acts of terrorism, and other man-made disasters.

(b) NATIONAL INCIDENT MANAGEMENT SYSTEM AND NATIONAL RESPONSE PLAN.—The national preparedness goal, to the greatest extent practicable, shall be consistent with the National Incident Management System and the National Response Plan.

**SEC. 644. ESTABLISHMENT OF NATIONAL PREPAREDNESS SYSTEM.** 6 USC 744.

(a) ESTABLISHMENT.—The President, acting through the Administrator, shall develop a national preparedness system to enable the Nation to meet the national preparedness goal.

(b) COMPONENTS.—The national preparedness system shall include the following components:

(1) Target capabilities and preparedness priorities.
(2) Equipment and training standards.
(3) Training and exercises.
(4) Comprehensive assessment system.
(5) Remedial action management program.
(6) Federal response capability inventory.
(7) Reporting requirements.
(8) Federal preparedness.

(c) NATIONAL PLANNING SCENARIOS.—The national preparedness system may include national planning scenarios.

**SEC. 645. NATIONAL PLANNING SCENARIOS.** 6 USC 745.

(a) IN GENERAL.—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, may develop planning scenarios to reflect the relative risk requirements presented by all hazards, including natural disasters, acts of terrorism, and other man-made disasters, in order to provide the foundation for the flexible and adaptive development of target capabilities and the identification of target capability levels to meet the national preparedness goal.

(b) DEVELOPMENT.—In developing, revising, and replacing national planning scenarios, the Administrator shall ensure that the scenarios—

(1) reflect the relative risk of all hazards and illustrate the potential scope, magnitude, and complexity of a broad range of representative hazards; and

(2) provide the minimum number of representative scenarios necessary to identify and define the tasks and target capabilities required to respond to all hazards.

6 USC 746.

**SEC. 646. TARGET CAPABILITIES AND PREPAREDNESS PRIORITIES.**

Deadline.

(a) ESTABLISHMENT OF GUIDELINES ON TARGET CAPABILITIES.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall complete, revise, and update, as necessary, guidelines to define risk-based target capabilities for Federal, State, local, and tribal government preparedness that will enable the Nation to prevent, respond to, recover from, and mitigate against all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

(b) DISTRIBUTION OF GUIDELINES.—The Administrator shall ensure that the guidelines are provided promptly to the appropriate committees of Congress and the States.

(c) OBJECTIVES.—The Administrator shall ensure that the guidelines are specific, flexible, and measurable.

(d) TERRORISM RISK ASSESSMENT.—With respect to analyzing and assessing the risk of acts of terrorism, the Administrator shall consider—

(1) the variables of threat, vulnerability, and consequences related to population (including transient commuting and tourist populations), areas of high population density, critical infrastructure, coastline, and international borders; and

(2) the most current risk assessment available from the Chief Intelligence Officer of the Department of the threats of terrorism against the United States.

(e) PREPAREDNESS PRIORITIES.—In establishing the guidelines under subsection (a), the Administrator shall establish preparedness priorities that appropriately balance the risk of all hazards, including natural disasters, acts of terrorism, and other man-made disasters, with the resources required to prevent, respond to, recover from, and mitigate against the hazards.

(f) MUTUAL AID AGREEMENTS.—The Administrator may provide support for the development of mutual aid agreements within States.

6 USC 747.

**SEC. 647. EQUIPMENT AND TRAINING STANDARDS.**

(a) EQUIPMENT STANDARDS.—

(1) IN GENERAL.—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, shall support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for the performance, use, and validation of equipment used by Federal, State, local, and tribal governments and non-governmental emergency response providers.

(2) REQUIREMENTS.—The national voluntary consensus standards shall—

(A) be designed to achieve equipment and other capabilities consistent with the national preparedness goal, including the safety and health of emergency response providers;

(B) to the maximum extent practicable, be consistent with existing national voluntary consensus standards;

(C) take into account, as appropriate, threats that may not have been contemplated when the existing standards were developed; and

(D) focus on maximizing operability, interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.

(b) TRAINING STANDARDS.—The Administrator shall—

(1) support the development, promulgation, and regular updating, as necessary, of national voluntary consensus standards for training; and

(2) ensure that the training provided under the national training program is consistent with the standards.

(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In carrying out this section, the Administrator shall consult with representatives of relevant public and private sector national voluntary consensus standards development organizations.

**SEC. 648. TRAINING AND EXERCISES.** 6 USC 748.

(a) NATIONAL TRAINING PROGRAM.—

(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall carry out a national training program to implement the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies. Deadline.

(2) TRAINING PARTNERS.—In developing and implementing the national training program, the Administrator shall—

(A) work with government training facilities, academic institutions, private organizations, and other entities that provide specialized, state-of-the-art training for emergency managers or emergency response providers; and

(B) utilize, as appropriate, training courses provided by community colleges, State and local public safety academies, State and private universities, and other facilities.

(b) NATIONAL EXERCISE PROGRAM.—

(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall carry out a national exercise program to test and evaluate the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies. Deadline.

(2) REQUIREMENTS.—The national exercise program—

(A) shall be—

(i) as realistic as practicable, based on current risk assessments, including credible threats, vulnerabilities, and consequences, and designed to stress the national preparedness system;

(ii) designed, as practicable, to simulate the partial or complete incapacitation of a State, local, or tribal government;

(iii) carried out, as appropriate, with a minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

(iv) designed to provide for systematic evaluation of readiness; and

(v) designed to address the unique requirements of populations with special needs; and

(B) shall provide assistance to State, local, and tribal governments with the design, implementation, and evaluation of exercises that—

(i) conform to the requirements under subparagraph (A);

(ii) are consistent with any applicable State, local, or tribal strategy or plan; and

(iii) provide for systematic evaluation of readiness.

(3) NATIONAL LEVEL EXERCISES.—The Administrator shall periodically, but not less than biennially, perform national exercises for the following purposes:

(A) To test and evaluate the capability of Federal, State, local, and tribal governments to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction.

(B) To test and evaluate the readiness of Federal, State, local, and tribal governments to respond and recover in a coordinated and unified manner to catastrophic incidents.

6 USC 749.

**SEC. 649. COMPREHENSIVE ASSESSMENT SYSTEM.**

(a) ESTABLISHMENT.—The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a comprehensive system to assess, on an ongoing basis, the Nation's prevention capabilities and overall preparedness, including operational readiness.

(b) PERFORMANCE METRICS AND MEASURES.—The Administrator shall ensure that each component of the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies, and the reports required under section 652 is developed, revised, and updated with clear and quantifiable performance metrics, measures, and outcomes.

(c) CONTENTS.—The assessment system established under subsection (a) shall assess—

(1) compliance with the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies;

(2) capability levels at the time of assessment against target capability levels defined pursuant to the guidelines established under section 646(a);

(3) resource needs to meet the desired target capability levels defined pursuant to the guidelines established under section 646(a); and

(4) performance of training, exercises, and operations.

6 USC 750.

**SEC. 650. REMEDIAL ACTION MANAGEMENT PROGRAM.**

The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a remedial action management program to—

(1) analyze training, exercises, and real-world events to identify and disseminate lessons learned and best practices;

(2) generate and disseminate, as appropriate, after action reports to participants in exercises and real-world events; and

(3) conduct remedial action tracking and long-term trend analysis.

**SEC. 651. FEDERAL RESPONSE CAPABILITY INVENTORY.** 6 USC 751.

(a) IN GENERAL.—In accordance with section 611(h)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)(1)(C), the Administrator shall accelerate the completion of the inventory of Federal response capabilities.

(b) CONTENTS.—The inventory shall include—

(1) for each capability—

(A) the performance parameters of the capability;

(B) the timeframe within which the capability can be brought to bear on an incident; and

(C) the readiness of the capability to respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters; and

(2) emergency communications assets maintained by the Federal Government and, if appropriate, State, local, and tribal governments and the private sector.

(c) DEPARTMENT OF DEFENSE.—The Administrator, in coordination with the Secretary of Defense, shall develop a list of organizations and functions within the Department of Defense that may be used, pursuant to the authority provided under the National Response Plan and sections 402, 403, and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5192), to provide support to civil authorities during natural disasters, acts of terrorism, and other man-made disasters.

(d) DATABASE.—The Administrator shall establish an inventory database to allow—

(1) real-time exchange of information regarding capabilities, readiness, or the compatibility of equipment;

(2) easy identification and rapid deployment during an incident; and

(3) the sharing of inventories with other Federal agencies, as appropriate.

**SEC. 652. REPORTING REQUIREMENTS.** 6 USC 752.

(a) FEDERAL PREPAREDNESS REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Administrator, in coordination with the heads of appropriate Federal agencies, shall submit to the appropriate committees of Congress a report on the Nation's level of preparedness for all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

(2) CONTENTS.—Each report shall include—

(A) an assessment of how Federal assistance supports the national preparedness system;

(B) the results of the comprehensive assessment carried out under section 649;

(C) a review of the inventory described in section 651(a); and

(D) an assessment of resource needs to meet preparedness priorities established under section 646(e), including—

(i) an estimate of the amount of Federal, State, local, and tribal expenditures required to attain the preparedness priorities; and

(ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.

(b) CATASTROPHIC RESOURCE REPORT.—

(1) IN GENERAL.—The Administrator shall develop and submit to the appropriate committees of Congress annually an estimate of the resources of the Agency and other Federal agencies needed for and devoted specifically to developing the capabilities of Federal, State, local, and tribal governments necessary to respond to a catastrophic incident.

(2) CONTENTS.—Each estimate under paragraph (1) shall include the resources both necessary for and devoted to—

(A) planning;

(B) training and exercises;

(C) Regional Office enhancements;

(D) staffing, including for surge capacity during a catastrophic incident;

(E) additional logistics capabilities;

(F) other responsibilities under the catastrophic incident annex and the catastrophic incident supplement of the National Response Plan;

(G) State, local, and tribal government catastrophic incident preparedness; and

(H) covering increases in the fixed costs or expenses of the Agency, including rent or property acquisition costs or expenses, taxes, contributions to the working capital fund of the Department, and security costs for the year after the year in which such estimate is submitted.

(c) STATE PREPAREDNESS REPORT.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, and annually thereafter, a State receiving Federal preparedness assistance administered by the Department shall submit a report to the Administrator on the State's level of preparedness.

(2) CONTENTS.—Each report shall include—

(A) an assessment of State compliance with the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies;

(B) an assessment of current capability levels and a description of target capability levels; and

(C) an assessment of resource needs to meet the preparedness priorities established under section 646(e), including—

(i) an estimate of the amount of expenditures required to attain the preparedness priorities; and

(ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.

6 USC 753.

**SEC. 653. FEDERAL PREPAREDNESS.**

(a) AGENCY RESPONSIBILITY.—In support of the national preparedness system, the President shall ensure that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan—

(1) has the operational capability to meet the national preparedness goal, including—

(A) the personnel to make and communicate decisions;

(B) organizational structures that are assigned, trained, and exercised for the missions of the agency;

(C) sufficient physical resources; and

(D) the command, control, and communication channels to make, monitor, and communicate decisions;

(2) complies with the National Incident Management System;

(3) develops, trains, and exercises rosters of response personnel to be deployed when the agency is called upon to support a Federal response; and

(4) develops deliberate operational plans and the corresponding capabilities, including crisis planning, to respond effectively to natural disasters, acts of terrorism, and other man-made disasters in support of the National Response Plan to ensure a coordinated Federal response.

(b) OPERATIONAL PLANS.—An operations plan developed under subsection (a)(4) shall meet the following requirements:

(1) The operations plan shall be coordinated under a unified system with a common terminology, approach, and framework.

(2) The operations plan shall be developed, in coordination with State, local, and tribal government officials, to address both regional and national risks.

(3) The operations plan shall contain, as appropriate, the following elements:

(A) Concepts of operations.

(B) Critical tasks and responsibilities.

(C) Detailed resource and personnel requirements, together with sourcing requirements.

(D) Specific provisions for the rapid integration of the resources and personnel of the agency into the overall response.

(4) The operations plan shall address, as appropriate, the following matters:

(A) Support of State, local, and tribal governments in conducting mass evacuations, including—

(i) transportation and relocation;

(ii) short- and long-term sheltering and accommodation;

(iii) provisions for populations with special needs, keeping families together, and expeditious location of missing children; and

(iv) policies and provisions for pets.

(B) The preparedness and deployment of public health and medical resources, including resources to address the needs of evacuees and populations with special needs.

(C) The coordination of interagency search and rescue operations, including land, water, and airborne search and rescue operations.

(D) The roles and responsibilities of the Senior Federal Law Enforcement Official with respect to other law enforcement entities.

(E) The protection of critical infrastructure.

(F) The coordination of maritime salvage efforts among relevant agencies.

(G) The coordination of Department of Defense and National Guard support of civilian authorities.

(H) To the extent practicable, the utilization of Department of Defense, National Air and Space Administration,

National Oceanic and Atmospheric Administration, and commercial aircraft and satellite remotely sensed imagery.

(I) The coordination and integration of support from the private sector and nongovernmental organizations.

(J) The safe disposal of debris, including hazardous materials, and, when practicable, the recycling of debris.

(K) The identification of the required surge capacity.

(L) Specific provisions for the recovery of affected geographic areas.

(c) MISSION ASSIGNMENTS.—To expedite the provision of assistance under the National Response Plan, the President shall ensure that the Administrator, in coordination with Federal agencies with responsibilities under the National Response Plan, develops prescripted mission assignments, including logistics, communications, mass care, health services, and public safety.

(d) CERTIFICATION.—The President shall certify on an annual basis that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan complies with subsections (a) and (b).

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of Defense with regard to—

(1) the command, control, training, planning, equipment, exercises, or employment of Department of Defense forces; or

(2) the allocation of Department of Defense resources.

6 USC 754.

**SEC. 654. USE OF EXISTING RESOURCES.**

In establishing the national preparedness goal and national preparedness system, the Administrator shall use existing preparedness documents, planning tools, and guidelines to the extent practicable and consistent with this Act.

## CHAPTER 2—ADDITIONAL PREPAREDNESS

6 USC 761.

**SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

(a) IN GENERAL.—The Administrator may make grants to administer the Emergency Management Assistance Compact consented to by the Joint Resolution entitled "Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact" (Public Law 104–321; 110 Stat. 3877).

(b) USES.—A grant under this section shall be used—

(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season;

(2) to administer compact operations on behalf of all member States and territories;

(3) to continue coordination with the Agency and appropriate Federal agencies;

(4) to continue coordination with State, local, and tribal government entities and their respective national organizations; and

(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

(c) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact

to ensure effective coordination of efforts in responding to requests for assistance.

(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $4,000,000 for fiscal year 2008. Such sums shall remain available until expended.

**SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS.** 6 USC 762.

There is authorized to be appropriated for the Emergency Management Performance Grants Program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $175,000,000.

**SEC. 663. TRANSFER OF NOBLE TRAINING CENTER.** 6 USC 763.

The Noble Training Center is transferred to the Center for Domestic Preparedness. The Center for Domestic Preparedness shall integrate the Noble Training Center into the program structure of the Center for Domestic Preparedness.

**SEC. 664. NATIONAL EXERCISE SIMULATION CENTER.** President. 6 USC 764.

The President shall establish a national exercise simulation center that—

(1) uses a mix of live, virtual, and constructive simulations to—

(A) prepare elected officials, emergency managers, emergency response providers, and emergency support providers at all levels of government to operate cohesively;

(B) provide a learning environment for the homeland security personnel of all Federal agencies;

(C) assist in the development of operational procedures and exercises, particularly those based on catastrophic incidents; and

(D) allow incident commanders to exercise decision-making in a simulated environment; and

(2) uses modeling and simulation for training, exercises, and command and control functions at the operational level.

## Subtitle D—Emergency Communications

**SEC. 671. EMERGENCY COMMUNICATIONS.** 21st Century Emergency Communications Act of 2006. 6 USC 101 note.

(a) SHORT TITLE.—This section may be cited as the "21st Century Emergency Communications Act of 2006".

(b) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

## "TITLE XVIII—EMERGENCY COMMUNICATIONS

**"SEC. 1801. OFFICE OF EMERGENCY COMMUNICATIONS.** 6 USC 571.

"(a) IN GENERAL.—There is established in the Department an Office of Emergency Communications.

"(b) DIRECTOR.—The head of the office shall be the Director for Emergency Communications. The Director shall report to the Assistant Secretary for Cybersecurity and Communications.

"(c) RESPONSIBILITIES.—The Director for Emergency Communications shall—

"(1) assist the Secretary in developing and implementing the program described in section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)), except as provided in section 314;

"(2) administer the Department's responsibilities and authorities relating to the SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards;

"(3) administer the Department's responsibilities and authorities relating to the Integrated Wireless Network program;

"(4) conduct extensive, nationwide outreach to support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(5) conduct extensive, nationwide outreach and foster the development of interoperable emergency communications capabilities by State, regional, local, and tribal governments and public safety agencies, and by regional consortia thereof;

"(6) provide technical assistance to State, regional, local, and tribal government officials with respect to use of interoperable emergency communications capabilities;

"(7) coordinate with the Regional Administrators regarding the activities of Regional Emergency Communications Coordination Working Groups under section 1805;

"(8) promote the development of standard operating procedures and best practices with respect to use of interoperable emergency communications capabilities for incident response, and facilitate the sharing of information on such best practices for achieving, maintaining, and enhancing interoperable emergency communications capabilities for such response;

"(9) coordinate, in cooperation with the National Communications System, the establishment of a national response capability with initial and ongoing planning, implementation, and training for the deployment of communications equipment for relevant State, local, and tribal governments and emergency response providers in the event of a catastrophic loss of local and regional emergency communications services;

"(10) assist the President, the National Security Council, the Homeland Security Council, and the Director of the Office of Management and Budget in ensuring the continued operation of the telecommunications functions and responsibilities of the Federal Government, excluding spectrum management;

"(11) establish, in coordination with the Director of the Office for Interoperability and Compatibility, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

"(12) review, in consultation with the Assistant Secretary for Grants and Training, all interoperable emergency communications plans of Federal, State, local, and tribal governments,

including Statewide and tactical interoperability plans, developed pursuant to homeland security assistance administered by the Department, but excluding spectrum allocation and management related to such plans;

"(13) develop and update periodically, as appropriate, a National Emergency Communications Plan under section 1802;

"(14) perform such other duties of the Department necessary to support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(15) perform other duties of the Department necessary to achieve the goal of and maintain and enhance interoperable emergency communications capabilities.

"(d) PERFORMANCE OF PREVIOUSLY TRANSFERRED FUNCTIONS.—The Secretary shall transfer to, and administer through, the Director for Emergency Communications the following programs and responsibilities:

"(1) The SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards.

"(2) The responsibilities of the Chief Information Officer related to the implementation of the Integrated Wireless Network.

"(3) The Interoperable Communications Technical Assistance Program.

"(e) COORDINATION.—The Director for Emergency Communications shall coordinate—

"(1) as appropriate, with the Director of the Office for Interoperability and Compatibility with respect to the responsibilities described in section 314; and

"(2) with the Administrator of the Federal Emergency Management Agency with respect to the responsibilities described in this title.

"(f) SUFFICIENCY OF RESOURCES PLAN.—

"(1) REPORT.—Not later than 120 days after the date of enactment of this section, the Secretary shall submit to Congress a report on the resources and staff necessary to carry out fully the responsibilities under this title.

"(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the validity of the report submitted by the Secretary under paragraph (1). Not later than 60 days after the date on which such report is submitted, the Comptroller General shall submit to Congress a report containing the findings of such review.

Reports.
Deadline.

**"SEC. 1802. NATIONAL EMERGENCY COMMUNICATIONS PLAN.**

6 USC 572.

"(a) IN GENERAL.—The Secretary, acting through the Director for Emergency Communications, and in cooperation with the Department of National Communications System (as appropriate), shall, in cooperation with State, local, and tribal governments, Federal departments and agencies, emergency response providers, and the private sector, develop not later than 180 days after the completion of the baseline assessment under section 1803, and periodically update, a National Emergency Communications Plan to provide recommendations regarding how the United States should—

Deadline.

"(1) support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(2) ensure, accelerate, and attain interoperable emergency communications nationwide.

"(b) COORDINATION.—The Emergency Communications Preparedness Center under section 1806 shall coordinate the development of the Federal aspects of the National Emergency Communications Plan.

"(c) CONTENTS.—The National Emergency Communications Plan shall—

"(1) include recommendations developed in consultation with the Federal Communications Commission and the National Institute of Standards and Technology for a process for expediting national voluntary consensus standards for emergency communications equipment for the purchase and use by public safety agencies of interoperable emergency communications equipment and technologies;

"(2) identify the appropriate capabilities necessary for emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(3) identify the appropriate interoperable emergency communications capabilities necessary for Federal, State, local, and tribal governments in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(4) recommend both short-term and long-term solutions for ensuring that emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(5) recommend both short-term and long-term solutions for deploying interoperable emergency communications systems for Federal, State, local, and tribal governments throughout the Nation, including through the provision of existing and emerging technologies;

"(6) identify how Federal departments and agencies that respond to natural disasters, acts of terrorism, and other man-made disasters can work effectively with State, local, and tribal governments, in all States, and with other entities;

"(7) identify obstacles to deploying interoperable emergency communications capabilities nationwide and recommend short-term and long-term measures to overcome those obstacles, including recommendations for multijurisdictional coordination among Federal, State, local, and tribal governments;

"(8) recommend goals and timeframes for the deployment of emergency, command-level communications systems based on new and existing equipment across the United States and develop a timetable for the deployment of interoperable emergency communications systems nationwide; and

"(9) recommend appropriate measures that emergency response providers should employ to ensure the continued operation of relevant governmental communications infrastructure in the event of natural disasters, acts of terrorism, or other man-made disasters.

**"SEC. 1803. ASSESSMENTS AND REPORTS.** 6 USC 573.

"(a) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and not less than every 5 years thereafter, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments that—

"(1) defines the range of capabilities needed by emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(2) defines the range of interoperable emergency communications capabilities needed for specific events;

"(3) assesses the current available capabilities to meet such communications needs;

"(4) identifies the gap between such current capabilities and defined requirements; and

"(5) includes a national interoperable emergency communications inventory to be completed by the Secretary of Homeland Security, the Secretary of Commerce, and the Chairman of the Federal Communications Commission that—

"(A) identifies for each Federal department and agency—

"(i) the channels and frequencies used;

"(ii) the nomenclature used to refer to each channel or frequency used; and

"(iii) the types of communications systems and equipment used; and

"(B) identifies the interoperable emergency communications systems in use by public safety agencies in the United States.

"(b) CLASSIFIED ANNEX.—The baseline assessment under this section may include a classified annex including information provided under subsection (a)(5)(A).

"(c) SAVINGS CLAUSE.—In conducting the baseline assessment under this section, the Secretary may incorporate findings from assessments conducted before, or ongoing on, the date of enactment of this title.

"(d) PROGRESS REPORTS.—Not later than one year after the date of enactment of this section and biennially thereafter, the Secretary, acting through the Director for Emergency Communications, shall submit to Congress a report on the progress of the Department in achieving the goals of, and carrying out its responsibilities under, this title, including—

"(1) a description of the findings of the most recent baseline assessment conducted under subsection (a);

"(2) a determination of the degree to which interoperable emergency communications capabilities have been attained to date and the gaps that remain for interoperability to be achieved;

"(3) an evaluation of the ability to continue to communicate and to provide and maintain interoperable emergency communications by emergency managers, emergency response providers, and relevant government officials in the event of—

"(A) natural disasters, acts of terrorism, or other man-made disasters, including Incidents of National Significance declared by the Secretary under the National Response Plan; and

"(B) a catastrophic loss of local and regional communications services;

"(4) a list of best practices relating to the ability to continue to communicate and to provide and maintain interoperable emergency communications in the event of natural disasters, acts of terrorism, or other man-made disasters; and

"(A) an evaluation of the feasibility and desirability of the Department developing, on its own or in conjunction with the Department of Defense, a mobile communications capability, modeled on the Army Signal Corps, that could be deployed to support emergency communications at the site of natural disasters, acts of terrorism, or other man-made disasters.

6 USC 574.

**"SEC. 1804. COORDINATION OF DEPARTMENT EMERGENCY COMMUNICATIONS GRANT PROGRAMS.**

"(a) COORDINATION OF GRANTS AND STANDARDS PROGRAMS.—The Secretary, acting through the Director for Emergency Communications, shall ensure that grant guidelines for the use of homeland security assistance administered by the Department relating to interoperable emergency communications are coordinated and consistent with the goals and recommendations in the National Emergency Communications Plan under section 1802.

"(b) DENIAL OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Grants and Planning, and in consultation with the Director for Emergency Communications, may prohibit any State, local, or tribal government from using homeland security assistance administered by the Department to achieve, maintain, or enhance emergency communications capabilities, if—

"(A) such government has not complied with the requirement to submit a Statewide Interoperable Communications Plan as required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f));

"(B) such government has proposed to upgrade or purchase new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards and has not provided a reasonable explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards; and

"(C) as of the date that is 3 years after the date of the completion of the initial National Emergency Communications Plan under section 1802, national voluntary consensus standards for interoperable emergency communications capabilities have not been developed and promulgated.

"(2) STANDARDS.—The Secretary, in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, shall support the development, promulgation, and updating as necessary of national voluntary consensus standards for interoperable emergency communications.

**"SEC. 1805. REGIONAL EMERGENCY COMMUNICATIONS COORDINATION.**

6 USC 575.

"(a) IN GENERAL.—There is established in each Regional Office a Regional Emergency Communications Coordination Working Group (in this section referred to as an 'RECC Working Group'). Each RECC Working Group shall report to the relevant Regional Administrator and coordinate its activities with the relevant Regional Advisory Council.

Establishment.

Reports.

"(b) MEMBERSHIP.—Each RECC Working Group shall consist of the following:

"(1) NON-FEDERAL.—Organizations representing the interests of the following:

"(A) State officials.

"(B) Local government officials, including sheriffs.

"(C) State police departments.

"(D) Local police departments.

"(E) Local fire departments.

"(F) Public safety answering points (9–1–1 services).

"(G) State emergency managers, homeland security directors, or representatives of State Administrative Agencies.

"(H) Local emergency managers or homeland security directors.

"(I) Other emergency response providers as appropriate.

"(2) FEDERAL.—Representatives from the Department, the Federal Communications Commission, and other Federal departments and agencies with responsibility for coordinating interoperable emergency communications with or providing emergency support services to State, local, and tribal governments.

"(c) COORDINATION.—Each RECC Working Group shall coordinate its activities with the following:

"(1) Communications equipment manufacturers and vendors (including broadband data service providers).

"(2) Local exchange carriers.

"(3) Local broadcast media.

"(4) Wireless carriers.

"(5) Satellite communications services.

"(6) Cable operators.

"(7) Hospitals.

"(8) Public utility services.

"(9) Emergency evacuation transit services.

"(10) Ambulance services.

"(11) HAM and amateur radio operators.

"(12) Representatives from other private sector entities and nongovernmental organizations as the Regional Administrator determines appropriate.

"(d) DUTIES.—The duties of each RECC Working Group shall include—

"(1) assessing the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan;

"(2) reporting annually to the relevant Regional Administrator, the Director for Emergency Communications, the Chairman of the Federal Communications Commission, and the Assistant Secretary for Communications and Information of

the Department of Commerce on the status of its region in building robust and sustainable interoperable voice and data emergency communications networks and, not later than 60 days after the completion of the initial National Emergency Communications Plan under section 1802, on the progress of the region in meeting the goals of such plan;

"(3) ensuring a process for the coordination of effective multijurisdictional, multi-agency emergency communications networks for use during natural disasters, acts of terrorism, and other man-made disasters through the expanded use of emergency management and public safety communications mutual aid agreements; and

"(4) coordinating the establishment of Federal, State, local, and tribal support services and networks designed to address the immediate and critical human needs in responding to natural disasters, acts of terrorism, and other man-made disasters.

6 USC 576.

**"SEC. 1806. EMERGENCY COMMUNICATIONS PREPAREDNESS CENTER.**

"(a) ESTABLISHMENT.—There is established the Emergency Communications Preparedness Center (in this section referred to as the 'Center').

"(b) OPERATION.—The Secretary, the Chairman of the Federal Communications Commission, the Secretary of Defense, the Secretary of Commerce, the Attorney General of the United States, and the heads of other Federal departments and agencies or their designees shall jointly operate the Center in accordance with the Memorandum of Understanding entitled, 'Emergency Communications Preparedness Center (ECPC) Charter'.

"(c) FUNCTIONS.—The Center shall—

"(1) serve as the focal point for interagency efforts and as a clearinghouse with respect to all relevant intergovernmental information to support and promote (including specifically by working to avoid duplication, hindrances, and counteractive efforts among the participating Federal departments and agencies)—

"(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(B) interoperable emergency communications;

"(2) prepare and submit to Congress, on an annual basis, a strategic assessment regarding the coordination efforts of Federal departments and agencies to advance—

"(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(B) interoperable emergency communications;

"(3) consider, in preparing the strategic assessment under paragraph (2), the goals stated in the National Emergency Communications Plan under section 1802; and

"(4) perform such other functions as are provided in the Emergency Communications Preparedness Center (ECPC) Charter described in subsection (b)(1).

**"SEC. 1807. URBAN AND OTHER HIGH RISK AREA COMMUNICATIONS CAPABILITIES.** 6 USC 577.

"(a) IN GENERAL.—The Secretary, in consultation with the Chairman of the Federal Communications Commission and the Secretary of Defense, and with appropriate State, local, and tribal government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable emergency communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from natural disasters, acts of terrorism, and other man-made disasters.

"(b) MINIMUM CAPABILITIES.—The interoperable emergency communications capabilities established under subsection (a) shall ensure the ability of all levels of government, emergency response providers, the private sector, and other organizations with emergency response capabilities—

"(1) to communicate with each other in the event of an emergency;

"(2) to have appropriate and timely access to the Information Sharing Environment described in section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 321); and

"(3) to be consistent with any applicable State or Urban Area homeland strategy or plan.

**"SEC. 1808. DEFINITION.** 6 USC 578.

"In this title, the term 'interoperable' has the meaning given the term 'interoperable communications' under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1)).".

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"TITLE XVIII—EMERGENCY COMMUNICATIONS

"Sec. 1801. Office for Emergency Communications.
"Sec. 1802. National Emergency Communications Plan.
"Sec. 1803. Assessments and reports.
"Sec. 1804. Coordination of Federal emergency communications grant programs.
"Sec. 1805. Regional emergency communications coordination.
"Sec. 1806. Emergency Communications Preparedness Center.
"Sec. 1807. Urban and other high risk area communications capabilities.
"Sec. 1808. Definition.".

**SEC. 672. OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.**

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

**"SEC. 314. OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.** 6 USC 195.

"(a) CLARIFICATION OF RESPONSIBILITIES.—The Director of the Office for Interoperability and Compatibility shall—

"(1) assist the Secretary in developing and implementing the science and technology aspects of the program described in subparagraphs (D), (E), (F), and (G) of section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1));

"(2) in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, support the creation of national voluntary consensus standards for interoperable emergency communications;

"(3) establish a comprehensive research, development, testing, and evaluation program for improving interoperable emergency communications;

"(4) establish, in coordination with the Director for Emergency Communications, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

"(5) carry out the Department's responsibilities and authorities relating to research, development, testing, evaluation, or standards-related elements of the SAFECOM Program;

"(6) evaluate and assess new technology in real-world environments to achieve interoperable emergency communications capabilities;

"(7) encourage more efficient use of existing resources, including equipment, to achieve interoperable emergency communications capabilities;

"(8) test public safety communications systems that are less prone to failure, support new nonvoice services, use spectrum more efficiently, and cost less than existing systems;

"(9) coordinate with the private sector to develop solutions to improve emergency communications capabilities and achieve interoperable emergency communications capabilities; and

"(10) conduct pilot projects, in coordination with the Director for Emergency Communications, to test and demonstrate technologies, including data and video, that enhance—

"(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(B) interoperable emergency communications capabilities.

"(b) COORDINATION.—The Director of the Office for Interoperability and Compatibility shall coordinate with the Director for Emergency Communications with respect to the SAFECOM program.

"(c) SUFFICIENCY OF RESOURCES.—The Secretary shall provide the Office for Interoperability and Compatibility the resources and staff necessary to carry out the responsibilities under this section.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 313 the following:

"Sec. 314. Office for Interoperability and Compatibility.".

**SEC. 673. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by this Act, is amended by adding at the end the following:

**"SEC. 315. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.** 6 USC 195a.

"(a) IN GENERAL.—The Under Secretary for Science and Technology, acting through the Director of the Office for Interoperability and Compatibility, shall establish a comprehensive research and development program to support and promote—

"(1) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(2) interoperable emergency communications capabilities among emergency response providers and relevant government officials, including by—

"(A) supporting research on a competitive basis, including through the Directorate of Science and Technology and Homeland Security Advanced Research Projects Agency; and

"(B) considering the establishment of a Center of Excellence under the Department of Homeland Security Centers of Excellence Program focused on improving emergency response providers' communication capabilities.

"(b) PURPOSES.—The purposes of the program established under subsection (a) include—

"(1) supporting research, development, testing, and evaluation on emergency communication capabilities;

"(2) understanding the strengths and weaknesses of the public safety communications systems in use;

"(3) examining how current and emerging technology can make emergency response providers more effective, and how Federal, State, local, and tribal government agencies can use this technology in a coherent and cost-effective manner;

"(4) investigating technologies that could lead to long-term advancements in emergency communications capabilities and supporting research on advanced technologies and potential systemic changes to dramatically improve emergency communications; and

"(5) evaluating and validating advanced technology concepts, and facilitating the development and deployment of interoperable emergency communication capabilities.

"(c) DEFINITIONS.—For purposes of this section, the term 'interoperable', with respect to emergency communications, has the meaning given the term in section 1808.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 314, as added by this Act, the following:

"Sec. 315. Emergency communications interoperability research and development.".

**SEC. 674. 911 AND E911 SERVICES REPORT.**

Not later than 180 days after the date of enactment of this Act, the Chairman of the Federal Communications Commission shall submit a report to Congress on the status of efforts of State, local, and tribal governments to develop plans for rerouting 911 and E911 services in the event that public safety answering points are disabled during natural disasters, acts of terrorism, and other man-made disasters.

6 USC 571 note.

**SEC. 675. SAVINGS CLAUSE.**

Nothing in this subtitle shall be construed to transfer to the Office of Emergency Communications any function, personnel, asset, component, authority, grant program, or liability of the Federal Emergency Management Agency as constituted on June 1, 2006.

## Subtitle E—Stafford Act Amendments

**SEC. 681. GENERAL FEDERAL ASSISTANCE.**

(a) MAJOR DISASTERS.—Section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended—

(1) in paragraph (1), by striking "efforts" and inserting "response or recovery efforts, including precautionary evacuations";

(2) in paragraph (2), by striking the semicolon and inserting ", including precautionary evacuations and recovery;";

(3) in paragraph (3)—

(A) in subparagraph (D), by striking "and" at the end; and

(B) by adding at the end the following:

"(F) recovery activities, including disaster impact assessments and planning;";

(4) in paragraph (4), by striking the period and inserting "; and"; and

(5) by adding at the end the following:

"(5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

"(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

"(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.".

(b) EMERGENCIES.—Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the semicolon and inserting ", including precautionary evacuations;";

(B) in paragraph (6), by striking "and" after the semicolon;

(C) in paragraph (7), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

"(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

"(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.";

(2) in subsection (b), by striking the period and inserting ", including precautionary evacuations."; and

(3) by adding at the end the following:

"(c) GUIDELINES.—The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.". President.

**SEC. 682. NATIONAL DISASTER RECOVERY STRATEGY.** 6 USC 771.

(a) IN GENERAL.—The Administrator, in coordination with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary for Indian Affairs of the Department of the Interior, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council), and representatives of appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Recovery Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

(b) CONTENTS.—The National Disaster Recovery Strategy shall—

(1) outline the most efficient and cost-effective Federal programs that will meet the recovery needs of States, local and tribal governments, and individuals and households affected by a major disaster;

(2) clearly define the role, programs, authorities, and responsibilities of each Federal agency that may be of assistance in providing assistance in the recovery from a major disaster;

(3) promote the use of the most appropriate and cost-effective building materials (based on the hazards present in an area) in any area affected by a major disaster, with the goal of encouraging the construction of disaster-resistant buildings; and

(4) describe in detail the programs that may be offered by the agencies described in paragraph (2), including—

(A) discussing funding issues;

(B) detailing how responsibilities under the National Disaster Recovery Strategy will be shared; and

(C) addressing other matters concerning the cooperative effort to provide recovery assistance.

(c) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Recovery Strategy and any additional authorities necessary to implement any portion of the National Disaster Recovery Strategy.

(2) UPDATE.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1)—

(A) on the same date that any change is made to the National Disaster Recovery Strategy; and

(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

6 USC 772.

**SEC. 683. NATIONAL DISASTER HOUSING STRATEGY.**

(a) IN GENERAL.—The Administrator, in coordination with representatives of the Federal agencies, governments, and organizations listed in subsection (b)(2) of this section, the National Advisory Council, the National Council on Disability, and other entities at the Administrator's discretion, shall develop, coordinate, and maintain a National Disaster Housing Strategy.

(b) CONTENTS.—The National Disaster Housing Strategy shall—

(1) outline the most efficient and cost effective Federal programs that will best meet the short-term and long-term housing needs of individuals and households affected by a major disaster;

(2) clearly define the role, programs, authorities, and responsibilities of each entity in providing housing assistance in the event of a major disaster, including—

(A) the Agency;

(B) the Department of Housing and Urban Development;

(C) the Department of Agriculture;

(D) the Department of Veterans Affairs;

(E) the Department of Health and Human Services;

(F) the Bureau of Indian Affairs;

(G) any other Federal agency that may provide housing assistance in the event of a major disaster;

(H) the American Red Cross; and

(I) State, local, and tribal governments;

(3) describe in detail the programs that may be offered by the entities described in paragraph (2), including—

(A) outlining any funding issues;

(B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and

(C) addressing other matters concerning the cooperative effort to provide housing assistance during a major disaster;

(4) consider methods through which housing assistance can be provided to individuals and households where employment and other resources for living are available;

(5) describe programs directed to meet the needs of special needs and low-income populations and ensure that a sufficient number of housing units are provided for individuals with disabilities;

(6) describe plans for the operation of clusters of housing provided to individuals and households, including access to public services, site management, security, and site density;

(7) describe plans for promoting the repair or rehabilitation of existing rental housing, including through lease agreements or other means, in order to improve the provision of housing to individuals and households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and

(8) describe any additional authorities necessary to carry out any portion of the strategy.

(c) GUIDANCE.—The Administrator should develop and make publicly available guidance on—

(1) types of housing assistance available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to individuals and households affected by an emergency or major disaster;

(2) eligibility for such assistance (including, where appropriate, the continuation of such assistance); and

(3) application procedures for such assistance.

(d) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Housing Strategy, including programs directed to meeting the needs of special needs populations.

(2) UPDATED REPORT.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1)—

(A) on the same date that any change is made to the National Disaster Housing Strategy; and

(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

**SEC. 684. HAZARD MITIGATION GRANT PROGRAM FORMULA.**

The third sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking "7.5 percent" and inserting "15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000".

**SEC. 685. HOUSING ASSISTANCE.**

Section 408(c)(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by inserting "or semi-permanent" after "permanent"; and

(2) by striking "remote".

**SEC. 686. MAXIMUM AMOUNT UNDER INDIVIDUAL ASSISTANCE PROGRAMS.**

Section 408(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)) is amended—

(1) by striking paragraph (2)(C); and

(2) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

**SEC. 687. COORDINATING OFFICERS.**

Section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)) is amended by adding after subsection (c) the following:

"(d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.".

**SEC. 688. DEFINITIONS.**

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended—

(1) by amending paragraph (9) to read as follows:

"(9) PRIVATE NONPROFIT FACILITY.—

"(A) IN GENERAL.—The term 'private nonprofit facility' means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.

"(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term 'private nonprofit facility' includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.";

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).".

**SEC. 689. INDIVIDUALS WITH DISABILITIES.**

Deadline.
6 USC 773.

(a) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under section 513 of the Homeland Security Act of 2002, as added by this Act),

the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for—

(1) the accessibility of, and communications and programs in, shelters, recovery centers, and other facilities; and

(2) devices used in connection with disaster operations, including first aid stations, mass feeding areas, portable payphone stations, portable toilets, and temporary housing.

(b) ESSENTIAL ASSISTANCE.—Section 403(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)) is amended—

(1) in paragraph (2), by inserting "durable medical equipment," after "medicine"; and

(2) in paragraph (3)—

(A) in subparagraph (B), by inserting "durable medical equipment," after "medicine";

(B) in subparagraph (H), by striking "and" at the end;

(C) in subparagraph (I), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(J) provision of rescue, care, shelter, and essential needs—

"(i) to individuals with household pets and service animals; and

"(ii) to such pets and animals.".

(c) FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) in subsection (b)(1), by inserting ", or with respect to individuals with disabilities, rendered inaccessible or uninhabitable," after "uninhabitable"; and

(2) in subsection (d)(1)(A)—

(A) in clause (i), by striking "and" after the semicolon;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) meets the physical accessibility requirements for individuals with disabilities; and".

**SEC. 689a. NONDISCRIMINATION IN DISASTER ASSISTANCE.**

Section 308(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5151(a)) is amended by inserting "disability, English proficiency," after "age,".

**SEC. 689b. REUNIFICATION.** 6 USC 774.

(a) DEFINITIONS.—In this section:

(1) CHILD LOCATOR CENTER.—The term "Child Locator Center" means the National Emergency Child Locator Center established under subsection (b).

(2) DECLARED EVENT.—The term "declared event" means a major disaster or emergency.

(3) DISPLACED ADULT.—The term "displaced adult" means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.

(4) DISPLACED CHILD.—The term "displaced child" means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) NATIONAL EMERGENCY CHILD LOCATOR CENTER.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish procedures to make all relevant information available to the National Emergency Child Locator Center in a timely manner to facilitate the expeditious identification and reunification of children with their families.

(2) PURPOSES.—The purposes of the Child Locator Center are to—

(A) enable individuals to provide to the Child Locator Center the name of and other identifying information about a displaced child or a displaced adult who may have information about the location of a displaced child;

(B) enable individuals to receive information about other sources of information about displaced children and displaced adults; and

(C) assist law enforcement in locating displaced children.

(3) RESPONSIBILITIES AND DUTIES.—The responsibilities and duties of the Child Locator Center are to—

Communications and telecommunications

Website.

(A) establish a toll-free telephone number to receive reports of displaced children and information about displaced adults that may assist in locating displaced children;

(B) create a website to provide information about displaced children;

(C) deploy its staff to the location of a declared event to gather information about displaced children;

(D) assist in the reunification of displaced children with their families;

(E) provide information to the public about additional resources for disaster assistance;

(F) work in partnership with Federal, State, and local law enforcement agencies;

(G) provide technical assistance in locating displaced children;

(H) share information on displaced children and displaced adults with governmental agencies and nongovernmental organizations providing disaster assistance;

(I) use its resources to gather information about displaced children;

(J) refer reports of displaced adults to—

(i) an entity designated by the Attorney General to provide technical assistance in locating displaced adults; and

(ii) the National Emergency Family Registry and Locator System as defined under section 689c(a);

(K) enter into cooperative agreements with Federal and State agencies and other organizations such as the American Red Cross as necessary to implement the mission of the Child Locator Center; and

(L) develop an emergency response plan to prepare for the activation of the Child Locator Center.

(c) CONFORMING AMENDMENTS.—Section 403(1) of the Missing Children's Assistance Act (42 U.S.C. 5772(1)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by adding "or" after the semicolon; and

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

"(C) the individual is an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).".

(d) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives a report describing in detail the status of the Child Locator Center, including funding issues and any difficulties or issues in establishing the Center or completing the cooperative agreements described in subsection (b)(3)(K).

**SEC. 689c. NATIONAL EMERGENCY FAMILY REGISTRY AND LOCATOR SYSTEM.** 6 USC 775.

(a) DEFINITIONS.—In this section—

(1) the term "displaced individual" means an individual displaced by an emergency or major disaster; and

(2) the term "National Emergency Family Registry and Locator System" means the National Emergency Family Registry and Locator System established under subsection (b).

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a National Emergency Family Registry and Locator System to help reunify families separated after an emergency or major disaster.

(c) OPERATION OF SYSTEM.—The National Emergency Family Registry and Locator System shall—

(1) allow a displaced adult (including medical patients) to voluntarily register (and allow an adult that is the parent or guardian of a displaced child to register such child), by submitting personal information to be entered into a database (such as the name, current location of residence, and any other relevant information that could be used by others seeking to locate that individual);

(2) ensure that information submitted under paragraph (1) is accessible to those individuals named by a displaced individual and to those law enforcement officials;

(3) be accessible through the Internet and through a toll-free number, to receive reports of displaced individuals; and

(4) include a means of referring displaced children to the National Emergency Child Locator Center established under section 689b.

(d) PUBLICATION OF INFORMATION.—Not later than 210 days after the date of enactment of this Act, the Administrator shall establish a mechanism to inform the public about the National Emergency Family Registry and Locator System and its potential usefulness for assisting to reunite displaced individuals with their families.

Deadline.

(e) COORDINATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall enter a memorandum of understanding with the Department of Justice, the National Center for Missing and Exploited Children, the Department of Health and Human Services, and the American Red Cross and other relevant private organizations that will enhance the sharing of information to facilitate reuniting displaced individuals (including medical patients) with their families.

(f) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the status of the National Emergency Family Registry and Locator System, including any difficulties or issues in establishing the System, including funding issues.

**SEC. 689d. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.**

Section 408(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(A)) is amended—

(1) in clause (i), by adding at the end the following: "Such assistance may include the payment of the cost of utilities, excluding telephone service."; and

(2) in clause (ii), by inserting "security deposits," after "hookups,".

**SEC. 689e. DISASTER RELATED INFORMATION SERVICES.**

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.) is amended by adding at the end the following:

42 USC 5196f.

**"SEC. 616. DISASTER RELATED INFORMATION SERVICES.**

"(a) IN GENERAL.—Consistent with section 308(a), the Director of Federal Emergency Management Agency shall—

"(1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;

"(2) ensure that information made available to individuals affected by a major disaster or emergency is made available in formats that can be understood by—

"(A) population groups identified under paragraph (1); and

"(B) individuals with disabilities or other special needs; and

"(3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.

"(b) GROUP SIZE.—For purposes of subsection (a), the Director of Federal Emergency Management Agency shall define the size of a population group.".

**SEC. 689f. TRANSPORTATION ASSISTANCE AND CASE MANAGEMENT SERVICES TO INDIVIDUALS AND HOUSEHOLDS.**

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), is amended by adding at the end the following:

**"SEC. 425. TRANSPORTATION ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.** 42 USC 5189c.

"The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 403(a)(3) or 502, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

**"SEC. 426. CASE MANAGEMENT SERVICES.** 42 USC 5189d.

"The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.".

**SEC. 689g. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.**

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (15 U.S.C. 5141 et seq.) is amended by adding at the end the following:

**"SEC. 326. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.** 42 USC 5165d.

"(a) IN GENERAL.—The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

"(b) RESPONSIBILITIES.—The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this Act.

"(c) DUTIES.—The Small State and Rural Advocate shall—

"(1) participate in the disaster declaration process under section 401 and the emergency declaration process under section 501, to ensure that the needs of rural communities are being addressed;

"(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

"(3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.".

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report detailing the extent to which disaster declaration regulations—

(1) meet the particular needs of States with populations of less than 1,500,000 individuals; and

(2) comply with statutory restrictions on the use of arithmetic formulas and sliding scales based on income or population.

(c) STATUTORY CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to authorize major disaster or emergency assistance that is not authorized as of the date of enactment of this Act. 42 USC 5165d note.

**SEC. 689h. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED PRIVATE NONPROFIT EDUCATIONAL FACILITIES.**

Section 406(a)(3)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)(3)(B)) is amended by inserting "education," after "communications,".

6 USC 776.

**SEC. 689i. INDIVIDUALS AND HOUSEHOLDS PILOT PROGRAM.**

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, in coordination with State, local, and tribal governments, shall establish and conduct a pilot program. The pilot program shall be designed to make better use of existing rental housing, located in areas covered by a major disaster declaration, in order to provide timely and cost-effective temporary housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) where alternative housing options are less available or less cost-effective.

(2) ADMINISTRATION.—

(A) IN GENERAL.—For the purposes of the pilot program under this section, the Administrator may—

(i) enter into lease agreements with owners of multi-family rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174);

(ii) make improvements to properties under such lease agreements;

(iii) use the pilot program where the program is cost effective in that the cost to the Government for the lease agreements is in proportion to the savings to the Government by not providing alternative housing; and

(iv) limit repairs to those required to ensure that the housing units shall meet Federal housing quality standards.

(B) IMPROVEMENTS TO LEASED PROPERTIES.—Under the terms of any lease agreement for a property described under subparagraph (A)(ii), the value of the contribution of the Agency to such improvements—

(i) shall be deducted from the value of the lease agreement; and

(ii) may not exceed the value of the lease agreement.

(3) CONSULTATION.—In administering the pilot program under this section, the Administrator may consult with State, local, and tribal governments.

(4) REPORT.—

(A) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program.

(B) CONTENTS.—The Administrator shall include in the report—

(i) an assessment of the effectiveness of the pilot program under this section, including an assessment of cost-savings to the Federal Government and any benefits to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) under the pilot program;

(ii) findings and conclusions of the Administrator with respect to the pilot program;

(iii) an assessment of additional authorities needed to aid the Agency in its mission of providing disaster housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), either under the pilot program under this section or other potential housing programs; and

(iv) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(b) PILOT PROGRAM PROJECT APPROVAL.—The Administrator shall not approve a project under the pilot program after December 31, 2008.

**SEC. 689j. PUBLIC ASSISTANCE PILOT PROGRAM.** 6 USC 777.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, and in coordination with State and local governments, shall establish and conduct a pilot program to—

(A) reduce the costs to the Federal Government of providing assistance to States and local governments under sections 403(a)(3)(A), 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1570b(a)(3), 5172, 5172);

(B) increase flexibility in the administration of sections 403(a)(3)(A), 406, and 407 of that Act; and

(C) expedite the provision of assistance to States and local governments provided under sections 403(a)(3)(A), 406, and 407 of that Act.

(2) PARTICIPATION.—Only States and local governments that elect to participate in the pilot program may participate in the pilot program for a particular project.

(3) INNOVATIVE ADMINISTRATION.—

(A) IN GENERAL.—For purposes of the pilot program, the Administrator shall establish new procedures to administer assistance provided under the sections referred to in paragraph (1).

(B) NEW PROCEDURES.—The new procedures established under subparagraph (A) may include 1 or more of the following:

(i) Notwithstanding section 406(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1571(c)(1)(A)), providing an option for a State or local government to elect to receive an in-lieu contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State or local government and of management expenses.

(ii) Making grants on the basis of estimates agreed to by the local government (or where no local government is involved, by the State government) and the

Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the State government) for the timely or cost effective completion of projects under sections 403(a)(3)(A), 406, and 407 of that Act.

(iii) Increasing the Federal share for removal of debris and wreckage for States and local governments that have a debris management plan approved by the Administrator and have pre-qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster.

(iv) Using a sliding scale for the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal.

(v) Using a financial incentive to recycle debris.

(vi) Reimbursing base wages for employees and extra hires of a State or local government involved in or administering debris and wreckage removal.

(4) WAIVER.—The Administrator may waive such regulations or rules applicable to the provisions of assistance under the sections referred to in paragraph (1) as the Administrator determines are necessary to carry out the pilot program under this section.

(b) REPORT.—

(1) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program under this section.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an assessment by the Administrator of any administrative or financial benefits of the pilot program;

(B) an assessment by the Administrator of the effect, including any savings in time and cost, of the pilot program;

(C) any identified legal or other obstacles to increasing the amount of debris recycled after a major disaster;

(D) any other findings and conclusions of the Administrator with respect to the pilot program; and

(E) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(c) DEADLINE FOR INITIATION OF IMPLEMENTATION.—The Administrator shall initiate implementation of the pilot program under this section not later than 90 days after the date of enactment of this Act.

(d) PILOT PROGRAM PROJECT DURATION.—The Administrator may not approve a project under the pilot program under this section after December 31, 2008.

**SEC. 689k. DISPOSAL OF UNUSED TEMPORARY HOUSING UNITS.**

(a) IN GENERAL.—Notwithstanding section 408(d)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)(B)), if the Administrator authorizes the disposal of an unused temporary housing unit that is owned by the Agency on the date of enactment of this Act and is not used to house individuals or households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.

5174) after that date, such unit shall be disposed of under subchapter III of chapter 5 of subtitle I of title 40, United States Code.

(b) TRIBAL GOVERNMENTS.—Housing units described in subsection (a) shall be disposed of in coordination with the Department of the Interior or other appropriate agencies in order to transfer such units to tribal governments if appropriate.

# Subtitle F—Prevention of Fraud, Waste, and Abuse

**SEC. 691. ADVANCE CONTRACTING.** 6 USC 791.

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying—

(A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and

(C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.

(2) SUBMISSION.—The report under paragraph (1) shall be submitted to the appropriate committees of Congress.

(b) ENTERING INTO CONTRACTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement. Deadline.

(2) CONSIDERED FACTORS.—Before entering into any contract under this subsection, the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by this Act.

(3) PRENEGOTIATED FEDERAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator, in coordination with State and local governments and other Federal agencies, shall establish a process to ensure that Federal prenegotiated contracts for goods and services are coordinated with State and local governments, as appropriate.

(4) PRENEGOTIATED STATE AND LOCAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator shall encourage State and local governments to establish prenegotiated contracts with vendors for goods and services in advance of natural disasters and acts of terrorism or other man-made disasters.

(c) MAINTENANCE OF CONTRACTS.—After the date described under subsection (b), the Administrator shall have the responsibility

to maintain contracts for appropriate levels of goods and services in accordance with subsection (a)(1)(C).

(d) REPORT ON CONTRACTS NOT USING COMPETITIVE PROCEDURES.—At the end of each fiscal quarter, beginning with the first fiscal quarter occurring at least 90 days after the date of enactment of this Act, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

6 USC 792.

**SEC. 692. LIMITATIONS ON TIERING OF SUBCONTRACTORS.**

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) SPECIFIC REQUIREMENT.—At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

(c) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

6 USC 793.

**SEC. 693. OVERSIGHT AND ACCOUNTABILITY OF FEDERAL DISASTER EXPENDITURES.**

(a) AUTHORITY OF ADMINISTRATOR TO DESIGNATE FUNDS FOR OVERSIGHT ACTIVITIES.—The Administrator may designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight of activities carried out under the Agency reimbursable mission assignment process. Such funds shall remain available until expended.

(b) USE OF FUNDS.—

(1) TYPES OF OVERSIGHT ACTIVITIES.—Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

(A) Monitoring, tracking, and auditing expenditures of funds.

(B) Ensuring that sufficient management and internal control mechanisms are available so that Agency funds are spent appropriately and in accordance with all applicable laws and regulations.

(C) Reviewing selected contracts and other activities.

(D) Investigating allegations of fraud involving Agency funds.

(E) Conducting and participating in fraud prevention activities with other Federal, State, and local government personnel and contractors.

(2) PLANS AND REPORTS.—Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

(c) RESTRICTION ON USE OF FUNDS.—Oversight funds may not be used to finance existing agency oversight responsibilities related

to direct agency appropriations used for disaster response, relief, and recovery activities.

(d) METHODS OF OVERSIGHT ACTIVITIES.—

(1) IN GENERAL.—Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits.

(2) COORDINATION OF OVERSIGHT ACTIVITIES.—To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

(e) DEVELOPMENT OF OVERSIGHT PLANS.—

(1) IN GENERAL.—If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare a plan describing the oversight activities for disaster response, relief, and recovery anticipated to be undertaken during the subsequent fiscal year.

(2) SELECTION OF OVERSIGHT ACTIVITIES.—In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of those areas that present the greatest risk of fraud, waste, and abuse.

(3) SCHEDULE.—The plan shall include a schedule for conducting oversight activities, including anticipated dates of completion.

(f) FEDERAL DISASTER ASSISTANCE ACCOUNTABILITY REPORTS.—A Federal agency receiving oversight funds under this section shall submit annually to the Administrator and the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

(g) DEFINITION.—In this section, the term "oversight funds" means funds referred to in subsection (a) that are designated for use in performing oversight activities.

**SEC. 694. USE OF LOCAL FIRMS AND INDIVIDUALS.**

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended by striking section 307 and inserting the following:

**"SEC. 307. USE OF LOCAL FIRMS AND INDIVIDUALS.** 42 USC 5150.

"(a) CONTRACTS OR AGREEMENTS WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.

"(2) CONSTRUCTION.—This subsection shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.

"(3) SPECIFIC GEOGRAPHIC AREA.—In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

"(b) IMPLEMENTATION.—

"(1) CONTRACTS NOT TO ENTITIES IN AREA.—Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency

assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.

"(2) TRANSITION.—Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.

"(c) PRIOR CONTRACTS.—Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.".

6 USC 794.

**SEC. 695. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.**

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) SPECIFIC CONTRACT PERIOD.—The regulations promulgated under subsection (a) shall require the contract period to not to exceed 150 days, unless the Secretary determines that exceptional circumstances apply.

(c) COVERED CONTRACTS.—This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

6 USC 795.

**SEC. 696. FRAUD, WASTE, AND ABUSE CONTROLS.**

(a) IN GENERAL.—The Administrator shall ensure that—

(1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;

(2) application databases used by the Agency to collect information on eligible recipients must record disbursements;

(3) such tracking is designed to highlight and identify ineligible applications; and

(4) the databases used to collect information from applications for such assistance must be integrated with disbursements and payment records.

(b) AUDITS AND REVIEWS REQUIRED.—The Administrator shall ensure that any database or similar application processing system

for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.

(c) VERIFICATION MEASURES FOR INDIVIDUALS AND HOUSEHOLDS PROGRAM.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) VERIFICATION MEASURES.—In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—

"(1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;

"(2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;

"(3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;

"(4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and

"(5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.".

**SEC. 697. REGISTRY OF DISASTER RESPONSE CONTRACTORS.** 6 USC 796.

(a) DEFINITIONS.—In this section—

(1) the term "registry" means the registry created under subsection (b); and

(2) the terms "small business concern", "small business concern owned and controlled by socially and economically disadvantaged individuals", "small business concern owned and controlled by women", and "small business concern owned and controlled by service-disabled veterans" have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

(b) REGISTRY.—

(1) IN GENERAL.—The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.

(2) CONTENTS.—The registry shall include, for each business concern—

(A) the name of the business concern;

(B) the location of the business concern;

(C) the area served by the business concern;

(D) the type of good or service provided by the business concern;

(E) the bonding level of the business concern; and

(F) whether the business concern is—

(i) a small business concern;

(ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;

(iii) a small business concern owned and controlled by women; or

(iv) a small business concern owned and controlled by service-disabled veterans.

(3) SOURCE OF INFORMATION.—

(A) SUBMISSION.—Information maintained in the registry shall be submitted on a voluntary basis and be kept current by the submitting business concerns.

(B) ATTESTATION.—Each business concern submitting information to the registry shall submit—

(i) an attestation that the information is true; and

(ii) documentation supporting such attestation.

(C) VERIFICATION.—The Administrator shall verify that the documentation submitted by each business concern supports the information submitted by that business concern.

(4) AVAILABILITY OF REGISTRY.—The registry shall be made generally available on the Internet site of the Agency.

(5) CONSULTATION OF REGISTRY.—As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

6 USC 797.

**SEC. 698. FRAUD PREVENTION TRAINING PROGRAM.**

The Administrator shall develop and implement a program to provide training on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

## Subtitle G—Authorization of Appropriations

6 USC 811.

**SEC. 699. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title and the amendments made by this title for the administration and operations of the Agency—

(1) for fiscal year 2008, an amount equal to the amount appropriated for fiscal year 2007 for administration and operations of the Agency, multiplied by 1.1;

(2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1; and

(3) for fiscal year 2010, an amount equal to the amount described in paragraph (2), multiplied by 1.1.

SEC. 699A. Except as expressly provided otherwise, any reference to "this Act" contained in this title shall be treated as referring only to the provisions of this title.

6 USC 701 note.

This Act may be cited as the "Department of Homeland Security Appropriations Act, 2007".

Approved October 4, 2006.

---

LEGISLATIVE HISTORY—H.R. 5441:

HOUSE REPORTS: Nos. 109–476 (Comm. on Appropriations) and 109–699 (Comm. of Conference).
SENATE REPORTS: No. 109–273 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 25, June 6, considered and passed House.
July 10–13, considered and passed Senate, amended.
Sept. 29, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 4, Presidential remarks and statement.

# Public Law 109–296
# 109th Congress

## An Act

Oct. 5, 2006
[H.R. 3408]

To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION.**

(a) IN GENERAL.—Chapter 5 of subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.) is amended by adding at the end the following new section:

7 USC 1636i.

**"SEC. 260. TERMINATION OF AUTHORITY.**

"The authority provided by this subtitle terminates on September 30, 2010.".

(b) CONFORMING AMENDMENT AND EXTENSION.—Section 942 of the Livestock Mandatory Reporting Act of 1999 (7 U.S.C. 1635 note; Public Law 106–78) is amended by striking "terminate on September 30, 2005" and inserting "(other than section 911 of subtitle A and the amendments made by that section) terminate on September 30, 2010".

**SEC. 2. DEFINITIONS.**

(a) BASE MARKET HOGS.—Section 231(4) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i(4)) is amended to read as follows:

"(4) BASE MARKET HOG.—The term 'base market hog' means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.".

(b) BOARS.—Section 231(5) of such Act (7 U.S.C. 1635i(5)) is amended to read as follows:

"(5) BOAR.—The term 'boar' means a sexually-intact male swine.".

(c) PACKER OF SOWS AND BOARS.—Section 231(12) of such Act (7 U.S.C. 1635i(12)) is amended by—

(1) striking subparagraph (B) and inserting the following new subparagraph:

"(B) for any calendar year, the term includes only—

"(i) a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding five calendar years; and

"(ii) a person that slaughtered an average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding five calendar years; and"; and

(2) in subparagraph (C)—

(A) by inserting "or person" after "swine processing plant";

(B) by inserting "or person" after "plant capacity of the processing plant"; and

(C) by inserting "or person" after "determining whether the processing plant".

**SEC. 3. REPORTING; BARROWS AND GILTS.**

Section 232(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j(c)) is amended to read as follows:

"(c) DAILY REPORTING; BARROWS AND GILTS.—

"(1) PRIOR DAY REPORT.—

"(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary, for each business day of the packer, such information as the Secretary determines necessary and appropriate to—

"(i) comply with the publication requirements of this section; and

"(ii) provide for the timely access to the information by producers, packers, and other market participants.

"(B) REPORTING DEADLINE AND PLANTS REQUIRED TO REPORT.—A packer required to report under subparagraph (A) shall—

"(i) not later than 7:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts purchased or priced, and

"(ii) not later than 9:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts slaughtered,

during the prior business day of the packer.

"(C) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this paragraph shall include—

"(i) all purchase data, including—

"(I) the total number of—

"(aa) barrows and gilts purchased; and

"(bb) barrows and gilts scheduled for delivery; and

"(II) the base price and purchase data for slaughtered barrows and gilts for which a price has been established;

"(ii) all slaughter data for the total number of barrows and gilts slaughtered, including—

"(I) information concerning the net price, which shall be equal to the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of barrows and gilts delivered at the plant—

"(aa) including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer; and

"(bb) excluding any sum earlier paid to a producer that must later be repaid to the packer;

"(II) information concerning the average net price, which shall be equal to the quotient (stated per hundred pounds of carcass weight of barrows and gilts) obtained by dividing—

"(aa) the total amount paid for the barrows and gilts slaughtered at a packing plant during the applicable reporting period, including all premiums and discounts, and including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts; by

"(bb) the total carcass weight (in hundred pound increments) of the barrows and gilts;

"(III) information concerning the lowest net price, which shall be equal to the lowest net price paid for a single lot or a group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

"(IV) information concerning the highest net price, which shall be equal to the highest net price paid for a single lot or group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

"(V) the average carcass weight, which shall be equal to the quotient obtained by dividing—

"(aa) the total carcass weight of the barrows and gilts slaughtered at the packing plant during the applicable reporting period, by

"(bb) the number of the barrows and gilts described in item (aa),

adjusted for special slaughter situations (such as skinning or foot removal), as the Secretary determines necessary to render comparable carcass weights;

"(VI) the average sort loss, which shall be equal to the average discount (in dollars per hundred pounds carcass weight) for barrows and gilts slaughtered during the applicable reporting period, resulting from the fact that the barrows and gilts did not fall within the individual packer's established carcass weight or lot variation range;

"(VII) the average backfat, which shall be equal to the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the barrows

and gilts slaughtered during the applicable reporting period;

"(VIII) the average lean percentage, which shall be equal to the average percentage of the carcass weight comprised of lean meat for the barrows and gilts slaughtered during the applicable reporting period, except that when a packer is required to report the average lean percentage under this subclause, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert to the carcass measurements or lean percentage of the barrows and gilts of the individual packer to correlate to a common percent lean measurement; and

"(IX) the total slaughter quantity, which shall be equal to the total number of barrows and gilts slaughtered during the applicable reporting period, including all types of purchases and barrows and gilts that qualify as packer-owned swine; and

"(iii) packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

"(D) PUBLICATION.—

"(i) IN GENERAL.—The Secretary shall publish the information obtained under this paragraph in a prior day report— Deadlines.

"(I) in the case of information regarding barrows and gilts purchased or priced, not later than 8:00 a.m. Central Time, and

"(II) in the case of information regarding barrows and gilts slaughtered, not later than 10:00 a.m. Central Time,

on the reporting day on which the information is received from the packer.

"(ii) PRICE DISTRIBUTIONS.—The information published by the Secretary under clause (i) shall include a distribution of net prices in the range between and including the lowest net price and the highest net price reported. The publication shall include a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices.

"(2) MORNING REPORT.—

"(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day—

"(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased

throughout the reporting day through each type of purchase;

"(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

"(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

"(iv) the base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

Deadline.

"(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

"(3) AFTERNOON REPORT.—

"(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day—

"(i) the packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

"(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

"(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

"(iv) the base price paid for all base market hogs purchased up to that time of the reporting day through each type of purchase other than negotiated purchase, unless such information is unavailable due to pricing that is determined on a delayed basis.

Deadline.

"(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.".

**SEC. 4. REPORTING; SOWS AND BOARS.**

Section 232 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j) is amended by—

(1) redesignating subsection (d) as subsection (e); and

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

"(d) DAILY REPORTING; SOWS AND BOARS.—

"(1) PRIOR DAY REPORT.—The corporate officers or officially designated representatives of each packer of sows and boars shall report to the Secretary, for each business day of the packer, such information reported by hog class as the Secretary determines necessary and appropriate to—

"(A) comply with the publication requirements of this section; and

"(B) provide for the timely access to the information by producers, packers, and other market participants.

"(2) REPORTING.—Not later than 9:30 a.m. Central Time, or such other time as the Secretary considers appropriate, on each reporting day, a packer required to report under paragraph (1) shall report information regarding all sows and boars purchased or priced during the prior business day of the packer.

"(3) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this subsection shall include all purchase data, including—

"(A) the total number of sows purchased and the total number of boars purchased, each divided into at least three reasonable and meaningful weight classes specified by the Secretary;

"(B) the number of sows that qualify as packer-owned swine;

"(C) the number of boars that qualify as packer-owned swine;

"(D) the average price paid for all sows;

"(E) the average price paid for all boars;

"(F) the average price paid for sows in each weight class specified by the Secretary under subparagraph (A);

"(G) the average price paid for boars in each weight class specified by the Secretary under subparagraph (A);

"(H) the number of sows and the number of boars for which prices are determined, by each type of purchase;

"(I) the average prices for sows and the average prices for boars for which prices are determined, by each type of purchase; and

"(J) such other information as the Secretary considers appropriate to carry out this subsection.

"(4) PRICE CALCULATIONS WITHOUT PACKER-OWNED SWINE.—A packer shall omit the prices of sows and boars that qualify as packer-owned swine from all average price calculations, price range calculations, and reports required by this subsection.

"(5) REPORTING EXCEPTION: PUBLIC AUCTION PURCHASES.—The information required to be reported under this subsection shall not include purchases of sows or boars made by agents of the reporting packer at a public auction at which the title of the sows and boars is transferred directly from the producer to such packer.

"(6) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 11:00 a.m. Central Time on the reporting day on which the information is received from the packer. Deadline.

"(7) ELECTRONIC SUBMISSION OF INFORMATION.—The Secretary of Agriculture shall provide for the electronic submission of any information required to be reported under this subsection through an Internet website or equivalent electronic means maintained by the Department of Agriculture.".

Approved October 5, 2006.

LEGISLATIVE HISTORY—H.R. 3408:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Sept. 14, considered and passed House.
Vol. 152 (2006): Sept. 20, considered and passed Senate.

Public Law 109–297
109th Congress

# An Act

To extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

Oct. 5, 2006
[S. 176]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.**

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11480, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

Approved October 5, 2006.

LEGISLATIVE HISTORY—S. 176:

HOUSE REPORTS: No. 109–681 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 109–29 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 26, considered and passed Senate.
Vol. 152 (2006): Sept. 26, considered and passed House.

# Public Law 109–298
# 109th Congress

## An Act

Oct. 5, 2006
[S. 244]

To extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.**

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

Approved October 5, 2006.

LEGISLATIVE HISTORY—S. 244:

HOUSE REPORTS: No. 109–682 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 109–32 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 26, considered and passed Senate.
Vol. 152 (2006): Sept. 26, considered and passed House.

Public Law 109–299
109th Congress

# An Act

To amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" to authorize the Equus Beds Division of the Wichita Project.

Oct. 5, 2006
[S. 1025]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Wichita Project Equus Beds Division Authorization Act of 2005.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Wichita Project Equus Beds Division Authorization Act of 2005".

**SEC. 2. EQUUS BEDS DIVISION.**

The Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" (Public Law 86–787; 74 Stat. 1026) is amended by adding the following new section:

**"SEC. 10. EQUUS BEDS DIVISION.**

"(a) AUTHORIZATION.—The Secretary of the Interior may assist in the funding and implementation of the Equus Beds Aquifer Recharge and Recovery Component which is a part of the 'Integrated Local Water Supply Plan, Wichita, Kansas' (referred to in this section as the 'Equus Beds Division'). Construction of the Equus Beds Division shall be in substantial accordance with the plans and designs.

"(b) OPERATION, MAINTENANCE, AND REPLACEMENT.—Operation, maintenance, and replacement of the Equus Beds Division, including funding for those purposes, shall be the sole responsibility of the City of Wichita, Kansas. The Equus Beds Division shall be operated in accordance with applicable laws and regulations.

"(c) AGREEMENTS.—The Secretary of the Interior may enter into, or agree to amendments of, cooperative agreements and other appropriate agreements to carry out this section.

"(d) ADMINISTRATIVE COSTS.—From funds made available for this section, the Secretary of the Interior may charge an appropriate share related to administrative costs incurred.

"(e) PLANS AND ANALYSES CONSISTENT WITH FEDERAL LAW.—Before obligating funds for design or construction under this section, the Secretary of the Interior shall work cooperatively with the City of Wichita, Kansas, to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the City for the Equus Beds Division. The Secretary of the Interior shall assure that such information is used consistent with applicable Federal laws and regulations.

"(f) TITLE; RESPONSIBILITY; LIABILITY.—Nothing in this section or assistance provided under this section shall be construed to transfer title, responsibility, or liability related to the Equus Beds Division (including portions or features thereof) to the United States.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated as the Federal share of the total cost of the Equus Beds Division, an amount not to not exceed 25 percent of the total cost or $30,000,000 (January, 2003 prices), whichever is less, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein, whichever is less. Such sums shall be nonreimbursable.

"(h) TERMINATION OF AUTHORITY.—The authority of the Secretary of the Interior to carry out any provision of this section shall terminate 10 years after the date of enactment of this section.".

Approved October 5, 2006.

LEGISLATIVE HISTORY—S. 1025:

SENATE REPORTS: No. 109–192 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): Sept. 20, considered and passed House.

Public Law 109–300
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building".

Oct. 5, 2006
[S. 1275]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ALICE R. BRUSICH POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 7172 North Tongass Highway, in Ward Cove, Alaska, shall be known and designated as the "Alice R. Brusich Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Alice R. Brusich Post Office Building".

Approved October 5, 2006.

LEGISLATIVE HISTORY—S. 1275:

CONGRESSIONAL RECORD:
Vol. 151 (2005): July 1, considered and passed Senate.
Vol. 152 (2006): Sept. 25, considered and passed House.

Public Law 109–301
109th Congress

# An Act

Oct. 5, 2006
[S. 1323]

To designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONNIE HIBBS OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located on Lindbald Avenue, in Girdwood, Alaska, shall be known and designated as the "Dorothy and Connie Hibbs Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dorothy and Connie Hibbs Post Office Building".

Approved October 5, 2006.

LEGISLATIVE HISTORY—S. 1323:

CONGRESSIONAL RECORD:
Vol. 151 (2005): July 1, considered and passed Senate.
Vol. 152 (2006): Sept. 25, considered and passed House.

Public Law 109–302
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 8801 Sudley Road in Manassas, Virginia, as the "Harry J. Parrish Post Office".

Oct. 5, 2006
[S. 2690]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HARRY J. PARRISH POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 8801 Sudley Road, Manassas, Virginia, shall be known and designated as the "Harry J. Parrish Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Harry J. Parrish Post Office.

Approved October 5, 2006.

LEGISLATIVE HISTORY—S. 2690:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 20, considered and passed Senate.
Sept. 25, considered and passed House.

# Public Law 109–303
# 109th Congress

## An Act

Oct. 6, 2006
[H.R. 1036]

To amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Copyright Royalty Judges Program Technical Corrections Act. 17 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Copyright Royalty Judges Program Technical Corrections Act".

**SEC. 2. REFERENCE.**

Any reference in this Act to a provision of title 17, United States Code, refers to such provision as amended by the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) and the Satellite Home Viewer Extension and Reauthorization Act of 2004 (title IX of division J of Public Law 108–447).

**SEC. 3. AMENDMENTS TO CHAPTER 8 OF TITLE 17, UNITED STATES CODE.**

Chapter 8 of title 17, United States Code, is amended as follows:

(1) Section 801(b)(1) is amended, in the matter preceding subparagraph (A), by striking "119 and 1004" and inserting "119, and 1004".

(2) Section 801 is amended by adding at the end the following:

"(f) EFFECTIVE DATE OF ACTIONS.—On and after the date of the enactment of the Copyright Royalty and Distribution Reform Act of 2004, in any case in which time limits are prescribed under this title for performance of an action with or by the Copyright Royalty Judges, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.".

(3) Section 802(f)(1)(A) is amended—

(A) in clause (i), by striking "clause (ii) of this subparagraph and subparagraph (B)" and inserting "subparagraph (B) and clause (ii) of this subparagraph"; and

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

"(ii) One or more Copyright Royalty Judges may, or by motion to the Copyright Royalty Judges, any participant in a proceeding may, request from the Register of Copyrights an interpretation of any material questions of substantive law that relate to the construction of provisions of this title and arise in the course of the proceeding.

Any request for a written interpretation shall be in writing and on the record, and reasonable provision shall be made to permit participants in the proceeding to comment on the material questions of substantive law in a manner that minimizes duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a written response within 14 days after the receipt of all briefs and comments from the participants. The Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights if it is timely delivered, and the response shall be included in the record that accompanies the final determination. The authority under this clause shall not be construed to authorize the Register of Copyrights to provide an interpretation of questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate in a proceeding.". Deadline.

(4) Section 802(f)(1)(D) is amended by inserting a comma after "undertakes to consult with".

(5) Section 803(a)(1) is amended—

(A) by striking "The Copyright" and inserting "The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright"; and

(B) by inserting after "Congress, the Register of Copyrights," the following: "copyright arbitration royalty panels (to the extent those determinations are not inconsistent with a decision of the Librarian of Congress or the Register of Copyrights),".

(6) Section 803(b) is amended—

(A) in paragraph (1)(A)(i)(V)—

(i) by striking "in the case of" and inserting "the publication of notice requirement shall not apply in the case of"; and

(ii) by striking ", such notice may not be published.";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ", together with a filing fee of $150";

(ii) in subparagraph (B), by striking "and" after the semicolon;

(iii) in subparagraph (C), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(D) the petition to participate is accompanied by either—

"(i) in a proceeding to determine royalty rates, a filing fee of $150; or

"(ii) in a proceeding to determine distribution of royalty fees—

"(I) a filing fee of $150; or

"(II) a statement that the petitioner (individually or as a group) will not seek a distribution of more than $1000, in which case the amount distributed to the petitioner shall not exceed $1000.";

(C) in paragraph (3)(A)—

(i) by striking "(A) IN GENERAL.—Promptly" and inserting "(A) COMMENCEMENT OF PROCEEDINGS.—

"(i) RATE ADJUSTMENT PROCEEDING.—Promptly"; and

(ii) by adding at the end the following:

"(ii) DISTRIBUTION PROCEEDING.—Promptly after the date for filing of petitions to participate in a proceeding to determine the distribution of royalties, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants. The initiation of a voluntary negotiation period among the participants shall be set at a time determined by the Copyright Royalty Judges.".

(D) in paragraph (4)(A), by striking the last sentence; and

(E) in paragraph (6)(C)—

(i) in clause (i)—

(I) in the first sentence, by inserting "and written rebuttal statements" after "written direct statements";

(II) in the first sentence, by striking "which may" and inserting "which, in the case of written direct statements, may"; and

(III) by striking "clause (iii)" and inserting "clause (iv)";

(ii) by amending clause (ii)(I) to read as follows:

"(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements and written rebuttal statements by the participants in a proceeding under paragraph (2), the Copyright Royalty Judges, after taking into consideration the views of the participants in the proceeding, shall determine a schedule for conducting and completing discovery.";

(iii) by amending clause (iv) to read as follows:

"(iv) Discovery in connection with written direct statements shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders, and disputes pending at the end of such period. The Copyright Royalty Judges may order a discovery schedule in connection with written rebuttal statements."; and

(iv) by amending clause (x) to read as follows:

"(x) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the 60-day discovery period specified in clause (iv) and shall take place outside the presence of the Copyright Royalty Judges.".

(7) Section 803(c)(2)(B) is amended by striking "concerning rates and terms".

(8) Section 803(c)(4) is amended by striking ", with the approval of the Register of Copyrights,".

(9) Section 803(c)(7) is amended by striking "of Copyright" and inserting "of the Copyright".

(10) Section 803(d)(2)(C)(i)(I) is amended by striking "statements of account and any report of use" and inserting "applicable statements of account and reports of use".

(11) Section 803(d)(3) is amended by striking "If the court, pursuant to section 706 of title 5, modifies" and inserting "Section 706 of title 5 shall apply with respect to review by the court of appeals under this subsection. If the court modifies".

(12) Section 804(b)(1)(B) is amended—

(A) by striking "801(b)(3)(B) or (C)" and inserting "801(b)(2)(B) or (C)"; and

(B) in the last sentence, by striking "change is" and inserting "change in".

(13) Section 804(b)(3) is amended—

(A) in subparagraph (A), by striking "effective date" and inserting "date of enactment"; and

(B) in subparagraph (C)—

(i) in clause (ii), by striking "that is filed" and inserting "is filed"; and

(ii) in clause (iii), by striking "such subsections (b)" and inserting "subsections (b)".

**SEC. 4. ADDITIONAL TECHNICAL AMENDMENTS.**

(a) DISTRIBUTION OF ROYALTY FEES.—Section 111(d) of title 17, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking all that follows "Librarian of Congress" and inserting "upon authorization by the Copyright Royalty Judges.";

(2) in paragraph (4)—

(A) in subparagraph (B)—

(i) by striking the second sentence and inserting the following: "If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section."; and

(ii) in the last sentence, by striking "finds" and inserting "find"; and

(B) by striking subparagraph (C) and inserting the following:

"(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.".

(b) SOUND RECORDINGS.—Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1)(A), in the first sentence, by striking "except where" and all that follows through the end period and inserting "except in the case of a different transitional

period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree.";

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

"(2)(A) Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmission services and new subscription services specified by subsection (d)(2) during the 5-year period beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except in the case of a different transitional period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services and new subscription services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this paragraph may submit to the Copyright Royalty Judges licenses covering such eligible nonsubscription transmissions and new subscription services with respect to such sound recordings. The parties to each proceeding shall bear their own costs."; and

(3) in paragraph (2)(B), in the last sentence, by striking "negotiated under" and inserting "described in".

(c) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) of title 17, United States Code, is amended—

(1) in subparagraph (B), by striking "subparagraphs (B) through (F)" and inserting "this subparagraph and subparagraphs (C) through (E)";

(2) in subparagraph (D), in the third sentence, by inserting "in subparagraphs (B) and (C)" after "described"; and

(3) in subparagraph (E), in clauses (i) and (ii)(I), by striking "(C) or (D)" each place it appears and inserting "(C) and (D)".

(d) NONCOMMERCIAL BROADCASTING.—Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)(3), by striking "copyright owners in works" and inserting "owners of copyright in works"; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "established by" and all that follows through "engage" and inserting "established by the Copyright Royalty Judges under subsection (b)(4), engage"; and

(B) in paragraph (1), by striking "(g)" and inserting "(f)".

(e) SATELLITE CARRIERS.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)(4)—

(A) in subparagraph (B), by striking the second sentence and inserting the following: "If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section."; and

(B) by amending subparagraph (C) to read as follows:

"(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy."; and

(2) in subsection (c)(1)(F)(i), in the last sentence, by striking "arbitrary" and inserting "arbitration".

(f) DIGITAL AUDIO RECORDING DEVICES.—Section 1007 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the second sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(B) in the last sentence, by striking "by the Librarian"; and

(2) in subsection (c), in the last sentence, by striking "by the Librarian".

(g) REMOVAL OF INCONSISTENT PROVISIONS.—The amendments contained in subsection (h) of section 5 of the Copyright Royalty and Distribution Reform Act of 2004 shall be deemed never to have been enacted. 17 USC 119 and note.

(h) EFFECTIVE DATE.—Section 6(b)(1) of the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) is amended by striking "commenced before the date of enactment of this Act" and inserting "commenced before the effective date provided in subsection (a)". 17 USC 801 note.

**SEC. 5. PARTIAL DISTRIBUTION OF ROYALTY FEES.**

Section 801(b)(3)(C) of title 17, United States Code, is amended—

(1) by striking all that precedes clause (i) and inserting the following:

"(C) Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants—"; and

(2) in clause (i), by striking "such" and inserting "the".

**SEC. 6. EFFECTIVE DATE.** 17 USC 111 note.

(a) IN GENERAL.—Except as provided under subsection (b), this Act and the amendments made by this Act shall be effective as if included in the Copyright Royalty and Distribution Reform Act of 2004.

(b) PARTIAL DISTRIBUTION OF ROYALTY FEES.—Section 5 shall take effect on the date of enactment of this Act.

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 1036:

HOUSE REPORTS: No. 109–64 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed House.
Vol. 152 (2006): July 19, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment.

# Public Law 109–304
# 109th Congress

## An Act

To complete the codification of title 46, United States Code, "Shipping", as positive law.

Oct. 6, 2006
[H.R. 1442]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. Purpose; conformity with original intent.
Sec. 3. Title analysis.
Sec. 4. Subtitle I of title 46.
Sec. 5. Subtitle II of title 46.
Sec. 6. Subtitle III of title 46.
Sec. 7. Subtitle IV of title 46.
Sec. 8. Subtitle V of title 46.
Sec. 9. Subtitle VI of title 46.
Sec. 10. Subtitle VII of title 46.
Sec. 11. Subtitle VIII of title 46.
Sec. 12. Maritime Administration.
Sec. 13. Amendments relating to Maritime Security Act of 2003.
Sec. 14. Amendments to partially restated provisions.
Sec. 15. Additional amendments to title 46.
Sec. 16. Recreational boating safety technical amendments.
Sec. 17. Conforming amendments to other laws.
Sec. 18. Transitional and savings provisions.
Sec. 19. Repeals.

**SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.**

46 USC note prec. 101.

(a) PURPOSE.—The purpose of this Act is to complete the codification of title 46, United States Code, "Shipping", as positive law, by reorganizing and restating the laws currently in the appendix to title 46.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws by this Act, the intent is to conform to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections, in accordance with section 205(c)(1) of House Resolution No. 988, 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C. 285b(1)).

**SEC. 3. TITLE ANALYSIS.**

The title analysis of title 46, United States Code, is amended to read as follows:

"Subtitle Sec.
**"I. GENERAL ..... 101**
**"II. VESSELS AND SEAMEN ..... 2101**
**"III. MARITIME LIABILITY ..... 30101**
**"IV. REGULATION OF OCEAN SHIPPING ..... 40101**
**"V. MERCHANT MARINE ..... 50101**

**"VI. CLEARANCE, TONNAGE TAXES, AND DUTIES .....60101**
**"VII. SECURITY AND DRUG ENFORCEMENT .....70101**
**"VIII. MISCELLANEOUS .....80101".**

**SEC. 4. SUBTITLE I OF TITLE 46.**

Title 46, United States Code, is amended by inserting after the title analysis the following:

## "Subtitle I—General

"Chapter Sec.
**"1. Definitions ..... 101**
**"3. Federal Maritime Commission ..... 301**
**"5. Other General Provisions ..... 501**

## "CHAPTER 1—DEFINITIONS

"Sec.
"101. Agency.
"102. Barge.
"103. Boundary Line.
"104. Citizen of the United States.
"105. Consular officer.
"106. Documented vessel.
"107. Exclusive economic zone.
"108. Fisheries.
"109. Foreign commerce or trade.
"110. Foreign vessel.
"111. Numbered vessel.
"112. State.
"113. Undocumented.
"114. United States.
"115. Vessel.
"116. Vessel of the United States.

### "§ 101. Agency

"In this title, the term 'agency' means a department, agency, or instrumentality of the United States Government.

### "§ 102. Barge

"In this title, the term 'barge' means a non-self-propelled vessel.

### "§ 103. Boundary Line

"In this title, the term 'Boundary Line' means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

### "§ 104. Citizen of the United States

"In this title, the term 'citizen of the United States', when used in reference to a natural person, means an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

### "§ 105. Consular officer

"In this title, the term 'consular officer' means an officer or employee of the United States Government designated under regulations to issue visas.

### "§ 106. Documented vessel

"In this title, the term 'documented vessel' means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

**"§ 107. Exclusive economic zone**

"In this title, the term 'exclusive economic zone' means the zone established by Presidential Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).

**"§ 108. Fisheries**

"In this title, the term 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

**"§ 109. Foreign commerce or trade**

"(a) IN GENERAL.—In this title, the terms 'foreign commerce' and 'foreign trade' mean commerce or trade between a place in the United States and a place in a foreign country.

"(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL SUBSIDIES.—In the context of capital construction funds under chapter 535 of this title, and in the context of construction-differential subsidies under title V of the Merchant Marine Act, 1936, the terms 'foreign commerce' and 'foreign trade' also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in a manner that will permit bulk vessels of the United States to compete freely with foreign bulk vessels in their operation or competition for charters, subject to regulations prescribed by the Secretary of Transportation.

**"§ 110. Foreign vessel**

"In this title, the term 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

**"§ 111. Numbered vessel**

"In this title, the term 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.

**"§ 112. State**

"In this title, the term 'State' means a State of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

**"§ 113. Undocumented**

"In this title, the term 'undocumented' means not having and not required to have a certificate of documentation issued under chapter 121 of this title.

**"§ 114. United States**

"In this title, the term 'United States', when used in a geographic sense, means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

**"§ 115. Vessel**

"In this title, the term 'vessel' has the meaning given that term in section 3 of title 1.

### "§ 116. Vessel of the United States

"In this title, the term 'vessel of the United States' means a vessel documented under chapter 121 of this title (or exempt from documentation under section 12102(c) of this title), numbered under chapter 123 of this title, or titled under the law of a State.

## "CHAPTER 3—FEDERAL MARITIME COMMISSION

"Sec.
"301. General organization.
"302. Quorum.
"303. Record of meetings and votes.
"304. Delegation of authority.
"305. Regulations.
"306. Annual report.
"307. Expenditures.

### "§ 301. General organization

"(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

"(b) COMMISSIONERS.—

President.

"(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

"(2) TERMS.—The term of each Commissioner is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified.

"(3) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

"(c) CHAIRMAN.—

President.

"(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

"(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

"(3) PARTICULAR DUTIES.—

"(A) IN GENERAL.—The Chairman shall—

"(i) appoint and supervise officers and employees of the Commission;

"(ii) appoint the heads of major organizational units, but only after consultation with the other Commissioners;

"(iii) distribute the business of the Commission among personnel and organizational units;

"(iv) supervise the expenditure of money for administrative purposes; and

"(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated by the Commission under section 304 of this title.

"(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

"(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

"(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

**"§ 302. Quorum**

"A vacancy or vacancies in the membership of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

**"§ 303. Record of meetings and votes**

"The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.

**"§ 304. Delegation of authority**

"(a) DELEGATION.—The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

"(b) REVIEW.—The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission's own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

"(c) DEEMED ACTION OF COMMISSION.—If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

**"§ 305. Regulations**

"The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

**"§ 306. Annual report**

"(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

"(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

"(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

"(2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;

"(3) any actions being taken by the Commission to offset those conditions;

"(4) any recommendations for additional legislation to offset those conditions; and

"(5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection.

### "§ 307. Expenditures

"The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.

## "CHAPTER 5—OTHER GENERAL PROVISIONS

"Sec.
"501. Waiver of navigation and vessel-inspection laws.
"502. Cargo exempt from forfeiture.
"503. Notice of seizure.
"504. Remission of fees and penalties.
"505. Penalty for violating regulation or order.

### "§ 501. Waiver of navigation and vessel-inspection laws

"(a) ON REQUEST OF SECRETARY OF DEFENSE.—On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.

"(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual may waive compliance with those laws to the extent, in the manner, and on the terms the individual prescribes.

"(c) TERMINATION OF AUTHORITY.—The authority granted by this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

### "§ 502. Cargo exempt from forfeiture

"Cargo on a vessel is exempt from forfeiture under this title if—

"(1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and

"(2) the customs duties on the cargo have been paid or secured for payment as provided by law.

### "§ 503. Notice of seizure

"When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

### "§ 504. Remission of fees and penalties

"Any part of a fee, tax, or penalty paid or a forfeiture incurred under a law or regulation relating to vessels or seamen may be remitted if—

"(1) application for the remission is made within one year after the date of the payment or forfeiture; and

"(2) it is found that the fee, tax, penalty, or forfeiture was improperly or excessively imposed.

### "§ 505. Penalty for violating regulation or order

"A person convicted of knowingly and willfully violating a regulation or order of the Federal Maritime Commission or the Secretary of Transportation under subtitle IV or V of this title, for which no penalty is expressly provided, shall be fined not more than $500. Each day of a continuing violation is a separate offense.".

**SEC. 5. SUBTITLE II OF TITLE 46.**

Chapter 121 of title 46, United States Code, is amended to read as follows:

## "CHAPTER 121—DOCUMENTATION OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"12101. Definitions.
"12102. Vessels requiring documentation.
"12103. General eligibility requirements.
"12104. Applications for documentation.
"12105. Issuance of documentation.
"12106. Surrender of title and number.
"12107. Wrecked vessels.

"SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

"12111. Registry endorsement.
"12112. Coastwise endorsement.
"12113. Fishery endorsement.
"12114. Recreational endorsement.
"12115. Temporary endorsement for vessels procured outside the United States.
"12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.
"12117. Oil spill response vessels.
"12118. Owners engaged primarily in manufacturing or mineral industry.
"12119. Owners engaged primarily in leasing or financing transactions.
"12120. Liquified gas tankers.
"12121. Small passenger vessels and uninspected passenger vessels.

"SUBCHAPTER III—MISCELLANEOUS

"12131. Command of documented vessels.
"12132. Loss of coastwise trade privileges.
"12133. Duty to carry certificate on vessel and allow examination.
"12134. Evidentiary uses of documentation.
"12135. Invalidation of certificates of documentation.
"12136. Surrender of certificates of documentation.
"12137. Recording of vessels built in the United States.
"12138. List of documented vessels.
"12139. Reports.

"SUBCHAPTER IV—PENALTIES

"12151. Penalties.
"12152. Denial or revocation of endorsement for non-payment of civil penalty.

## "SUBCHAPTER I—GENERAL

### "§ 12101. Definitions

"(a) REBUILT IN THE UNITED STATES.—In this chapter, a vessel is deemed to have been rebuilt in the United States only if the

entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.

"(b) RELATED TERMS IN OTHER LAWS.—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

"(1) REGISTRY ENDORSEMENT.—The terms 'certificate of registry', 'register', and 'registry' mean a certificate of documentation with a registry endorsement issued under this chapter.

"(2) COASTWISE ENDORSEMENT.—The terms 'license', 'enrollment and license', 'license for the coastwise (or coasting) trade', and 'enrollment and license for the coastwise (or coasting) trade' mean a certificate of documentation with a coastwise endorsement issued under this chapter.

"(3) YACHT.—The term 'yacht' means a recreational vessel even if not documented.

**"§ 12102. Vessels requiring documentation**

"(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

"(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

"(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

**"§ 12103. General eligibility requirements**

"(a) IN GENERAL.—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

"(1) wholly owned by one or more individuals or entities described in subsection (b);

"(2) at least 5 net tons as measured under part J of this subtitle; and

"(3) not documented under the laws of a foreign country.

"(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the following are eligible owners:

"(1) An individual who is a citizen of the United States.

"(2) An association, trust, joint venture, or other entity if—

"(A) each of its members is a citizen of the United States; and

"(B) it is capable of holding title to a vessel under the laws of the United States or a State.

"(3) A partnership if—

"(A) each general partner is a citizen of the United States; and

"(B) the controlling interest in the partnership is owned by citizens of the United States.

"(4) A corporation if—

"(A) it is incorporated under the laws of the United States or a State;

"(B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

"(C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

"(5) The United States Government.

"(6) The government of a State.

"(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

**"§ 12104. Applications for documentation**

"(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

"(b) APPLICANT'S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

"(1) if the applicant is an individual, the individual's social security number; or

"(2) if the applicant is an entity—

"(A) the entity's taxpayer identification number; or

"(B) if the entity does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

**"§ 12105. Issuance of documentation**

"(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

"(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of the Secretary and under terms prescribed by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

"(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A certificate of documentation shall—

"(1) identify and describe the vessel;

"(2) identify the owner of the vessel; and

"(3) contain additional information prescribed by the Secretary.

"(d) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

**"§ 12106. Surrender of title and number**

Regulations.

"(a) IN GENERAL.—A documented vessel may not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered as provided by regulations prescribed by the Secretary.

"(b) VESSELS COVERED BY PREFERRED MORTGAGE.—The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.

**"§ 12107. Wrecked vessels**

"(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if it—

"(1) was wrecked on a coast of the United States or adjacent waters; and

"(2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

"(b) APPRAISALS.—The Secretary may appoint a board of three appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

"SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

**"§ 12111. Registry endorsement**

"(a) REQUIREMENTS.—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

"(c) CERTAIN VESSELS OWNED BY TRUSTS.—

"(1) NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

"(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

"(A) IN GENERAL.—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

"(i) each trustee is a citizen of the United States; and

"(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of

the vessel that may adversely affect the interests of the United States.

"(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

"(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

"(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except chapter 531 of this title.

**"§ 12112. Coastwise endorsement**

"(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

"(1) satisfies the requirements of section 12103 of this title;

"(2)(A) was built in the United States; or

"(B) if not built in the United States—

"(i) was captured in war by citizens of the United States and lawfully condemned as prize;

"(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

"(iii) qualifies as a wrecked vessel under section 12107 of this title; and

"(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

"(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

**"§ 12113. Fishery endorsement**

"(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

"(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

"(2) was built in the United States;

"(3) if rebuilt, was rebuilt in the United States;

"(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

"(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

"(b) AUTHORIZED ACTIVITY.—

"(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

"(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

"(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

"(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

Applicability.

"(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms 'control' or 'controlled'—

"(A) include the right to—

"(i) direct the business of the entity;

"(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

"(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

"(B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.

"(3) EXCEPTIONS.—This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the Federal law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

"(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

"(1) APPLICATION.—This subsection applies to a vessel that—

"(A) is greater than 165 feet in registered length;

"(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

"(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

"(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement unless—

"(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

"(ii) the vessel is not placed under foreign registry after October 21, 1998; and

"(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

"(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105–277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council's authority.

"(e) VESSELS MEASURING 100 FEET OR GREATER.—

"(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

"(2) REGULATIONS.—Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

"(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

"(A) leases, charters, mortgages, financing, and similar arrangements;

"(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

"(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

Requirements.

"(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

"(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

"(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

"(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

### "§ 12114. Recreational endorsement

"(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

"(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

### "§ 12115. Temporary endorsement for vessels procured outside the United States

"(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States and meeting the ownership requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

"(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction

and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

"(d) SURRENDER OF CERTIFICATE.—On the vessel's arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary. Regulations.

### "§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

"(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

"(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

"(2) a fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

"(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

"(1) satisfies the requirements of section 12103 of this title;

"(2) was not built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been built or rebuilt in the United States;

"(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

"(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

### "§ 12117. Oil spill response vessels

"(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

"(1) satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

"(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

"(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

"(4) is to be used only for—

"(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

"(ii) training exercises to prepare to respond to such a discharge.

"(b) DEEMED OWNED BY CITIZENS.—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

**"§ 12118. Owners engaged primarily in manufacturing or mineral industry**

"(a) DEFINITIONS.—In this section:

"(1) BOWATERS CORPORATION.—The term 'Bowaters corporation' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

"(A) the corporation is incorporated under the laws of the United States or a State;

"(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

"(C) at least 90 percent of the employees of the corporation are residents of the United States;

"(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

"(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

"(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

"(2) PARENT.—The term 'parent' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

"(A) is incorporated under the laws of the United States or a State; and

"(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

"(3) SUBSIDIARY.—The term 'subsidiary' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

"(A) is incorporated under the laws of the United States or a State; and

"(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

"(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

"(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

"(1) is owned by a Bowaters corporation;

"(2) was built in the United States; and

"(3)(A) is self-propelled and less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or

"(B) is not self-propelled.

"(d) EFFECTS OF DOCUMENTATION.—

"(1) IN GENERAL.—Subject to paragraph (2)—

"(A) a vessel documented under this section may engage in the coastwise trade; and

"(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

"(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

"(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

"(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

"(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

"(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

"(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

"(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

"(f) PENALTIES.—

"(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

"(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

"(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of $200 for each passenger so transported.

"(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

### "§ 12119. Owners engaged primarily in leasing or financing transactions

"(a) DEFINITIONS.—In this section:

"(1) AFFILIATE.—The term 'affiliate' means, with respect to any person, any other person that is—

"(i) directly or indirectly controlled by, under common control with, or controlling that person; or

"(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

"(2) CARGO.—The term 'cargo' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

"(3) OIL.—The term 'oil' has the meaning given that term in section 2101(20) of this title.

"(4) PASSIVE INVESTMENT.—The term 'passive investment' means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

"(5) QUALIFIED PROPRIETARY CARGO.—The term 'qualified proprietary cargo' means—

"(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

"(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

"(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

"(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

"(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

"(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

"(6) UNITED STATES AFFILIATE.—The term 'United States affiliate' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

"(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel if—

"(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

"(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

"(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

Certification.

"(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

"(c) OWNERSHIP CERTIFICATION.—

"(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

"(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

"(A) is a leasing company, bank, or financial institution;

"(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

"(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

"(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

"(3) CERTAIN TANK VESSELS.—

"(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

"(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

"(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

"(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

"(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

"(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

"(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

"(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

"(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

"(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

Deadline.

"(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

Public information.

"(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

"(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

### "§ 12120. Liquified gas tankers

"Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

"(1) is a foreign built vessel that was built before October 19, 1996; or

"(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

### "§ 12121. Small passenger vessels and uninspected passenger vessels

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that—

"(A) was not built in the United States and is at least 3 years old; or

"(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

"(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms 'small passenger vessel', 'uninspected passenger vessel', and 'passenger for hire' have the meaning given those terms in section 2101 of this title.

"(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding sections 12112, 12113, 55102, and 55103 of this title, the Secretary may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel in the case of an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

"(1) United States vessel builders; or

"(2) the coastwise trade business of any person that employs vessels built in the United States in that business.

"(c) REVOCATION.—

"(1) FOR FRAUD.—The Secretary shall revoke a certificate or endorsement issued under subsection (b) if the Secretary of Transportation, after notice and an opportunity for a hearing, determines that the certificate or endorsement was obtained by fraud.

"(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not affect—

"(A) the criminal prohibition on fraud and false statements in section 1001 of title 18; or

"(B) any other authority of the Secretary to revoke a certificate or endorsement issued under subsection (b).

"SUBCHAPTER III—MISCELLANEOUS

**"§ 12131. Command of documented vessels**

"(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the commmand only of a citizen of the United States.

"(b) EXCEPTIONS.—Subsection (a) does not apply to—

"(1) a vessel with only a recreational endorsement; or

"(2) an unmanned barge operating outside of the territorial waters of the United States.

**"§ 12132. Loss of coastwise trade privileges**

"(a) SOLD FOREIGN OR PLACED UNDER FOREIGN REGISTRY.—A vessel of more than 200 gross tons (as measured under chapter 143 of this title), eligible to engage in the coastwise trade, and later sold foreign in whole or in part or placed under foreign registry may not thereafter engage in the coastwise trade.

"(b) REBUILT OUTSIDE THE UNITED STATES.—A vessel eligible to engage in the coastwise trade and later rebuilt outside the United States may not thereafter engage in the coastwise trade.

**"§ 12133. Duty to carry certificate on vessel and allow examination**

"(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

"(b) AVAILABILITY.—The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

"(c) CRIMINAL PENALTY.—A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

**"§ 12134. Evidentiary uses of documentation**

"A certificate of documentation is—

"(1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;

"(2) conclusive evidence of qualification to engage in a specified trade; and

"(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

**"§ 12135. Invalidation of certificates of documentation**

"A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

"(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or

"(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

**"§ 12136. Surrender of certificates of documentation**

"(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

"(b) CONDITIONS FOR SURRENDER.—

"(1) VESSELS OVER 1,000 TONS.—The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

"(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

"(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

"(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) sections 56101 and 56102(a)(2) and chapter 563 of this title; and

"(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) EXCEPTION.—This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

**"§ 12137. Recording of vessels built in the United States**

"The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

**"§ 12138. List of documented vessels**

"(a) IN GENERAL.—The Secretary shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping. Publication.

"(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

"(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

"(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

"(A) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

"(B) the abilities and limitations of the vessel with respect to laying, maintaining, and repairing a submarine cable; and

"(C) the name and address of the person to whom inquiries regarding the vessel may be made.

"(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months. Federal Register, publication.

**"§ 12139. Reports**

"(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, and charterers of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

"(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary. Regulations.

"(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

"(A) 500 gross tons as measured under section 14502 of this title; or

"(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

"(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

"SUBCHAPTER IV—PENALTIES

**"§ 12151. Penalties**

"(a) IN GENERAL.—A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation.

"(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

"(1) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

"(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

"(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

"(4) the vessel is employed in a trade without an appropriate endorsement;

"(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

"(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

"(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

"(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than $100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation, about the eligibility of the vessel under section 12113(c) or (d) of this title in applying for or applying to renew the fishery endorsement.

**"§ 12152. Denial or revocation of endorsement for non-payment of civil penalty**

"If the owner of a vessel fails to pay a civil penalty imposed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement, or revoke the endorsement, on a certificate of documentation issued for the vessel under this chapter.".

**SEC. 6. SUBTITLE III OF TITLE 46.**

(a) SUBTITLE ANALYSIS.—The analysis of subtitle III of title 46, United States Code, is amended to read as follows:

"Chapter Sec.
**"301. General Liability Provisions ..... 30101**
**"303. Death on the High Seas ..... 30301**
**"305. Exoneration and Limitation of Liability ..... 30501**
**"307. Liability of Water Carriers ..... 30701**
**"309. Suits in Admiralty Against the United States ..... 30901**
**"311. Suits Involving Public Vessels ..... 31101**
**"313. Commercial Instruments and Maritime Liens ..... 31301".**

(b) REPEALS.—Title 46, United States Code, is amended by striking chapter 301 and the lines appearing immediately before and immediately after chapter 313 indicating that certain chapters are reserved.

(c) CHAPTERS 301–311.—Title 46, United States Code, is amended by inserting after the analysis of subtitle III the following:

## "CHAPTER 301—GENERAL LIABILITY PROVISIONS

"Sec.
"30101. Extension of jurisdiction to cases of damage or injury on land.
"30102. Liability to passengers.
"30103. Liability of master, mate, engineer, and pilot.
"30104. Personal injury to or death of seamen.
"30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries.
"30106. Time limit on bringing maritime action for personal injury or death.

### "§ 30101. Extension of jurisdiction to cases of damage or injury on land

"(a) IN GENERAL.—The admiralty and maritime jurisdiction of the United States extends to and includes cases of injury or damage, to person or property, caused by a vessel on navigable waters, even though the injury or damage is done or consummated on land.

"(b) PROCEDURE.—A civil action in a case under subsection (a) may be brought in rem or in personam according to the principles of law and the rules of practice applicable in cases where the injury or damage has been done and consummated on navigable waters.

"(c) ACTIONS AGAINST UNITED STATES.—

"(1) EXCLUSIVE REMEDY.—In a civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters, chapter 309 or 311 of this title, as appropriate, provides the exclusive remedy.

"(2) ADMINISTRATIVE CLAIM.—A civil action described in paragraph (1) may not be brought until the expiration of the 6-month period after the claim has been presented in writing to the agency owning or operating the vessel causing the injury or damage.

### "§ 30102. Liability to passengers

"(a) LIABILITY.—The owner and master of a vessel, and the vessel, are liable for personal injury to a passenger or damage to a passenger's baggage caused by—

"(1) a neglect or failure to comply with part B or F of subtitle II of this title; or

"(2) a known defect in the steaming apparatus or hull of the vessel.

"(b) NOT SUBJECT TO LIMITATION.—A liability imposed under this section is not subject to limitation under chapter 305 of this title.

**"§ 30103. Liability of master, mate, engineer, and pilot**

"A person may bring a civil action against a master, mate, engineer, or pilot of a vessel, and recover damages, for personal injury or loss caused by the master's, mate's, engineer's, or pilot's—

"(1) negligence or willful misconduct; or

"(2) neglect or refusal to obey the laws governing the navigation of vessels.

**"§ 30104. Personal injury to or death of seamen**

"(a) CAUSE OF ACTION.—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

"(b) VENUE.—An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.

**"§ 30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries**

"(a) DEFINITION.—In this section, the term 'continental shelf' has the meaning given that term in article I of the 1958 Convention on the Continental Shelf.

"(b) RESTRICTION.—Except as provided in subsection (c), a civil action for maintenance and cure or for damages for personal injury or death may not be brought under a maritime law of the United States if—

"(1) the individual suffering the injury or death was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action;

"(2) the incident occurred in the territorial waters or waters overlaying the continental shelf of a country other than the United States; and

"(3) the individual suffering the injury or death was employed at the time of the incident by a person engaged in the exploration, development, or production of offshore mineral or energy resources, including drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment, or personnel, but not including transporting those resources by a vessel constructed or adapted primarily to carry oil in bulk in the cargo spaces.

"(c) NONAPPLICATION.—Subsection (b) does not apply if the individual bringing the action establishes that a remedy is not available under the laws of—

"(1) the country asserting jurisdiction over the area in which the incident occurred; or

"(2) the country in which the individual suffering the injury or death maintained citizenship or residency at the time of the incident.

### "§ 30106. Time limit on bringing maritime action for personal injury or death

"Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.

## "CHAPTER 303—DEATH ON THE HIGH SEAS

"Sec.
"30301. Short title.
"30302. Cause of action.
"30303. Amount and apportionment of recovery.
"30304. Contributory negligence.
"30305. Death of plaintiff in pending action.
"30306. Foreign cause of action.
"30307. Commercial aviation accidents.
"30308. Nonapplication.

### "§ 30301. Short title

"This chapter may be cited as the 'Death on the High Seas Act'.

### "§ 30302. Cause of action

"When the death of an individual is caused by wrongful act, neglect, or default occurring on the high seas beyond 3 nautical miles from the shore of the United States, the personal representative of the decedent may bring a civil action in admiralty against the person or vessel responsible. The action shall be for the exclusive benefit of the decedent's spouse, parent, child, or dependent relative.

### "§ 30303. Amount and apportionment of recovery

"The recovery in an action under this chapter shall be a fair compensation for the pecuniary loss sustained by the individuals for whose benefit the action is brought. The court shall apportion the recovery among those individuals in proportion to the loss each has sustained.

### "§ 30304. Contributory negligence

"In an action under this chapter, contributory negligence of the decedent is not a bar to recovery. The court shall consider the degree of negligence of the decedent and reduce the recovery accordingly.

### "§ 30305. Death of plaintiff in pending action

"If a civil action in admiralty is pending in a court of the United States to recover for personal injury caused by wrongful act, neglect, or default described in section 30302 of this title, and the individual dies during the action as a result of the wrongful act, neglect, or default, the personal representative of the decedent may be substituted as the plaintiff and the action may proceed under this chapter for the recovery authorized by this chapter.

### "§ 30306. Foreign cause of action

"When a cause of action exists under the law of a foreign country for death by wrongful act, neglect, or default on the high seas, a civil action in admiralty may be brought in a court of the United States based on the foreign cause of action, without abatement of the amount for which recovery is authorized.

### "§ 30307. Commercial aviation accidents

"(a) DEFINITION.—In this section, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.

"(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if the death resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of the United States, additional compensation is recoverable for nonpecuniary damages, but punitive damages are not recoverable.

"(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the death resulted from a commercial aviation accident occurring on the high seas 12 nautical miles or less from the shore of the United States.

### "§ 30308. Nonapplication

"(a) STATE LAW.—This chapter does not affect the law of a State regulating the right to recover for death.

"(b) INTERNAL WATERS.—This chapter does not apply to the Great Lakes or waters within the territorial limits of a State.

## "CHAPTER 305—EXONERATION AND LIMITATION OF LIABILITY

"Sec.
"30501. Definition.
"30502. Application.
"30503. Declaration of nature and value of goods.
"30504. Loss by fire.
"30505. General limit of liability.
"30506. Limit of liability for personal injury or death.
"30507. Apportionment of losses.
"30508. Provisions requiring notice of claim or limiting time for bringing action.
"30509. Provisions limiting liability for personal injury or death.
"30510. Vicarious liability for medical malpractice with regard to crew.
"30511. Action by owner for limitation.
"30512. Liability as master, officer, or seaman not affected.

### "§ 30501. Definition

"In this chapter, the term 'owner' includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.

### "§ 30502. Application

"Except as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

### "§ 30503. Declaration of nature and value of goods

"(a) IN GENERAL.—If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

"(b) ITEMS.—The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings,

engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

**"§ 30504. Loss by fire**

"The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

**"§ 30505. General limit of liability**

"(a) IN GENERAL.—Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.

"(b) CLAIMS SUBJECT TO LIMITATION.—Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage, or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of the owner.

"(c) WAGES.—Subsection (a) does not apply to a claim for wages.

**"§ 30506. Limit of liability for personal injury or death**

"(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

"(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability determined under section 30505 of this title is insufficient to pay all losses in full, and the portion available to pay claims for personal injury or death is less than $420 times the tonnage of the vessel, that portion shall be increased to $420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

"(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

"(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

"(e) PRIVITY OR KNOWLEDGE.—In a claim for personal injury or death, the privity or knowledge of the master or the owner's superintendent or managing agent, at or before the beginning of each voyage, is imputed to the owner.

**"§ 30507. Apportionment of losses**

"If the amounts determined under sections 30505 and 30506 of this title are insufficient to pay all claims—

"(1) all claimants shall be paid in proportion to their respective losses out of the amount determined under section 30505 of this title; and

"(2) personal injury and death claimants, if any, shall be paid an additional amount in proportion to their respective losses out of the additional amount determined under section 30506(b) of this title.

### "§ 30508. Provisions requiring notice of claim or limiting time for bringing action

"(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

"(b) MINIMUM TIME LIMITS.—The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for—

"(1) giving notice of, or filing a claim for, personal injury or death to less than 6 months after the date of the injury or death; or

"(2) bringing a civil action for personal injury or death to less than one year after the date of the injury or death.

"(c) EFFECT OF FAILURE TO GIVE NOTICE.—When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if—

"(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

"(2) the court finds there was a satisfactory reason why the notice could not have been given; or

"(3) the owner of the vessel fails to object to the failure to give the notice.

"(d) TOLLING OF PERIOD TO GIVE NOTICE.—If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of—

"(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

"(2) 3 years after the injury or death.

### "§ 30509. Provisions limiting liability for personal injury or death

"(a) PROHIBITION.—

"(1) IN GENERAL.—The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting—

"(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

"(B) the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.

"(2) VOIDNESS.—A provision described in paragraph (1) is void.

"(b) EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL INJURY.—

"(1) IN GENERAL.—Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is—

"(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

"(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

"(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

"(2) SEXUAL OFFENSES.—This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

**"§ 30510. Vicarious liability for medical malpractice with regard to crew**

"In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

**"§ 30511. Action by owner for limitation**

"(a) IN GENERAL.—The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

"(b) CREATION OF FUND.—When the action is brought, the owner (at the owner's option) shall—

"(1) deposit with the court, for the benefit of claimants—

"(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

"(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

"(2) transfer to a trustee appointed by the court, for the benefit of claimants—

"(A) the owner's interest in the vessel and pending freight; and

"(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

"(c) CESSATION OF OTHER ACTIONS.—When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

### "§ 30512. Liability as master, officer, or seaman not affected

"This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

## "CHAPTER 307—LIABILITY OF WATER CARRIERS

"Sec.
"30701. Definition.
"30702. Application.
"30703. Bills of lading.
"30704. Loading, stowage, custody, care, and delivery.
"30705. Seaworthiness.
"30706. Defenses.
"30707. Criminal penalty.

### "§ 30701. Definition

"In this chapter, the term 'carrier' means the owner, manager, charterer, agent, or master of a vessel.

### "§ 30702. Application

"(a) IN GENERAL.—Except as otherwise provided, this chapter applies to a carrier engaged in the carriage of goods to or from any port in the United States.

"(b) LIVE ANIMALS.—Sections 30703 and 30704 of this title do not apply to the carriage of live animals.

### "§ 30703. Bills of lading

"(a) ISSUANCE.—On demand of a shipper, the carrier shall issue a bill of lading or shipping document.

"(b) CONTENTS.—The bill of lading or shipping document shall include a statement of—

"(1) the marks necessary to identify the goods;

"(2) the number of packages, or the quantity or weight, and whether it is carrier's or shipper's weight; and

"(3) the apparent condition of the goods.

"(c) PRIMA FACIE EVIDENCE OF RECEIPT.—A bill of lading or shipping document issued under this section is prima facie evidence of receipt of the goods described.

### "§ 30704. Loading, stowage, custody, care, and delivery

"A carrier may not insert in a bill of lading or shipping document a provision avoiding its liability for loss or damage arising from negligence or fault in loading, stowage, custody, care, or proper delivery. Any such provision is void.

### "§ 30705. Seaworthiness

"(a) PROHIBITION.—A carrier may not insert in a bill of lading or shipping document a provision lessening or avoiding its obligation to exercise due diligence to—

"(1) make the vessel seaworthy; and

"(2) properly man, equip, and supply the vessel.

"(b) VOIDNESS.—A provision described in subsection (a) is void.

### "§ 30706. Defenses

"(a) DUE DILIGENCE.—If a carrier has exercised due diligence to make the vessel in all respects seaworthy and to properly man, equip, and supply the vessel, the carrier and the vessel are not liable for loss or damage arising from an error in the navigation or management of the vessel.

"(b) OTHER DEFENSES.—A carrier and the vessel are not liable for loss or damage arising from—

"(1) dangers of the sea or other navigable waters;

"(2) acts of God;

"(3) public enemies;

"(4) seizure under legal process;

"(5) inherent defect, quality, or vice of the goods;

"(6) insufficiency of package;

"(7) act or omission of the shipper or owner of the goods or their agent; or

"(8) saving or attempting to save life or property at sea, including a deviation in rendering such a service.

### "§ 30707. Criminal penalty

"(a) IN GENERAL.—A carrier that violates this chapter shall be fined under title 18.

"(b) LIEN.—The amount of the fine and costs for the violation constitute a lien on the vessel engaged in the carriage. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found.

"(c) DISPOSITION OF FINE.—Half of the fine shall go to the person injured by the violation and half to the United States Government.

## "CHAPTER 309—SUITS IN ADMIRALTY AGAINST THE UNITED STATES

"Sec.
"30901. Short title.
"30902. Definition.
"30903. Waiver of immunity.
"30904. Exclusive remedy.
"30905. Period for bringing action.
"30906. Venue.
"30907. Procedure for hearing and determination.
"30908. Exemption from arrest or seizure.
"30909. Security.
"30910. Exoneration and limitation.
"30911. Costs and interest.
"30912. Arbitration, compromise, or settlement.
"30913. Payment of judgment or settlement.
"30914. Release of privately owned vessel after arrest or attachment.
"30915. Seizures and other proceedings in foreign jurisdictions.
"30916. Recovery by the United States for salvage services.
"30917. Disposition of amounts recovered by the United States.
"30918. Reports.

### "§ 30901. Short title

"This chapter may be cited as the 'Suits in Admiralty Act'.

### "§ 30902. Definition

"In this chapter, the term 'federally-owned corporation' means a corporation in which the United States owns all the outstanding capital stock.

**"§ 30903. Waiver of immunity**

"(a) IN GENERAL.—In a case in which, if a vessel were privately owned or operated, or if cargo were privately owned or possessed, or if a private person or property were involved, a civil action in admiralty could be maintained, a civil action in admiralty in personam may be brought against the United States or a federally-owned corporation. In a civil action in admiralty brought by the United States or a federally-owned corporation, an admiralty claim in personam may be filed or a setoff claimed against the United States or corporation.

"(b) NON-JURY.—A claim against the United States or a federally-owned corporation under this section shall be tried without a jury.

**"§ 30904. Exclusive remedy**

"If a remedy is provided by this chapter, it shall be exclusive of any other action arising out of the same subject matter against the officer, employee, or agent of the United States or the federally-owned corporation whose act or omission gave rise to the claim.

**"§ 30905. Period for bringing action**

"A civil action under this chapter must be brought within 2 years after the cause of action arose.

**"§ 30906. Venue**

"(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which—

"(1) any plaintiff resides or has its principal place of business; or

"(2) the vessel or cargo is found.

"(b) TRANSFER.—On a motion by a party, the court may transfer the action to any other district court of the United States.

**"§ 30907. Procedure for hearing and determination**

"(a) IN GENERAL.—A civil action under this chapter shall proceed and be heard and determined according to the principles of law and the rules of practice applicable in like cases between private parties.

"(b) IN REM.—

"(1) REQUIREMENTS.—The action may proceed according to the principles of an action in rem if—

"(A) the plaintiff elects in the complaint; and

"(B) it appears that an action in rem could have been maintained had the vessel or cargo been privately owned and possessed.

"(2) EFFECT ON RELIEF IN PERSONAM.—An election under paragraph (1) does not prevent the plaintiff from seeking relief in personam in the same action.

**"§ 30908. Exemption from arrest or seizure**

"The following are not subject to arrest or seizure by judicial process in the United States:

"(1) A vessel owned by, possessed by, or operated by or for the United States or a federally-owned corporation.

"(2) Cargo owned or possessed by the United States or a federally-owned corporation.

**"§ 30909. Security**

"Neither the United States nor a federally-owned corporation may be required to give a bond or admiralty stipulation in a civil action under this chapter.

**"§ 30910. Exoneration and limitation**

"The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

**"§ 30911. Costs and interest**

"(a) IN GENERAL.—A judgment against the United States or a federally-owned corporation under this chapter may include costs and interest at the rate of 4 percent per year until satisfied. Interest shall run as ordered by the court, except that interest is not allowable for the period before the action is filed.

"(b) CONTRACT PROVIDING FOR INTEREST.—Notwithstanding subsection (a), if the claim is based on a contract providing for interest, interest may be awarded at the rate and for the period provided in the contract.

**"§ 30912. Arbitration, compromise, or settlement**

"The Secretary of a department of the United States Government, or the board of trustees of a federally-owned corporation, may arbitrate, compromise, or settle a claim under this chapter.

**"§ 30913. Payment of judgment or settlement**

"(a) IN GENERAL.—The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy.

"(b) SOURCE OF PAYMENT.—Payment shall be made from an appropriation or fund available specifically for the purpose. If no appropriation or fund is specifically available, there is hereby appropriated, out of money in the Treasury not otherwise appropriated, an amount sufficient to pay the judgment, award, or settlement.

**"§ 30914. Release of privately owned vessel after arrest or attachment**

"If a privately owned vessel not in the possession of the United States or a federally-owned corporation is arrested or attached in a civil action arising or alleged to have arisen from prior ownership, possession, or operation by the United States or corporation, the vessel shall be released without bond or stipulation on a statement by the United States, through the Attorney General or other authorized law officer, that the United States is interested in the action, desires release of the vessel, and assumes liability for the satisfaction of any judgment obtained by the plaintiff. After the vessel is released, the action shall proceed against the United States in accordance with this chapter.

**"§ 30915. Seizures and other proceedings in foreign jurisdictions**

"(a) IN GENERAL.—If a vessel or cargo described in section 30908 or 30914 of this title is arrested, attached, or otherwise seized by judicial process in a foreign country, or if an action is brought in a court of a foreign country against the master of such a vessel for a claim arising from the ownership, possession,

or operation of the vessel, or the ownership, possession, or carriage of such cargo, the Secretary of State, on request of the Attorney General or another officer authorized by the Attorney General, may direct the United States consul residing at or nearest the place at which the action was brought—

"(1) to claim the vessel or cargo as immune from arrest, attachment, or other seizure, and to execute an agreement, stipulation, bond, or undertaking, for the United States or federally-owned corporation, for the release of the vessel or cargo and the prosecution of any appeal; or

"(2) if an action has been brought against the master of such a vessel, to enter the appearance of the United States or corporation and to pledge the credit of the United States or corporation to the payment of any judgment and costs in the action.

"(b) ARRANGING BOND OR STIPULATION.—The Attorney General may—

"(1) arrange with a bank, surety company, or other person, whether in the United States or a foreign country, to execute a bond or stipulation; and

"(2) pledge the credit of the United States to secure the bond or stipulation.

"(c) PAYMENT OF JUDGMENT.—The appropriate accounting officer of the United States or corporation may pay a judgment in an action described in subsection (a) on presentation of a copy of the judgment if certified by the clerk of the court and authenticated by—

"(1) the certificate and seal of the United States consul claiming the vessel or cargo, or by the consul's successor; and

"(2) the certificate of the Secretary as to the official capacity of the consul.

"(d) RIGHT TO CLAIM IMMUNITY NOT AFFECTED.—This section does not affect the right of the United States to claim immunity of a vessel or cargo from foreign jurisdiction.

### "§ 30916. Recovery by the United States for salvage services

"(a) CIVIL ACTION.—The United States, and the crew of a merchant vessel owned or operated by the United States, or a federally-owned corporation, may bring a civil action to recover for salvage services provided by the vessel and crew.

"(b) DEPOSIT OF AMOUNTS RECOVERED.—Any amount recovered under this section by the United States for its own benefit, and not for the benefit of the crew, shall be deposited in the Treasury to the credit of the department of the United States Government, or the corporation, having control of the possession or operation of the vessel.

### "§ 30917. Disposition of amounts recovered by the United States

"Amounts recovered in a civil action brought by the United States on a claim arising from the ownership, possession, or operation of a merchant vessel, or the ownership, possession, or carriage of cargo, shall be deposited in the Treasury to the credit of the department of the United States Government, or the federally-owned corporation, having control of the vessel or cargo, for reimbursement of the appropriation, insurance fund, or other fund

from which the compensation for which the judgment was recovered was or will be paid.

### "§ 30918. Reports

"The Secretary of each department of the United States Government, and the board of trustees of each federally-owned corporation, shall report to Congress at each session thereof all arbitration awards and settlements agreed to under this chapter since the previous session, for which the time to appeal has expired or been waived.

## "CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS

"Sec.
"31101. Short title.
"31102. Waiver of immunity.
"31103. Applicable procedure.
"31104. Venue.
"31105. Security when counterclaim filed.
"31106. Exoneration and limitation.
"31107. Interest.
"31108. Arbitration, compromise, or settlement.
"31109. Payment of judgment or settlement.
"31110. Subpoenas to officers or members of crew.
"31111. Claims by nationals of foreign countries.
"31112. Lien not recognized or created.
"31113. Reports.

### "§ 31101. Short title

"This chapter may be cited as the 'Public Vessels Act'.

### "§ 31102. Waiver of immunity

"(a) IN GENERAL.—A civil action in personam in admiralty may be brought, or an impleader filed, against the United States for—

"(1) damages caused by a public vessel of the United States; or

"(2) compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States.

"(b) COUNTERCLAIM OR SETOFF.—If the United States brings a civil action in admiralty for damages caused by a privately owned vessel, the owner of the vessel, or the successor in interest, may file a counterclaim in personam, or claim a setoff, against the United States for damages arising out of the same subject matter.

### "§ 31103. Applicable procedure

"A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

### "§ 31104. Venue

"(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

"(b) VESSEL OR CARGO OUTSIDE TERRITORIAL WATERS.—If the vessel or cargo is outside the territorial waters of the United States—

"(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or

"(2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

**"§ 31105. Security when counterclaim filed**

"If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

**"§ 31106. Exoneration and limitation**

"The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

**"§ 31107. Interest**

"A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

**"§ 31108. Arbitration, compromise, or settlement**

"The Attorney General may arbitrate, compromise, or settle a claim under this chapter if a civil action based on the claim has been commenced.

**"§ 31109. Payment of judgment or settlement**

"The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

**"§ 31110. Subpoenas to officers or members of crew**

"An officer or member of the crew of a public vessel may not be subpoenaed in a civil action under this chapter without the consent of—

"(1) the Secretary of the department or the head of the independent establishment having control of the vessel at the time the cause of action arose; or

"(2) the master or commanding officer of the vessel at the time the subpoena is issued.

**"§ 31111. Claims by nationals of foreign countries**

"A national of a foreign country may not maintain a civil action under this chapter unless it appears to the satisfaction of the court in which the action is brought that the government of that country, in similar circumstances, allows nationals of the United States to sue in its courts.

**"§ 31112. Lien not recognized or created**

"This chapter shall not be construed as recognizing the existence of or as creating a lien against a public vessel of the United States.

### "§ 31113. Reports

"The Attorney General shall report to Congress at each session thereof all claims settled under this chapter.".

**SEC. 7. SUBTITLE IV OF TITLE 46.**

Title 46, United States Code, is amended by inserting after subtitle III the following:

## "Subtitle IV—Regulation of Ocean Shipping

"PART A—OCEAN SHIPPING


| "Chapter | Sec. |
|---|---|
| **"401. General** | **40101** |
| **"403. Agreements** | **40301** |
| **"405. Tariffs, Service Contracts, Refunds, and Waivers** | **40501** |
| **"407. Controlled Carriers** | **40701** |
| **"409. Ocean Transportation Intermediaries** | **40901** |
| **"411. Prohibitions and Penalties** | **41101** |
| **"413. Enforcement** | **41301** |

"PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

| | |
|---|---|
| **"421. Regulations Affecting Shipping in Foreign Trade** | **42101** |
| **"423. Foreign Shipping Practices** | **42301** |

"PART C—MISCELLANEOUS

| | |
|---|---|
| **"441. Evidence of Financial Responsibility for Passenger Transportation.** | **44101** |


## "PART A—OCEAN SHIPPING

## "CHAPTER 401—GENERAL


"Sec.
"40101. Purposes.
"40102. Definitions.
"40103. Administrative exemptions.
"40104. Reports filed with the Commission.


### "§ 40101. Purposes

"The purposes of this part are to—

"(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

"(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

"(3) encourage the development of an economically sound and efficient liner fleet of vessels of the United States capable of meeting national security needs; and

"(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

### "§ 40102. Definitions

"In this part:

"(1) AGREEMENT.—The term 'agreement'—

"(A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but

"(B) does not include a maritime labor agreement.

"(2) ANTITRUST LAWS.—The term 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

"(C) the Clayton Act (15 U.S.C. 12 et seq.);

"(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

"(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

"(G) Acts supplementary to those Acts.

"(3) ASSESSMENT AGREEMENT.—The term 'assessment agreement' means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.

"(4) BULK CARGO.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

"(5) CHEMICAL PARCEL-TANKER.—The term 'chemical parcel-tanker' means a vessel that has—

"(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—

"(i) are a permanent part of the vessel; and

"(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

"(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

"(6) COMMON CARRIER.—The term 'common carrier'—

"(A) means a person that—

"(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

"(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

"(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country; but

"(B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

"(i) if the carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities; and

"(ii) only with respect to the carriage of those commodities.

"(7) CONFERENCE.—The term 'conference'—

"(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

"(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

"(8) CONTROLLED CARRIER.—The term 'controlled carrier' means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

"(A) a majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

"(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

"(9) DEFERRED REBATE.—The term 'deferred rebate' means a return by a common carrier of any freight money to a shipper, where the return is—

"(A) consideration for the shipper giving all or any portion of its shipments to that or any other common carrier over a fixed period of time;

"(B) deferred beyond the completion of the service for which it was paid; and

"(C) made only if the shipper has agreed to make a further shipment with that or any other common carrier.

"(10) FOREST PRODUCTS.—The term 'forest products' includes lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, and paper and paper board in rolls or in pallet or skid-sized sheets.

"(11) INLAND DIVISION.—The term 'inland division' means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

"(12) INLAND PORTION.—The term 'inland portion' means the charge to the public by a common carrier for the non-ocean portion of through transportation.

"(13) LOYALTY CONTRACT.—The term 'loyalty contract' means a contract with an ocean common carrier or agreement providing for—

"(A) a shipper to obtain lower rates by committing all or a fixed portion of its cargo to that carrier or agreement; and

"(B) a deferred rebate arrangement.

"(14) MARINE TERMINAL OPERATOR.—The term 'marine terminal operator' means a person engaged in the United States in the business of providing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49.

"(15) MARITIME LABOR AGREEMENT.—The term 'maritime labor agreement'—

"(A) means—

"(i) a collective bargaining agreement between an employer subject to this part, or a group of such employers, and a labor organization representing employees in the maritime or stevedoring industry;

"(ii) an agreement preparatory to such a collective bargaining agreement among members of a multi-employer bargaining group; or

"(iii) an agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group; but

"(B) does not include an assessment agreement.

"(16) NON-VESSEL-OPERATING COMMON CARRIER.—The term 'non-vessel-operating common carrier' means a common carrier that—

"(A) does not operate the vessels by which the ocean transportation is provided; and

"(B) is a shipper in its relationship with an ocean common carrier.

"(17) OCEAN COMMON CARRIER.—The term 'ocean common carrier' means a vessel-operating common carrier.

"(18) OCEAN FREIGHT FORWARDER.—The term 'ocean freight forwarder' means a person that—

"(A) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

"(B) processes the documentation or performs related activities incident to those shipments.

"(19) OCEAN TRANSPORTATION INTERMEDIARY.—The term 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier.

"(20) SERVICE CONTRACT.—The term 'service contract' means a written contract, other than a bill of lading or receipt, between one or more shippers, on the one hand, and an individual ocean common carrier or an agreement between or among ocean common carriers, on the other, in which—

"(A) the shipper or shippers commit to providing a certain volume or portion of cargo over a fixed time period; and

"(B) the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features.

"(21) SHIPMENT.—The term 'shipment' means all of the cargo carried under the terms of a single bill of lading.

"(22) SHIPPER.—The term 'shipper' means—

"(A) a cargo owner;

"(B) the person for whose account the ocean transportation of cargo is provided;

"(C) the person to whom delivery is to be made;

"(D) a shippers' association; or

"(E) a non-vessel-operating common carrier that accepts responsibility for payment of all charges applicable under the tariff or service contract.

"(23) SHIPPERS' ASSOCIATION.—The term 'shippers' association' means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group to obtain carload, truckload, or other volume rates or service contracts.

"(24) THROUGH RATE.—The term 'through rate' means the single amount charged by a common carrier in connection with through transportation.

"(25) THROUGH TRANSPORTATION.—The term 'through transportation' means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States port or point and a foreign port or point.

### "§ 40103. Administrative exemptions

"(a) IN GENERAL.—The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.

"(b) OPPORTUNITY FOR HEARING.—An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

### "§ 40104. Reports filed with the Commission

"(a) IN GENERAL.—The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.

"(b) CONFERENCE MINUTES.—Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.

## "CHAPTER 403—AGREEMENTS

"Sec.
"40301. Application.
"40302. Filing requirements.
"40303. Content requirements.
"40304. Commission action.

"40305. Assessment agreements.
"40306. Nondisclosure of information.
"40307. Exemption from antitrust laws.

### "§ 40301. Application

"(a) OCEAN COMMON CARRIER AGREEMENTS.—This part applies to an agreement between or among ocean common carriers to—

"(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

"(2) pool or apportion traffic, revenues, earnings, or losses;

"(3) allot ports or regulate the number and character of voyages between ports;

"(4) regulate the volume or character of cargo or passenger traffic to be carried;

"(5) engage in an exclusive, preferential, or cooperative working arrangement between themselves or with a marine terminal operator;

"(6) control, regulate, or prevent competition in international ocean transportation; or

"(7) discuss and agree on any matter related to a service contract.

"(b) MARINE TERMINAL OPERATOR AGREEMENTS.—This part applies to an agreement between or among marine terminal operators, or between or among one or more marine terminal operators and one or more ocean common carriers, to—

"(1) discuss, fix, or regulate rates or other conditions of service; or

"(2) engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States.

"(c) ACQUISITIONS.—This part does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

"(d) MARITIME LABOR AGREEMENTS.—This part does not apply to a maritime labor agreement. However, this subsection does not exempt from this part any rate, charge, regulation, or practice of a common carrier that is required to be set forth in a tariff or is an essential term of a service contract, whether or not the rate, charge, regulation, or practice arises out of, or is otherwise related to, a maritime labor agreement.

"(e) ASSESSMENT AGREEMENTS.—This part (except sections 40305 and 40307(a)) does not apply to an assessment agreement.

### "§ 40302. Filing requirements

"(a) IN GENERAL.—A true copy of every agreement referred to in section 40301(a) or (b) of this title shall be filed with the Federal Maritime Commission. If the agreement is oral, a complete memorandum specifying in detail the substance of the agreement shall be filed.

"(b) EXCEPTIONS.—Subsection (a) does not apply to—

"(1) an agreement related to transportation to be performed within or between foreign countries; or

"(2) an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States.

"(c) REGULATIONS.—The Commission may by regulation prescribe the form and manner in which an agreement shall be filed

and any additional information and documents necessary to evaluate the agreement.

**"§ 40303. Content requirements**

"(a) OCEAN COMMON CARRIER AGREEMENTS.—

"(1) RESTRICTIONS.—An ocean common carrier agreement may not—

"(A) prohibit or restrict a member of the agreement from engaging in negotiations for a service contract with a shipper;

"(B) require a member of the agreement to disclose a negotiation on a service contract, or the terms of a service contract, other than those terms required to be published under section 40502(d) of this title; or

"(C) adopt mandatory rules or requirements affecting the right of an agreement member to negotiate and enter into a service contract.

"(2) VOLUNTARY GUIDELINES.—An ocean common carrier agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. Any guidelines adopted shall be submitted confidentially to the Federal Maritime Commission.

Confidential information.

"(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

"(1) state its purpose;

"(2) provide reasonable and equal terms for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

"(3) permit any member to withdraw from conference membership on reasonable notice without penalty;

"(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

"(5) prohibit the conference from engaging in conduct prohibited by section 41105(1) or (3) of this title;

"(6) provide for a consultation process designed to promote—

"(A) commercial resolution of disputes; and

"(B) cooperation with shippers in preventing and eliminating malpractices;

"(7) establish procedures for promptly and fairly considering requests and complaints of shippers; and

"(8) provide that—

"(A) any member of the conference may take independent action on a rate or service item on not more than 5 days' notice to the conference; and

"(B) except for an exempt commodity not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

Deadline.

"(c) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

"(d) VESSEL SHARING AGREEMENTS.—

"(1) IN GENERAL.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a liner vessel documented under section 12103 or 12111(c) of this title may agree with an ocean common carrier described in paragraph (2) to which it charters or subcharters the vessel or space on the vessel that the charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for vessels of the United States.

"(2) CARRIER DESCRIBED.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of liner vessels of the United States that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

**"§ 40304. Commission action**

Federal Register, publication. Deadline.

"(a) NOTICE OF FILING.—Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.

"(b) PRELIMINARY REVIEW AND REJECTION.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

Notification.

"(c) REVIEW AND EFFECTIVE DATE.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

"(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

"(2) if additional information or documents are requested under subsection (d)—

"(A) on the 45th day after the Commission receives all the additional information and documents; or

"(B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

"(d) REQUEST FOR ADDITIONAL INFORMATION.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this section.

"(e) MODIFICATION OF REVIEW PERIOD.—

"(1) SHORTENING.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

"(2) EXTENSION.—The period specified in subsection (c)(2) may be extended only by the United States District Court

for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

"(f) FIXED TERMS.—The Commission may not limit the effectiveness of an agreement to a fixed term.

**"§ 40305. Assessment agreements**

"(a) FILING REQUIREMENT.—An assessment agreement shall be filed with the Federal Maritime Commission and is effective on filing. Effective date.

"(b) COMPLAINTS.—If a complaint is filed with the Commission within 2 years after the date of an assessment agreement, the Commission shall disapprove, cancel, or modify the agreement, or an assessment or charge pursuant to the agreement, that the Commission finds, after notice and opportunity for a hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in the proceeding within one year after the date the complaint is filed. Notification. Hearing. Deadline.

"(c) ADJUSTMENTS OF ASSESSMENTS AND CHARGES.—To the extent that the Commission finds under subsection (b) that an assessment or charge is unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall adjust the assessment or charge for the period between the filing of the complaint and the final decision by awarding prospective credits or debits to future assessments and charges. However, if the complainant has ceased activities subject to the assessment or charge, the Commission may award reparations.

**"§ 40306. Nondisclosure of information**

"Information and documents (other than an agreement) filed with the Federal Maritime Commission under this chapter are exempt from disclosure under section 552 of title 5 and may not be made public except as may be relevant to an administrative or judicial proceeding. This section does not prevent disclosure to either House of Congress or to a duly authorized committee or subcommittee of Congress.

**"§ 40307. Exemption from antitrust laws**

"(a) IN GENERAL.—The antitrust laws do not apply to—

"(1) an agreement (including an assessment agreement) that has been filed and is effective under this chapter;

"(2) an agreement that is exempt under section 40103 of this title from any requirement of this part;

"(3) an agreement or activity within the scope of this part, whether permitted under or prohibited by this part, undertaken or entered into with a reasonable basis to conclude that it is—

"(A) pursuant to an agreement on file with the Federal Maritime Commission and in effect when the activity takes place; or

"(B) exempt under section 40103 of this title from any filing or publication requirement of this part;

"(4) an agreement or activity relating to transportation services within or between foreign countries, whether or not via the United States, unless the agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

"(5) an agreement or activity relating to the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

"(6) an agreement or activity to provide wharfage, dock, warehouse, or other terminal facilities outside the United States; or

"(7) an agreement, modification, or cancellation approved before June 18, 1984, by the Commission under section 15 of the Shipping Act, 1916, or permitted under section 14b of that Act, and any properly published tariff, rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

"(b) EXCEPTIONS.—This part does not extend antitrust immunity to—

"(1) an agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this part relating to transportation within the United States;

"(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

"(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

"(4) a loyalty contract.

"(c) RETROACTIVE EFFECT OF DETERMINATIONS.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

"(d) RELIEF UNDER CLAYTON ACT.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

## "CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS

"Sec.
"40501. General rate and tariff requirements.
"40502. Service contracts.
"40503. Refunds and waivers.

### "§ 40501. General rate and tariff requirements

"(a) AUTOMATED TARIFF SYSTEM.—

Public information.

"(1) IN GENERAL.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

"(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(b) CONTENTS OF TARIFFS.—A tariff under subsection (a) shall—

"(1) state the places between which cargo will be carried;

"(2) list each classification of cargo in use;

"(3) state the level of compensation, if any, of any ocean freight forwarder by a carrier or conference;

"(4) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules that in any way change, affect, or determine any part or the total of the rates or charges;

"(5) include sample copies of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement; and

"(6) include copies of any loyalty contract, omitting the shipper's name.

"(c) ELECTRONIC ACCESS.—A tariff under subsection (a) shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations. A reasonable fee may be charged for such access, except that no fee may be charged for access by a Federal agency.

"(d) TIME-VOLUME RATES.—A rate contained in a tariff under subsection (a) may vary with the volume of cargo offered over a specified period of time.

"(e) EFFECTIVE DATES.—

"(1) INCREASES.—A new or initial rate or change in an existing rate that results in an increased cost to a shipper may not become effective earlier than 30 days after publication. However, for good cause, the Federal Maritime Commission may allow the rate to become effective sooner.

"(2) DECREASES.—A change in an existing rate that results in a decreased cost to a shipper may become effective on publication.

"(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.

Public information. Contracts.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission, after periodic review, may prohibit the use of any automated tariff system that fails to meet the requirements established under this section.

"(2) REMOTE TERMINALS.—The Commission may not require a common carrier to provide a remote terminal for electronic access under subsection (c).

"(3) MARINE TERMINAL OPERATOR SCHEDULES.—The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.

### "§ 40502. Service contracts

"(a) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter

into a service contract with one or more shippers subject to the requirements of this part.

"(b) FILING REQUIREMENTS.—

Confidential information.

"(1) IN GENERAL.—Each service contract entered into under this section by an individual ocean common carrier or an agreement shall be filed confidentially with the Federal Maritime Commission.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to contracts regarding bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(c) ESSENTIAL TERMS.—Each service contract shall include—

"(1) the origin and destination port ranges;

"(2) the origin and destination geographic areas in the case of through intermodal movements;

"(3) the commodities involved;

"(4) the minimum volume or portion;

"(5) the line-haul rate;

"(6) the duration;

"(7) service commitments; and

"(8) the liquidated damages for nonperformance, if any.

"(d) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms specified in paragraphs (1), (3), (4), and (6) of subsection (c) shall be published and made available to the general public in tariff format.

"(e) DISCLOSURE OF CERTAIN TERMS.—

"(1) DEFINITIONS.—In this subsection, the terms 'dock area' and 'within the port area' have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.

"(2) DISCLOSURE.—An ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for the following work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract:

"(A) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area.

"(B) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area.

"(C) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to the container yard.

"(D) The assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

"(3) WITHIN REASONABLE TIME.—The common carrier shall provide the information described in paragraph (2) to the requesting labor organization within a reasonable period of time.

"(4) EXISTENCE OF COLLECTIVE BARGAINING AGREEMENT.—This subsection does not require the disclosure of information

by an ocean common carrier unless there exists an applicable and otherwise lawful collective bargaining agreement pertaining to that carrier. A disclosure by an ocean common carrier may not be deemed an admission or an agreement that any work is covered by a collective bargaining agreement. A dispute about whether any work is covered by a collective bargaining agreement and the responsibility of an ocean common carrier under a collective bargaining agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act (29 U.S.C. 151 et seq.), and without reference to this subsection.

"(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect the lawfulness or unlawfulness under this part or any other Federal or State law of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract.

"(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the exclusive remedy for a breach of a service contract is an action in an appropriate court. The contract dispute resolution forum may not be controlled by or in any way affiliated with a controlled carrier or by the government that owns or controls the carrier.

### "§ 40503. Refunds and waivers

"The Federal Maritime Commission, on application of a carrier or shipper, may permit a common carrier or conference to refund a portion of the freight charges collected from a shipper, or to waive collection of a portion of the charges from a shipper, if—

"(1) there is an error in a tariff, a failure to publish a new tariff, or an error in quoting a tariff, and the refund or waiver will not result in discrimination among shippers, ports, or carriers;

"(2) the common carrier or conference, before filing an application for authority to refund or waive any charges for an error in a tariff or a failure to publish a tariff, has published a new tariff setting forth the rate on which the refund or waiver would be based; and

"(3) the application for the refund or waiver is filed with the Commission within 180 days from the date of shipment.

## "CHAPTER 407—CONTROLLED CARRIERS

"Sec.
"40701. Rates.
"40702. Rate standards.
"40703. Effective date of rates.
"40704. Commission review.
"40705. Presidential review of Commission orders.
"40706. Exceptions.

### "§ 40701. Rates

"(a) IN GENERAL.—A controlled carrier may not—

"(1) maintain a rate or charge in a tariff or service contract, or charge or assess a rate, that is below a just and reasonable level; or

"(2) establish, maintain, or enforce in a tariff or service contract a classification, rule, or regulation that results, or is likely to result, in the carriage or handling of cargo at a rate or charge that is below a just and reasonable level.

"(b) COMMISSION PROHIBITION.—The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

"(c) BURDEN OF PROOF.—In a proceeding under this section, the burden of proof is on the controlled carrier to demonstrate that its rate, charge, classification, rule, or regulation is just and reasonable.

"(d) VOIDNESS.—A rate, charge, classification, rule, or regulation that has been suspended or prohibited by the Commission is void and its use is unlawful.

**"§ 40702. Rate standards**

"(a) DEFINITION.—In this section, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade.

"(b) STANDARDS.—In determining whether a rate, charge, classification, rule, or regulation of a controlled carrier is just and reasonable, the Federal Maritime Commission—

"(1) shall take into account whether the rate or charge that has been published or assessed, or that would result from the pertinent classification, rule, or regulation, is below a level that is fully compensatory to the controlled carrier based on the carrier's actual costs or constructive costs; and

"(2) may take into account other appropriate factors, including whether the rate, charge, classification, rule, or regulation is—

"(A) the same as, or similar to, those published or assessed by other carriers in the same trade;

"(B) required to ensure movement of particular cargo in the same trade; or

"(C) required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

**"§ 40703. Effective date of rates**

"Notwithstanding section 40501(e) of this title and except for service contracts, a rate, charge, classification, rule, or regulation of a controlled carrier may not become effective, without special permission of the Federal Maritime Commission, until the 30th day after publication.

**"§ 40704. Commission review**

Deadline.

"(a) REQUEST FOR JUSTIFICATION.—On request of the Federal Maritime Commission, a controlled carrier shall file with the Commission, within 20 days of the request, a statement of justification that sufficiently details the carrier's need and purpose for an existing or proposed rate, charge, classification, rule, or regulation and upon which the Commission may reasonably base a determination of its lawfulness.

Deadline.

"(b) DETERMINATION.—Within 120 days after receipt of information requested under subsection (a), the Commission shall determine whether the rate, charge, classification, rule, or regulation may be unjust and unreasonable.

"(c) SHOW CAUSE ORDER.—Whenever the Commission is of the opinion that a rate, charge, classification, rule, or regulation published or assessed by a controlled carrier may be unjust and unreasonable, the Commission shall issue an order to the controlled carrier to show cause why the rate, charge, classification, rule, or regulation should not be prohibited.

"(d) SUSPENSION PENDING DETERMINATION.—

"(1) NOT YET EFFECTIVE.—Pending a determination of the lawfulness of a rate, charge, classification, rule, or regulation in a proceeding under subsection (c), the Commission may suspend the rate, charge, classification, rule, or regulation at any time before its effective date.

"(2) ALREADY EFFECTIVE.—If a rate, charge, classification, rule, or regulation has already become effective, the Commission, on issuance of an order to show cause, may suspend the rate, charge, classification, rule, or regulation on at least 30 days' notice to the controlled carrier.

"(3) MAXIMUM SUSPENSION.—A period of suspension under this subsection may not exceed 180 days.

"(e) REPLACEMENT DURING SUSPENSION.—Whenever the Commission has suspended a rate, charge, classification, rule, or regulation under this section, the controlled carrier may publish a new rate, charge, classification, rule, or regulation to take effect immediately during the suspension in lieu of the suspended rate, charge, classification, rule, or regulation. However, the Commission may reject the new rate, charge, classification, rule, or regulation if the Commission believes it is unjust and unreasonable.

### "§ 40705. Presidential review of Commission orders

"(a) TRANSMISSION TO PRESIDENT.—The Federal Maritime Commission shall transmit to the President, concurrently with publication thereof, each order of suspension or final order of prohibition issued under section 40704 of this title.

"(b) PRESIDENTIAL REQUEST AND COMMISSION ACTION.—Within 10 days after receipt or the effective date of a Commission order referred to in subsection (a), the President, in writing, may request the Commission to stay the effect of the order if the President finds that the stay is required for reasons of national defense or foreign policy. The reasons shall be specified in the request. The Commission shall immediately grant the request by issuing an order in which the President's request shall be described. During a stay, the President shall, whenever practicable, attempt to resolve the matter by negotiating with representatives of the applicable foreign governments.

Deadline.

### "§ 40706. Exceptions

"This chapter does not apply to—

"(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

"(2) a trade served only by controlled carriers.

## "CHAPTER 409—OCEAN TRANSPORTATION INTERMEDIARIES

"Sec.
"40901. License requirement.
"40902. Financial responsibility.

"40903. Suspension or revocation of license.
"40904. Compensation by common carriers.

**"§ 40901. License requirement**

"(a) IN GENERAL.—A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

"(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary's license.

**"§ 40902. Financial responsibility**

"(a) IN GENERAL.—A person may not act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

"(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

"(2) issued by a surety company found acceptable by the Secretary of the Treasury.

"(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

"(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

"(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

"(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

"(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

"(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

"(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

"(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent

in the United States for receipt of service of judicial and administrative process, including subpoenas.

**"§ 40903. Suspension or revocation of license**

"(a) FAILURE TO MAINTAIN QUALIFICATIONS OR TO COMPLY.—The Federal Maritime Commission, after notice and opportunity for a hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary—

"(1) is not qualified to provide intermediary services; or

"(2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

"(b) FAILURE TO MAINTAIN BOND, PROOF OF INSURANCE, OR OTHER SURETY.—The Commission may revoke an ocean transportation intermediary's license for failure to maintain a bond, proof of insurance, or other surety as required by section 40902(a) of this title.

**"§ 40904. Compensation by common carriers**

"(a) CERTIFICATION OF LICENSE AND SERVICES.—A common carrier may compensate an ocean freight forwarder for a shipment dispatched for others only when the ocean freight forwarder has certified in writing that it holds an ocean transportation intermediary's license (if required under section 40901 of this title) and has—

"(1) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of the space; and

"(2) prepared and processed the ocean bill of lading, dock receipt, or other similar document for the shipment.

"(b) DUAL COMPENSATION.—A common carrier may not pay compensation for services described in subsection (a) more than once on the same shipment.

"(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean freight forwarder may not receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest. A common carrier may not knowingly pay compensation on that shipment.

"(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference or group of two or more ocean common carriers in the foreign commerce of the United States that is authorized to agree on the level of compensation paid to an ocean freight forwarder may not—

"(1) deny a member of the conference or group the right, upon notice of not more than 5 days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

"(2) agree to limit the payment of compensation to an ocean freight forwarder to less than 1.25 percent of the aggregate of all rates and charges applicable under a tariff and assessed against the cargo on which the services of the ocean freight forwarder are provided.

## "CHAPTER 411—PROHIBITIONS AND PENALTIES

"Sec.
"41101. Joint ventures and consortiums.
"41102. General prohibitions.

"41103. Disclosure of information.
"41104. Common carriers.
"41105. Concerted action.
"41106. Marine terminal operators.
"41107. Monetary penalties.
"41108. Additional penalties.
"41109. Assessment of penalties.

### "§ 41101. Joint ventures and consortiums

"In this chapter, a joint venture or consortium of two or more common carriers operating as a single entity is deemed to be a single common carrier.

### "§ 41102. General prohibitions

"(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

"(b) OPERATING CONTRARY TO AGREEMENT.—A person may not operate under an agreement required to be filed under section 40302 or 40305 of this title if—

"(1) the agreement has not become effective under section 40304 of this title or has been rejected, disapproved, or canceled; or

"(2) the operation is not in accordance with the terms of the agreement or any modifications to the agreement made by the Federal Maritime Commission.

"(c) PRACTICES IN HANDLING PROPERTY.—A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

### "§ 41103. Disclosure of information

"(a) PROHIBITION.—A common carrier, marine terminal operator, or ocean freight forwarder, either alone or in conjunction with any other person, directly or indirectly, may not knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, without the consent of the shipper or consignee, if the information—

"(1) may be used to the detriment or prejudice of the shipper, the consignee, or any common carrier; or

"(2) may improperly disclose its business transaction to a competitor.

"(b) EXCEPTIONS.—Subsection (a) does not prevent providing the information—

"(1) in response to legal process;

"(2) to the Federal Maritime Commission or an agency of the United States Government; or

"(3) to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this part.

"(c) DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATISTICS.—An ocean common carrier that is a party to a conference agreement approved under this part, a receiver, trustee,

lessee, agent, or employee of the carrier, or any other person authorized by the carrier to receive information—

"(1) may give information to the conference or any person or agency designated by the conference, for the purpose of—

"(A) determining whether a shipper or consignee has breached an agreement with the conference or its member lines;

"(B) determining whether a member of the conference has breached the conference agreement; or

"(C) compiling statistics of cargo movement; and

"(2) may not prevent the conference or its designee from soliciting or receiving information for any of those purposes.

**"§ 41104. Common carriers**

"A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

"(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

"(2) provide service in the liner trade that is—

"(A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or

"(B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;

"(3) retaliate against a shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

"(4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—

"(A) rates or charges;

"(B) cargo classifications;

"(C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;

"(D) loading and landing of freight; or

"(E) adjustment and settlement of claims;

"(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;

"(6) use a vessel in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

"(7) offer or pay any deferred rebates;

"(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

"(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any

undue or unreasonable prejudice or disadvantage with respect to any port;

"(10) unreasonably refuse to deal or negotiate;

"(11) knowingly and willfully accept cargo from or transport cargo for the account of an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title; or

"(12) knowingly and willfully enter into a service contract with an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title, or with an affiliate of such an ocean transportation intermediary.

**"§ 41105. Concerted action**

"A conference or group of two or more common carriers may not—

"(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

"(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

"(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

"(4) negotiate with a non-ocean carrier or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

"(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

"(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

"(A) authorized by section 40303(d) of this title;

"(B) required by the law of the United States or the importing or exporting country; or

"(C) agreed to by a shipper in a service contract;

"(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

"(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

**"§ 41106. Marine terminal operators**

"A marine terminal operator may not—

"(1) agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, a common carrier or ocean tramp;

"(2) give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person; or

"(3) unreasonably refuse to deal or negotiate.

**"§ 41107. Monetary penalties**

"(a) IN GENERAL.—A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed $5,000 for each violation or, if the violation was willfully and knowingly committed, $25,000 for each violation. Each day of a continuing violation is a separate violation.

"(b) LIEN ON CARRIER'S VESSELS.—The amount of a civil penalty imposed on a common carrier under this section constitutes a lien on the vessels operated by the carrier. Any such vessel is subject to an action in rem to enforce the lien in the district court of the United States for the district in which it is found.

**"§ 41108. Additional penalties**

"(a) SUSPENSION OF TARIFFS.—For a violation of section 41104(1), (2), or (7) of this title, the Federal Maritime Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

"(b) OPERATING UNDER SUSPENDED TARIFF.—A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended, or after its right to use that tariff has been suspended, is liable to the United States Government for a civil penalty of not more than $50,000 for each shipment.

"(c) FAILURE TO PROVIDE INFORMATION.—

"(1) PENALTIES.—If the Commission finds, after notice and opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 41303 of this title, the Commission may—

"(A) suspend any or all tariffs of the carrier or the carrier's right to use any or all tariffs of conferences of which it is a member; and

"(B) request the Secretary of Homeland Security to refuse or revoke any clearance required for a vessel operated by the carrier, and when so requested, the Secretary shall refuse or revoke the clearance.

"(2) DEFENSE BASED ON FOREIGN LAW.—If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that information or documents located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. On receiving the notification, the Secretary of State shall promptly consult with the government

Notification.

Foreign relations.

of the nation within which the information or documents are alleged to be located for the purpose of assisting the Commission in obtaining the information or documents.

"(d) IMPAIRING ACCESS TO FOREIGN TRADE.—If the Commission finds, after notice and opportunity for a hearing, that the action of a common carrier, acting alone or in concert with another person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including imposing any of the penalties authorized by this section. The Commission also may take any of the actions authorized by sections 42304 and 42305 of this title.

"(e) SUBMISSION OF ORDER TO PRESIDENT.—Before an order under this section becomes effective, it shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it if the President finds that disapproval is required for reasons of national defense or foreign policy.

**"§ 41109. Assessment of penalties**

"(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may, after notice and opportunity for a hearing, assess a civil penalty provided for in this part. The Commission may compromise, modify, or remit, with or without conditions, a civil penalty.

"(b) FACTORS IN DETERMINING AMOUNT.—In determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require.

"(c) EXCEPTION.—A civil penalty may not be imposed for conspiracy to violate section 41102(a) or 41104(1) or (2) of this title or to defraud the Commission by concealing such a violation.

"(d) PROHIBITED BASIS OF PENALTY.—The Commission or a court may not order a person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set forth in a tariff or service contract by that common carrier for the transportation service provided.

"(e) TIME LIMIT.—A proceeding to assess a civil penalty under this section must be commenced within 5 years after the date of the violation.

"(f) REVIEW OF CIVIL PENALTY.—A person against whom a civil penalty is assessed under this section may obtain review under chapter 158 of title 28.

"(g) CIVIL ACTIONS TO COLLECT.—If a person does not pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to collect the amount assessed in an appropriate district court of the United States. The court shall enforce the order of the Commission unless it finds that the order was not regularly made and duly issued.

## "CHAPTER 413—ENFORCEMENT

"Sec.
"41301. Complaints.

"41302. Investigations.
"41303. Discovery and subpoenas.
"41304. Hearings and orders.
"41305. Award of reparations.
"41306. Injunctive relief sought by complainants.
"41307. Injunctive relief sought by the Commission.
"41308. Enforcement of subpoenas and orders.
"41309. Enforcement of reparation orders.

### "§ 41301. Complaints

"(a) IN GENERAL.—A person may file with the Federal Maritime Commission a sworn complaint alleging a violation of this part, except section 41307(b)(1). If the complaint is filed within 3 years after the claim accrues, the complainant may seek reparations for an injury to the complainant caused by the violation.

"(b) NOTICE AND RESPONSE.—The Commission shall provide a copy of the complaint to the person named in the complaint. Within a reasonable time specified by the Commission, the person shall satisfy the complaint or answer it in writing.

"(c) IF COMPLAINT NOT SATISFIED.—If the complaint is not satisfied, the Commission shall investigate the complaint in an appropriate manner and make an appropriate order.

### "§ 41302. Investigations

"(a) IN GENERAL.—The Federal Maritime Commission, on complaint or its own motion, may investigate any conduct or agreement that the Commission believes may be in violation of this part. The Commission may by order disapprove, cancel, or modify any agreement that operates in violation of this part.

"(b) EFFECTIVENESS OF AGREEMENT DURING INVESTIGATION.—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement under investigation by the Commission remains in effect until the Commission issues its order.

"(c) DATE FOR DECISION.—Within 10 days after the initiation of a proceeding under this section or section 41301 of this title, the Commission shall set a date by which it will issue its final decision. The Commission by order may extend the date for good cause.

"(d) SANCTIONS FOR DELAY.—If, within the period for final decision under subsection (c), the Commission determines that it is unable to issue a final decision because of undue delay caused by a party to the proceeding, the Commission may impose sanctions, including issuing a decision adverse to the delaying party.

"(e) REPORT.—The Commission shall make a written report of every investigation under this part in which a hearing was held, stating its conclusions, decisions, findings of fact, and order. The Commission shall provide a copy of the report to all parties and publish the report for public information. A published report is competent evidence in a court of the United States.

Public information.

### "§ 41303. Discovery and subpoenas

"(a) IN GENERAL.—In an investigation or adjudicatory proceeding under this part—

"(1) the Federal Maritime Commission may subpoena witnesses and evidence; and

"(2) a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

"(b) WITNESS FEES.—Unless otherwise prohibited by law, a witness is entitled to the same fees and mileage as in the courts of the United States.

**"§ 41304. Hearings and orders**

"(a) OPPORTUNITY FOR HEARING.—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order relating to a violation of this part or a regulation prescribed under this part.

"(b) MODIFICATION OF ORDER.—The Commission may reverse, suspend, or modify any of its orders.

"(c) REHEARING.—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

"(d) PERIOD OF EFFECTIVENESS.—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

**"§ 41305. Award of reparations**

"(a) DEFINITION.—In this section, the term 'actual injury' includes the loss of interest at commercial rates compounded from the date of injury.

"(b) BASIC AMOUNT.—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part, plus reasonable attorney fees.

"(c) ADDITIONAL AMOUNTS.—On a showing that the injury was caused by an activity prohibited by section 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

"(d) DIFFERENCE BETWEEN RATES.—If the injury was caused by an activity prohibited by section 41104(4)(A) or (B) of this title, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

**"§ 41306. Injunctive relief sought by complainants**

"(a) IN GENERAL.—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

"(b) VENUE.—The action must be brought in the judicial district in which—

"(1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or

"(2) the defendant resides or transacts business, if the Commission has not brought such an action.

"(c) REMEDIES BY COURT.—After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint.

"(d) ATTORNEY FEES.—A defendant prevailing in a civil action under this section shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

**"§ 41307. Injunctive relief sought by the Commission**

"(a) GENERAL VIOLATIONS.—In connection with an investigation under section 41301 or 41302 of this title, the Federal Maritime Commission may bring a civil action to enjoin conduct in violation of this part. The action must be brought in the district court of the United States for any judicial district in which the defendant resides or transacts business. After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation.

"(b) REDUCTION IN COMPETITION.—

"(1) ACTION BY COMMISSION.—If, at any time after the filing or effective date of an agreement under chapter 403 of this title, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the Commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement. The Commission's sole remedy with respect to an agreement likely to have such an effect is an action under this subsection.

"(2) REMEDIES BY COURT.—In an action under this subsection, the court may issue—

"(A) a temporary restraining order or a preliminary injunction; and

"(B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

"(3) BURDEN OF PROOF AND THIRD PARTIES.—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

"(c) FAILURE TO PROVIDE INFORMATION.—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for the submission of additional information or documents within the period provided in section 40304(c) of this title, the Commission may bring a civil action in the United States District Court for the District of Columbia. At the request of the Commission, the Court—

"(1) may order compliance;

"(2) shall extend the period specified in section 40304(c)(2) of this title until there has been substantial compliance; and

"(3) may grant other equitable relief that the court decides is appropriate.

"(d) REPRESENTATION.—The Commission may represent itself in a proceeding under this section in—

"(1) a district court of the United States, on notice to the Attorney General; and

"(2) a court of appeals of the United States, with the approval of the Attorney General.

### "§ 41308. Enforcement of subpoenas and orders

"(a) CIVIL ACTION.—If a person does not comply with a subpoena or order of the Federal Maritime Commission, the Attorney General, at the request of the Commission, or an injured party, may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the subpoena or order was regularly made and duly issued, the court shall enforce the subpoena or order.

"(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

### "§ 41309. Enforcement of reparation orders

"(a) CIVIL ACTION.—If a person does not comply with an order of the Federal Maritime Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a district court of the United States having jurisdiction over the parties.

"(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single action in a judicial district in which any one plaintiff could maintain an action against any one defendant. Service of process against a defendant not found in that district may be made in a district in which any office of that defendant is located or in which any port of call on a regular route operated by that defendant is located. Judgment may be entered for any plaintiff against the defendant liable to that plaintiff.

"(c) NATURE OF REVIEW.—In an action under this section, the findings and order of the Commission are prima facie evidence of the facts stated in the findings and order.

"(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs of the action or for costs of any subsequent stage of the proceedings unless they accrue on the plaintiff's appeal. A prevailing plaintiff shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

"(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

## "PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

## "CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

"Sec.
"42101. Regulations of the Commission.
"42102. Regulations of other agencies.
"42103. No preference to Government-owned vessels.
"42104. Information, witnesses, and evidence.
"42105. Disclosure to public.
"42106. Other actions to remedy unfavorable conditions.
"42107. Refusal of clearance and entry.
"42108. Penalty for operating under suspended tariff or service contract.
"42109. Consultation with other agencies.

### "§ 42101. Regulations of the Commission

"(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime

Commission shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

"(b) INITIATION OF REGULATION.—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

**"§ 42102. Regulations of other agencies**

"(a) REQUEST TO AGENCY.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations relating to the Public Health Service, the Consular Service, or the inspection of vessels.

"(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

"(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

**"§ 42103. No preference to Government-owned vessels**

"A regulation may not give a vessel owned by the United States Government a preference over a vessel owned by citizens of the United States and documented under the laws of the United States.

**"§ 42104. Information, witnesses, and evidence**

"(a) ORDER TO SUPPLY INFORMATION.—In carrying out section 42101 of this title, the Federal Maritime Commission may order any person (including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to

be made under oath. The response shall be provided in the form and within the time specified by the Commission.

"(b) SUBPOENAS AND DISCOVERY.—In carrying out section 42101 of this title, the Commission may—

"(1) subpoena witnesses and evidence; and

"(2) authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

"(c) WITNESS FEES.—Unless otherwise prohibited by law, and subject to funds being appropriated, a witness in a proceeding under section 42101 of this title is entitled to the same fees and mileage as in the courts of the United States.

"(d) PENALTIES.—For failure to supply information ordered to be produced or compelled by subpoena under this section, the Commission may—

"(1) after notice and opportunity for a hearing, suspend tariffs and service contracts of a common carrier or the common carrier's right to use tariffs of conferences and service contracts of agreements of which it is a member; or

"(2) assess a civil penalty of not more than $5,000 for each day that the information is not provided.

"(e) ENFORCEMENT.—If a person does not comply with an order or subpoena of the Commission under this section, the Commission may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the order or subpoena was regularly made and duly issued, the court shall enforce the order or subpoena.

**"§ 42105. Disclosure to public**

"Notwithstanding any other provision of law, the Federal Maritime Commission may refuse to disclose to the public a response or other information submitted to it under this chapter.

**"§ 42106. Other actions to remedy unfavorable conditions**

"If the Federal Maritime Commission finds that conditions unfavorable to shipping in foreign trade as described in section 42101 of this title exist, the Commission may—

"(1) limit voyages to and from United States ports or the amount or type of cargo carried;

"(2) suspend, in whole or in part, tariffs and service contracts for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences and service contracts of agreements in United States trades of which it is a member for any period the Commission specifies;

"(3) suspend, in whole or in part, an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers;

"(4) impose a fee not to exceed $1,000,000 per voyage; or

"(5) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

### "§ 42107. Refusal of clearance and entry

"At the request of the Federal Maritime Commission—

"(1) the Secretary of Homeland Security shall—

"(A) refuse the clearance required by section 60105 of this title to a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title; and

"(B) collect any fees imposed by the Commission under section 42106(4) of this title; and

"(2) the Secretary of the department in which the Coast Guard is operating shall—

"(A) deny entry, for purposes of oceanborne trade, of a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title, to a port or place in the United States or the navigable waters of the United States; or

"(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

### "§ 42108. Penalty for operating under suspended tariff or service contract

"A common carrier that accepts or handles cargo for carriage under a tariff or service contract that has been suspended under section 42104(d)(1) or 42106(2) of this title, or after its right to use another tariff or service contract has been suspended under those provisions, is liable to the United States Government for a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff or service contract.

### "§ 42109. Consultation with other agencies

"The Federal Maritime Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under this chapter.

## "CHAPTER 423—FOREIGN SHIPPING PRACTICES

"Sec.
"42301. Definitions.
"42302. Investigations.
"42303. Information requests.
"42304. Action against foreign carriers.
"42305. Refusal of clearance and entry.
"42306. Submission of determinations to President.
"42307. Review of regulations and orders.

### "§ 42301. Definitions

"(a) DEFINED IN PART A.—In this chapter, the terms 'common carrier', 'marine terminal operator', 'ocean common carrier', 'ocean transportation intermediary', 'shipper', and 'shippers' association' have the meaning given those terms in section 40102 of this title.

"(b) OTHER DEFINITIONS.—In this chapter:

"(1) FOREIGN CARRIER.—The term 'foreign carrier' means an ocean common carrier a majority of whose vessels are documented under the laws of a foreign country.

"(2) MARITIME SERVICES.—The term 'maritime services' means port-to-port transportation of cargo by vessels operated by an ocean common carrier.

"(3) MARITIME-RELATED SERVICES.—The term 'maritime-related services' means intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others.

"(4) UNITED STATES CARRIER.—The term 'United States carrier' means an ocean common carrier operating vessels documented under the laws of the United States.

"(5) UNITED STATES OCEANBORNE TRADE.—The term 'United States oceanborne trade' means the carriage of cargo between the United States and a foreign country, whether directly or indirectly, by an ocean common carrier.

**"§ 42302. Investigations**

"(a) IN GENERAL.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of a foreign government, or any practices of a foreign carrier or other person providing maritime or maritime-related services in a foreign country, result in the existence of conditions that—

"(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

"(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

"(b) INITIATION OF INVESTIGATION.—An investigation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

"(c) TIME FOR DECISION.—The Commission shall complete an investigation under this section and render a decision within 120 days after it is initiated. However, the Commission may extend this 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (a) exists. A notice providing an extension shall state clearly the reasons for the extension.

Notification.

**"§ 42303. Information requests**

"(a) IN GENERAL.—To further the purposes of section 42302(a) of this title, the Federal Maritime Commission may order any person (including a common carrier, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

"(b) SUBPOENAS.—In an investigation under section 42302 of this title, the Commission may subpoena witnesses and evidence.

"(c) NONDISCLOSURE.—Notwithstanding any other provision of law, the Commission may determine that any information submitted

to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

**"§ 42304. Action against foreign carriers**

"(a) IN GENERAL.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

"(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

"(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier's right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

"(3) suspension, in whole or in part, of an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers; and

"(4) a fee not to exceed $1,000,000 per voyage.

"(b) CONSULTATION.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

**"§ 42305. Refusal of clearance and entry**

"Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

"(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title; and

"(2) the Secretary of the department in which the Coast Guard is operating shall—

"(A) deny entry, for purposes of oceanborne trade, of a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title, to a port or place in the United States or the navigable waters of the United States; or

"(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

**"§ 42306. Submission of determinations to President**

"Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the

disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

### "§ 42307. Review of regulations and orders

"A regulation or final order of the Federal Maritime Commission under this chapter is reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

## "PART C—MISCELLANEOUS

## "CHAPTER 441—EVIDENCE OF FINANCIAL RESPONSIBILITY FOR PASSENGER TRANSPORTATION

"Sec.
"44101. Application.
"44102. Financial responsibility to indemnify passengers for nonperformance of transportation.
"44103. Financial responsibility to pay liability for death or injury.
"44104. Civil penalty.
"44105. Refusal of clearance.
"44106. Conduct of proceedings.

### "§ 44101. Application

"This chapter applies to a vessel that—

"(1) has berth or stateroom accommodations for at least 50 passengers; and

"(2) boards passengers at a port in the United States.

### "§ 44102. Financial responsibility to indemnify passengers for nonperformance of transportation

"(a) FILING REQUIREMENT.—A person in the United States may not arrange, offer, advertise, or provide transportation on a vessel to which this chapter applies unless the person has filed with the Federal Maritime Commission evidence of financial responsibility to indemnify passengers for nonperformance of the transportation.

"(b) SATISFACTORY EVIDENCE.—To satisfy subsection (a), a person must file—

"(1) information the Commission considers necessary; or

"(2) a copy of a bond or other security, in such form as the Commission by regulation may require.

"(c) AUTHORIZED ISSUER OF BOND.—If a bond is filed, it must be issued by a bonding company authorized to do business in the United States.

### "§ 44103. Financial responsibility to pay liability for death or injury

Regulations.

"(a) GENERAL REQUIREMENT.—The owner or charterer of a vessel to which this chapter applies shall establish, under regulations prescribed by the Federal Maritime Commission, financial responsibility to meet liability for death or injury to passengers or other individuals on a voyage to or from a port in the United States.

"(b) AMOUNTS.—

"(1) IN GENERAL.—The amount of financial responsibility required under subsection (a) shall be based on the number of passenger accommodations as follows:

"(A) $20,000 for each of the first 500 passenger accommodations.

"(B) $15,000 for each additional passenger accommodation between 501 and 1,000.

"(C) $10,000 for each additional passenger accommodation between 1,001 and 1,500.

"(D) $5,000 for each additional passenger accommodation over 1,500.

"(2) MULTIPLE VESSELS.—If the owner or charterer is operating more than one vessel subject to this chapter, the amount of financial responsibility shall be based on the number of passenger accommodations on the vessel with the largest number of passenger accommodations.

"(c) AVAILABILITY TO PAY JUDGMENT.—The amount determined under subsection (b) shall be available to pay a judgment for damages (whether less than or more than $20,000) for death or injury to a passenger or other individual on a voyage to or from a port in the United States.

"(d) MEANS OF ESTABLISHING.—Financial responsibility under this section may be established by one or more of the following if acceptable to the Commission:

"(1) Insurance.

"(2) Surety bond issued by a bonding company authorized to do business in the United States.

"(3) Qualification as a self-insurer.

"(4) Other evidence of financial responsibility.

### "§ 44104. Civil penalty

"A person that violates section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than $5,000, plus $200 for each passage sold, to be assessed by the Federal Maritime Commission. The Commission may remit or mitigate the penalty on terms the Commission considers proper.

### "§ 44105. Refusal of clearance

"The Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title, at the port or place of departure from the United States, of a vessel that is subject to this chapter and does not have evidence issued by the Federal Maritime Commission of compliance with sections 44102 and 44103 of this title.

### "§ 44106. Conduct of proceedings

"Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.".

**SEC. 8. SUBTITLE V OF TITLE 46.**

(a) SUBTITLE ANALYSIS.—The analysis of subtitle V of title 46, United States Code, is amended to read as follows:

"PART A—GENERAL


| "Chapter | Sec. |
|---|---|
| **"501. Policy, Studies, and Reports** | **50101** |
| **"503. Administrative** | **50301** |
| **"505. Other General Provisions** | **50501** |


"PART B—MERCHANT MARINE SERVICE


| | |
|---|---|
| **"511. General** | **51101** |

**"513. United States Merchant Marine Academy** ..... **51301**
**"515. State Maritime Academy Support Program** ..... **51501**
**"517. Other Support for Merchant Marine Training** ..... **51701**
**"519. Merchant Marine Awards** ..... **51901**
**"521. Miscellaneous** ..... **52101**

"PART C—FINANCIAL ASSISTANCE PROGRAMS

**"531. Maritime Security Fleet** ..... **53101**
**"533. Construction Reserve Funds** ..... **53301**
**"535. Capital Construction Funds** ..... **53501**
**"537. Loans and Guarantees** ..... **53701**
**"539. War Risk Insurance** ..... **53901**

"PART D—PROMOTIONAL PROGRAMS

**"551. Coastwise Trade** ..... **55101**
**"553. Passenger and Cargo Preferences** ..... **55301**
**"555. Miscellaneous** ..... **55501**

"PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

**"561. Restrictions on Transfers** ..... **56101**
**"563. Emergency Acquisition of Vessels** ..... **56301**
**"565. Essential Vessels Affected by Neutrality Act** ..... **56501**

"PART F—GOVERNMENT-OWNED MERCHANT VESSELS

**"571. General Authority** ..... **57101**
**"573. Vessel Trade-In Program** ..... **57301**
**"575. Construction, Charter, and Sale of Vessels** ..... **57501**

"PART G—RESTRICTIONS AND PENALTIES

**"581. Restrictions and Penalties** ..... **58101".**

(b) CHAPTERS PRECEDING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by inserting after the subtitle analysis the following:

## "PART A—GENERAL

## "CHAPTER 501—POLICY, STUDIES, AND REPORTS

"Sec.
"50101. Objectives and policy.
"50102. Survey of merchant marine.
"50103. Determinations of essential services.
"50104. Studies of general maritime problems.
"50105. Studies and cooperation relating to the construction of vessels.
"50106. Studies on the operation of vessels.
"50107. Studies on marine insurance.
"50108. Studies on cargo carriage and cargo containers.
"50109. Miscellaneous studies.
"50110. Securing preference to vessels of the United States.
"50111. Reports to Congress.
"50112. National Maritime Enhancement Institutes.
"50113. Use and performance reports by operators of vessels.

### "§ 50101. Objectives and policy

"(a) OBJECTIVES.—It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine—

"(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import

foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

"(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

"(3) owned and operated as vessels of the United States by citizens of the United States;

"(4) composed of the best-equipped, safest, and most suitable types of vessels and manned with a trained and efficient citizen personnel; and

"(5) supplemented by efficient facilities for building and repairing vessels.

"(b) POLICY.—It is the policy of the United States to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a).

**"§ 50102. Survey of merchant marine**

"(a) IN GENERAL.—The Secretary of Transportation shall survey the merchant marine of the United States to determine whether replacements and additions are required to carry out the objectives and policy of section 50101 of this title. The Secretary shall study, perfect, and adopt a long-range program for replacements and additions that will result, as soon as practicable, in—

"(1) an adequate and well-balanced merchant fleet, including vessels of all types, that will provide shipping service essential for maintaining the flow of foreign commerce by vessels designed to be readily and quickly convertible into transport and supply vessels in a time of national emergency;

"(2) ownership and operation of the fleet by citizens of the United States insofar as practicable;

"(3) vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils; and

"(4) an efficient capacity for building and repairing vessels in the United States with an adequate number of skilled personnel to provide an adequate mobilization base.

"(b) COOPERATION WITH SECRETARY OF NAVY.—In carrying out subsection (a)(1), the Secretary of Transportation shall cooperate closely with the Secretary of the Navy as to national defense requirements.

**"§ 50103. Determinations of essential services**

"(a) ESSENTIAL SERVICES, ROUTES, AND LINES.—

"(1) IN GENERAL.—The Secretary of Transportation shall investigate, determine, and keep current records of the ocean services, routes, and lines from ports in the United States, or in the territories and possessions of the United States, to foreign markets, which the Secretary determines to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. In making such a determination, the Secretary shall consider and give due weight to—

"(A) the cost of maintaining each line;

"(B) the probability that a line cannot be maintained except at a heavy loss disproportionate to the benefit to foreign trade;

"(C) the number of voyages and types of vessels that should be employed in a line;

"(D) the intangible benefit of maintaining a line to the foreign commerce of the United States, the national defense, and other national requirements; and

"(E) any other facts and conditions a prudent business person would consider when dealing with the person's own business.

"(2) SAINT LAWRENCE SEAWAY.—For purposes of paragraph (1), the Secretary shall establish services, routes, and lines that reflect the seasonal closing of the Saint Lawrence Seaway and provide for alternate routing of vessels through a different range of ports during that closing to maintain continuity of service on a year-round basis.

"(b) BULK CARGO CARRYING SERVICES.—The Secretary shall investigate, determine, and keep current records of the bulk cargo carrying services that should be provided by vessels of the United States (whether or not operating on particular services, routes, or lines) for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and the national defense or other national requirements.

"(c) TYPES OF VESSELS.—The Secretary shall investigate, determine, and keep current records of the type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, that should be employed in—

"(1) the services, routes, or lines described in subsection (a), and the frequency and regularity of the voyages of the vessels, with a view to furnishing adequate, regular, certain, and permanent service; and

"(2) the bulk cargo carrying services described in subsection (b).

**"§ 50104. Studies of general maritime problems**

"The Secretary of Transportation shall study all maritime problems arising in carrying out the policy in section 50101 of this title.

**"§ 50105. Studies and cooperation relating to the construction of vessels**

"(a) RELATIVE COSTS AND NEW DESIGNS.—The Secretary of Transportation shall investigate, determine, and keep current records of—

"(1) the relative cost of construction of comparable vessels in the United States and in foreign countries; and

"(2) new designs, new methods of construction, and new types of equipment for vessels.

"(b) RULES, CLASSIFICATIONS, AND RATINGS.—The Secretary shall examine the rules under which vessels are constructed abroad and in the United States and the methods of classifying and rating the vessels.

"(c) COLLABORATION WITH OWNERS AND BUILDERS.—The Secretary shall collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits from standardized production where practicable and desirable.

"(d) EXPRESS-LINER AND SUPER-LINER VESSELS.—The Secretary shall study and cooperate with vessel owners in devising means by which there may be constructed, by or with the aid of the United States Government, express-liner or super-liner vessels comparable to those of other nations, especially with a view to their use in a national emergency, and the use of transoceanic aircraft service in connection with or in lieu of those vessels.

**"§ 50106. Studies on the operation of vessels**

"(a) RELATIVE COSTS.—The Secretary of Transportation shall investigate, determine, and keep current records of the relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws and regulations of the United States and those of the foreign countries whose vessels are substantial competitors of American vessels. Records.

"(b) SHIPYARDS.—The Secretary shall investigate, determine, and keep current records of the number, location, and efficiency of shipyards in the United States. Records.

"(c) NAVIGATION LAWS.—The Secretary shall examine the navigation laws and regulations of the United States and make such recommendations to Congress as the Secretary considers proper for the amendment, improvement, and revision of those laws and for the development of the merchant marine of the United States.

**"§ 50107. Studies on marine insurance**

"The Secretary of Transportation shall—

"(1) examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies; and

"(2) ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of the merchant marine of the United States.

**"§ 50108. Studies on cargo carriage and cargo containers**

"(a) STUDIES.—The Secretary of Transportation shall study—

"(1) the methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States; and

"(2) the economic and technological aspects of the use of cargo containers as a method of carrying out the policy in section 50101 of this title.

"(b) RESTRICTION.—In carrying out subsection (a) and the policy in section 50101 of this title, the United States Government may not give preference as between carriers based on the length, height, or width of cargo containers or the length, height, or width of cargo container cells. This restriction applies to all existing container vessels and any container vessel to be constructed or rebuilt.

**"§ 50109. Miscellaneous studies** Records.

"(a) FOREIGN SUBSIDIES.—The Secretary of Transportation shall investigate, determine, and keep current records of the extent and

character of the governmental aid and subsidies granted by foreign governments to their merchant marine.

"(b) LAWS APPLICABLE TO AIRCRAFT.—The Secretary shall investigate, determine, and keep current records of the provisions of law relating to shipping that should be made applicable to aircraft engaged in foreign commerce to further the policy in section 50101 of this title, and any appropriate legislation in this regard.

"(c) AID FOR COTTON, COAL, LUMBER, AND CEMENT.—The Secretary shall investigate, determine, and keep current records of the advisability of enactment of suitable legislation authorizing the Secretary, in an economic or commercial emergency, to aid farmers and producers of cotton, coal, lumber, and cement in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.

"(d) INTERCOASTAL AND INLAND WATER TRANSPORTATION.—The Secretary shall investigate, determine, and keep current records of intercoastal and inland water transportation, including their relation to transportation by land and air.

Reports.

"(e) OBSOLETE TONNAGE AND TRAMP SERVICE.—The Secretary shall make studies and reports to Congress on—

"(1) the scrapping or removal from service of old or obsolete merchant tonnage owned by the United States Government or in use in the merchant marine; and

"(2) tramp shipping service and the advisability of citizens of the United States participating in that service with vessels under United States registry.

"(f) MORTGAGE LOANS.—The Secretary shall investigate the legal status of mortgage loans on vessel property, with a view to the means of improving the security of those loans and of encouraging investment in American shipping.

**"§ 50110. Securing preference to vessels of the United States**

Records.

"(a) POSSIBILITIES OF PROMOTING CARRIAGE.—The Secretary of Transportation shall investigate, determine, and keep current records of the possibilities of promoting the carriage of United States foreign trade in vessels of the United States.

"(b) INDUCEMENTS TO IMPORTERS AND EXPORTERS.—The Secretary shall study and cooperate with vessel owners in devising means by which the importers and exporters of the United States can be induced to give preference to vessels of the United States.

"(c) LIAISON WITH AGENCIES AND ORGANIZATIONS.—The Secretary shall establish and maintain liaison with such other agencies of the United States Government, and with such representative trade organizations throughout the United States, as may be concerned, directly or indirectly, with any movement of commodities in the waterborne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States in the shipment of those commodities.

**"§ 50111. Reports to Congress**

"(a) IN GENERAL.—Not later than April 1 of each year, the Secretary of Transportation shall submit a report to Congress.

The report shall include, with respect to activities of the Secretary under this subtitle, the results of investigations, a summary of transactions, a statement of all expenditures and receipts, the purposes for which all expenditures were made, and any recommendations for legislation.

"(b) ADMINISTERED AND OVERSIGHT FUNDS.—The Secretary, in the report under subsection (a) and in the annual budget estimate for the Maritime Administration submitted to Congress, shall state separately the amount, source, intended use, and nature of any funds (other than funds appropriated to the Administration or to the Secretary of Transportation for use by the Administration) administered, or subject to oversight, by the Administration.

"(c) ADDITIONAL RECOMMENDATIONS FOR LEGISLATION.—The Secretary, from time to time, shall make recommendations to Congress for legislation the Secretary considers necessary to better achieve the objectives and policy of section 50101 of this title.

**"§ 50112. National Maritime Enhancement Institutes**

"(a) DESIGNATION.—The Secretary of Transportation may designate National Maritime Enhancement Institutes.

"(b) ACTIVITIES.—Activities undertaken by an institute may include—

"(1) conducting research about methods to improve the performance of maritime industries;

"(2) enhancing the competitiveness of domestic maritime industries in international trade;

"(3) forecasting trends in maritime trade;

"(4) assessing technological advancements;

"(5) developing management initiatives and training;

"(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

"(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

"(8) fostering innovations in maritime transportation pricing; and

"(9) improving maritime economics and finance.

"(c) APPLICATION FOR DESIGNATION.—An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

"(d) CRITERIA FOR DESIGNATION.—The Secretary shall designate an institute under this section on the basis of the following criteria:

"(1) The demonstrated research and extension resources available to the applicant for carrying out the activities specified in subsection (b).

"(2) The ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry.

"(3) The existence of an established program of the applicant encompassing research and training directed to enhancing maritime industries.

"(4) The demonstrated ability of the applicant to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime

industry research and educational programs through a continuing education program.

"(5) The qualification of the applicant as a nonprofit institution of higher learning.

"(e) FINANCIAL AWARDS.—The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary may not exceed $500,000.

"(f) UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—The Secretary may make a grant under section 5505 of title 49 to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center. In making a grant, the Secretary, through the Research and Innovative Technology Administration, shall advise the Maritime Administration on the availability of funds for the grants and consult with the Administration on making the grants.

### "§ 50113. Use and performance reports by operators of vessels

"(a) FILING REQUIREMENT.—The Secretary of Transportation by regulation may require the operator of a vessel in the waterborne foreign commerce of the United States to file such report, account, record, or memorandum on the use and performance of the vessel as the Secretary considers desirable to assist in carrying out this subtitle. The report, account, record, or memorandum shall be signed and verified, and be filed at the times and in the manner, as provided by regulation.

"(b) CIVIL PENALTY.—An operator not filing a report, account, record, or memorandum required by the Secretary under this section is liable to the United States Government for a civil penalty of $50 for each day of the violation. A penalty imposed under this section on the operator of a vessel constitutes a lien on the vessel involved in the violation. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found. The Secretary may remit or mitigate any penalty imposed under this section.

## "CHAPTER 503—ADMINISTRATIVE

"Sec.
"50301. Vessel Operations Revolving Fund.
"50302. Port development.
"50303. Operating property and extending term of notes.
"50304. Sale and transfer of property.
"50305. Appointment of trustee or receiver and operation of vessels.
"50306. Requiring testimony and records in investigations.

### "§ 50301. Vessel Operations Revolving Fund

"(a) IN GENERAL.—There is a 'Vessel Operations Revolving Fund' for use by the Secretary of Transportation in carrying out duties and powers related to vessel operations, including charter, operation, maintenance, repair, reconditioning, and improvement of merchant vessels under the jurisdiction of the Secretary. The Fund has a working capital of $20,000,000, to remain available until expended.

Rates.

"(b) RELATIONSHIP TO OTHER LAWS.—Notwithstanding any other law, rates for shipping services provided under the Fund

shall be prescribed by the Secretary and the Fund shall be credited with receipts from vessel operations conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those operations and to seamen employed through general agents as employees of the United States Government. Notwithstanding any other law on the employment of persons by the Government, the seamen may be employed in accordance with customary commercial practices in the maritime industry.

"(c) ADVANCEMENTS.—With the approval of the Director of the Office of Management and Budget, the Secretary may advance amounts the Secretary considers necessary, but not more than 2 percent of vessel operating expenses, from the Fund to the appropriation 'Salaries and Expenses' in carrying out duties and powers related to vessel operations, without regard to the limitations on amounts stated in that appropriation.

"(d) TRANSFERS.—The unexpended balances of working funds or of allocation accounts established after January 1, 1951, for the activities provided for in subsection (a), and receipts received from those activities, may be transferred to the Fund, which shall be available for the purposes of those working funds or allocation accounts.

"(e) LIMITATION.—

"(1) IN GENERAL.—Amounts made available to the Secretary for maritime activities by this section or any other law may not be used to pay for a vessel described in paragraph (2) unless the compensation to be paid is computed under section 56303 of this title as that section is interpreted by the Comptroller General.

"(2) APPLICABLE VESSELS.—Paragraph (1) applies to a vessel—

"(A) the title to which is acquired by the Government by requisition or purchase;

"(B) the use of which is taken by requisition or agreement; or

"(C) lost while insured by the Government.

"(3) NONAPPLICABLE VESSELS.—Paragraph (1) does not apply to a vessel under a construction-differential subsidy contract.

"(f) AVAILABILITY FOR ADDITIONAL PURPOSES.—The Fund is available for—

"(1) necessary expenses incurred in the protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage foreclosure or forfeiture proceedings instituted by the Government, including payment of prior claims and liens, expenses of sale, or other related charges;

"(2) necessary expenses incident to the redelivery and lay-up, in the United States, of vessels chartered as of June 20, 1956, under agreements not calling for their return to the Government;

"(3) the activation, repair, and deactivation of merchant vessels chartered for limited emergency purposes during fiscal year 1957 under the jurisdiction of the Secretary; and

"(4) payment of expenses of custody and maintenance of Government-owned vessels not in the National Defense Reserve Fleet.

"(g) EXPENSES AND RECEIPTS RELATED TO CHARTER OPERATIONS.—The Fund is available for expenses incurred in activating, repairing, and deactivating merchant vessels chartered under the jurisdiction of the Secretary. Receipts from charter operations of Government-owned vessels under the jurisdiction of the Secretary shall be credited to the Fund.

**"§ 50302. Port development**

"(a) GENERAL REQUIREMENTS.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

"(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

"(2) investigate the causes of congestion of commerce at ports and applicable remedies;

"(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

"(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

"(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

"(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

"(b) SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.—After an investigation under subsection (a), if the Secretary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

**"§ 50303. Operating property and extending term of notes**

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

"(1) operate or lease docks, wharves, piers, or real property under the Secretary's control; and

"(2) make extensions and accept renewals of—

"(A) promissory notes and other evidences of indebtedness on property; and

"(B) mortgages and other contracts securing the property.

"(b) TERMS OF TRANSACTIONS.—A transaction under subsection (a) shall be on terms the Secretary considers necessary to carry

out the purposes of this subtitle, but consistent with sound business practice.

"(c) AVAILABILITY OF AMOUNTS.—Amounts received by the Secretary from a transaction under this section are available for expenditure by the Secretary as provided in this subtitle.

**"§ 50304. Sale and transfer of property**

"(a) AUTHORITY TO SELL.—The Secretary of Transportation may sell property (other than vessels transferred under section 4 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 990)) on terms the Secretary considers appropriate.

"(b) TRANSFERS FROM MILITARY TO CIVILIAN CONTROL.—When the President considers it in the interest of the United States, the President may transfer to the Secretary of Transportation possession and control of property described in the second paragraph of section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of a military department.

"(c) TRANSFERS FROM CIVILIAN TO MILITARY CONTROL.—When the President considers it necessary, the President by executive order may transfer to the Secretary of a military department possession and control of property described in section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of Transportation. The President's order shall state the need for the transfer and the period of the need. When the President decides that the need has ended, the possession and control shall revert to the Secretary of Transportation. The property may not be sold except as provided by law.

**"§ 50305. Appointment of trustee or receiver and operation of vessels**

"(a) APPOINTMENT OF TRUSTEES AND RECEIVERS.—

"(1) APPOINTMENT OF SECRETARY.—In a proceeding in a court of the United States in which a trustee or receiver may be appointed for a corporation operating a vessel of United States registry between the United States and a foreign country, on which the United States Government holds a mortgage, the court may appoint the Secretary of Transportation as the sole trustee or receiver (subject to the direction of the court) if—

"(A) the court finds that the appointment will—

"(i) inure to the advantage of the estate and the parties in interest; and

"(ii) tend to carry out the purposes of this subtitle; and

"(B) the Secretary expressly consents to the appointment.

"(2) APPOINTMENT OF OTHER PERSON.—The appointment of another person as trustee or receiver without a hearing becomes effective when ratified by the Secretary, but the Secretary may demand a hearing.

"(b) OPERATION OF VESSELS.—

"(1) IN GENERAL.—If the court is unwilling to allow the trustee or receiver to operate the vessel in foreign commerce without financial aid from the Government pending termination of the proceeding, and the Secretary certifies to the court that

the continued operation of the vessel is essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes of this subtitle, the court may allow the Secretary to operate the vessel, either directly or through a managing agent or operator employed by the Secretary. The Secretary must agree to comply with terms imposed by the court sufficient to protect the parties in interest. The Secretary also must agree to pay all operating losses resulting from the operation. The operation shall be for the account of the trustee or receiver.

"(2) PAYMENT OF OPERATING LOSSES AND OTHER AMOUNTS.—The Secretary has no claim against the corporation, its estate, or its assets for operating losses paid by the Secretary, but the Secretary may pay amounts for depreciation the Secretary considers reasonable and other amounts the court considers just. The payment of operating losses and the other amounts and compliance with terms imposed by the court shall be in satisfaction of any claim against the Secretary resulting from the operation of the vessel.

"(3) DEEMED OPERATION BY GOVERNMENT.—A vessel operated by the Secretary under this subsection is deemed to be a vessel operated by the United States under chapter 309 of this title.

### "§ 50306. Requiring testimony and records in investigations

"(a) IN GENERAL.—In conducting an investigation that the Secretary of Transportation considers necessary and proper to carry out this subtitle, the Secretary may administer oaths, take evidence, and subpoena persons to testify and produce documents relevant to the matter under investigation. Persons may be required to attend or produce documents from any place in the United States at any designated place of hearing.

"(b) FEES AND MILEAGE.—Persons subpoenaed by the Secretary under subsection (a) shall be paid the same fees and mileage paid to witnesses in the courts of the United States.

"(c) ENFORCEMENT OF SUBPOENAS.—If a person disobeys a subpoena issued under subsection (a), the Secretary may seek an order enforcing the subpoena from the district court of the United States for the district in which the person resides or does business. Process may be served in the judicial district in which the person resides or is found. The court may issue an order to obey the subpoena and punish a refusal to obey as a contempt of court.

## "CHAPTER 505—OTHER GENERAL PROVISIONS

"Sec.
"50501. Entities deemed citizens of the United States.
"50502. Applicability to receivers, trustees, successors, and assigns.
"50503. Oceanographic research vessels.
"50504. Sailing school vessels.

### "§ 50501. Entities deemed citizens of the United States

"(a) IN GENERAL.—In this subtitle, a corporation, partnership, or association is deemed to be a citizen of the United States only if the controlling interest is owned by citizens of the United States. However, if the corporation, partnership, or association is operating a vessel in the coastwise trade, at least 75 percent of the interest must be owned by citizens of the United States.

"(b) ADDITIONAL REQUIREMENTS FOR CORPORATIONS.—In this subtitle, a corporation is deemed to be a citizen of the United States only if, in addition to satisfying the requirements in subsection (a)—

"(1) it is incorporated under the laws of the United States or a State;

"(2) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

"(3) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

"(c) DETERMINATION OF CONTROLLING CORPORATE INTEREST.—The controlling interest in a corporation is owned by citizens of the United States under subsection (a) only if—

"(1) title to the majority of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

"(2) the majority of the voting power in the corporation is vested in citizens of the United States;

"(3) there is no contract or understanding by which the majority of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

"(4) there is no other means by which control of the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

"(d) DETERMINATION OF 75 PERCENT CORPORATE INTEREST.—At least 75 percent of the interest in a corporation is owned by citizens of the United States under subsection (a) only if—

"(1) title to at least 75 percent of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

"(2) at least 75 percent of the voting power in the corporation is vested in citizens of the United States;

"(3) there is no contract or understanding by which more than 25 percent of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

"(4) there is no other means by which control of more than 25 percent of any interest in the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

### "§ 50502. Applicability to receivers, trustees, successors, and assigns

"This subtitle applies to receivers, trustees, successors, and assigns of any person to whom this subtitle applies.

### "§ 50503. Oceanographic research vessels

"An oceanographic research vessel (as defined in section 2101 of this title) is deemed not to be engaged in trade or commerce.

### "§ 50504. Sailing school vessels

"(a) DEFINITIONS.—In this section, the terms 'sailing school instructor', 'sailing school student', and 'sailing school vessel' have the meaning given those terms in section 2101 of this title.

"(b) NOT SEAMEN.—A sailing school student or sailing school instructor is deemed not to be a seaman under—

"(1) parts B, F, and G of subtitle II of this title; or

"(2) the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

"(c) NOT MERCHANT VESSEL OR ENGAGED IN TRADE OR COMMERCE.—A sailing school vessel is deemed not to be—

"(1) a merchant vessel under section 11101(a)–(c) of this title; or

"(2) a vessel engaged in trade or commerce.

"(d) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The owner or charterer of a sailing school vessel shall maintain evidence of financial responsibility to meet liability for death or injury to sailing school students and sailing school instructors on a voyage on the vessel. The amount of financial responsibility shall be at least $50,000 for each student and instructor. Financial responsibility under this subsection may be evidenced by insurance or other adequate financial resources.

## "PART B—MERCHANT MARINE SERVICE

## "CHAPTER 511—GENERAL

"Sec.
"51101. Policy.
"51102. Definitions.
"51103. General authority of Secretary of Transportation.
"51104. General authority of Secretary of the Navy.

### "§ 51101. Policy

"It is the policy of the United States that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States.

### "§ 51102. Definitions

"In this part:

"(1) ACADEMY.—The term 'Academy' means the United States Merchant Marine Academy located at Kings Point, New York, and maintained under chapter 513 of this title.

"(2) COST OF EDUCATION PROVIDED.—The term 'cost of education provided' means the financial costs incurred by the United States Government for providing training or financial assistance to students at the Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.

"(3) MERCHANT MARINE OFFICER.—The term 'merchant marine officer' means an individual issued a license by the Coast Guard authorizing service as—

"(A) a master, mate, or pilot on a documented vessel that—

"(i) is of at least 1,000 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

"(ii) operates on the oceans or the Great Lakes; or

"(B) an engineer officer on a documented vessel propelled by machinery of at least 4,000 horsepower.

"(4) STATE MARITIME ACADEMY.—The term 'State maritime academy' means—

"(A) a State maritime academy or college sponsored by a State and assisted under chapter 515 of this title; and

"(B) a regional maritime academy or college sponsored by a group of States and assisted under chapter 515 of this title.

**"§ 51103. General authority of Secretary of Transportation**

"(a) EDUCATION AND TRAINING.—The Secretary of Transportation may provide for the education and training of citizens of the United States for the safe and efficient operation of the merchant marine of the United States at all times, including operation as a naval and military auxiliary in time of war or national emergency.

"(b) SURPLUS PROPERTY FOR INSTRUCTIONAL PURPOSES.—

"(1) IN GENERAL.—The Secretary may cooperate with and assist the institutions named in paragraph (2) by making vessels, shipboard equipment, and other marine equipment, owned by the United States Government and determined to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms the Secretary considers appropriate.

"(2) INSTITUTIONS.—The institutions referred to in paragraph (1) are—

"(A) the United States Merchant Marine Academy;

"(B) a State maritime academy; and

"(C) a nonprofit training institution jointly approved by the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating as offering training courses that meet Federal regulations for maritime training.

"(c) ASSISTANCE FROM OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary of Transportation may secure directly from an agency, on a reimbursable basis, information, facilities, and equipment necessary to carry out this part.

"(2) DETAILING PERSONNEL.—At the request of the Secretary, the head of an agency (including a military department) may detail, on a reimbursable basis, personnel from the agency to the Secretary to assist in carrying out this part.

"(d) ACADEMY PERSONNEL.—To carry out this part, the Secretary may—

"(1) employ an individual as a professor, lecturer, or instructor at the Academy, without regard to the provisions of title 5 governing appointments in the competitive service; and

"(2) pay the individual without regard to chapter 51 and subchapter III of chapter 53 of title 5.

### "§ 51104. General authority of Secretary of the Navy

"The Secretary of the Navy, in cooperation with the Maritime Administrator and the head of each State maritime academy, shall ensure that—

"(1) the training of future merchant marine officers at the United States Merchant Marine Academy and at State maritime academies includes programs for naval science training in the operation of merchant vessels as a naval and military auxiliary; and

"(2) naval officer training programs for future officers, insofar as possible, are maintained at designated maritime academies consistent with Navy standards and needs.

## "CHAPTER 513—UNITED STATES MERCHANT MARINE ACADEMY

"Sec.
"51301. Maintenance of the Academy.
"51302. Nomination and competitive appointment of cadets.
"51303. Non-competitive appointments.
"51304. Additional appointments from particular areas.
"51305. Prohibited basis for appointment.
"51306. Cadet commitment agreements.
"51307. Places of training.
"51308. Uniforms, textbooks, and transportation allowances.
"51309. Academic degree.
"51310. Deferment of service obligation under cadet commitment agreements.
"51311. Midshipman status in the Naval Reserve.
"51312. Board of Visitors.
"51313. Advisory Board.
"51314. Limitation on charges and fees for attendance.

### "§ 51301. Maintenance of the Academy

"The Secretary of Transportation shall maintain the United States Merchant Marine Academy to provide instruction to individuals to prepare them for service in the merchant marine of the United States.

### "§ 51302. Nomination and competitive appointment of cadets

"(a) REQUIREMENTS.—An individual may be nominated for a competitive appointment as a cadet at the United States Merchant Marine Academy only if the individual—

"(1) is a citizen or national of the United States; and

"(2) meets the minimum requirements that the Secretary of Transportation shall establish.

"(b) NOMINATORS.—Nominations for competitive appointments for the positions allocated under subsection (c) may be made as follows:

"(1) A Senator may nominate residents of the State represented by that Senator.

"(2) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

"(3) A Delegate to the House of Representatives from the District of Columbia, the Virgin Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

"(4) The Resident Commissioner to the United States from Puerto Rico may nominate residents of Puerto Rico.

"(5) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

"(6) The Panama Canal Commission may nominate—

"(A) residents, or sons or daughters of residents, of an area or installation in Panama and made available to the United States under the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; and

"(B) sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in Panama.

"(c) ALLOCATION OF POSITIONS.—Positions for competitive appointments shall be allocated each year as follows:

"(1) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

"(2) Four positions shall be allocated for residents of the District of Columbia nominated by the Delegate to the House of Representatives from the District of Columbia.

"(3) One position each shall be allocated for residents of the Virgin Islands, Guam, and American Samoa nominated by the Delegates to the House of Representatives from the Virgin Islands, Guam, and American Samoa, respectively.

"(4) One position shall be allocated for a resident of Puerto Rico nominated by the Resident Commissioner to the United States from Puerto Rico.

"(5) One position shall be allocated for a resident of the Northern Mariana Islands nominated by the Governor of the Northern Mariana Islands.

"(6) Two positions shall be allocated for individuals nominated by the Panama Canal Commission.

"(d) COMPETITIVE SYSTEM FOR APPOINTMENT.—

"(1) ESTABLISHMENT OF SYSTEM.—The Secretary shall establish a competitive system for selecting individuals nominated under subsection (b) to fill the positions allocated under subsection (c). The system must determine the relative merit of each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and probability of successful completion of training at the Academy.

"(2) APPOINTMENTS BY JURISDICTION.—The Secretary shall appoint individuals to fill the positions allocated under subsection (c) for each jurisdiction in the order of merit of the individuals nominated from that jurisdiction.

"(3) REMAINING UNFILLED POSITIONS.—If positions remain unfilled after the appointments are made under paragraph (2), the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

**"§ 51303. Non-competitive appointments**

"The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than 40 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

**"§ 51304. Additional appointments from particular areas**

"(a) OTHER COUNTRIES IN WESTERN HEMISPHERE.—The President may appoint individuals from countries in the Western Hemisphere other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 12 individuals may receive instruction under this subsection at the same time, and not more than 2 individuals from the same country may receive instruction under this subsection at the same time.

"(b) OTHER COUNTRIES GENERALLY.—

"(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from countries other than the United States to receive instruction at the Academy. Not more than 30 individuals may receive instruction under this subsection at the same time.

"(2) REIMBURSEMENT.—The Secretary of Transportation shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual.

"(c) PANAMA.—

"(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from Panama to receive instruction at the Academy. Individuals appointed under this subsection are in addition to those appointed under any other provision of this chapter.

"(2) REIMBURSEMENT.—The Secretary of Transportation shall be reimbursed for the cost (as determined by the Secretary) of the instruction and allowances received by an individual appointed under this subsection.

"(d) ALLOWANCES AND REGULATIONS.—Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

**"§ 51305. Prohibited basis for appointment**

"Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual's immediate family are alumni of the Academy.

**"§ 51306. Cadet commitment agreements**

"(a) AGREEMENT REQUIREMENTS.—A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to—

"(1) complete the course of instruction at the Academy;

"(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

"(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the Academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

"(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

"(5) serve the foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy—

"(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

"(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary of Transportation), if the Secretary determines that service under subparagraph (A) is not available to the individual;

"(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

"(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

"(6) report to the Secretary on compliance with this subsection.

"(b) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has attended the Academy for at least 2 years has failed to fulfill the part of the agreement described in subsection (a)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in one of the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided by the Government.

"(c) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (a)(2)–(6), the individual may

be ordered to serve on active duty for a period of at least 3 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (a)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(d) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

### "§ 51307. Places of training

"The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy—

"(1) on vessels owned or subsidized by the United States Government;

"(2) on other documented vessels, with the permission of the owner; and

"(3) in shipyards or plants and with industrial or educational organizations.

### "§ 51308. Uniforms, textbooks, and transportation allowances

"The Secretary of Transportation shall provide cadets at the United States Merchant Marine Academy—

"(1) all required uniforms and textbooks; and

"(2) allowances for transportation (including reimbursement of traveling expenses) when traveling under orders as a cadet.

### "§ 51309. Academic degree

"(a) BACHELOR'S DEGREE.—

"(1) IN GENERAL.—The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who—

"(A) has met the conditions prescribed by the Secretary of Transportation; and

"(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

"(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not allowed to take the examination for a merchant marine officer's license only because of physical disqualification may not be denied a degree for not taking the examination.

"(b) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree on an individual who has met the conditions prescribed by the Secretary. A master's degree program may be funded through non-appropriated funds. To maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may prescribe regulations necessary to administer such a program.

"(c) GRADUATION NOT ENTITLEMENT TO HOLD LICENSE.—Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

### "§ 51310. Deferment of service obligation under cadet commitment agreements

"The Secretary of Transportation may defer the service commitment of an individual under section 51306(a)(5) of this title (as specified in the cadet commitment agreement) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer under section 51306(a)(5) must be approved by the Secretary of the military department that has jurisdiction over the service or by the Secretary of Commerce for service with the National Oceanic and Atmospheric Administration.

### "§ 51311. Midshipman status in the Naval Reserve

"(a) APPLICATION REQUIREMENT.—Before being appointed as a cadet at the United States Merchant Marine Academy, a citizen of the United States must agree to apply for midshipman status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

"(b) APPOINTMENT.—

"(1) IN GENERAL.—A citizen of the United States appointed as a cadet at the Academy shall be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

"(2) RIGHTS AND PRIVILEGES.—The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be—

"(A) issued an identification card (referred to as a 'military ID card'); and

"(B) entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the armed forces.

"(3) COORDINATION.—The Secretary of the Navy shall carry out paragraphs (1) and (2) in coordination with the Secretary of Transportation.

### "§ 51312. Board of Visitors

"(a) IN GENERAL.—A Board of Visitors to the United States Merchant Marine Academy shall be established, for a term of 2 years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary of

Transportation and to make recommendations on the operation of the Academy.

"(b) APPOINTMENT.—

"(1) IN GENERAL.—The Board shall be composed of—

"(A) 2 Senators appointed by the chairman of the Committee on Commerce, Science, and Transportation of the Senate;

"(B) 3 Members of the House of Representatives appointed by the chairman of the Committee on Armed Services of the House of Representatives;

"(C) 1 Senator appointed by the Vice President;

"(D) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(E) the chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives, as ex officio members.

"(2) SUBSTITUTE APPOINTMENT.—If an appointed member of the Board is unable to visit the Academy as provided in subsection (a), another individual may be appointed as a substitute in the manner provided in paragraph (1).

"(c) STAFF.—The chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives may designate staff members of their committees to serve without reimbursement as staff for the Board.

"(d) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board or a staff member designated under subsection (c) shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

**"§ 51313. Advisory Board**

"(a) IN GENERAL.—An Advisory Board to the United States Merchant Marine Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Maritime Administrator and the Superintendent of the Academy.

"(b) APPOINTMENT AND TERMS.—The Board shall be composed of not more than 7 individuals appointed by the Secretary of Transportation. The individuals must be distinguished in education and other fields related to the Academy. Members of the Board shall be appointed for terms of not more than 3 years and may be reappointed. The Secretary shall designate one of the members as chairman.

"(c) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the Board.

**"§ 51314. Limitation on charges and fees for attendance**

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the

United States Merchant Marine Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

## "CHAPTER 515—STATE MARITIME ACADEMY SUPPORT PROGRAM

"Sec.
"51501. General support program.
"51502. Detailing of personnel.
"51503. Regional maritime academies.
"51504. Use of training vessels.
"51505. Annual payments for maintenance and support.
"51506. Conditions to receiving payments and use of vessels.
"51507. Places of training.
"51508. Allowances for students.
"51509. Student incentive payment agreements.
"51510. Deferment of service obligation under student incentive payment agreements.
"51511. Midshipman status in the Naval Reserve.

### "§ 51501. General support program

"(a) ASSISTANCE TO STATE MARITIME ACADEMIES.—The Secretary of Transportation shall cooperate with and assist State maritime academies in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

"(b) COURSE DEVELOPMENT.—The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

### "§ 51502. Detailing of personnel

"At the request of the Governor of a State, the President may detail, without reimbursement, personnel of the Navy, the Coast Guard, and the Maritime Service to a State maritime academy to serve as a superintendent, professor, lecturer, or instructor at the academy.

### "§ 51503. Regional maritime academies

"The Governors of the States cooperating to sponsor a regional maritime academy shall designate in writing one of those States to conduct the affairs of that academy. A regional maritime academy is eligible for assistance from the United States Government on the same basis as a State maritime academy sponsored by a single State.

### "§ 51504. Use of training vessels

"(a) APPLICATIONS TO USE VESSELS.—The Governor of a State sponsoring a State maritime academy (or the Governor of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

"(b) GENERAL AUTHORITY.—Subject to subsection (c), the Secretary may provide to a State maritime academy, for use as a training vessel, a suitable vessel under the control of the Secretary or made available to the Secretary under subsection (e). If a suitable vessel is not available, the Secretary may build and provide a suitable vessel.

"(c) APPROVAL REQUIREMENTS.—The Secretary may provide a vessel under this section only if—

"(1) an application has been made under subsection (a);

"(2) the State maritime academy satisfies section 51506(a) of this title; and

"(3) a suitable port will be available for the safe mooring of the vessel while the academy is using the vessel.

"(d) PREPARATION AND MAINTENANCE.—A vessel provided under this section shall be—

"(1) repaired, reconditioned, and equipped (with all apparel, charts, books, and instruments of navigation) as necessary for use as a training vessel; and

"(2) maintained in good repair by the Secretary.

"(e) AGENCY VESSELS.—An agency may provide to the Secretary, for use by a State maritime academy, a vessel (including equipment) that—

"(1) is suitable for training purposes; and

"(2) can be provided without detriment to the service to which the vessel is assigned.

"(f) FUEL COSTS.—The Secretary may pay to a State maritime academy the costs of fuel used by a vessel provided under this section while used for training.

"(g) REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.—The Secretary may not—

"(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or

"(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.

**"§ 51505. Annual payments for maintenance and support**

"(a) PAYMENT AGREEMENTS.—The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

"(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

"(2) Each regional maritime academy that satisfies section 51506(a) of this title.

"(b) PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), an annual payment to an academy under subsection (a) shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

"(2) MAXIMUM.—The amount under paragraph (1) may not be more than $25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be—

"(A) $100,000 for a State maritime academy; and

"(B) $200,000 for a regional maritime academy.

**"§ 51506. Conditions to receiving payments and use of vessels**

"(a) GENERAL CONDITIONS.—As conditions of receiving an annual payment or the use of a vessel under this chapter, a State maritime academy must—

"(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

"(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; and

"(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title.

"(b) ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN $25,000.—As a condition of receiving an annual payment of more than $25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

**"§ 51507. Places of training**

"The Secretary of Transportation may provide for the training of students attending a State maritime academy—

"(1) on vessels owned or subsidized by the United States Government;

"(2) on other documented vessels, with the permission of the owner; and

"(3) in shipyards or plants and with industrial or educational organizations.

**"§ 51508. Allowances for students**

"Under regulations prescribed by the Secretary of Transportation, a student at a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) when traveling under orders to receive training under section 51507 of this title. Regulations.

**"§ 51509. Student incentive payment agreements**

"(a) GENERAL AUTHORITY.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States

to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.

"(b) PAYMENTS.—Payments under an agreement under this section shall be equal to $4,000 each academic year and be paid, as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, books, and subsistence.

"(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—An agreement under this section shall require the student to accept midshipman and enlisted reserve status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve) before receiving any payments under the agreement.

"(d) AGREEMENT REQUIREMENTS.—An agreement under this section shall require the student to—

"(1) complete the course of instruction at the academy the individual is attending;

"(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and fulfill the requirements for such a license within 3 months after graduation from the academy;

"(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

"(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

"(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

"(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

"(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subparagraph (A) is not available to the individual;

"(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

"(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

"(6) report to the Secretary on compliance with this subsection.

"(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(f) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(g) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

### "§ 51510. Deferment of service obligation under student incentive payment agreements

"The Secretary of Transportation may defer the service commitment of an individual under section 51509(d)(5) of this title (as specified in the agreement under section 51509) for not more than

2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

### "§ 51511. Midshipman status in the Naval Reserve

"A citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

## "CHAPTER 517—OTHER SUPPORT FOR MERCHANT MARINE TRAINING

"Sec.
"51701. United States Maritime Service.
"51702. Civilian nautical schools.
"51703. Additional training.
"51704. Training for maritime oil pollution prevention, response, and clean-up.

### "§ 51701. United States Maritime Service

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may establish and maintain a voluntary organization, to be known as the United States Maritime Service, for the training of citizens of the United States to serve on merchant vessels of the United States.

"(b) SPECIFIC AUTHORITY.—The Secretary may—

"(1) determine the number of individuals to be enrolled for training and reserve purposes in the Service;

"(2) fix the rates of pay and allowances of the individuals without regard to chapter 51 or subchapter III of chapter 53 of title 5;

"(3) prescribe the course of study and the periods of training for the Service; and

"(4) prescribe the uniform of the Service and the rules on providing and wearing the uniform.

"(c) RANKS, GRADES, AND RATINGS.—The ranks, grades, and ratings for personnel of the Service shall be the same as those prescribed for personnel of the Coast Guard.

"(d) MEDALS AND AWARDS.—The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the Service.

### "§ 51702. Civilian nautical schools

"(a) DEFINITION.—In this section, the term 'civilian nautical school' means a school operated in the United States (except the United States Merchant Marine Academy, a State maritime academy, or another school operated by the United States Government) that offers instruction to individuals quartered on a vessel primarily to train them for service in the merchant marine.

"(b) INSPECTION.—Each civilian nautical school is subject to inspection by the Secretary of Transportation.

"(c) RATING AND CERTIFICATION.—The Secretary may, under regulations the Secretary may prescribe, provide for the rating and certification of civilian nautical schools as to the adequacy

of their course of instruction, the competence of their instructors, and the suitability of the equipment used in their course of instruction.

**"§ 51703. Additional training**

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may provide additional training on maritime subjects to supplement other training opportunities and make the training available to the personnel of the merchant marine of the United States and individuals preparing for a career in the merchant marine of the United States.

"(b) EQUIPMENT, SUPPLIES, AND CONTRACTS.—The Secretary may—

"(1) prepare or buy equipment or supplies required for the additional training; and

"(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), make contracts for services the Secretary considers necessary to prepare the equipment and supplies and to supervise and administer the additional training.

**"§ 51704. Training for maritime oil pollution prevention, response, and clean-up**

"(a) ASSISTANCE IN ESTABLISHING PROGRAM.—The Secretary of Transportation shall assist maritime training institutions approved by the Secretary in establishing a training program for maritime oil pollution prevention, response, and clean-up.

"(b) PROVIDING TRAINING VESSELS.—Subject to subsection (c), the Secretary may provide, with title free of all liens, to maritime training institutions that have a program established under subsection (a), offshore supply vessels and tug/supply vessels that were built in the United States and are in the possession of the Maritime Administration because of a default on a loan guaranteed under chapter 537 of this title.

"(c) REQUIREMENTS.—In addition to any other requirements the Secretary considers appropriate, the following requirements apply to vessels provided under this section:

"(1) The vessel shall be offered to the institution at a location selected by the Secretary.

"(2) The institution shall use the vessel to train students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills.

"(3) The institution shall make the vessel and qualified students available to appropriate Federal, State, and local oil spill response authorities when there is a maritime oil spill.

"(4) The institution may not sell, trade, charter, donate, scrap, or in any way alter or dispose of the vessel without prior approval of the Secretary.

"(5) The institution may not use the vessel in competition with a privately-owned vessel documented under chapter 121 of this title or titled under the law of a State, unless necessary to carry out this section.

"(6) When the institution can no longer use the vessel for its training program, the institution shall return the vessel to the Secretary. The Secretary shall take possession at the institution and thereafter may provide the vessel to another institution under this section or dispose of the vessel.

## "CHAPTER 519—MERCHANT MARINE AWARDS

"Sec.
"51901. Awards for individual acts or service.
"51902. Gallant Ship Award.
"51903. Multiple awards.
"51904. Presentation to representatives.
"51905. Flags and grave markers.
"51906. Special certificates for civilian service to armed forces.
"51907. Manufacture and sale of awards and replacements.
"51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards.

### "§ 51901. Awards for individual acts or service

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the merchant marine of the United States. The design may be similar to the design of a decoration or medal authorized for members of the armed forces for similar acts or service.

"(b) SPECIFIC AUTHORITY.—The Secretary may award—

"(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

"(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character that would warrant the award of the Merchant Marine Distinguished Service Medal;

"(3) a decoration or medal to an individual for service during a war, national emergency proclaimed by the President or Congress, or operations by the armed forces outside the continental United States under conditions of danger to life and property; and

"(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the armed forces.

### "§ 51902. Gallant Ship Award

"(a) AWARDS TO VESSELS.—The Secretary of Transportation may award a Gallant Ship Award and a citation to a vessel (including a foreign vessel) participating in outstanding or gallant action in a marine disaster or other emergency to save life or property at sea. The Secretary may award a plaque to the vessel, and a replica of the plaque may be preserved as a permanent historical record.

"(b) AWARDS TO CREWS.—The Secretary of Transportation may award an appropriate citation ribbon bar to the master and each individual serving, at the time of the action, on a vessel issued an award under subsection (a).

"(c) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of State before awarding an award or citation to a foreign vessel or its crew under this section.

**"§ 51903. Multiple awards**

"An individual may not be awarded more than one of any type of decoration or medal under this chapter. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

**"§ 51904. Presentation to representatives**

"If an individual to be issued an award under this chapter is unable to accept the award personally, the Secretary of Transportation may present the award to an appropriate representative.

**"§ 51905. Flags and grave markers**

"Except as authorized under another law, the Secretary of Transportation may issue, at no cost, a flag of the United States and a grave marker to the family or personal representative of a deceased individual who served in the merchant marine of the United States in support of the armed forces of the United States or its allies during a war or national emergency.

**"§ 51906. Special certificates for civilian service to armed forces**

"(a) GENERAL AUTHORITY.—The Maritime Administrator may issue a special certificate to an individual, or the personal representative of an individual, in recognition of service of that individual in the merchant marine of the United States, if the service has been determined to be active duty under section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note).

"(b) RELATIONSHIP TO OTHER LAWS.—Issuance of a certificate under subsection (a) does not entitle an individual to any rights, privileges, or benefits under a law of the United States.

**"§ 51907. Manufacture and sale of awards and replacements**

"The Secretary of Transportation may—

"(1) authorize private persons to manufacture decorations and medals authorized under this chapter or a prior law; and

"(2) provide at cost, or authorize private persons to sell at reasonable prices, replacements for those decorations and medals.

**"§ 51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards**

"(a) PROHIBITION.—Except as authorized under this chapter, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this chapter.

"(b) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $2,000.

## "CHAPTER 521—MISCELLANEOUS

"Sec.
"52101. Reemployment rights for certain merchant seamen.

**"§ 52101. Reemployment rights for certain merchant seamen**

"(a) IN GENERAL.—An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to

reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38 for any member of a reserve component of the armed forces of the United States who is ordered to active duty.

"(b) TIME FOR APPLICATION.—An individual may submit an application for certification under subsection (c) to the Secretary not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

Deadline.

"(c) CERTIFICATION DETERMINATION.—Not later than 20 days after the date the Secretary receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) in a period in which the vessel was in use or being activated for use under subsection (b) of that section;

"(ii) requisitioned or purchased under chapter 563 of this title; or

"(iii) owned, chartered, or controlled by the United States Government and used by the Government for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or 73 of this title; and

"(2) if the Secretary makes affirmative determinations under subparagraphs (A) and (B) of paragraph (1), certify that individual under this subsection.

"(d) EQUIVALENCE TO MILITARY SELECTIVE SERVICE ACT CERTIFICATE.—For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate described in section 9(a) of the Military Selective Service Act (50 App. U.S.C. 459(a)).

"PART C—FINANCIAL ASSISTANCE PROGRAMS".

(c) CHAPTERS FOLLOWING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by adding at the end the following:

## "CHAPTER 533—CONSTRUCTION RESERVE FUNDS

"Sec.
"53301. Definitions.
"53302. Authority for construction reserve funds.
"53303. Persons eligible to establish funds.
"53304. Vessel ownership.
"53305. Eligible fund deposits.
"53306. Recognition of gain for tax purposes.
"53307. Basis for determining gain or loss and for depreciating new vessels.
"53308. Order and proportions of deposits and withdrawals.
"53309. Accumulation of deposits.
"53310. Obligation of deposits and period for construction of certain vessels.

"53311. Taxation of deposits on failure of conditions.
"53312. Assessment and collection of deficiency tax.

### "§ 53301. Definitions

"(a) IN GENERAL.—In this chapter:

"(1) CONSTRUCTION CONTRACT.—The term 'construction contract' includes, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary of Transportation for that construction containing provisions the Secretary considers advisable to carry out this chapter.

"(2) NEW VESSEL.—The term 'new vessel' means—

"(A) a vessel—

"(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title;

"(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

"(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

"(II) constructed to replace a vessel bought or requisitioned by the Government; and

"(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

"(b) ADDITIONAL TAX-RELATED TERMS.—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

### "§ 53302. Authority for construction reserve funds

"(a) GENERAL AUTHORITY.—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

"(b) APPLICATION OF CERTAIN LAWS AND REGULATIONS.—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

### "§ 53303. Persons eligible to establish funds

"A construction reserve fund may be established by a citizen of the United States that—

"(1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;

"(2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;

"(3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;

"(4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or

"(5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

**"§ 53304. Vessel ownership**

"In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

**"§ 53305. Eligible fund deposits**

"A construction reserve fund may include deposits of—

"(1) the proceeds from the sale of a vessel;

"(2) indemnities for the loss of a vessel;

"(3) earnings from the operation of a documented vessel and from services incident to the operation; and

"(4) interest or other amounts accrued on deposits in the fund.

**"§ 53306. Recognition of gain for tax purposes**

"(a) DEFINITIONS.—In this section, the terms 'net proceeds' and 'net indemnity' mean the sum of—

"(1) the adjusted basis of the vessel; and

"(2) the amount of gain the taxpayer would recognize without regard to this section.

"(b) RECOGNITION OF GAIN.—In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer—

Deadline.

"(1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and

"(2) elects under this section not to recognize the gain.

"(c) WHEN ELECTION MUST BE MADE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the taxpayer must make the election referred to in subsection (b) in the taxpayer's income tax return for the taxable year in which the gain was realized.

"(2) RECEIPT AFTER TAXABLE YEAR.—If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) within

60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

"(d) EFFECT OF STATUTE OF LIMITATION.—If the taxpayer makes an election under subsection (c)(2), and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

**"§ 53307. Basis for determining gain or loss and for depreciating new vessels**

"Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciation of a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 53310 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 53306 of this title.

**"§ 53308. Order and proportions of deposits and withdrawals**

"In this chapter—

"(1) if the net proceeds of a sale or the net indemnity for a loss is deposited in more than one deposit, the amount consisting of the gain shall be deemed to be deposited first;

"(2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and

"(3) if a deposit consists in part of a gain not recognized under section 53306 of this title, any expenditure, obligation, or withdrawal applied against that deposit shall be deemed to be a gain in the proportion that the part of the deposit consisting of a gain bears to the total amount of the deposit.

**"§ 53309. Accumulation of deposits**

"For any taxable year, amounts on deposit in a construction reserve fund on the last day of the taxable year, for which the requirements of section 53310 of this title have been satisfied (to the extent they apply on the last day of the taxable year), are deemed to have been retained for the reasonable needs of the business within the meaning of section 537(a) of the Internal Revenue Code of 1986 (26 U.S.C. 537(a)).

**"§ 53310. Obligation of deposits and period for construction of certain vessels**

"(a) APPLICATION OF SECTIONS 53306 AND 53309.—Sections 53306 and 53309 of this title apply to a deposit in a construction reserve fund only if, within 3 years after the date of the deposit (and any extension under subsection (c))—

"(1)(A) a contract is made for the construction or acquisition of a new vessel or, with the approval of the Secretary of Transportation, for a part interest in a new vessel or for the reconstruction or reconditioning of a new vessel;

"(B) the deposit is expended or obligated for expenditure under that contract;

"(C) at least 12.5 percent of the construction or contract price of the vessel is paid or irrevocably committed for payment; and

"(D) the plans and specifications for the vessel are approved by the Secretary to the extent the Secretary considers necessary; or

"(2) the deposit is expended or obligated for expenditure for the liquidation of existing or subsequently incurred purchase-money indebtedness to a person not a parent company of, or a company affiliated or associated with, the mortgagor on a new vessel.

"(b) ADDITIONAL REQUIREMENTS FOR CERTAIN VESSELS.—In addition to the requirements of subsection (a)(1), for a vessel not constructed under a construction-differential subsidy contract or not bought from the Secretary of Transportation—

"(1) at least 5 percent of the construction (or, if the contract covers more than one vessel, at least 5 percent of the construction of the first vessel) must be completed within 6 months after the date of the construction contract (or within the period of an extension under subsection (c)), as estimated by the Secretary and certified by the Secretary to the Secretary of the Treasury; and

"(2) construction under the contract must be completed with reasonable dispatch thereafter.

"(c) EXTENSIONS.—The Secretary of Transportation may grant extensions of the period within which the deposits must be expended or obligated or within which the construction must have progressed to the extent of 5 percent completion under this section. However, the extensions may not be for a total of more than 2 years for the expenditure or obligation of deposits or one year for the progress of construction.

**"§ 53311. Taxation of deposits on failure of conditions**

"A deposited gain, if otherwise taxable income under the law applicable to the taxable year in which the gain was realized, shall be included in gross income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if—

"(1) the deposited gain is not expended or obligated within the appropriate period under section 53310 of this title;

"(2) the deposited gain is withdrawn before the end of that period;

"(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 53310 of this title; or

"(4) the Secretary of Transportation finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

**"§ 53312. Assessment and collection of deficiency tax**

"Notwithstanding any other provision of law, a deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 53311 of this title, and the amount to be treated as a deficiency under section 53311

instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

## "CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

"Sec.
"53501. Definitions.
"53502. Regulations.
"53503. Establishing a capital construction fund.
"53504. Deposits and withdrawals.
"53505. Ceiling on deposits.
"53506. Investment and fiduciary requirements.
"53507. Nontaxation of deposits.
"53508. Separate accounts within a fund.
"53509. Qualified withdrawals.
"53510. Tax treatment of qualified withdrawals and basis of property.
"53511. Tax treatment of nonqualified withdrawals.
"53512. FIFO and LIFO withdrawals.
"53513. Corporate reorganizations and partnership changes.
"53514. Relationship of old fund to new fund.
"53515. Records and reports.
"53516. Termination of agreement after change in regulations.
"53517. Reports.

### "§ 53501. Definitions

"In this chapter:

"(1) AGREEMENT VESSEL.—The term 'agreement vessel' means—

"(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

"(B) a barge or container that is part of the complement of a vessel described in subparagraph (A) if provided for in the agreement.

"(2) ELIGIBLE VESSEL.—The term 'eligible vessel' means—

"(A) a vessel—

"(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

"(ii) documented under the laws of the United States; and

"(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; and

"(B) a commercial fishing vessel—

"(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

"(ii) of at least 2 net tons but less than 5 net tons;

"(iii) owned by a citizen of the United States;

"(iv) having its home port in the United States; and

"(v) operated in the commercial fisheries of the United States.

"(3) JOINT REGULATIONS.—The term 'joint regulations' means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 53502(b) of this title.

"(4) NONCONTIGUOUS TRADE.—The term 'noncontiguous trade' means—

"(A) trade between—

"(i) one of the contiguous 48 States; and

"(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

"(B) trade between—

"(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

"(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

"(5) QUALIFIED VESSEL.—The term 'qualified vessel' means—

"(A) a vessel—

"(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

"(ii) documented under the laws of the United States; and

"(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; and

"(B) a commercial fishing vessel—

"(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

"(ii) of at least 2 net tons but less than 5 net tons;

"(iii) owned by a citizen of the United States;

"(iv) having its home port in the United States; and

"(v) operated in the commercial fisheries of the United States.

"(6) SECRETARY.—The term 'Secretary' means—

"(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

"(B) the Secretary of Transportation with respect to other vessels.

"(7) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

"(8) VESSEL.—The term 'vessel' includes—

"(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

"(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

**"§ 53502. Regulations**

"(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall prescribe regulations to carry out this chapter.

"(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury shall prescribe joint regulations for the determination of tax liability under this chapter.

**"§ 53503. Establishing a capital construction fund**

"(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

"(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

**"§ 53504. Deposits and withdrawals**

"(a) REQUIRED DEPOSITS.—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

"(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person's taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

**"§ 53505. Ceiling on deposits**

"(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

"(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

"(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

"(3) if the transaction is not taken into account for purposes of paragraph (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from

insurance or indemnity attributable to an agreement vessel; and

"(4) the receipts from the investment or reinvestment of amounts held in the fund.

"(b) REDUCTIONS FOR LESSEES.—For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

**"§ 53506. Investment and fiduciary requirements**

"(a) IN GENERAL.—Amounts in a capital construction fund shall be kept in the depository specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

"(b) STOCK INVESTMENTS.—

"(1) IN GENERAL.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that—

"(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

"(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

"(2) PREFERRED STOCK.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

"(c) MAINTAINING AGREED PERCENTAGE.—If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

**"§ 53507. Nontaxation of deposits**

"(a) TAX TREATMENT.—Subject to subsection (b), under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

"(1) taxable income (determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 53505(a)(1) of this title;

"(2) a gain from a transaction referred to in section 53505(a)(3) of this title shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

"(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account;

"(4) the earnings and profits of a corporation (within the meaning of section 316 of such Code (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518); and

"(5) in applying the tax imposed by section 531 of such Code (26 U.S.C. 531), amounts held in the fund shall not be taken into account.

"(b) CONDITION.—This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

**"§ 53508. Separate accounts within a fund**

"(a) IN GENERAL.—A capital construction fund shall have three accounts:

"(1) The capital account.

"(2) The capital gain account.

"(3) The ordinary income account.

"(b) CAPITAL ACCOUNT.—The capital account shall consist of—

"(1) amounts referred to in section 53505(a)(2) of this title;

"(2) amounts referred to in section 53505(a)(3) of this title, except that portion representing a gain not taken into account because of section 53507(a)(2) of this title;

"(3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 53507(a)(3) of this title) a deduction under section 243 of such Code (26 U.S.C. 243); and

"(4) interest income exempt from taxation under section 103 of such Code (26 U.S.C. 103).

"(c) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(1) amounts representing capital gains on assets held for more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

"(2) amounts representing capital losses on assets held in the fund for more than 6 months.

"(d) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

"(1) amounts referred to in section 53505(a)(1) of this title;

"(2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

"(B) amounts representing capital losses on assets held in the fund for not more than 6 months;

"(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in paragraph (5)) received on assets held in the fund;

"(4) ordinary income from a transaction described in section 53505(a)(3) of this title; and

"(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

"(e) WHEN LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively.

**"§ 53509. Qualified withdrawals**

"(a) IN GENERAL.—Subject to subsection (b), a withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for—

"(1) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or

"(2) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

Regulations.

"(b) BARGES AND CONTAINERS.—Except as provided in regulations prescribed by the Secretary, subsection (a) applies to a barge or container only if it is constructed in the United States.

"(c) TREATMENT AS NONQUALIFIED WITHDRAWAL.—Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

**"§ 53510. Tax treatment of qualified withdrawals and basis of property**

"(a) ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital construction fund shall be treated as made—

"(1) first from the capital account;

"(2) second from the capital gain account; and

"(3) third from the ordinary income account.

"(b) ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

"(c) CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

Regulations.

"(d) WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

"(e) GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of which was reduced under subsection (b), (c), or (d), is disposed of, any gain realized on the disposition, to the extent it does not exceed the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 53511(c)(1) of this title withdrawn on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

**"§ 53511. Tax treatment of nonqualified withdrawals**

"(a) IN GENERAL.—Except as provided in section 53513 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treated as made—

"(1) first from the ordinary income account;

"(2) second from the capital gain account; and

"(3) third from the capital account.

"(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

"(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

"(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

"(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

"(A) no interest shall be payable under section 6601 of such Code (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of such Code (26 U.S.C. 6651);

"(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

"(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 53512 of this title.

"(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between— Regulations.

"(1) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

"(2) the money rates and investment yields for the calendar year 1970.

"(e) NONQUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

| "If the amount remains in the fund at the close of the— | The applicable percentage is— |
|---|---|
| "26th taxable year | 20 percent |
| "27th taxable year | 40 percent |
| "28th taxable year | 60 percent |
| "29th taxable year | 80 percent |
| "30th taxable year | 100 percent. |

"(2) EARNINGS.—The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

"(3) CONTRACT FOR QUALIFIED WITHDRAWAL.—Under paragraph (1), an amount shall not be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

"(4) EXCESS EARNINGS.—If the Secretary determines that the balance in a capital construction fund exceeds the amount appropriate to meet the vessel construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) unless the person develops appropriate program objectives within 3 years to dissipate the excess.

"(5) AMOUNTS IN FUND ON JANUARY 1, 1987.—Under this subsection, amounts in a capital construction fund on January 1, 1987, shall be treated as having been deposited in that fund on that date.

"(f) TAX DETERMINATIONS.—

"(1) IN GENERAL.—For a taxable year for which there is a nonqualified withdrawal (including an amount treated as a nonqualified withdrawal under subsection (e)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined by—

"(A) excluding the withdrawal from gross income; and

"(B) increasing the tax imposed by chapter 1 of such Code by the product of the amount of the withdrawal and the highest tax rate specified in section 1 (or section 11 for a corporation) of such Code (26 U.S.C. 1, 11).

"(2) MAXIMUM TAX RATE.—For that portion of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) or 1201(a) of such Code (26 U.S.C. 1(h), 1201(a)) applies, the tax rate used under paragraph (1)(B) may not exceed 15 percent (or 34 percent for a corporation).

"(3) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (except earnings on deposits) made by the taxpayer in a taxable year that did not reduce the taxpayer's liability for tax under chapter 1 of such Code (26 U.S.C. ch. 1) for a taxable year before the taxable year in which the withdrawal occurs—

"(A) that portion shall not be taken into account under paragraph (1); and

"(B) an amount equal to that portion shall be allowed as a deduction under section 172 of such Code (26 U.S.C. 172) for the taxable year in which the withdrawal occurs.

"(4) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—A nonqualified withdrawal excluded from gross income under paragraph (1) shall be excluded in determining

taxable income under section 172(b)(2) of such Code (26 U.S.C. 172(b)(2)).

**"§ 53512. FIFO and LIFO withdrawals**

"(a) FIFO.—Except as provided in subsection (b), an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

"(b) LIFO.—An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is—

"(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced vessel design, machinery, and equipment; or

"(2) an amount treated as a nonqualified withdrawal under section 53510(d) of this title.

**"§ 53513. Corporate reorganizations and partnership changes**

"Under joint regulations—

"(1) a transfer of a capital construction fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 (26 U.S.C. 381) applies may be treated as if the transaction is not a nonqualified withdrawal; and

"(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of subchapter K of chapter 1 of such Code (26 U.S.C. 701 et seq.)).

**"§ 53514. Relationship of old fund to new fund**

"(a) DEFINITION.—In this section, the term 'old fund' means a capital construction fund maintained before October 21, 1970.

"(b) ELECTION TO MAINTAIN OLD FUND.—A person maintaining an old fund may elect to continue the old fund, but may not—

"(1) hold amounts in the old fund beyond the expiration date provided in the agreement under which the old fund is maintained (determined without regard to an extension or renewal made after April 14, 1970); or

"(2) maintain simultaneously the old fund and a new fund established under this chapter.

"(c) APPLICATION OF NEW FUND AGREEMENT TO OLD FUND AMOUNTS.—If a person makes an agreement under this chapter to establish a new fund, the person may agree to extend the agreement to some or all of the amounts in an old fund. Each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund. For purposes of section 53511(c)(3) of this title, the date of the deposit of an item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is later.

**"§ 53515. Records and reports**

"A person maintaining a fund under this chapter shall keep records and make reports as required by the Secretary or the Secretary of the Treasury.

### "§ 53516. Termination of agreement after change in regulations

"If, after an agreement has been made under this chapter, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

### "§ 53517. Reports

"(a) IN GENERAL.—Within 120 days after the close of each calendar year, the Secretary of Transportation and the Secretary of Commerce each shall provide the Secretary of the Treasury a written report on the capital construction funds under the particular Secretary's jurisdiction for the calendar year.

"(b) CONTENTS.—The report shall state the name and taxpayer identification number of each person—

"(1) establishing a capital construction fund during the calendar year;

"(2) maintaining a capital construction fund on the last day of the calendar year;

"(3) terminating a capital construction fund during the calendar year;

"(4) making a deposit to or withdrawal from a capital construction fund during the calendar year, and the amount of the deposit or withdrawal; or

"(5) having been determined during the calendar year to have failed to fulfill a substantial obligation under a capital construction fund agreement to which the person is a party.

## "CHAPTER 537—LOANS AND GUARANTEES

"SUBCHAPTER I—GENERAL

"Sec.
"53701. Definitions.
"53702. General authority.
"53703. Application procedures.
"53704. Funding limits.
"53705. Pledge of United States Government.
"53706. Eligible purposes of obligations.
"53707. Findings related to obligors and operators.
"53708. Findings related to economic soundness.
"53709. Amount of obligations.
"53710. Contents of obligations.
"53711. Security interest.
"53712. Monitoring financial condition and operations of obligor.
"53713. Administrative fees.
"53714. Guarantee fees.
"53715. Escrow fund.
"53716. Deposit fund.
"53717. Management of funds in the Treasury.
"53718. Annual report to Congress.

"SUBCHAPTER II—DEFAULT PROVISIONS

"53721. Rights of obligee.
"53722. Actions by Secretary.
"53723. Payments by Secretary and issuance of obligations.
"53724. Rights to secured property.
"53725. Actions against obligor.

"SUBCHAPTER III—PARTICULAR PROJECTS

"53731. Commercial demonstration ocean thermal energy conversion facilities and plantships.

"53732. Eligible export vessels.
"53733. Shipyard modernization and improvement.
"53734. Replacement of vessels because of changes in operating standards.
"53735. Fisheries financing and capacity reduction.

"SUBCHAPTER I—GENERAL

**"§ 53701. Definitions**

"In this chapter:

"(1) ACTUAL COST.—The term 'actual cost' means the sum of—

"(A) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 53715(d)(1) of this title; and

"(B) all amounts that the Secretary reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

"(2) CONSTRUCTION, RECONSTRUCTION, AND RECONDITIONING.—The terms 'construction', 'reconstruction', and 'reconditioning' include designing, inspecting, outfitting, and equipping.

"(3) DEPRECIATED ACTUAL COST.—The term 'depreciated actual cost' of a vessel means—

"(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary, not to exceed 25 years from the date of delivery by the builder; or

"(B) if the vessel was reconstructed or reconditioned, the sum of—

"(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary; and

"(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary.

"(4) ELIGIBLE EXPORT VESSEL.—The term 'eligible export vessel' means a vessel that—

"(A) is constructed, reconstructed, or reconditioned in the United States for use in world-wide trade; and

"(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.

"(5) FISHERY FACILITY.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'fishery facility' means—

"(i) for operations on land—

"(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

"(II) the land necessary for the structure or appurtenance; and

"(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I);

"(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

"(iii) for aquaculture, including operations on land or elsewhere—

"(I) a structure or appurtenance thereto designed for aquaculture;

"(II) the land necessary for the structure or appurtenance;

"(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I); and

"(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

"(B) REQUIRED OWNERSHIP.—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—

"(i) an individual who is a citizen of the United States; or

"(ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.

"(6) FISHING VESSEL.—The term 'fishing vessel' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.

"(7) MORTGAGE.—The term 'mortgage' includes—

"(A) a preferred mortgage as defined in section 31301 of this title; and

"(B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.

"(8) OBLIGATION.—The term 'obligation' means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—

"(A) an obligation issued by the Secretary under section 53723 of this title; and

"(B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.

"(9) OBLIGEE.—The term 'obligee' means the holder of an obligation.

"(10) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on an obligation.

"(11) OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.—The term 'ocean thermal energy conversion facility or plantship' means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—

"(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

"(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

"(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

"(12) SECRETARY.—The term 'Secretary' means—

"(A) the Secretary of Commerce with respect to fishing vessels and fishery facilities; and

"(B) the Secretary of Transportation with respect to other vessels and general shipyard facilities (as defined in section 53733(a) of this title).

"(13) VESSEL.—The term 'vessel' means any type of vessel, whether in existence or under construction, including—

"(A) a cargo vessel;

"(B) a passenger vessel;

"(C) a combination cargo and passenger vessel;

"(D) a tanker;

"(E) a tug or towboat;

"(F) a barge;

"(G) a dredge;

"(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

"(I) an oceanographic research vessel;

"(J) an instruction vessel;

"(K) a pollution treatment, abatement, or control vessel;

"(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

"(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

**"§ 53702. General authority**

"(a) IN GENERAL.—The Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.

"(b) DIRECT LOANS FOR FISHERIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing

capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

"(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

**"§ 53703. Application procedures**

"(a) TIME FOR DECISION.—

"(1) IN GENERAL.—The Secretary shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the signed application is received by the Secretary.

"(2) EXTENSION.—On request by an applicant, the Secretary may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary.

"(b) CERTIFICATION OF REVIEW.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

**"§ 53704. Funding limits**

"(a) GENERAL LIMITATIONS.—The total unpaid principal amount of obligations guaranteed under this chapter and outstanding at one time may not exceed $12,000,000,000. Of that amount—

"(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

"(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels.

"(b) ADDITIONAL LIMITATIONS.—Additional limitations may not be imposed on new commitments to guarantee loans for any fiscal year, except in amounts established in advance by annual authorization laws. A vessel eligible for a guarantee under this chapter may not be denied eligibility because of its type.

"(c) LIMITS BASED ON RISK FACTORS.—

"(1) DEFINITION.—In this subsection, the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(2) SYSTEM OF RISK CATEGORIES.—The Secretary shall—

"(A) establish, and update annually, a system of risk categories for obligations guaranteed under this chapter that categorizes the relative risk of guarantees based on the risk factors set forth in paragraph (4);

"(B) determine annually for each risk category a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed for obligations in the category; and

"(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that are expected to be associated with the loans in the category.

"(3) USE OF SYSTEM.—

"(A) PLACING OBLIGATION IN CATEGORY.—Before making a guarantee under this chapter for an obligation, and annually for projects subject to a guarantee, the Secretary shall apply the risk factors specified in paragraph (4) to place the obligation in a risk category established under paragraph (2).

"(B) REDUCTION OF AVAILABLE AMOUNT.—The Secretary shall consider the total amount available to the Secretary for making guarantees under this chapter to be reduced by the amount determined by multiplying—

"(i) the amount guaranteed under this chapter for an obligation; by

"(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A).

"(C) ESTIMATED COST.—The estimated cost to the United States Government of a guarantee under this chapter for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

"(D) RESTRICTION ON FURTHER GUARANTEES.—The Secretary may not guarantee obligations under this chapter after the total amount available to the Secretary under appropriations laws for the cost of loan guarantees is considered to be reduced to zero under subparagraph (B).

"(4) RISK FACTORS.—The risk factors referred to in this subsection are—

"(A) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation;

"(B) the period for which an obligation is guaranteed or to be guaranteed;

"(C) the amount of an obligation guaranteed or to be guaranteed in relation to the total cost of the project financed or to be financed by the obligation;

"(D) the financial condition of an obligor or applicant for a guarantee;

"(E) if applicable, other guarantees related to the project;

"(F) if applicable, the projected employment of each vessel or equipment to be financed with an obligation;

"(G) if applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation;

"(H) the collateral provided for a guarantee for an obligation;

"(I) the management and operating experience of an obligor or applicant for a guarantee;

"(J) whether a guarantee under this chapter is or will be in effect during the construction period of the project; and

"(K) the concentration risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers.

**"§ 53705. Pledge of United States Government**

"(a) FULL FAITH AND CREDIT.—The full faith and credit of the United States Government is pledged to the payment of a guarantee made under this chapter, for both principal and interest, including interest (as may be provided for in the guarantee) accruing between the date of default under a guaranteed obligation and the date of payment in full of the guarantee.

"(b) INCONTESTABILITY.—A guarantee or commitment to guarantee made under this chapter is conclusive evidence of the eligibility of the obligation for the guarantee. The validity of a guarantee or commitment to guarantee made under this chapter is incontestable.

**"§ 53706. Eligible purposes of obligations**

"(a) IN GENERAL.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

"(1)(A) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel (including an eligible export vessel) designed principally for research, or for commercial use—

"(i) in the coastwise or intercoastal trade;

"(ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;

"(iii) in foreign trade as defined in section 109(b) of this title;

"(iv) as an ocean thermal energy conversion facility or plantship;

"(v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels; or

"(vi) as an eligible export vessel in worldwide trade.

"(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

"(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

"(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

"(A) for which an obligation was guaranteed under this chapter; and

"(B) that, under subchapter II of this chapter—

"(i) is a vessel or fishery facility for which an obligation was accelerated and paid;

"(ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or

"(iii) was sold at foreclosure begun or intervened in by the Secretary.

"(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

"(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in paragraphs (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

"(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

"(7) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the purchase of an individual fishing quota in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).

"(b) NON-VESSELS TREATED AS VESSELS.—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

"(c) PRIORITIES FOR CERTAIN VESSELS.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Secretary shall give priority to—

"(1) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note); and

"(2) after applying paragraph (1), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

"(A) is suitable for service as a naval auxiliary in time of war or national emergency; and

"(B) meets a shortfall in sealift capacity or capability.

### "§ 53707. Findings related to obligors and operators

"(a) RESPONSIBLE OBLIGOR.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of each vessel that will serve as security for the guarantee.

"(b) OPERATORS OF LINER VESSELS.—The Secretary of Transportation may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under this chapter unless the Chairman of the Federal Maritime Commission certifies that the operator of the vessel has not been found by the Commission to have committed, within the previous 5 years—

"(1) a violation of part A of subtitle IV of this title that involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; or

"(2) a violation of part B of subtitle IV of this title.

"(c) OPERATORS OF FISHING VESSELS.—The Secretary of Commerce may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under this chapter if the operator of the vessel has been—

"(1) held liable, or the vessel has been held liable in rem, for a civil penalty under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and the operator has not paid the penalty;

"(2) found guilty of an offense under section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

"(3) held liable for a civil or criminal penalty under section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

"(4) held liable for a civil penalty by the Coast Guard under this title or title 33 and not paid the assessed fine.

Regulations.

"(d) WAIVERS CONCERNING FINANCIAL CONDITION.—The Secretary shall prescribe regulations concerning circumstances under which waivers of, or exceptions to, otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

"(1) the economic soundness requirements in section 53708(a) of this title are met after the waiver of the financial condition requirement; and

"(2) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.

**"§ 53708. Findings related to economic soundness**

"(a) BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the property or project for which the obligation will be executed will be economically sound. In making that finding, the Secretary shall consider—

"(1) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this chapter is in effect;

"(2) the market potential for employment of the vessel over the life of the guarantee;

"(3) projected revenues and expenses associated with employment of the vessel;

"(4) any charter, contract of affreightment, transportation agreement, or similar agreement or undertaking relevant to the employment of the vessel;

"(5) other relevant criteria; and

"(6) for inland waterways, the need for technical improvements, including increased fuel efficiency or improved safety.

"(b) BY SECRETARY OF COMMERCE.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds, at or prior to the time the commitment is made or the guarantee becomes effective, that—

"(1) the property or project for which the obligation will be executed will be economically sound; and

"(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with—

"(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

"(B) the need for technical improvements, including increased fuel efficiency or improved safety.

"(c) USED FISHING VESSELS AND FACILITIES.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter for the purchase of a used fishing vessel or used fishery facility unless the vessel or facility will be—

"(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

"(2) used—

"(A) in the harvesting of fish from an underused fishery; or

"(B) for a purpose described in the definition of 'fishery facility' in section 53701 of this title with respect to an underused fishery.

"(d) INDEPENDENT ANALYSIS.—The Secretary may make a determination that aspects of an application under this chapter require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted under this subsection shall be performed by a party chosen by the Secretary.

"(e) ADDITIONAL EQUITY BECAUSE OF INCREASED RISKS.—Notwithstanding any other provision of this chapter, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

**"§ 53709. Amount of obligations**

"(a) IN GENERAL.—The principal of an obligation may not be guaranteed in an amount greater than the amount determined by multiplying the percentage applicable under subsection (b) by—

"(1) the amount paid by or for the account of the obligor (as determined by the Secretary, which determination shall be conclusive) for the construction, reconstruction, or reconditioning of the vessel used as security for the guarantee; or

"(2) if the obligor creates an escrow fund under section 53715 of this title, the actual cost of the vessel.

"(b) LIMITATIONS ON AMOUNT BORROWED.—

"(1) IN GENERAL.—Except as otherwise provided, the principal amount of an obligation guaranteed under this chapter

may not exceed 75 percent of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel used as security for the guarantee.

"(2) CERTAIN APPROVED VESSELS.—The principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost if—

"(A) the size and speed of the vessel are approved by the Secretary;

"(B) the vessel is or would have been eligible for mortgage aid for construction under section 509 of the Merchant Marine Act, 1936, or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid; and

"(C) the vessel is of a type described in that section for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.

"(3) BARGES.—For a barge constructed without a construction-differential subsidy or for which the subsidy has been repaid, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

"(4) FISHING VESSELS AND FISHERY FACILITIES.—For a fishing vessel or fishery facility, the principal amount may not exceed 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

"(5) OTEC.—For an ocean thermal energy conversion facility or plantship constructed without a construction-differential subsidy, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost of the facility or plantship.

"(6) ELIGIBLE EXPORT VESSELS.—For an eligible export vessel, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

"(c) SECURITY INVOLVING MULTIPLE VESSELS.—The principal amount of an obligation having more than one vessel as security for the guarantee may not exceed the sum of the principal amounts allowable for all the vessels.

"(d) PROHIBITION ON UNIFORM PERCENTAGE LIMITATIONS.—The Secretary may not establish a percentage under any provision of subsection (b) that is to be applied uniformly to all guarantees or commitments to guarantee made under that provision.

"(e) PROHIBITION ON MINIMUM PRINCIPAL AMOUNT.—The Secretary may not establish, as a condition of eligibility for a guarantee under this chapter, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

### "§ 53710. Contents of obligations

"(a) IN GENERAL.—An obligation guaranteed under this chapter must—

"(1) provide for payments by the obligor satisfactory to the Secretary;

"(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the

unpaid principal that the Secretary determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

"(3) have a maturity date satisfactory to the Secretary, but—

"(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

"(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

"(i) 25 years after the date of delivery of the vessel; or

"(ii) the remaining years of useful life of the vessel as determined by the Secretary; and

"(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

"(A) in class A–1, American Bureau of Shipping, or meet other standards acceptable to the Secretary, with all required certificates, including marine inspection certificates of the Coast Guard or, in the case of an eligible export vessel, of the appropriate foreign authorities under a treaty, convention, or other international agreement to which the United States is a party, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary permits a deferment of repairs necessary to meet these requirements; and

"(B) well equipped, in good repair, and in every respect seaworthy and fit for service.

"(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

"(1) IN GENERAL.—With the Secretary's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

"(A) the only recourse by the United States Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

"(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

"(2) SURRENDER OF VESSEL.—

"(A) IN GENERAL.—On surrender, the vessel must be—

"(i) free and clear of all liens and encumbrances except the security interest conveyed to the Secretary under this chapter;

"(ii) in class; and

"(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

"(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by

assignment of the obligor's insurance claims to the Government.

"(c) OTHER PROVISIONS TO PROTECT SECURITY INTERESTS.—An obligation guaranteed under this chapter and any related agreement must contain other provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payment of taxes, and other matters that the Secretary may prescribe.

**"§ 53711. Security interest**

"(a) IN GENERAL.—The Secretary may guarantee an obligation under this chapter only if the obligor conveys or agrees to convey to the Secretary a security interest the Secretary considers necessary to protect the interest of the United States Government.

"(b) MULTIPLE VESSELS AND TYPES OF SECURITY.—The security interest may relate to more than one vessel and may consist of more than one type of security. If the security interest relates to more than one vessel, the obligation may have the latest maturity date allowable under section 53710(a)(3) of this title for any of the vessels used as security for the guarantee. However, the Secretary may require such payments of principal prior to maturity, with respect to all related obligations, as the Secretary considers necessary to maintain adequate security for the guarantee.

**"§ 53712. Monitoring financial condition and operations of obligor**

"(a) IN GENERAL.—The Secretary shall monitor the financial condition and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on an annual or quarterly basis depending on the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, the Secretary shall take appropriate action under subsection (b). If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of an obligation by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures described in subsection (b) should be taken to protect the interests of the Secretary while ensuring that program objectives are met.

"(b) CONTRACT PROVISIONS TO PROTECT SECRETARY.—The Secretary shall include provisions in a loan agreement with an obligor that provides additional authority to the Secretary to take action to limit potential losses in connection with a defaulted loan or a loan that is in jeopardy due to the deteriorating financial condition of the obligor. These provisions include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.

**"§ 53713. Administrative fees**

"(a) IN GENERAL.—The Secretary shall charge and collect from the obligor fees the Secretary considers reasonable for—

"(1) investigating an application for a guarantee;

"(2) appraising property offered as security for a guarantee;

"(3) issuing a commitment;

"(4) providing services related to an escrow fund under section 53715 of this title; and

"(5) inspecting property during construction, reconstruction, or reconditioning.

"(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

"(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary may charge and collect fees to cover the costs of independent analysis under section 53708(d) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

"(1) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;

"(2) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(3) remain available until expended.

**"§ 53714. Guarantee fees**

"(a) REGULATIONS.—Subject to this section, the Secretary shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

"(b) COMPUTATION OF FEE.—

"(1) IN GENERAL.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

"(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

"(3) CALCULATION OF AMOUNT.—The amount referred to in paragraph (2) shall be calculated by multiplying—

"(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

"(B) the fee rate set under paragraph (4).

"(4) SETTING FEE RATES.—To set the fee rate referred to in paragraph (3)(B), the Secretary shall establish a formula that—

"(A) takes into account the security provided for the guaranteed obligation; and

"(B) is a sliding scale based on the creditworthiness of the obligor, using—

"(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

"(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

"(5) PERMISSIBLE RANGE OF RATES.—The fee rate set under paragraph (4) shall be—

"(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

"(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

"(c) WHEN FEE COLLECTED.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

"(d) FINANCING THE FEE.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

"(e) NOT REFUNDABLE.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

**"§ 53715. Escrow fund**

"(a) IN GENERAL.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

"(1) the excess of—

"(A) the principal amount of all obligations whose proceeds are to be so used; over

"(B) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

"(2) any interest the Secretary may require on the amount described in paragraph (1).

"(b) SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VESSELS.—If the security for the guarantee of an obligation relates both to a vessel to be constructed, reconstructed, or reconditioned and to a delivered vessel, the principal amount of the obligation shall be prorated for purposes of subsection (a) under regulations prescribed by the Secretary.

"(c) DISBURSEMENT BEFORE TERMINATION OF AGREEMENT.—

"(1) PURPOSES.—The Secretary shall disburse amounts in the escrow fund, as specified in the escrow agreement, to—

"(A) pay amounts the obligor is obligated to pay for—

"(i) the construction, reconstruction, or reconditioning of a vessel used as security for the guarantee; and

"(ii) interest on the obligations;

"(B) redeem the obligations under a refinancing guaranteed under this chapter; and

"(C) pay any excess interest deposits to the obligor at times provided for in the escrow agreement.

"(2) MANNER OF PAYMENT.—If a payment becomes due under the guarantee before the termination of the escrow agreement, the amount in the escrow fund at the time the payment becomes due, including realized income not yet paid to the obligor, shall be paid into the appropriate account under section

53717 of this title. The amount shall be credited against amounts due or to become due from the obligor to the Secretary on the guaranteed obligations or, to the extent not so required, be paid to the obligor.

"(d) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

"(1) IN GENERAL.—No disbursement shall be made under subsection (c) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, whichever is applicable under section 53709(b) of this title, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (c) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. This paragraph does not require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this chapter or other applicable law.

"(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place. Regulations.

"(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

"(1) IN GENERAL.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

"(A) prepay the excess of—

"(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

"(ii) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the actual cost of the vessel to the extent paid; and

"(B) pay interest on that prepaid amount of principal.

"(2) REMAINING BALANCE.—Any remaining balance of the escrow fund shall be paid to the obligor.

"(f) INVESTMENT.—The Secretary may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

"(g) TERMS TO PROTECT GOVERNMENT.—The escrow agreement shall contain other terms the Secretary considers necessary to protect fully the interests of the Government.

**"§ 53716. Deposit fund**

"(a) IN GENERAL.—There is a deposit fund in the Treasury for purposes of this section. The Secretary, in accordance with an agreement under subsection (b), may deposit into and hold in the fund cash belonging to an obligor to serve as collateral for a guarantee made under this chapter with respect to the obligor.

"(b) AGREEMENT.—The Secretary and an obligor shall make a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the fund. The agreement shall contain—

"(1) terms and conditions required by this section;

"(2) terms that grant to the United States Government a security interest in all amounts deposited into the fund; and

"(3) any additional terms considered by the Secretary to be necessary to protect fully the interests of the Government.

"(c) INVESTMENT.—The Secretary may invest and reinvest any part of the amounts in the fund in obligations of the Government with maturities such that amounts in the fund will be available as required for purposes of the agreement under subsection (b). Cash balances in the fund in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

"(d) WITHDRAWALS.—

"(1) IN GENERAL.—Cash deposited into the fund may not be withdrawn without the consent of the Secretary.

"(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the fund in accordance with the agreement with the obligor under subsection (b).

"(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.

**"§ 53717. Management of funds in the Treasury**

"(a) DEFINITION.—In this section, the term 'FCRA' means the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(b) LOAN GUARANTEES BY SECRETARY OF TRANSPORTATION.—

"(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in an account in the Treasury entitled the Federal Ship Financing Fund Liquidating Account (a liquidating account as defined in FCRA).

"(2) WHEN SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury entitled the Federal Ship Financing Guaranteed Loan Financing Account (a financing account as defined in FCRA).

"(c) LOAN GUARANTEES BY SECRETARY OF COMMERCE.—

"(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in a separate account in the Treasury established for this purpose.

"(2) WHEN SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury established for this purpose.

"(d) DIRECT LOANS BY SECRETARY OF COMMERCE.—The Secretary of Commerce shall account for payments and disbursements involving direct loans made under this chapter in a separate account in the Treasury established for this purpose.

**"§ 53718. Annual report to Congress**

"The Secretary of Transportation shall report to Congress annually on the loan guarantee program under this chapter. Each report shall include—

"(1) the size, in dollars, of the portfolio of loans guaranteed;

"(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

"(3) the number and type of projects covered;

"(4) a profile of pending loan applications;

"(5) the amount of appropriations available for new guarantees;

"(6) a profile of each project approved since the last report; and

"(7) a profile of any defaults since the last report.

"SUBCHAPTER II—DEFAULT PROVISIONS

**"§ 53721. Rights of obligee**

"(a) DEMANDS BY OBLIGEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

"(1) a period that may be specified in the guarantee or a related agreement; or

"(2) 90 days from the date of the default.

"(b) PAYMENTS BY SECRETARY.—

"(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 30 days from the date of the demand.

"(2) IF NO EXISTING DEFAULT.—The Secretary is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary finds that the obligor was not in default or that the default was remedied before the demand.

"(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee's agent may not demand payment under this section if the Secretary, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor's rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary's assumption.

**"§ 53722. Actions by Secretary**

"(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the Secretary and the obligor, the Secretary, on terms that may be provided in the obligation or agreement, may—

"(1) assume the obligor's rights and duties under the obligation or agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the Secretary's assumption; or

"(2) notify the obligee or the obligee's agent of the default.

"(b) DEMANDS BY OBLIGEES.—

"(1) DEMAND.—If the Secretary proceeds under subsection (a)(2), the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 60 days from the date of the Secretary's notice.

"(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 30 days from the date of the demand.

"(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an assumption of the obligation by the Secretary.

"(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary shall conduct operations under this chapter in a manner that—

"(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

"(2) minimizes the amount of any loss realized in the resolution of the guarantee;

"(3) ensures adequate competition and fair and consistent treatment of offerors; and

"(4) requires appraisal of assets by an independent appraiser.

**"§ 53723. Payments by Secretary and issuance of obligations**

"(a) CASH PAYMENT.—Amounts required to be paid by the Secretary under section 53721 or 53722 of this title shall be paid in cash.

"(b) ISSUANCE OF OBLIGATIONS.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary may issue obligations to the Secretary of the Treasury. The Secretary, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

"(c) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

"(d) DEPOSITS AND REDEMPTIONS.—The Secretary shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

**"§ 53724. Rights to secured property**

"(a) ACQUISITION OF SECURITY RIGHTS.—When the Secretary makes a payment on, or assumes, an obligation under section 53721 or 53722 of this title, the Secretary acquires the rights under the security agreement with the obligor in the security held by the Secretary to guarantee the obligation.

"(b) USE AND DISPOSITION OF SECURED PROPERTY.—Notwithstanding any other law relating to the acquisition, handling, or disposal of property by the United States Government, the Secretary has the right, in the Secretary's discretion, to complete, reconstruct, recondition, renovate, repair, maintain, operate, charter, or sell any property acquired under a security agreement with an obligor, or to place a vessel so acquired in the National Defense Reserve Fleet. The terms of a sale under this subsection shall be as approved by the Secretary.

**"§ 53725. Actions against obligor**

"(a) IN GENERAL.—For a default under a guaranteed obligation or related agreement, the Secretary may take any action against the obligor or another liable party that the Secretary considers necessary to protect the interests of the United States Government. A civil action may be brought in the name of the United States or the obligee. The obligee shall make available to the Government all records and evidence necessary to prosecute the action.

"(b) TITLE, POSSESSION, AND PURCHASE.—

"(1) IN GENERAL.—The Secretary may—

"(A) accept a conveyance of title to and possession of property from the obligor or another party liable to the Secretary; and

"(B) purchase the property for an amount not greater than the unpaid principal amount of the obligation and interest thereon.

"(2) PAYMENT OF EXCESS.—If, through the sale of property, the Secretary receives an amount of cash greater than the unpaid principal amount of the obligation, the unpaid interest on the obligation, and the expenses of collecting those amounts, the Secretary shall pay the excess to the obligor.

"SUBCHAPTER III—PARTICULAR PROJECTS

**"§ 53731. Commercial demonstration ocean thermal energy conversion facilities and plantships**

"(a) IN GENERAL.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship. This section may be used to guarantee obligations for a total of not more than 5 separate facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

"(c) ECONOMIC SOUNDNESS.—The required determination of economic soundness under section 53708 of this title applies to a guarantee or commitment to guarantee for that portion of a facility or plantship not to be supported with appropriated Federal funds.

"(d) REASONABLENESS OF RISK.—A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy, in consultation with the Secretary, certifies to the Secretary that, for the facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the United States Government to a reasonable level. In deciding whether to issue such a certification, the Secretary of Energy shall consider—

"(1) the successful demonstration of the technology to be used in the facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and

"(2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of the facility or plantship.

"(e) AMOUNT OF OBLIGATION.—The total principal amount of an obligation guaranteed under this section may not exceed 87.5 percent of—

"(1) the actual cost or depreciated actual cost of the facility or plantship; or

"(2) if the facility or plantship is supported with appropriated Federal funds, the total principal amount of that portion of the actual cost or depreciated actual cost for which the

obligor is obligated to secure financing under the agreement between the obligor and the Department of Energy or other Federal agency.

"(f) OTEC DEMONSTRATION FUND.—

"(1) IN GENERAL.—There is a special subaccount, known as the OTEC Demonstration Fund, in the account established under section 53717(b)(1) of this title.

"(2) USE AND OPERATION.—The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section that do not qualify under subchapter I of this chapter. Except as otherwise provided in this section, the OTEC Demonstration Fund shall be operated in the same manner as the parent account. However—

"(A) amounts received by the Secretary under subchapter I of this chapter related to guarantees or commitments to guarantee made under this section shall be deposited only in the OTEC Demonstration Fund; and

"(B) when obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Secretary under subchapter I of this chapter related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

"(3) TRANSFERS.—Assets in the OTEC Demonstration Fund may be transferred to the parent account when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this section then outstanding, plus obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund.

"(4) LIABILITY.—The parent account is not liable for a guarantee or commitment to guarantee made under this section.

"(5) MAXIMUM UNPAID PRINCIPAL AMOUNT.—The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed $1,650,000,000.

"(g) ISSUANCE AND PAYMENT OF OBLIGATIONS.—Section 53723 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Secretary under that section related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

"(h) TAXATION OF INTEREST.—Interest on an obligation guaranteed under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

**"§ 53732. Eligible export vessels**

"(a) APPLICABLE TERMS.—The Secretary may guarantee an obligation for an eligible export vessel in accordance with—

"(1) the terms applicable under this chapter for vessels documented under the laws of the United States; or

"(2) other terms the Secretary determines are more favorable than those terms and compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

"(b) INTERAGENCY COUNCIL.—

"(1) ESTABLISHMENT.—There is an interagency council to carry out this section.

"(2) COMPOSITION.—The council is composed of the following individuals or their designees:

"(A) The Secretary of Transportation, who is the chairman of the council.

"(B) The Secretary of the Treasury.

"(C) The Secretary of State.

"(D) The Assistant to the President for Economic Policy.

"(E) The United States Trade Representative.

"(F) The President and Chairman of the Export-Import Bank of the United States.

"(3) FUNCTIONS.—The council shall—

"(A) obtain information on shipbuilding loan guarantees, direct and indirect subsidies, and other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards;

"(B) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under subsection (a)(2); and

"(C) provide guidance to the Secretary in establishing terms for loan guarantees under subsection (a)(2).

"(4) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary shall submit to Congress a report on activities of the Secretary under this section during the preceding year. The report shall include—

"(A) documentation of sources of information about assistance by governments of other countries to shipyards in those countries; and

"(B) a summary of recommendations made to the Secretary during the preceding year about applications submitted to the Secretary during that year for loan guarantees to construct eligible export vessels.

"(c) REQUIRED FINDINGS.—

"(1) BENEFIT TO SHIPBUILDING INDUSTRY.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary finds that the construction, reconstruction, or reconditioning of the vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency.

"(2) PRIORITY OF DOCUMENTED VESSELS.—The Secretary may not make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary determines that making the commitment will not result in denial of an economically sound application for a commitment to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Secretary has sole discretion in making the determination. In making the determination, the Secretary shall consider—

"(A) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States

that are operating or will be operating in the domestic or foreign commerce of the United States; and

"(B) the amount of guarantee authority available.

"(d) RESTRICTION ON TRANSFER OF VESSEL.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Secretary that the vessel will not be transferred to a country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

"(e) REVIEW BY SECRETARY OF DEFENSE.—

"(1) NOTIFICATION.—The Secretary shall promptly notify the Secretary of Defense of the receipt of an application for a loan guarantee for an eligible export vessel.

"(2) DISAPPROVAL.—The Secretary of Defense, within 30 days after receiving the notice, may disapprove the guarantee based on an assessment of the potential use of the vessel in a manner that may harm the national security interests of the United States. The Secretary may not disapprove a guarantee solely because of the type of vessel to be constructed.

"(3) DELEGATION.—The authority of the Secretary of Defense to disapprove a guarantee under this subsection may be delegated only to a civilian officer of the Department of Defense appointed by the President by and with the advice and consent of the Senate.

"(4) PROHIBITION.—The Secretary may not make a loan guarantee disapproved by the Secretary of Defense under this subsection.

"(f) EXPIRATION OF AUTHORITY.—The Secretary may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which such a commitment may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of such an obligation.

**"§ 53733. Shipyard modernization and improvement**

"(a) DEFINITIONS.—In this section:

"(1) ADVANCED SHIPBUILDING TECHNOLOGY.—The term 'advanced shipbuilding technology' includes—

"(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

"(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

"(2) GENERAL SHIPYARD FACILITY.—The term 'general shipyard facility' means—

"(A) for operations on land—

"(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

"(ii) the land necessary for the structure or appurtenance; and

"(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

"(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).

"(3) MODERN SHIPBUILDING TECHNOLOGY.—The term 'modern shipbuilding technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.

"(b) GENERAL AUTHORITY.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

"(c) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

"(d) AMOUNT OF OBLIGATION.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

"(e) TRANSFER OF AMOUNTS.—The Secretary may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

**"§ 53734. Replacement of vessels because of changes in operating standards**

"(a) GENERAL AUTHORITY.—Notwithstanding any other provision of this chapter, the Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

"(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

"(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

"(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

"(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

"(5) the Secretary has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

"(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

"(7) the Secretary has considered the criteria specified in section 53708(a)(3)–(5) of this title.

"(b) TERM AND AMOUNT OF OBLIGATION.—

"(1) TERM.—The term of an obligation guaranteed under this section may not exceed 25 years.

"(2) AMOUNT.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel. The Secretary may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

"(c) APPLICABILITY OF OTHER PROVISIONS.—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

"(d) SECURITY AGAINST DEFAULT.—The Secretary shall require by regulation that an applicant under this section provide adequate security against default. Regulations.

"(e) GUARANTEE FEES.—The Secretary may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

"(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

"(2) a fee based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

### "§ 53735. Fisheries financing and capacity reduction

"(a) DEFINITION.—In this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

"(b) GUARANTEE AUTHORITY.—The Secretary may guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to conditions the Secretary considers necessary for this section to achieve the objective of the program and to protect the interest of the United States.

"(c) REQUIREMENTS OF OBLIGATIONS.—A debt obligation guaranteed under this section shall—

"(1) be treated in the same manner and to the same extent as other obligations guaranteed under this chapter, except with respect to provisions of this chapter that by their nature cannot be applied to obligations guaranteed under this section;

"(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

"(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

"(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

"(5) have as the exclusive source of repayment (subject to the second sentence of subsection (d)(2)) and as the exclusive payment security, the fishing fees established under the program; and

"(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

"(d) FISHING CAPACITY REDUCTION FUND.—

"(1) IN GENERAL.—There is a separate account in the Treasury, known as the Fishing Capacity Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

"(2) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.

"(3) INVESTMENT.—Amounts in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States Government.

"(e) REGULATIONS.—The Secretary shall prescribe regulations the Secretary considers necessary to carry out this section.

## "CHAPTER 539—WAR RISK INSURANCE

"Sec.
"53901. Definitions.
"53902. Authority to provide insurance.
"53903. Insurable interests.
"53904. Liability insurance for persons involved in war or defense efforts.
"53905. Agency insurance.
"53906. Hull insurance valuation.
"53907. Reinsurance.
"53908. Additional insurance privately obtained.
"53909. War risk insurance revolving fund.
"53910. Administrative.
"53911. Civil actions for losses.
"53912. Expiration date.

### "§ 53901. Definitions

"In this chapter:

"(1) AMERICAN VESSEL.—The term 'American vessel' includes—

"(A) a documented vessel with a registry or coastwise endorsement under chapter 121 of this title;

"(B) an undocumented vessel owned or chartered by or made available to the United States Government; and

"(C) a tug, barge, or other watercraft (whether or not documented) owned by a citizen of the United States and used in essential water transportation or in the fisheries, except only for sport fishing.

"(2) CARGO.—The term 'cargo' includes a loaded or empty container on a vessel.

"(3) TRANSPORTATION IN THE WATERBORNE COMMERCE OF THE UNITED STATES.—The term 'transportation in the waterborne commerce of the United States' includes the operation of a vessel in the fisheries, except only for sport fishing.

"(4) WAR RISKS.—The term 'war risks' includes, to the extent the Secretary of Transportation determines—

"(A) any part of a loss excluded from marine insurance coverage under a 'free of capture or seizure' clause or analogous clause; and

"(B) any other loss from a hostile act, including confiscation, expropriation, nationalization, or deprivation.

**"§ 53902. Authority to provide insurance**

"(a) IN GENERAL.—With the approval of the President, and after such consultation with interested agencies of United States Government as the President may require, the Secretary of Transportation may provide insurance and reinsurance against loss or damage from war risks as provided by this chapter whenever it appears to the Secretary that insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do insurance business in a State of the United States.

"(b) CONSIDERATION OF RISK.—Insurance or reinsurance under this chapter shall be based, insofar as practicable, on consideration of the risk involved.

"(c) AVAILABILITY OF VESSEL DURING WAR OR NATIONAL EMERGENCY.—Insurance or reinsurance for a vessel may be provided under this chapter only on the condition that the vessel will be available to the Government in time of war or national emergency.

**"§ 53903. Insurable interests**

"(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for—

"(1) an American vessel, including a vessel under construction;

"(2) a foreign vessel—

"(A) owned by a citizen of the United States; or

"(B) engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as the Secretary considers to be in the interest of the national defense or national economy of the United States, when so engaged;

"(3) cargo—

"(A) shipped or to be shipped on a vessel insurable under this section, including by express or registered mail;

"(B) owned by a citizen or resident of the United States;

"(C) imported to or exported from the United States, or sold or purchased by a citizen or resident of the United States, under a contract of sale or purchase the terms of which provide that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States; or

"(D) shipped between ports in the United States;

"(4) disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel insurable under this section;

"(5) personal effects of an individual on a vessel insurable under this section;

"(6) loss of life, injury, or detention by an enemy of the United States after capture, with respect to an individual on a vessel insurable under this section; and

"(7) statutory or contractual obligations or other liabilities of a vessel insurable under this section or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

"(b) CONSIDERATIONS FOR FOREIGN VESSELS.—In determining whether to provide insurance or reinsurance for a foreign vessel, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

"(c) NON-WAR RISKS.—Insurance of a risk under subsection (a)(5)–(7), insofar as it involves a liability related to an individual on the vessel, may include risks other than war risks to the extent the Secretary considers advisable.

### "§ 53904. Liability insurance for persons involved in war or defense efforts

"(a) IN GENERAL.—The Secretary of Transportation may provide insurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance—

"(1) is required in prosecuting a war or for national defense; and

"(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

"(b) LIMITATIONS.—Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

### "§ 53905. Agency insurance

"(a) IN GENERAL.—With the approval of the President, an agency of the United States Government may obtain insurance provided for by this chapter from the Secretary of Transportation, except as provided in sections 17302 and 17303 of title 40.

"(b) PREMIUM WAIVERS.—With the approval of the President, the Secretary of Transportation may provide insurance under this chapter at the request of the Secretary of Defense and other agencies the President may prescribe, without payment of an insurance premium if the Secretary of Defense or agency agrees to indemnify the Secretary of Transportation against loss covered by the insurance. The Secretary of Defense and agencies may make such an indemnity agreement.

"(c) PRESIDENTIAL APPROVAL.—The signature of the President (or an official designated by the President) on the agreement shall be treated as the approval required by section 53902(a) of this title.

**"§ 53906. Hull insurance valuation**

"(a) STATED VALUATION.—The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation—

"(1) shall exclude national defense features paid for by the United States Government; and

"(2) may not exceed the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

"(b) REJECTING STATED VALUATION.—Within 60 days after the insurance attaches under a policy referred to in subsection (a) or within 60 days after the Secretary determines the valuation, whichever is later, the insured may reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

"(c) AMOUNT OF CLAIM.—If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) has not rejected the stated valuation determined by the Secretary, the amount of a claim adjusted, compromised, settled, adjudged, or paid may not exceed the stated valuation. However, if the insured has rejected the valuation, the insured—

"(1) shall be paid, as a tentative advance only, 75 percent of the stated valuation; and

"(2) may bring a civil action against the United States in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

"(d) ADJUSTING PREMIUMS.—If a court makes a determination as provided under subsection (c)(2), premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

**"§ 53907. Reinsurance**

"(a) IN GENERAL.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

"(b) RATES.—The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may provide an allowance to the insurance

company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The allowance to the company may not include any amount for soliciting or stimulating insurance business.

**"§ 53908. Additional insurance privately obtained**

"With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel with other underwriting agents in addition to the insurance with the Secretary. The Secretary is not entitled to the benefit of the additional insurance.

**"§ 53909. War risk insurance revolving fund**

"(a) IN GENERAL.—There is a war risk insurance revolving fund in the Treasury.

"(b) DEPOSITS.—There shall be deposited in the fund amounts appropriated to carry out this chapter and amounts received in carrying out this chapter.

"(c) PAYMENTS.—There shall be paid from the fund amounts for return premiums, losses, settlements, judgments, and all liabilities incurred by the United States Government under this chapter.

"(d) INVESTMENT.—The Secretary of Transportation may request the Secretary of the Treasury to invest such portion of the fund as is not, in the judgment of the Secretary of Transportation, required to meet the current needs of the fund. These investments shall be made by the Secretary of the Treasury in public debt securities of the Government, with maturities suitable to the needs of the fund, and bearing interest rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the Government of comparable maturity. Interest and benefits from the securities shall be deposited in the fund.

**"§ 53910. Administrative**

"(a) ACCORDANCE WITH COMMERCIAL PRACTICE.—In carrying out this chapter, the Secretary of Transportation may act in accordance with commercial practice in the marine insurance business.

"(b) REGULATIONS.—The Secretary may prescribe regulations the Secretary considers appropriate to carry out this chapter.

"(c) POLICIES, RATES, AND ANNUAL FEES.—The Secretary may prescribe and change forms and policies, and fix and change the amounts insured and rates of premium, under this chapter.

"(d) ANNUAL FEES.—The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, employing underwriting agents, and appointing experts under this chapter.

"(e) PAYMENT OF CLAIMS AND JUDGMENTS.—The Secretary may settle and pay claims, and pay judgments against the United States, related to insurance under this chapter.

"(f) UNDERWRITING AGENTS.—

"(1) IN GENERAL.—The Secretary may, and when the Secretary finds it practical to do so shall, employ a domestic company or group of domestic companies, authorized to do marine insurance business in a State of the United States, to act as underwriting agent for the Secretary. The services of an underwriting agent may be used in adjusting claims, but a claim may not be paid until approved by the Secretary.

"(2) COMPENSATION.—The Secretary may allow the company or group of companies reasonable compensation for services as the underwriting agent. The compensation may include an allowance for expenses reasonably incurred by the agent, but may not include any amount for soliciting or stimulating business.

"(g) FEES FOR ARRANGING INSURANCE.—Except as provided in subsection (f)(2), the Secretary may not pay an insurance broker or other person acting in a similar intermediary capacity a fee or other consideration for participating in arranging insurance when the Secretary directly insures any of the risk.

"(h) EMPLOYMENT OF MARINE INSURANCE EXPERTS.—The Secretary, without regard to the laws and regulations on the employment of Federal employees, may appoint and prescribe the duties of experts in marine insurance as the Secretary considers necessary to carry out this chapter.

"(i) SERVICES OF OTHER GOVERNMENT AGENCIES.—With the consent of another agency of the United States Government, the Secretary may use information, services, facilities, officers, and employees of the agency in carrying out this chapter.

"(j) VESSEL LOCATION REPORTING.—The Secretary may prescribe by regulation vessel location reporting requirements for a vessel insured under this chapter.

**"§ 53911. Civil actions for losses**

"(a) IN GENERAL.—If there is a disagreement about a loss insured under this chapter, a civil action in admiralty may be brought against the United States in the district court of the United States for the district in which the plaintiff or the plaintiff's agent resides. If the plaintiff has no residence in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court for any district in which the Attorney General agrees to accept service. Any person who may have an interest in the insurance may be made a party, either initially or on the motion of either party.

"(b) EXCLUSIVE REMEDY.—A civil action against the United States under this section is exclusive of any other action by reason of the same subject matter against an officer, employee, or agent employed or retained by the Government under this chapter.

"(c) PROCEDURE.—A civil action under this section shall be heard and determined under chapter 309 of this title.

"(d) TOLLING OF LIMITATIONS PERIOD.—If a claim is filed with the Secretary of Transportation, the running of the limitations period for bringing a civil action is suspended until the Secretary denies the claim, and for 60 days thereafter. The Secretary is deemed to have denied the claim if the Secretary does not act on the claim within 6 months after the claim is filed, unless the Secretary for good cause shown agrees with the claimant on a different period for the Secretary to act on the claim.

"(e) INTERPLEADER.—If the Secretary acknowledges the indebtedness of the Government under the insurance and there is a dispute about the persons entitled to receive payment, the Government may bring a civil action interpleading those persons. The action shall be brought in the United States District Court for the District of Columbia or in the district court for the district in which any of those persons resides. A person not residing or found in the district may be made a party by service in any

reasonable manner the court directs. If the court is satisfied that unknown persons might make a claim under the insurance, the court may direct service on those unknown persons by publication in the Federal Register. Judgment after service by publication in the Federal Register discharges the Government from further liability to all persons.

### "§ 53912. Expiration date

"The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on December 31, 2010.

## "PART D—PROMOTIONAL PROGRAMS

## "CHAPTER 551—COASTWISE TRADE

"Sec.
"55101. Application of coastwise laws.
"55102. Transportation of merchandise.
"55103. Transportation of passengers.
"55104. Transportation of passengers between Puerto Rico and other ports in the United States.
"55105. Transportation of hazardous waste.
"55106. Merchandise transferred between barges.
"55107. Empty cargo containers and barges.
"55108. Platform jackets.
"55109. Dredging.
"55110. Transportation of dredged material.
"55111. Towing.
"55112. Vessel escort operations and towing assistance.
"55113. Use of foreign documented oil spill response vessels.
"55114. Unloading fish from foreign vessels.
"55115. Supplies on fish processing vessels.
"55116. Canadian rail lines.
"55117. Great Lakes rail route.
"55118. Foreign railroads whose road enters by ferry, tugboat, or towboat.
"55119. Yukon River.
"55120. Transshipment of imported merchandise intended for immediate exportation.
"55121. Transportation of merchandise and passengers on Canadian vessels.

### "§ 55101. Application of coastwise laws

"(a) IN GENERAL.—Except as provided in subsection (b), the coastwise laws apply to the United States, including the island territories and possessions of the United States.

"(b) EXCEPTIONS.—The coastwise laws do not apply to—

"(1) American Samoa;

"(2) the Northern Mariana Islands, except as provided in section 502(b) of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (48 U.S.C. 1801 note);

"(3) Canton Island until the President declares by proclamation that the coastwise laws apply to Canton Island; or

"(4) the Virgin Islands until the President declares by proclamation that the coastwise laws apply to the Virgin Islands.

### "§ 55102. Transportation of merchandise

"(a) DEFINITION.—In this section, the term 'merchandise' includes—

"(1) merchandise owned by the United States Government, a State, or a subdivision of a State; and

"(2) valueless material.

"(b) REQUIREMENTS.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.

**"§ 55103. Transportation of passengers**

"(a) IN GENERAL.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not transport passengers between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(b) PENALTY.—The penalty for violating subsection (a) is $300 for each passenger transported and landed.

**"§ 55104. Transportation of passengers between Puerto Rico and other ports in the United States**

"(a) DEFINITIONS.—In this section:

"(1) CERTIFICATE.—The term 'certificate' means a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation issued by the Federal Maritime Commission under section 44102 of this title.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b).

"(b) EXEMPTION.—Except as otherwise provided in this section, a vessel not qualified to engage in the coastwise trade may transport passengers between a port in Puerto Rico and another port in the United States.

"(c) EXPIRATION OF EXEMPTION.—

"(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary of the department in which the Coast Guard is operating, by the vessel owner or charterer, that a United States passenger vessel qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary

Deadline.

shall notify the owner or operator of each vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

Notification.

"(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel not qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

"(d) DELAYING EXPIRATION.—If the vessel offering or advertising the service described in subsection (c) has not begun that service within 270 days after the Secretary's notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

"(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

**"§ 55105. Transportation of hazardous waste**

"(a) IN GENERAL.—The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States to sea for incineration is deemed to be transportation of merchandise under section 55102 of this title.

"(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

"(1) IN GENERAL.—Subsection (a) does not apply to transportation performed by a foreign ocean incineration vessel owned by or under construction on May 1, 1982, for a corporation wholly owned by citizens of the United States under section 50501(a)–(c) of this title.

"(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration equipment on a vessel described in paragraph (1) must meet standards of the Coast Guard and the Environmental Protection Agency.

"(3) INSPECTION.—A vessel described in paragraph (1) shall be inspected by the Coast Guard, regardless of whether inspected by the nation in which it is registered. The inspection shall be the same as would be required of a vessel of the United States, including drydock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by that nation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus,

equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of the department in which the Coast Guard is operating.

"(c) EFFECTIVE DATE.—Subsection (a) is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

**"§ 55106. Merchandise transferred between barges**

"(a) IN GENERAL.—On terms and conditions the Secretary of Homeland Security may prescribe by regulation, the Secretary may suspend the application of section 55102 of this title to the transportation of merchandise that is transferred, when moving in the foreign trade of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions to which the coastwise laws apply.

"(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

**"§ 55107. Empty cargo containers and barges**

"(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and conditions the Secretary of Homeland Security may prescribe by regulation, section 55102 of this title does not apply to the transportation of—

"(1) empty cargo vans, empty lift vans, or empty shipping tanks;

"(2) equipment for use with cargo vans, lift vans, or shipping tanks;

"(3) empty barges specifically designed for carriage aboard a vessel and equipment (except propulsion equipment) for use with those barges;

"(4) empty instruments for international traffic exempted from the customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or

"(5) stevedoring equipment and material.

"(b) CONDITIONS.—

"(1) PARAGRAPHS (1)–(4).—Paragraphs (1)–(4) of subsection (a) apply only if the items named are owned or leased by the owner or operator of the vessel and transported for its use in handling its cargo in foreign trade.

"(2) PARAGRAPH (5).—Paragraph (5) of subsection (a) applies only if the items named are—

"(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

"(B) transported without charge for use in the handling of cargo in foreign trade.

"(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

**"§ 55108. Platform jackets**

"(a) DEFINITIONS.—In this section:

"(1) COASTWISE QUALIFIED VESSEL.—The term 'coastwise qualified vessel' means a vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title.

"(2) PLATFORM JACKET.—The term 'platform jacket' refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including—

"(A) platform jackets;

"(B) tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure);

"(C) hull (including vertical legs and connecting pontoons or vertical cylinder);

"(D) tower and base sections of a platform jacket;

"(E) jacket structures; and

"(F) deck modules (known as 'topsides').

"(b) AUTHORIZED TRANSPORTATION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a non-coastwise qualified launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

"(1) the launch barge was built before December 31, 2000, and has a launch capacity of at least 12,000 long tons; and

"(2) the Secretary of Transportation makes a determination, in accordance with procedures established under subsection (c), that a suitable coastwise qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket.

"(c) PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VESSELS.—The Secretary of Transportation shall adopt procedures implementing this section that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified vessels. The procedures shall, among other things, establish that for purposes of this section, a coastwise qualified vessel shall be deemed to be not available only if—

Notification. Federal Register, publication.

"(1) on application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section (which application shall include all relevant information, including engineering details and timing requirements), the Secretary promptly publishes a notice in the Federal Register—

"(A) describing the project and the platform jacket involved;

"(B) advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties on request; and

"(C) requesting that information on the availability of coastwise qualified vessels be submitted within 30 days after publication of that notice; and Deadline.

"(2)(A) no information is submitted to the Secretary within that 30 day period; or Deadline.

"(B) the owner or operator of a coastwise qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise qualified vessel available for the transportation, but the Secretary determines, within 90 days after the notice is first published, that the coastwise qualified vessel is not suitable or reasonably available for the transportation.

**"§ 55109. Dredging**

"(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

"(1) the vessel is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade;

"(2) the charterer, if any, is a citizen of the United States for purposes of engaging in the coastwise trade; and

"(3) the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

"(c) PENALTY.—If a vessel is operated in knowing violation of this section, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

**"§ 55110. Transportation of dredged material**

"Section 55102 of this title applies to the transportation of valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

**"§ 55111. Towing**

"(a) IN GENERAL.—Except when towing a vessel in distress, a vessel may not do any part of any towing described in subsection (b) unless the towing vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(b) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

"(1) a vessel between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port or place;

"(2) a vessel from point to point within the harbors of ports or places to which the coastwise laws apply; or

"(3) a vessel transporting valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

"(c) PENALTIES.—

"(1) OWNER AND MASTER.—The owner and master of a vessel towing another vessel in violation of this section are each liable for a penalty of at least $350 but not more than $1,100. A penalty under this paragraph constitutes a lien on the vessel. The lien is enforceable in a district court of the United States for any district in which the vessel is found. Clearance may not be granted to the vessel until the penalties have been paid.

"(2) VESSEL.—In addition to the penalties under paragraph (1), the towing vessel is liable for a penalty of $60 per ton based on the tonnage of each towed vessel.

**"§ 55112. Vessel escort operations and towing assistance**

"(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States may perform the following escort vessel operations within the navigable waters of the United States:

"(1) Operations that commence or terminate at a port or place in the United States.

"(2) Operations required by United States law or regulation.

"(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

"(b) ESCORT VESSELS.—For purposes of this section, an escort vessel is—

"(1) any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation; and

"(2) in the case of a vessel being towed under section 55111 of this title, any vessel that is assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

"(c) RELATIONSHIP TO OTHER LAW.—This section does not affect section 55111 of this title.

"(d) PENALTY.—A person violating this section is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs.

**"§ 55113. Use of foreign documented oil spill response vessels**

"Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting,

and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

"(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

"(2) the foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of the foreign country under this section.

**"§ 55114. Unloading fish from foreign vessels**

"(a) PROHIBITIONS.—Except as otherwise provided by this section or a treaty or convention to which the United States is a party, a foreign vessel may not unload, in a port of the United States—

"(1) its catch of fish taken on board on the high seas or fish products processed from that catch of fish; or

"(2) fish or fish products taken on board that vessel on the high seas from a vessel engaged in fishing operations or the processing of fish or fish products.

"(b) REGULATIONS ON OBTAINING INFORMATION.—The Secretary of Commerce may prescribe regulations the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States for foreign fish processing vessels to points in the United States.

"(c) VIRGIN ISLANDS.—

"(1) IN GENERAL.—A foreign vessel of not more than 50 feet overall in length may unload its catch of fresh fish (whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced) in a port of the Virgin Islands for immediate consumption in those islands. Fish unloaded under this paragraph may be sold or transferred only for immediate consumption. In the absence of satisfactory evidence that a sale or transfer to an agent, representative, or employee of a freezer or cannery is for immediate consumption, the sale or transfer is deemed not to be for immediate consumption. This paragraph does not prohibit the freezing, smoking, or other processing of fresh fish by the ultimate consumer of the fish.

Virgin Islands.

"(2) SEIZURE, FORFEITURE, AND PENALTY.—Fish unloaded in the Virgin Islands that are retained, sold, or transferred, except as allowed by paragraph (1), are liable to seizure by and forfeiture to the United States Government. A person retaining, selling, transferring, buying, or receiving the fish is liable to the Government for a civil penalty of not more than $1,000 for each violation. A penalty or forfeiture under this paragraph may be compromised, modified, or remitted under section 2107(b) of this title.

"(d) NORTHERN MARIANA ISLANDS.—Subsection (a) does not apply to the Northern Mariana Islands.

**"§ 55115. Supplies on fish processing vessels**

"Section 55102 of this title does not apply to supplies aboard a United States documented fish processing vessel that are necessary and used for processing or assembling fishery products aboard such a vessel.

**"§ 55116. Canadian rail lines**

"Section 55102 of this title does not apply to the transportation of merchandise between points in the continental United States, including Alaska, over through routes in part over Canadian rail lines and connecting water facilities if the routes are recognized by the Surface Transportation Board and rate tariffs for the routes have been filed with the Board.

**"§ 55117. Great Lakes rail route**

"Section 55102 of this title does not apply to the transportation of merchandise loaded on a railroad car or to a motor vehicle with or without a trailer, and with its passengers or contents when accompanied by the operator, when the railroad car or motor vehicle is transported in a railroad car ferry operated between fixed terminals on the Great Lakes as part of a rail route, if—

"(1) the car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Surface Transportation Board;

"(2) the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920;

"(3) the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by a common carrier by rail; and

"(4) the car ferry is built in and documented under the laws of the United States.

**"§ 55118. Foreign railroads whose road enters by ferry, tugboat, or towboat**

"A foreign railroad, whose road enters the United States by ferry, tugboat, or towboat, may own and operate a vessel not having a coastwise endorsement in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by that road, together with the passengers, freight, express matter, baggage, and mails transported in those cars. However, the foreign railroad is subject to the same restrictions imposed by law on a vessel of the United States entering a port of the United States from the same foreign country. Except as otherwise authorized by this chapter, the ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in the transportation of merchandise between ports or places in the United States to which the coastwise laws apply.

**"§ 55119. Yukon River**

"Section 55102 of this title does not apply to the transportation of merchandise on the Yukon River until the Alaska Railroad is completed and the Secretary of Transportation finds that proper facilities will be available for transportation by citizens of the United States to properly handle the traffic.

### "§ 55120. Transshipment of imported merchandise intended for immediate exportation

"The Secretary of Homeland Security may prescribe regulations for the transshipment and transportation of merchandise that is imported into the United States by sea for immediate exportation to a foreign port by sea, or by a river, the right to ascend or descend which for the purposes of commerce is secured by treaty to the citizens of the United States and the subjects of a foreign power.

### "§ 55121. Transportation of merchandise and passengers on Canadian vessels

"(a) BETWEEN ROCHESTER AND ALEXANDRIA BAY.—Until passenger service is established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Secretary of Homeland Security may issue annually permits to Canadian passenger vessels to transport passengers between those ports. Canadian vessels holding such a permit are not subject to section 55103 of this title. New York.

"(b) WITHIN ALASKA OR BETWEEN ALASKA AND OTHER POINTS IN THE UNITED STATES.—Until the Secretary of Transportation determines that service by vessels of the United States is available to provide the transportation described in paragraph (1) or (2), sections 55102 and 55103 of this title do not apply to the transportation on Canadian vessels of—

"(1) passengers between ports in southeastern Alaska; or

"(2) passengers or merchandise between Hyder, Alaska, and other points in southeastern Alaska or in the United States outside Alaska.

## "CHAPTER 553—PASSENGER AND CARGO PREFERENCES

"SUBCHAPTER I—GENERAL

"Sec.
"55301. Priority loading for coal.
"55302. Transportation of United States Government personnel.
"55303. Motor vehicles owned by United States Government personnel.
"55304. Exports financed by the United States Government.
"55305. Cargoes procured, furnished, or financed by the United States Government.

"SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

"55311. Findings and purposes.
"55312. Determining prevailing world market price.
"55313. Exemption of certain agricultural exports from cargo preference provisions.
"55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture.
"55315. Minimum tonnage.
"55316. Financing the transportation of agricultural commodities.
"55317. Termination of subchapter.
"55318. Effect on other law.

"SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

"55331. Definitions.
"55332. Designating American Great Lakes vessels.
"55333. Exemption from restriction on transporting certain cargo.
"55334. Restrictions on operations.
"55335. Revocations and terminations of designations.
"55336. Civil penalty.

"SUBCHAPTER I—GENERAL

**"§ 55301. Priority loading for coal**

"A vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall be given priority in loading at any of those ports ahead of a waiting vessel engaged in the export transportation of coal produced in the United States. However, if the Secretary of Transportation finds that it is in the national interest, the Secretary may eliminate this priority loading at any port. The Secretary shall report to Congress within 30 days an action eliminating priority loading under this section.

Reports.

**"§ 55302. Transportation of United States Government personnel**

"(a) IN GENERAL.—An officer or employee of the United States Government traveling by sea on official business overseas or to or from a territory or possession of the United States shall travel and transport personal effects on a vessel documented under the laws of the United Sates if such a vessel is available, unless the necessity of the mission requires the use of a foreign vessel.

"(b) REGULATIONS.—The Administrator of General Services shall prescribe regulations under which agencies may not pay for or reimburse an officer or employee for travel or transportation expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

**"§ 55303. Motor vehicles owned by United States Government personnel**

"Notwithstanding any other law, privately-owned American shipping services may be used to transport motor vehicles owned by personnel of the United States Government whenever transportation of those vehicles at Government expense is otherwise authorized by law.

**"§ 55304. Exports financed by the United States Government**

"It is the sense of Congress that any loans made by an instrumentality of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on vessels of the United States unless, as to any or all of those products, the Secretary of Transportation, after investigation, certifies to the instrumentality that vessels of the United States are not available in sufficient number, in sufficient tonnage capacity, on necessary schedules, or at reasonable rates.

**"§ 55305. Cargoes procured, furnished, or financed by the United States Government**

"(a) DEFINITION.—In this section, the term 'privately-owned commercial vessel of the United States' does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

"(b) MINIMUM TONNAGE.—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country without

provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

"(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

"(1) declaring the existence of an emergency justifying a waiver; and

"(2) notifying the appropriate agencies of the waiver.

"(d) PROGRAMS OF OTHER AGENCIES.—An agency having responsibility under this section shall administer its programs with respect to this section under regulations prescribed by the Secretary of Transportation. The Secretary shall review the administration of those programs and report annually to Congress on their administration.

Regulations.

Reports.

## "SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

### "§ 55311. Findings and purposes

"(a) FINDINGS.—Congress finds that—

"(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

"(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

"(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

"(b) PURPOSES.—The purposes of this subchapter are to—

"(1) enable the Secretary of Agriculture to plan export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

"(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

"(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

"(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

"(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

"(6) provide for the appropriate disposition of these findings and purposes.

### "§ 55312. Determining prevailing world market price

Regulations. Notification. Public comment.

"(a) AGRICULTURAL COMMODITIES AND PRODUCTS.—The prevailing world market price for agricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

"(b) SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—If a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required to determine whether a barter or exchange transaction is subject to section 55314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

### "§ 55313. Exemption of certain agricultural exports from cargo preference provisions

"Sections 55304 and 55305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which—

"(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

"(2) payments are made available to United States exporters, users, or processors or, except as provided in section 55314 of this title, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

"(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

"(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

"(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this paragraph does not exempt from the cargo preference provisions referred to in section 55314(b) of this title any requirement otherwise applicable to the materials, goods, equipment, or services imported under the transaction.

**"§ 55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture**

"(a) MINIMUM TONNAGE.—

"(1) IN GENERAL.—In addition to the requirement under section 55305 of this title for the transportation of a percentage of gross tonnage on commercial vessels of the United States, 25 percent of the gross tonnage of agricultural commodities or their products specified in subsection (b) shall be transported each calendar year on commercial vessels of the United States that—

"(A) are necessary for national security; and

"(B) if more than 25 years old, were rebuilt within the last 5 years and certified by the Secretary of Transportation as having a useful life of at least 5 years after that rebuilding.

"(2) CALENDAR YEAR.—To provide for effective and equitable administration of the cargo preference laws, the calendar year for the purpose of compliance with minimum percentage requirements is the 12-month period beginning October 1 of each year.

"(b) APPLICABLE EXPORT ACTIVITY.—This section applies to export activity (except inspection or weighing activities, other activities carried out for health or safety, or technical assistance provided in the handling of commercial transactions) of the Secretary of Agriculture or the Commodity Credit Corporation—

"(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

"(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

"(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1);

"(4) under which agricultural commodities or their products are—

"(A) donated through foreign governments or private or public agencies, including intergovernmental organizations; or

"(B) sold for foreign currencies or for dollars on credit terms of more than 10 years;

"(5) under which agricultural commodities or their products are made available for emergency food relief at less than prevailing world market prices;

"(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser to enable the purchaser to obtain United States agricultural commodities or their products in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at a United States port; or

"(7) under which agricultural commodities owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, except export activities described in section 55313(5) of this title.

"(c) ADDITIONAL REQUIREMENTS.—

"(1) APPLICATION OF SECTION 55305.—The requirement for transportation on vessels of the United States under subsection (a) is subject to the same terms and conditions as provided in section 55305 of this title.

"(2) ALLOCATION OF COMMODITIES.—Subject to paragraph (3), in carrying out this section and section 55305 of this title, the Corporation shall take steps necessary and practicable, and consistent with this section and section 55305, without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of registry of the vessel, 25 percent of the bagged, processed, or fortified commodities provided under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(3) CALCULATIONS.—In carrying out paragraph (2), first there shall be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of registry of the vessel, and then there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for transportation on vessels of the United States under this section and section 55305 of this title do not apply to commodities allocated to the Great Lakes port range under paragraph (2). Commodities allocated to the Great Lakes port range under paragraph (2) may not be reallocated or diverted to another port range to meet those requirements to the extent that the total tonnage of commodities to which paragraph (2) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of the commodities furnished.

"(4) AWARDING CONTRACTS.—In awarding a contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), an agency—

"(A) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

"(B) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel, as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

"(5) NONAVAILABILITY OF VESSELS.—A determination of nonavailability of vessels of the United States resulting from the application of this subsection may not reduce the gross tonnage of commodities required by this section and section 55305 of this title to be transported on vessels of the United States.

### "§ 55315. Minimum tonnage

"(a) DEFINITION.—In this section, the term 'base period' means the 5-year period running from the sixth through the second prior fiscal years.

"(b) REQUIREMENT.—For each fiscal year, the minimum quantity of agricultural commodities to be exported under programs subject to section 55314 of this title is the average of the tonnage

exported under those programs during the base period, discarding the high and low years.

"(c) WAIVERS.—The President may waive the minimum quantity for a fiscal year under this section if the President determines and reports to Congress, together with reasons, that the quantity cannot be used effectively for the purposes of those programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons that include the unavailability of funds.

### "§ 55316. Financing the transportation of agricultural commodities

"(a) FINANCING OF INCREASED CHARGES.—The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year that result from the application of section 55314 of this title.

"(b) REIMBURSEMENT OF INCREASED CHARGES.—

"(1) IN GENERAL.—The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year—

"(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 55314(b) of this title; exceeds

"(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary of Agriculture and the Corporation during that fiscal year.

"(2) COMMODITIES SHIPPED FROM INVENTORY.—For purposes of this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(d) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(d)).

"(c) ISSUANCE AND PURCHASE OF OBLIGATIONS.—

"(1) ISSUANCE.—To meet the expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

"(2) PURCHASE.—The Secretary of the Treasury shall purchase the obligations issued under this subsection. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. A

redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

"(d) SOURCE OF FUNDS FOR REIMBURSEMENT.—Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated funds rather than through cancellation of notes.

"(e) APPROPRIATIONS.—

"(1) AUTHORIZATION.—Each fiscal year, there is authorized to be appropriated an amount sufficient to reimburse the Secretary of Transportation for the costs incurred under this section, including administrative expenses and the principal and interest due on obligations issued to the Secretary of the Treasury.

"(2) APPROPRIATION FOR ADMINISTRATIVE EXPENSES.—Each fiscal year, such amounts as may be necessary are hereby appropriated to pay interest and to liquidate debt on obligations issued to the Secretary of the Treasury under this section.

"(f) NOTIFICATION TO CONGRESS OF INSUFFICIENCY.—If the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 55314(a) of this title, the Secretary shall notify Congress within 10 working days of the discovery of the insufficiency.

**"§ 55317. Termination of subchapter**

"This subchapter terminates 90 days after the date on which a notification is made under section 55316(f) of this title, except for shipments of agricultural commodities and their products subject to contracts made before the end of that 90-day period, unless within that 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 55314(a) and 55316(a) and (b) of this title. On the termination of this subchapter under this section—

"(1) this subchapter does not exempt export activities from, or subject export activities to, the cargo preference laws; and

"(2) the 50-percent requirement in section 55305 of this title remains in effect.

**"§ 55318. Effect on other law**

"This subchapter does not affect chapter 5 of title 5.

"SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

**"§ 55331. Definitions**

"In this subchapter:

"(1) AMERICAN GREAT LAKES VESSEL.—The term 'American Great Lakes vessel' means a vessel so designated under section 55332 of this title, but only during the period the designation is in effect.

"(2) GREAT LAKES.—The term 'Great Lakes' means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Lawrence River west of Saint Regis, New York, and their connecting and tributary waters.

"(3) GREAT LAKES SHIPPING SEASON.—The term 'Great Lakes shipping season' means the period each year during which the Saint Lawrence Seaway is open for navigation by

vessels, as declared by the Saint Lawrence Seaway Development Corporation.

### "§ 55332. Designating American Great Lakes vessels

"(a) DESIGNATIONS.—The Secretary of Transportation shall designate a vessel as an American Great Lakes vessel if—

"(1) an application for designation is submitted to the Secretary under regulations prescribed by the Secretary;

"(2) the vessel is documented under the laws of the United States;

"(3) the vessel, on the effective date of the designation, is—

"(A) at least 1, but not more than 6, years old; or

"(B) at least 1, but not more than 11, years old if the Secretary finds that suitable vessels are not available to provide the type of service for which the vessel will be used after the designation;

"(4) the vessel has not previously been designated as an American Great Lakes vessel; and

"(5) the owner makes an agreement as provided under subsection (b).

"(b) AGREEMENTS.—A vessel may be designated as an American Great Lakes vessel only if the person that will be the owner of the vessel at the time of the designation makes an agreement with the Secretary providing that if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government will have an exclusive right, during the 120-day period following the date of a revocation of the designation under section 55335 of this title, to purchase the vessel for a price equal to the greater of—

"(1) the approximate world market value of the vessel; or

"(2) the cost of the vessel to the owner less a reasonable amount for depreciation.

"(c) CERTAIN FOREIGN DOCUMENTATION AND SALE NOT PROHIBITED.—Notwithstanding any other law, if the Government does not exercise its right of purchase under an agreement under subsection (b), the owner of the vessel is not prohibited from—

"(1) documenting the vessel under the laws of a foreign country; or

"(2) selling the vessel to a person not a citizen of the United States.

"(d) REGULATIONS.—The Secretary shall prescribe regulations establishing requirements for submitting applications under this section.

### "§ 55333. Exemption from restriction on transporting certain cargo

"The 3-year documentation requirement of section 55305(a) of this title does not apply to a vessel designated as an American Great Lakes vessel during the period of its designation.

### "§ 55334. Restrictions on operations

"(a) PROHIBITIONS.—Except as provided in subsection (b), an American Great Lakes vessel may not be used to—

"(1) engage in trade—

"(A) from a port in the United States that is not located on the Great Lakes; or

"(B) between ports in the United States;

"(2) transport bulk cargo (as defined in section 40102 of this title) that is subject to section 55305 or 55314 of this title or section 2631 of title 10; or

"(3) provide a service (except ocean freight service) as—

"(A) a contract carrier; or

"(B) a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign trade of the United States.

"(b) OFF-SEASON EXCEPTION.—An American Great Lakes vessel may be used for not more than 90 days during any 12-month period to engage in trade prohibited by subsection (a)(1)(A), except during the Great Lakes shipping season.

### "§ 55335. Revocations and terminations of designations

"(a) REVOCATIONS.—After notice and an opportunity for a hearing, the Secretary of Transportation may revoke a designation of a vessel as an American Great Lakes vessel if the Secretary finds that—

"(1) the vessel does not meet a requirement for the designation;

"(2) the vessel has been operated in violation of this subchapter; or

"(3) the owner or operator of the vessel has violated an agreement made under section 55332(b) of this title.

"(b) TERMINATIONS.—On petition and a showing of good cause by the owner of a vessel, the Secretary may terminate the designation of a vessel as an American Great Lakes vessel. The Secretary may impose conditions in a termination order to prevent significant adverse effects on other operators of vessels of the United States.

### "§ 55336. Civil penalty

"After notice and an opportunity for a hearing, the Secretary of Transportation may impose a civil penalty of not more than $1,000,000 on the owner of an American Great Lakes vessel for any act for which the designation may be revoked under section 55335 of this title.

## "CHAPTER 555—MISCELLANEOUS

"Sec.
"55501. Mobile trade fairs.

### "§ 55501. Mobile trade fairs

"(a) IN GENERAL.—The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world where the operators of the fairs use, insofar as practicable, vessels and aircraft of the United States in transporting their exhibits.

"(b) TECHNICAL AND FINANCIAL ASSISTANCE.—When the Secretary determines that a mobile trade fair provides an economical and effective means of promoting export sales, the Secretary may provide to the operator of the fair—

"(1) technical assistance and support; and

"(2) financial assistance to defray certain expenses incurred outside the United States, except the cost of transportation on foreign vessels and aircraft.

"(c) USE OF FOREIGN CURRENCIES.—To carry out this section, the President may use, in addition to amounts appropriated to carry out trade promotion activities, foreign currencies owned by or owed to the United States Government.

## "PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

### "CHAPTER 561—RESTRICTIONS ON TRANSFERS

"Sec.
"56101. Approval required to transfer vessel to noncitizen.
"56102. Additional controls during war or national emergency.
"56103. Conditional approvals.
"56104. Penalty for false statements.
"56105. Forfeiture procedure.

### "§ 56101. Approval required to transfer vessel to noncitizen

"(a) RESTRICTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

"(A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—

"(i) a documented vessel owned by a citizen of the United States; or

"(ii) a vessel last documented under the laws of the United States; or

"(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

"(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

"(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

"(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

"(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

"(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

"(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

"(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

"(e) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

"(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

"(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

**"§ 56102. Additional controls during war or national emergency**

"(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation—

"(1) place under foreign registry a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

"(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

"(A) a vessel owned as described in paragraph (1), or an interest therein;

"(B) a vessel documented under the laws of the United States, or an interest therein; or

"(C) a facility for building or repairing vessels, or an interest therein;

"(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

"(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

"(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or

a State and that owns a vessel or facility for building or repairing vessels; or

"(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

"(b) TRUSTEES.—

"(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

"(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

"(B) is authorized under those laws to exercise corporate trust powers;

"(C) is a citizen of the United States;

"(D) is subject to supervision or examination by Federal or State authority; and

"(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000.

"(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary's approval in subsection (a)(3) apply.

"(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

"(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

"(d) RECOVERY OF CONSIDERATION.—

"(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

"(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

"(e) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(2) FORFEITURE.—The following shall be forfeited to the Government:

"(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of this section.

"(B) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of this section.

"(C) A vessel departing in violation of subsection (a)(6).

### "§ 56103. Conditional approvals

"(a) IN GENERAL.—In approving an act or transaction under section 56101 or 56102 of this title, the Secretary of Transportation may do so absolutely or upon conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

"(b) VIOLATIONS.—A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

### "§ 56104. Penalty for false statements

"A person that knowingly makes a false statement of a material fact to the Secretary of Transportation or another officer, employee, or agent of the Department of Transportation, to obtain the Secretary's approval under section 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not more than 5 years, or both.

### "§ 56105. Forfeiture procedure

"(a) IN GENERAL.—A forfeiture under this chapter may be enforced in the same way as a forfeiture under the laws on the collection of duties. However, such a forfeiture may be remitted without seizure of the vessel.

"(b) PRIOR CONVICTIONS.—In a proceeding under this chapter to enforce a forfeiture, a prior criminal conviction of a person for a violation of this chapter with respect to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

## "CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS

"Sec.
"56301. General authority.
"56302. Charter terms.
"56303. Compensation.
"56304. Disputed compensation.
"56305. Vessel encumbrances.
"56306. Use and transfer of vessels.
"56307. Return of vessels.

### "§ 56301. General authority

"During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

### "§ 56302. Charter terms

"(a) IN GENERAL.—If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation

allows, shall offer the person entitled to possession of the vessel a charter containing—

"(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

"(2) the rate of hire the Secretary considers just compensation for the use of the vessel and the services required under the charter.

"(b) REFUSAL TO ACCEPT.—If the person does not accept the charter and rate of hire, the parties shall proceed as provided in section 56304 of this title.

**"§ 56303. Compensation**

"(a) IN GENERAL.—As soon as practicable, the Secretary of Transportation shall determine and pay just compensation for a vessel requisitioned under this chapter.

"(b) FACTORS NOT AFFECTING VALUE.—The value of a vessel may not be considered enhanced by the circumstances requiring its requisition. Consequential damages arising from the requisition may not be paid.

"(c) EFFECT OF CONSTRUCTION-DIFFERENTIAL SUBSIDY.—

"(1) IF PAID.—If a construction-differential subsidy has been paid for the vessel, the value of the vessel at the time of requisition shall be determined under section 802 of the Merchant Marine Act, 1936.

"(2) IF NOT PAID.—If a construction-differential subsidy has not been paid for the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

"(d) LOSS OR DAMAGE DURING CHARTER.—If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay just compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

**"§ 56304. Disputed compensation**

"If the person entitled to compensation disputes the amount of just compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the person, as a tentative advance, 75 percent of the amount determined. The person may bring a civil action against the United States to recover just compensation. If the tentative advance paid under this section is greater than the amount of the court's judgment, the person shall refund the difference.

**"§ 56305. Vessel encumbrances**

"(a) IN GENERAL.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

"(b) DEPOSIT IN TREASURY.—

"(1) IN GENERAL.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

Notification. Federal Register, publication.

"(2) AVAILABILITY OF AMOUNTS DEPOSITED.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

"(c) CIVIL ACTION.—

"(1) IN GENERAL.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

"(2) VENUE.—The action must be brought in the district court of the United States—

"(A) from whose custody the vessel was or may be requisitioned; or

"(B) in whose district the vessel was located when it was requisitioned.

"(3) SERVICE OF PROCESS.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

"(4) AS BETWEEN PRIVATE PARTIES.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

### "§ 56306. Use and transfer of vessels

"(a) IN GENERAL.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

"(b) TRANSFER TO OTHER AGENCIES.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

### "§ 56307. Return of vessels

"When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall—

"(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

"(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

## "CHAPTER 565—ESSENTIAL VESSELS AFFECTED BY NEUTRALITY ACT

"Sec.
"56501. Definition.
"56502. Adjusting obligations and arranging maintenance.
"56503. Types of adjustments and arrangements.
"56504. Changes in adjustments and arrangements.

### "§ 56501. Definition

"In this chapter, the term 'essential vessel' means a vessel that is—

"(1)(A) security for a mortgage indebtedness to the United States Government; or

"(B) constructed under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign trade route; and

"(2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

**"§ 56502. Adjusting obligations and arranging maintenance**

"(a) GENERAL AUTHORITY.—On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary determines, after any investigation or proceeding the Secretary considers desirable, that—

"(1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not—

"(A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or

"(B) compatible with maintaining the availability of the vessel for national defense and commerce;

"(2) it is not feasible under existing law to employ the vessel in any other service or operation in foreign or domestic trade (except temporary or emergency operation under section 56503(b)(5) of this title); and

"(3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under paragraph (1), is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

"(b) EFFECTIVE PERIOD.—Adjustments and arrangements under subsection (a) shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

**"§ 56503. Types of adjustments and arrangements**

"(a) SUSPENSION REQUIREMENTS.—An adjustment or arrangement under this chapter shall include suspension of—

"(1) the requirement to operate the vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and

"(2) the right to operating-differential subsidy for the vessel.

"(b) DISCRETIONARY ADJUSTMENTS AND ARRANGEMENTS.—To the extent the Secretary of Transportation considers appropriate to carry out the purposes of this subtitle, an adjustment or arrangement under this chapter may include any of the following:

"(1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.

"(2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.

"(3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.

"(4) Extension, for not more than the total period of the lay-up, of the 20-year life limitation for the vessel and other limitations and provisions of this subtitle based on a 20-year life.

"(5) Provision for temporary or emergency employment of the vessel (instead of lay-up) as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of the employment, as the Secretary may approve, with any period of operation being included as part of the lay-up period.

"(6) Payment to the Secretary, on termination of the arrangements with the applicant, of the applicant's net profits (earned while the arrangements were in effect) in excess of 10 percent a year on the capital necessarily employed in the applicant's business, as reimbursement for obligations postponed or canceled and expenses incurred or paid by the Secretary under this section.

"(c) LAID-UP VESSELS.—Under subsection (b)(6), capital of the applicant represented by a vessel of the applicant laid-up or operated under this section shall be included in capital necessarily employed in the applicant's business. The Secretary may require a vessel laid-up or operated under this section to be security for reimbursement.

### "§ 56504. Changes in adjustments and arrangements

"The Secretary of Transportation may change an adjustment or arrangement made under this chapter as the Secretary considers necessary to carry out this chapter.

## "PART F—GOVERNMENT-OWNED MERCHANT VESSELS

## "CHAPTER 571—GENERAL AUTHORITY

"Sec.
"57101. Placement of vessels in National Defense Reserve Fleet.
"57102. Disposition of vessels not worth preserving.
"57103. Sale of obsolete vessels in National Defense Reserve Fleet.
"57104. Acquisition of vessels from sale of obsolete vessels.
"57105. Acquisition of vessels for essential services, routes, or lines.
"57106. Maintenance, improvement, and operation of vessels.
"57107. Vessels for other agencies.
"57108. Consideration of ballast and equipment in determining selling price.
"57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation.

### "§ 57101. Placement of vessels in National Defense Reserve Fleet

"(a) IN GENERAL.—Any vessel acquired by the Maritime Administration shall be placed in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

"(b) REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection (a) may not be traded out or sold from the Fleet, except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.

### "§ 57102. Disposition of vessels not worth preserving

"(a) IN GENERAL.—If the Secretary of Transportation determines that a vessel owned by the Maritime Administration is of insufficient value for commercial or military operation to warrant

its further preservation, the Secretary may scrap the vessel or sell the vessel for cash.

"(b) SELLING PROCEDURE.—The sale of a vessel under subsection (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States. The purchaser shall provide a surety bond, with a surety approved by the Secretary, to ensure that the vessel will not be operated in the foreign trade of the United States at any time within 10 years after the sale, in competition with a vessel owned by a citizen of the United States and documented under the laws of the United States.

**"§ 57103. Sale of obsolete vessels in National Defense Reserve Fleet**

"(a) IN GENERAL.—The Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if the recipient—

"(1) is a non-profit organization, a State, or a municipal corporation or political subdivision of a State;

"(2) agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

"(3) agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

"(4) agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

"(5) has a conveyance plan and a business plan that describes the intended use of the vessel, each of which has been submitted to and approved by the Secretary;

"(6) has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

"(7) agrees that when the recipient no longer requires the vessel for use as described in the business plan required under paragraph (5)—

"(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

"(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

"(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to the Federal Government or a State or local government for a public purpose; and

"(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such

organizations as the court shall determine are organized exclusively for public purposes.

"(b) OTHER EQUIPMENT.—At the Secretary's discretion, additional equipment from other obsolete vessels of the Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

"(c) ADDITIONAL TERMS.—The Secretary may require any additional terms the Secretary considers appropriate.

"(d) DELIVERY OF VESSEL.—If conveyance is made under this section, the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

"(e) LIMITATIONS.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of the vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

"(f) REVERSION.—The Secretary shall include in any conveyance under this section terms under which all right, title, and interest conveyed by the Secretary shall revert to the Government if the Secretary determines the vessel has been used other than as described in the business plan required under subsection (a)(5).

**"§ 57104. Acquisition of vessels from sale of obsolete vessels**

"(a) IN GENERAL.—The Secretary of Transportation may acquire suitable documented vessels with amounts in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet.

"(b) VALUATION.—The acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the Fleet. However, the value assigned to those vessels shall be determined on the same basis, with consideration given to the fair value of the cost of moving the vessel sold from the Fleet to the place of scrapping.

"(c) COSTS INCIDENT TO LAY-UP.—Costs incident to the lay-up of the vessel acquired under this section may be paid from amounts in the Fund.

"(d) TRANSFERS TO NON-CITIZENS.—A vessel sold from the Fleet under this section may be scrapped in an approved foreign market without obtaining additional separate approval from the Secretary to transfer the vessel to a person not a citizen of the United States.

**"§ 57105. Acquisition of vessels for essential services, routes, or lines**

"(a) IN GENERAL.—The Secretary of Transportation may acquire a vessel, by purchase or otherwise, if—

"(1) the Secretary considers the vessel necessary to establish, maintain, improve, or serve as a replacement on an essential service, route, or line in the foreign commerce of the United States, as determined under section 50103 of this title;

"(2) the vessel was constructed in the United States; and

"(3) the Secretary of the Navy has certified to the Secretary of Transportation that the vessel is suitable for economical and speedy conversion into a naval or military auxiliary or

otherwise suitable for use by the United States Government in time of war or national emergency.

"(b) PRICE.—The price paid for the vessel shall be based on a fair and reasonable valuation. However, the price may not exceed by more than 5 percent the cost of the vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Transportation) plus the actual cost previously expended for reconditioning, less depreciation based on a 25-year life for a dry-cargo or passenger vessel and a 20-year life for a tanker or other liquid bulk carrier vessel.

"(c) DOCUMENTATION.—A vessel acquired under this section that is not documented under the laws of the United States at the time of acquisition shall be so documented as soon as practicable.

**"§ 57106. Maintenance, improvement, and operation of vessels**

"(a) IN GENERAL.—The Secretary of Transportation may maintain, repair, recondition, remodel, and improve vessels owned by the United States Government and in the possession or under the control of the Secretary, to equip them adequately for competition in the foreign trade of the United States. The Secretary may operate such a vessel or charter the vessel on terms and conditions the Secretary considers appropriate to carry out the purposes of this subtitle.

"(b) DOCUMENTATION AND RESTRICTIONS ON OPERATION.—A vessel reconditioned, remodeled, or improved under subsection (a) shall be documented under the laws of the United States and remain so documented for at least 5 years after completion of the reconditioning, remodeling, or improvement. During that period, it shall be operated on voyages that are not exclusively coastwise.

**"§ 57107. Vessels for other agencies**

"(a) IN GENERAL.—The Secretary of Transportation may construct, reconstruct, repair, equip, and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the United States Government to the extent the other department or agency is authorized by law to do so for its own account.

"(b) EFFECT ON CONTRACT AUTHORIZATION.—An obligation incurred or expenditure made by the Secretary under this section does not affect any contract authorization of the Secretary, but instead shall be charged against the existing appropriation or contract authorization of the department or agency.

**"§ 57108. Consideration of ballast and equipment in determining selling price**

"The Maritime Administration may not sell a vessel until its ballast and equipment have been inventoried and their value considered in determining the selling price of the vessel.

**"§ 57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation**

"Unless otherwise authorized by the Secretary of Transportation, a vessel purchased, chartered, or leased from the Secretary may be operated only under a certificate of documentation with a registry or coastwise endorsement. Such a vessel, while employed solely as a merchant vessel, is subject to the laws, regulations,

and liabilities governing merchant vessels, whether the United States Government has an interest in the vessel as an owner or holds a mortgage, lien, or other interest.

## "CHAPTER 573—VESSEL TRADE-IN PROGRAM

"Sec.
"57301. Definitions.
"57302. Authority to acquire vessels.
"57303. Utility value and tonnage requirements.
"57304. Eligible acquisition dates.
"57305. Determination of trade-in allowance.
"57306. Payment of trade-in allowance.
"57307. Recognition of gain for tax purposes.
"57308. Use of vessels at least 25 years old.

### "§ 57301. Definitions

"In this chapter:

"(1) NEW VESSEL.—The term 'new vessel' means a vessel—

"(A) constructed under this subtitle and acquired within 2 years after the date of completion; or

"(B) constructed in a domestic shipyard on private account and not under this subtitle, and documented under the laws of the United States.

"(2) OBSOLETE VESSEL.—The term 'obsolete vessel' means a vessel that—

"(A) is of at least 1,350 gross tons;

"(B) the Secretary of Transportation believes should, because of its age, obsolescence, or other reasons, be replaced in the public interest; and

"(C) has been owned by a citizen of the United States for at least 3 years immediately before its acquisition under this chapter.

### "§ 57302. Authority to acquire vessels

"To promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Secretary of Transportation may acquire an obsolete vessel in exchange for an allowance of credit toward the cost of construction or purchase of a new vessel as provided in this chapter.

### "§ 57303. Utility value and tonnage requirements

"(a) UTILITY VALUE.—The utility value of a new vessel to be acquired under this chapter for operation in the domestic or foreign commerce of the United States may not be substantially less than that of the obsolete vessel acquired in exchange under this chapter.

"(b) TONNAGE.—If the Secretary of Transportation finds that the new vessel will have a utility value at least equal to that of the obsolete vessel, the new vessel may be of lesser gross tonnage than the obsolete vessel. However, the gross tonnage of the new vessel must be at least one-third the gross tonnage of the obsolete vessel.

### "§ 57304. Eligible acquisition dates

"At the option of the owner, the acquisition of an obsolete vessel under this chapter shall occur—

"(1) when the owner contracts for the construction or purchase of a new vessel; or

"(2) within 5 days of the actual date of delivery of the new vessel to the owner.

**"§ 57305. Determination of trade-in allowance**

"(a) IN GENERAL.—The Secretary of Transportation shall determine the trade-in allowance for an obsolete vessel at the time of acquisition of the vessel. The allowance shall be the fair value of the vessel. In determining the value, the Secretary shall consider—

"(1) the scrap value of the obsolete vessel in American and foreign markets;

"(2) the depreciated value based on a 20-year or 25-year life, whichever applies to the obsolete vessel; and

"(3) the market value of the obsolete vessel for operation in world commerce or in the domestic or foreign commerce of the United States.

"(b) USE OF OBSOLETE VESSELS.—If acquisition of the obsolete vessel occurs when the owner contracts for the construction of the new vessel, and the owner uses the obsolete vessel during the period of construction of the new vessel, the Secretary shall reduce the trade-in allowance by an amount representing the fair value of that use. The Secretary shall establish the rate for use of the obsolete vessel when the contract for construction of the new vessel is made.

**"§ 57306. Payment of trade-in allowance**

"(a) ACQUISITION AT TIME OF CONTRACT.—If acquisition of an obsolete vessel under this chapter occurs when the owner contracts for the construction or purchase of the new vessel, the Secretary of Transportation shall apply the trade-in allowance to the purchase price of the new vessel rather than paying it to the owner. If the new vessel is constructed under this subtitle, the Secretary may apply the trade-in allowance to the required cash payments on terms and conditions the Secretary may prescribe. If the new vessel is not constructed under this subtitle, the Secretary shall pay the trade-in allowance to the builder of the vessel for the account of the owner when the Secretary acquires the obsolete vessel.

"(b) ACQUISITION AT TIME OF DELIVERY.—If acquisition of the obsolete vessel occurs when the new vessel is delivered to the owner, the Secretary shall deposit the trade-in allowance in the owner's capital construction fund.

**"§ 57307. Recognition of gain for tax purposes**

"The owner of an obsolete vessel does not recognize a gain under the Federal income tax laws when the vessel is transferred to the Secretary of Transportation in exchange for a trade-in allowance under this chapter. The basis of the new vessel acquired with the allowance is the same as the basis of the obsolete vessel—

"(1) increased by the difference between the cost of the new vessel and the trade-in allowance of the obsolete vessel; and

"(2) decreased by the amount of loss recognized on the transfer.

### "§ 57308. Use of vessels at least 25 years old

"An obsolete vessel acquired under this chapter that is or becomes at least 25 years old may not be used for commercial operation. However, the vessel may be used—

"(1) during a period in which vessels may be requisitioned under chapter 563 of this title; or

"(2) except as otherwise provided in this subtitle, on trade routes serving only the foreign trade of the United States.

## "CHAPTER 575—CONSTRUCTION, CHARTER, AND SALE OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"57501. Completion of long-range program.
"57502. Construction, reconditioning, and remodeling of vessels.
"57503. Competitive bidding.
"57504. Charter or sale of vessels acquired by Department of Transportation.
"57505. Employment of vessels on foreign trade routes.
"57506. Minimum selling price of vessels.

"SUBCHAPTER II—CHARTERS

"57511. Demise charters.
"57512. Competitive bidding.
"57513. Minimum bid.
"57514. Qualifications of bidders.
"57515. Awarding of charters.
"57516. Operating-differential subsidies.
"57517. Recovery of excess profits.
"57518. Performance bond.
"57519. Insurance.
"57520. Vessel maintenance.
"57521. Termination of charter during national emergency.

"SUBCHAPTER III—MISCELLANEOUS

"57531. Construction and charter of vessels for unsuccessful routes.
"57532. Operation of experimental vessels.

## "SUBCHAPTER I—GENERAL

### "§ 57501. Completion of long-range program

"Whenever the Secretary of Transportation determines that the objectives and policies declared in sections 50101 and 50102 of this title cannot be fully realized within a reasonable time under titles V and VI of the Merchant Marine Act, 1936, and the President approves the determination, the Secretary, in accordance with this chapter, shall complete the long-range program described in section 50102 of this title.

### "§ 57502. Construction, reconditioning, and remodeling of vessels

"(a) IN GENERAL.—The Secretary of Transportation may have new vessels constructed, and have old vessels reconditioned or remodeled, as the Secretary determines necessary to carry out the objectives of this subtitle.

"(b) PLACE OF WORK.—Construction, reconditioning, and remodeling of vessels under subsection (a) shall take place in shipyards in the continental United States (including Alaska and Hawaii). However, if satisfactory contracts cannot be obtained from private shipbuilders, the Secretary may have the work done in navy yards.

"(c) APPLICABILITY OF CONSTRUCTION-DIFFERENTIAL SUBSIDY PROVISIONS.—Contracts for the construction, reconstruction, or

reconditioning of a vessel by a private shipbuilder under this chapter are subject to the provisions of title V of the Merchant Marine Act, 1936, applicable to a contract with a private shipbuilder for the construction of a vessel under title V of that Act.

**"§ 57503. Competitive bidding**

"(a) ADVERTISEMENT AND BIDDING.—The Secretary of Transportation may make a contract with a private shipbuilder for the construction of a new vessel, or for the reconstruction or reconditioning of an existing vessel, only after due advertisement and upon sealed competitive bids.

"(b) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

**"§ 57504. Charter or sale of vessels acquired by Department of Transportation**

"Vessels transferred to or otherwise acquired by the Department of Transportation in any manner may be chartered or sold by the Secretary of Transportation as provided in this chapter.

**"§ 57505. Employment of vessels on foreign trade routes**

"(a) IN GENERAL.—The Secretary of Transportation shall arrange for the employment of the Department of Transportation's vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Secretary determines are essential for the development and maintenance of the commerce of the United States and the national defense. However, the Secretary shall first determine that those routes are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States.

"(b) POLICY TO ENCOURAGE PRIVATE OPERATION.—The Secretary shall have a policy of encouraging private operation of each essential steamship line now owned by the United States Government by—

"(1) selling the line to a citizen of the United States; or

"(2) demising the Secretary's vessels on bareboat charter to citizens of the United States who agree to maintain the line in the manner provided in this chapter.

**"§ 57506. Minimum selling price of vessels**

"(a) IN GENERAL.—A vessel constructed under this subtitle or the Merchant Marine Act, 1936, may not be sold by the Secretary of Transportation for less than the price specified in this section.

"(b) OPERATION IN FOREIGN TRADE.—If the vessel is to be operated in foreign trade, the minimum price is the estimated foreign construction cost (exclusive of national defense features) determined as of the date the construction contract is executed, less depreciation under subsection (d).

"(c) OPERATION IN DOMESTIC TRADE.—If the vessel is to be operated in domestic trade, the minimum price is the cost of construction in the United States (exclusive of national defense features), less depreciation under subsection (d).

"(d) DEPRECIATION.—Depreciation under subsections (b) and (c) shall be based on—

"(1) a 25-year life for dry-cargo and passenger vessels; and

"(2) a 20-year life for tankers and other bulk liquid carrier vessels.

"SUBCHAPTER II—CHARTERS

**"§ 57511. Demise charters**

"A charter by the Secretary of Transportation under this chapter shall demise the vessel to the charterer subject to all usual conditions contained in a bareboat charter. The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

**"§ 57512. Competitive bidding**

"(a) IN GENERAL.—The Secretary of Transportation may charter a vessel of the Department of Transportation to a private operator only on the basis of competitive sealed bidding. The bids must be submitted in strict compliance with the terms and conditions of a public advertisement soliciting the bids.

"(b) ADVERTISEMENT FOR BIDS.—An advertisement for bids shall state—

"(1) the number, type, and tonnage of the vessels being offered for bareboat charter for operation as a steamship line on a designated trade route;

"(2) the minimum number of sailings required;

"(3) the length of time of the charter;

"(4) the right of the Secretary to reject all bids; and

"(5) other information the Secretary considers necessary for the information of prospective bidders.

"(c) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

**"§ 57513. Minimum bid**

"The Secretary of Transportation shall reject any bid for the charter under this subchapter of a vessel constructed under this subtitle or the Merchant Marine Act, 1936, if the charter hire offered is lower than the minimum charter hire would be if the vessel were chartered under section 57531 of this title.

**"§ 57514. Qualifications of bidders**

"(a) CONSIDERATIONS.—In deciding whether to award a charter to a bidder, the Secretary of Transportation shall consider—

"(1) the bidder's financial resources, credit standing, and practical experience in operating vessels; and

"(2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

"(b) DISQUALIFICATIONS.—The Secretary may not charter a vessel to a person appearing to lack sufficient capital, credit, and experience to operate the vessel successfully over the period covered by the charter.

**"§ 57515. Awarding of charters**

"(a) IN GENERAL.—The Secretary of Transportation shall award the charter to the bidder proposing to pay the highest monthly charter hire. However, the Secretary may reject the highest or most advantageous or any other bid if the Secretary considers the charter hire offered too low or determines that the bidder lacks the qualifications required by section 57514 of this title.

"(b) HIGHEST BID REJECTED.—If the Secretary rejects the highest bid, the Secretary may—

"(1) award the charter to the next highest bidder; or

"(2) reject all bids and either readvertise the line or operate the line until conditions appear more favorable to reoffer the line for private charter.

"(c) REASON FOR REJECTION.—On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

**"§ 57516. Operating-differential subsidies**

"If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

**"§ 57517. Recovery of excess profits**

"(a) IN GENERAL.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer's capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

"(b) TERMS TO BE DEFINED AND USED.—The Secretary shall define the terms 'net voyage profit', 'fair and reasonable overhead expenses', and 'capital necessarily employed' for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

**"§ 57518. Performance bond**

"The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

**"§ 57519. Insurance**

"A charter under this chapter shall require the charterer to carry, at the charterer's expense, insurance on the chartered vessel

covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

**"§ 57520. Vessel maintenance**

"(a) IN GENERAL.—A charter under this chapter shall require the charterer, at the charterer's expense, to—

"(1) keep the chartered vessel in good repair and efficient operating condition; and

"(2) make any repairs required by the Secretary of Transportation.

"(b) INSPECTION.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

**"§ 57521. Termination of charter during national emergency**

"A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

"SUBCHAPTER III—MISCELLANEOUS

**"§ 57531. Construction and charter of vessels for unsuccessful routes**

"(a) IN GENERAL.—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary's replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under chapter 121 of this title, without further aid by the United States Government in addition to the financial aid authorized under titles V and VI of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

"(1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and

"(2) demise charter those new vessels to the operator of vessels of the United States established on the trade route.

"(b) AMOUNT OF CHARTER HIRE.—

"(1) IN GENERAL.—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the 'foreign cost') at which the vessel would be sold if constructed under title V of the Merchant Marine Act, 1936, plus—

"(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the

Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

"(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

"(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be based on—

"(A) a 25-year life for dry-cargo and passenger vessels; and

"(B) a 20-year life for tankers and other bulk liquid carrier vessels.

"(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

"(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

"(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

"(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

"(4) the balance of the purchase price shall be paid within the remaining years of useful life (as specified in subsection (b)(2)) after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first installment, which shall be payable on the next ensuing anniversary date of the delivery under the charter, shall be a proportionate part of the annual installment; and

"(5) interest shall be payable on the unpaid balances from the date of purchase, at a rate not less than—

"(A) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth percent; plus

"(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

"(d) OPERATION OF VESSEL.—

"(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation of the vessel exclusively—

"(A) in foreign trade;

"(B) on a round-the-world voyage;

"(C) on a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

"(D) on a round voyage from the Atlantic coast of the United States to the Orient that includes an intercoastal port of the United States; or

"(E) on a voyage in foreign trade on which the vessel may stop at Hawaii or an island territory or possession of the United States.

"(2) DOMESTIC TRADE.—The charter shall provide if the vessel is operated in domestic trade on any of the services specified in paragraph (1), the charterer will pay annually to the Secretary of Transportation that proportion of 1/25 of the difference between the domestic and foreign cost of the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

### "§ 57532. Operation of experimental vessels

"(a) DEFINITION.—In this section, the term 'experimental vessel' means a vessel owned by the United States Government (including a vessel in the National Defense Reserve Fleet) that has been constructed, reconditioned, or remodeled for experimental or testing purposes.

"(b) AUTHORITY TO OPERATE.—The Secretary of Transportation, for the purpose of practical development, trial, and testing, may operate an experimental vessel under a bareboat charter or general agency agreement in the foreign or domestic trade of the United States or for use for the account of a department or agency of the Government, without regard to other provisions of this subtitle and other laws related to chartering and general agency operations. Not more than 10 vessels may be operated and tested under this section in any one year.

"(c) TERMS OF OPERATION.—Operation of a vessel under this section shall be on terms the Secretary considers appropriate to carry out the purposes of this subtitle. A bareboat charter under this section shall be at reasonable rates and include restrictions the Secretary considers appropriate to protect the public interest, including provisions for recapture of profits under section 57517 of this title. A charter or general agency agreement under this section shall be reviewed annually to determine whether conditions exist to justify continuance of the charter or agreement.

"(d) RIGHTS OF SEAMEN.—A seaman engaged in vessel operations of the Secretary under this section and employed through a general agent in connection with a charter or agreement under this section is entitled to all the rights and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).

## "PART G—RESTRICTIONS AND PENALTIES

## "CHAPTER 581—RESTRICTIONS AND PENALTIES

"Sec.
"58101. Operating in domestic intercoastal or coastwise service.
"58102. Default on payment or maintenance of reserves.
"58103. Employing another person as managing or operating agent.
"58104. Willful violation constitutes breach of contract or charter.
"58105. Preferences for cargo in which charterer has interest.
"58106. Concerted discriminatory activities.
"58107. Discrimination at ports by water common carriers.
"58108. Charges for transportation subject to subtitle IV of title 49.
"58109. Penalties.

### "§ 58101. Operating in domestic intercoastal or coastwise service

"(a) PROHIBITION.—A subsidy may not be awarded or paid to a contractor under the operating-differential subsidy program,

and a vessel may not be chartered to a person under chapter 575 of this title, if the contractor or charterer, or a holding company, subsidiary, affiliate, or associate of the contractor or charterer, or an officer, director, agent, or executive thereof, directly or indirectly—

"(1) owns, charters, or operates a vessel engaged in the domestic intercoastal or coastwise service; or

"(2) owns a pecuniary interest in a person that owns, charters, or operates a vessel in the domestic intercoastal or coastwise service.

"(b) WAIVER.—A person may apply to the Secretary of Transportation for a waiver of subsection (a). Before deciding on the waiver, the Secretary shall give the applicant and other interested persons an opportunity for a hearing. The Secretary may not grant the waiver if the Secretary finds it would—

"(1) result in unfair competition to a person operating exclusively in the domestic intercoastal or coastwise service; or

"(2) be prejudicial to the objectives and policy of this subtitle.

"(c) CONTINUOUS OPERATION SINCE 1935.—The Secretary shall grant an application under subsection (b) without requiring further proof that the public interest and convenience will be served and without further proceedings as to the competition in the route or trade, if the contractor or other person, or a predecessor in interest, was in bona-fide operation as a common carrier by water in the domestic intercoastal or coastwise trade in 1935 over the route or in the trade for which the application is made and has so operated since that time or, if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event as to interruptions of service over which the applicant or its predecessor in interest had no control.

"(d) DIVERSION INTO INTERCOASTAL OR COASTWISE OPERATIONS.—If an application under subsection (b) is approved, a person referred to in this section may not divert, directly or indirectly, money, property, or any other thing of value, used in a foreign-trade operation for which a subsidy is paid by the United States Government, into intercoastal or coastwise operations.

### "§ 58102. Default on payment or maintenance of reserves

"The Secretary of Transportation may supervise the number and compensation of all officers and employees of a contractor under the operating-differential subsidy program or a charterer under chapter 575 of this title, receiving an operating-differential subsidy, if the contractor or charterer—

"(1) is in default on a mortgage, note, purchase contract, or other obligation to the Secretary; or

"(2) has not maintained, in a manner satisfactory to the Secretary, all of the reserves provided for in this subtitle.

### "§ 58103. Employing another person as managing or operating agent

"(a) PROHIBITION.—Except with the written consent of the Secretary of Transportation, a contractor holding a contract under the operating-differential subsidy program or under chapter 575 of this title may not—

"(1) employ another person as the managing or operating agent of the operator; or

"(2) charter a vessel, on which an operating-differential subsidy is to be paid, for operation by another person.

"(b) APPLICABILITY OF PROVISIONS TO CHARTERER.—If a charter prohibited by this section is made, the person operating the chartered vessel is subject to all the provisions of this subtitle and the operating-differential subsidy program, including limitations of profits and salaries.

**"§ 58104. Willful violation constitutes breach of contract or charter**

"A willful violation of any provision of sections 58101–58103 of this title constitutes a breach of the contract or charter. On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.

**"§ 58105. Preferences for cargo in which charterer has interest**

"A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

**"§ 58106. Concerted discriminatory activities**

"(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

"(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

"(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

"(1) 3 times the damages; and

"(2) costs, including reasonable attorney fees.

**"§ 58107. Discrimination at ports by water common carriers**

"(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, understanding, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

"(b) PORTS.—A port referred to in subsection (a) is one that is—

"(1) designed for the accommodation of ocean-going vessels;

"(2) located on an improvement project authorized by law or by a Federal agency; and

"(3) located within the continental limits of the United States.

"(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

### "§ 58108. Charges for transportation subject to subtitle IV of title 49

"(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

Certification.

"(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

"(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the Board may order the termination of the suspension.

### "§ 58109. Penalties

"(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

"(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

"(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.".

**SEC. 9. SUBTITLE VI OF TITLE 46.**

(a) REDESIGNATION.—Title 46, United States Code, is amended by redesignating subtitle VI as subtitle VII.

(b) NEW SUBTITLE.—Title 46, United States Code, is amended by inserting after subtitle V the following:

# "Subtitle VI—Clearance, Tonnage Taxes, and Duties


| "Chapter | Sec. |
|---|---|
| **"601. Arrival and Departure Requirements** | **60101** |
| **"603. Tonnage Taxes and Light Money** | **60301** |
| **"605. Discriminating Duties and Reciprocal Privileges** | **60501** |


## "CHAPTER 601—ARRIVAL AND DEPARTURE REQUIREMENTS


"Sec.
"60101. Boarding arriving vessels before inspection.
"60102. Production of certificate on entry.
"60103. Oath of ownership on entry.
"60104. Depositing certificates of documentation with consular officers.
"60105. Clearance of vessels.
"60106. State inspection laws.
"60107. Payment of fees on departing vessel.
"60108. Duty to transport tendered cargo.
"60109. Duty to transport money and securities of the United States Government.


### "§ 60101. Boarding arriving vessels before inspection

"(a) REGULATIONS.—The Secretary of Homeland Security shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

"(b) CRIMINAL PENALTY.—A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

"(c) RELATIONSHIP TO OTHER LAW.—This section shall be construed as supplementary to section 2279 of title 18.

### "§ 60102. Production of certificate on entry

"On entry of a vessel documented under chapter 121 of this title, the master or other individual in charge of the vessel shall produce the certificate of documentation to the customs officer at the place where the vessel is entered. If the certificate is not produced, the vessel is not entitled to the privileges of a documented vessel.

### "§ 60103. Oath of ownership on entry

"(a) REQUIRED STATEMENT.—On entry of a vessel of the United States from a foreign port, the individual designated under subsection (b) shall state under oath that—

"(1) the vessel's certificate of documentation contains the names of all the owners of the vessel; or

"(2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

"(b) PERSON TO MAKE STATEMENT.—The statement under subsection (a) shall be made by—

"(1) an owner if one resides at the port of entry; or

"(2) the master if an owner does not reside at the port of entry.

"(c) CONSEQUENCE OF NOT MAKING STATEMENT.—If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a vessel of the United States.

### "§ 60104. Depositing certificates of documentation with consular officers

"(a) REQUIREMENT OF MASTER.—When a vessel owned by citizens of the United States, on a voyage from a port in the United States, arrives at a foreign port, the master of the vessel shall deposit the vessel's certificate of documentation with a consular officer at the foreign port if there is a consular officer at that port.

"(b) RETURN OF CERTIFICATE.—When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

"(c) CIVIL PENALTY AND COLLECTION.—The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) is liable to the United States Government for a civil penalty of $500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the United States.

### "§ 60105. Clearance of vessels

"(a) VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Secretary of Homeland Security before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States if the vessel has on board foreign merchandise for which entry has not been made; or

"(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

"(b) OTHER VESSELS.—Except as otherwise provided by law, a vessel that is not a vessel of the United States shall obtain clearance from the Secretary before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States; or

"(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

"(c) REGULATIONS.—The Secretary may by regulation—

"(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data, or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

"(2) permit clearance to be obtained before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary conditioned on the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary; and

"(3) permit clearance to be obtained at a place other than a designated port of entry, under conditions the Secretary may prescribe.

**"§ 60106. State inspection laws**

"When State law requires a certificate of inspection for goods carried on a vessel, a vessel transporting the goods may not be cleared until the certificate is produced.

**"§ 60107. Payment of fees on departing vessel**

"A departing vessel may be cleared only when all legal fees that have accrued on the vessel are paid and proof of payment is presented to the individual granting the clearance.

**"§ 60108. Duty to transport tendered cargo**

"Clearance may be refused to a vessel or vehicle transporting cargo destined for a domestic or foreign port when the owner, master, or other individual in charge refuses to accept cargo tendered in good condition, with proper charges, for the same or an intermediate port by a citizen of the United States. This section does not apply if the vessel or vehicle is already fully loaded (giving appropriate consideration to its proper loading) or is not adaptable to transport the tendered cargo.

**"§ 60109. Duty to transport money and securities of the United States Government**

"Before being given clearance, a vessel owned by a citizen of the United States and bound on a voyage from a port in the United States to another port in the United States or in a foreign country, or on a voyage from a port in a foreign country to a port in the United States, shall receive on board any bullion, coin, notes, bonds, or other securities of the United States Government that an agency, consular officer, or other agent of the Government offers. The vessel shall transport the items securely and deliver them promptly to the proper authorities or consignees on arriving at the port of destination. Compensation shall be paid for services provided under this section that is equal to compensation paid to other carriers in the ordinary transaction of business.

## "CHAPTER 603—TONNAGE TAXES AND LIGHT MONEY

"Sec.
"60301. Regular tonnage taxes.
"60302. Special tonnage taxes.
"60303. Light money.
"60304. Presidential suspension of tonnage taxes and light money.
"60305. Vessels in distress.
"60306. Vessels not engaged in trade.
"60307. Vessels engaged in coastwise trade or the fisheries.
"60308. Vessels engaged in Great Lakes trade.
"60309. Passenger vessels making trips between ports of the United States and foreign ports.
"60310. Vessels making daily trips on interior waters.

"60311. Hospital vessels in time of war.
"60312. Rights under treaties preserved.

**"§ 60301. Regular tonnage taxes**

"(a) LOWER RATE.—A tax is imposed at the rate of 2 cents per ton (but not more than a total of 10 cents per ton per year) at each entry in a port of the United States of—

"(1) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

"(2) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

"(A) a vessel of the United States;

"(B) a recreational vessel (as defined in section 2101 of this title); or

"(C) a barge.

"(b) HIGHER RATE.—A tax is imposed at the rate of 6 cents per ton (but not more than a total of 30 cents per ton per year) on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1).

"(c) EXCEPTION FOR VESSELS ENTERING OTHER THAN BY SEA.—Subsection (a) does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent taxes are not imposed on vessels of the United States.

**"§ 60302. Special tonnage taxes**

"(a) ENTRY FROM FOREIGN PORT OR PLACE.—Regardless of whether a tax is imposed under section 60301 of this title, a tax is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

"(1) 30 cents per ton on a vessel built in the United States but owned in any part by a subject of a foreign country.

"(2) 50 cents per ton on other vessels not of the United States.

"(3) 50 cents per ton on a vessel of the United States having an officer who is not a citizen of the United States.

"(4) $2 per ton on a foreign vessel entering from a foreign port or place at which vessels of the United States are not ordinarily allowed to enter and trade.

"(b) VESSELS NOT OF THE UNITED STATES TRANSPORTING PROPERTY BETWEEN DISTRICTS.—Regardless of whether a tax is imposed under section 60301 of this title, a tax of 50 cents per ton is imposed on a vessel not of the United States at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

"(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—The tax of 50 cents per ton under this section does not apply to a vessel that—

"(1) is owned only by citizens of the United States; and

"(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

**"§ 60303. Light money**

"(a) IMPOSITION OF TAX.—A tax of 50 cents per ton, to be called 'light money', is imposed on a vessel not of the United States at each entry in a port of the United States. This tax shall be imposed and collected under the same regulations that apply to tonnage taxes.

"(b) EXCEPTION FOR VESSELS OWNED BY CITIZENS.—

"(1) IN GENERAL.—Subsection (a) does not apply to a vessel owned only by citizens of the United States if—

"(A) the vessel is carrying a regular document issued by a customhouse of the United States proving the vessel to be owned only by citizens of the United States; and

"(B) on entry of the vessel from a foreign port, the individual designated under paragraph (2) states under oath that—

"(i) the document contains the names of all the owners of the vessel; or

"(ii) part of the ownership has been transferred since the document was issued and, to the best of that individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

"(2) PERSON TO MAKE STATEMENT.—The statement under paragraph (1)(B) shall be made by—

"(A) an owner if one resides at the port of entry; or

"(B) the master if an owner does not reside at the port of entry.

"(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) section does not apply to a vessel that—

"(1) is owned only by citizens of the United States; and

"(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

**"§ 60304. Presidential suspension of tonnage taxes and light money**

"If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special tonnage taxes and light money under sections 60302 and 60303 of this title on vessels of that country.

**"§ 60305. Vessels in distress**

"A vessel is exempt from tonnage taxes and light money when it enters because it is in distress.

**"§ 60306. Vessels not engaged in trade**

"A vessel is exempt from tonnage taxes and light money when not engaged in trade.

**"§ 60307. Vessels engaged in coastwise trade or the fisheries**

"A vessel with a registry endorsement or a coastwise endorsement, trading from one port in the United States to another port in the United States or employed in the bank, whale, or other fisheries, is exempt from tonnage taxes and light money.

### "§ 60308. Vessels engaged in Great Lakes trade

"A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage taxes or light money because of that trade.

### "§ 60309. Passenger vessels making trips between ports of the United States and foreign ports

"A passenger vessel making at least 3 trips per week between a port of the United States and a foreign port is exempt from tonnage taxes and light money.

### "§ 60310. Vessels making daily trips on interior waters

"A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage taxes and light money, except on its first clearing each year.

### "§ 60311. Hospital vessels in time of war

"In time of war, a hospital vessel is exempt from tonnage taxes, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

President.

### "§ 60312. Rights under treaties preserved

"This chapter and chapter 605 of this title do not affect a right or privilege of a foreign country relating to tonnage taxes or other duties on vessels under a law or treaty of the United States.

## "CHAPTER 605—DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

"Sec.
"60501. Vessels allowed to import.
"60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries.
"60503. Reciprocal suspension of discriminating duties.
"60504. Reciprocal privileges for recreational vessels.
"60505. Retaliatory suspension of commercial privileges.
"60506. Retaliation against British dominions of North America.
"60507. Suspension of free passage through Saint Marys Falls Canal.

### "§ 60501. Vessels allowed to import

"(a) IN GENERAL.—Except as otherwise provided by treaty, goods may be imported into the United States from a foreign port or place only in—

"(1) a vessel of the United States; or

"(2) a foreign vessel owned only by citizens or subjects of the country—

"(A) in which the goods are grown, produced, or manufactured; or

"(B) from which the goods can only be, or most usually are, first shipped for transportation.

"(b) EXCEPTION FOR VESSELS OF COUNTRIES NOT MAINTAINING SIMILAR RESTRICTIONS.—Subsection (a) does not apply to a vessel of a foreign country that does not maintain a similar restriction against United States documented vessels.

"(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) does not apply to a vessel that—

"(1) is owned only by citizens of the United States; and

"(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"(d) SEIZURE AND FORFEITURE.—If goods are imported in violation of this section, the goods and the vessel in which they are imported, along with its equipment and other cargo, may be seized by and forfeited to the United States Government.

**"§ 60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries**

"(a) IMPOSITION OF DUTY.—A discriminating duty of 10 percent ad valorem (in addition to other duties imposed by law) is imposed on goods—

"(1) imported in a vessel not of the United States unless the vessel—

"(A) is entitled by law or treaty to enter the ports of the United States on payment of the same duties as are payable on goods imported in a vessel of the United States; or

"(B)(i) is owned only by citizens of the United States; and

"(ii) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port; or

"(2) produced or manufactured in a foreign country not contiguous to the United States and imported from a country contiguous to the United States, unless imported in the usual course of strictly retail trade.

"(b) SEIZURE AND FORFEITURE.—If goods are imported without payment of the duty required by this section, the goods and the vessel in which they are imported may be seized by, and forfeited to, the United States Government.

**"§ 60503. Reciprocal suspension of discriminating duties**

"(a) GENERAL AUTHORITY.—On receiving satisfactory proof from the government of a foreign country that it has suspended, in any part, the imposition of discriminating duties for any class of vessels owned by citizens of the United States or goods imported in those vessels, the President may proclaim a reciprocal suspension of discriminating duties for the same class of vessels owned by citizens of that country or goods imported in those vessels.

"(b) EFFECTIVE AND EXPIRATION DATES.—A suspension under this section takes effect retroactively from the date the President received the proof from the foreign government, and expires when that government stops granting the reciprocal suspension.

**"§ 60504. Reciprocal privileges for recreational vessels**

"When the President is satisfied that yachts owned by residents of the United States and used only for pleasure are allowed to arrive at, depart from, and cruise in the waters of a foreign port

without entering, clearing, or paying any duties or fees (including cruising license fees), the Secretary of Homeland Security may allow yachts from that foreign port used only for pleasure to arrive at and depart from the ports of the United States and to cruise in the waters of the United States without paying any duties or fees. However, the Secretary may require foreign yachts to obtain a license to cruise in the waters of the United States. The license shall be in the form prescribed by the Secretary and contain limitations about length of time, direction, place of cruising and action, and other matters the Secretary considers appropriate. The license shall be issued without cost to the yacht.

Licensing.

**"§ 60505. Retaliatory suspension of commercial privileges**

"(a) GENERAL AUTHORITY.—The President may proclaim a suspension of commercial privileges to vessels of a foreign country when—

"(1) vessels of that country have been given the same commercial privileges in the ports and waters of the United States given to vessels of the United States (except the privilege of engaging in coastwise commerce); and

"(2) vessels of the United States are denied commercial privileges in the ports or waters of that country given to vessels of that country.

"(b) APPLICATION.—A suspension under this section shall apply to the same commercial privileges denied to vessels of the United States in the ports or waters of the foreign country, and to the same class of vessels of that country as the class of vessels of the United States denied the privileges.

"(c) EFFECTIVE DATE.—The President shall designate the effective date of the suspension in the proclamation.

President.

"(d) PENALTIES.—

"(1) SEIZURE AND FORFEITURE.—If the master, officer, or agent of a vessel of a foreign country does an act for the vessel in the ports or waters of the United States in violation of a proclamation issued under this section, the vessel and the goods on the vessel may be seized by, and forfeited to, the United States Government.

"(2) FINE OR IMPRISONMENT.—A person opposing an official of the Government enforcing this section shall be fined under title 18, imprisoned for not more than 2 years, or both.

**"§ 60506. Retaliation against British dominions of North America**

"(a) GENERAL AUTHORITY.—The President by proclamation may prohibit vessels of the British dominions of North America, their masters and crews, and products of or coming from those dominions, from entering waters, ports, or places of the United States when the President is satisfied that—

"(1) fishermen or fishing vessels of the United States in waters, ports, or places of the British dominions of North America are being or recently have been—

"(A) denied rights provided by law or treaty;

"(B) subjected to unreasonable restrictions in the exercise of those rights; or

"(C) otherwise harassed;

"(2) fishermen or fishing vessels of the United States, having a permit under the laws of the United States to dock

or trade at a port or place in the British dominions of North America, are being or recently have been—

"(A) denied the privilege of entering the port or place in the same manner and under the same regulations applicable to trading vessels of the most-favored-nation;

"(B) prevented from buying supplies allowed to be sold to trading vessels of the most-favored-nation; or

"(C) otherwise harassed; or

"(3) other vessels of the United States or their masters or crews in waters, ports, or places of the British dominions of North America are being or recently have been—

"(A) denied privileges given to vessels of the most-favored-nation or their masters or crews; or

"(B) otherwise harassed.

"(b) COVERAGE AND EXCEPTIONS.—The President may apply a proclamation under this section to any of the subjects named, and may include exceptions for vessels in distress or need of supplies. The President may change, revoke, and renew the proclamation.

"(c) PENALTIES.—A person violating a proclamation issued under this section shall be fined under title 18, imprisoned for not more than 2 years, or both. A vessel or goods found in waters, ports, or places of the United States in violation of the proclamation may be seized by, and forfeited to, the United States Government.

**"§ 60507. Suspension of free passage through Saint Marys Falls Canal**

"(a) PURPOSE.—The purpose of this section is to secure reciprocal advantages for the citizens, ports, and vessels of the United States.

"(b) GENERAL AUTHORITY.—When the President is satisfied that vessels of the United States, or passengers or cargo being transported to a port of the United States, are prohibited from passing through a canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or their connecting waterways, or burdened in that passage by tolls or other means that are unreasonable in view of the free passage through the Saint Marys Falls Canal allowed to vessels of all countries, the President by proclamation may suspend the right of free passage through the Saint Marys Falls Canal for vessels owned by subjects of the country imposing the prohibition, tolls, or other burdens and for passengers and cargo being transported to the ports of that country, even when carried in vessels of the United States. The suspension shall apply to the extent and for the time the President considers appropriate.

President.

"(c) IMPOSITION OF TOLL.—

"(1) IN GENERAL.—During a suspension under this section, the President shall impose a toll of not more than $2 per ton on cargo and not more than $5 on each passenger.

"(2) EXCEPTIONS.—Notwithstanding paragraph (1), a toll may not be imposed on passengers or cargo landed at Ogdensburg, New York, or any port west of Ogdensburg and south of a line drawn from the northern boundary of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of Minnesota.

"(d) COLLECTION OF TOLL.—

"(1) IN GENERAL.—A toll imposed under this section shall be collected under regulations prescribed by the Secretary of Homeland Security. The Secretary may require the master of a vessel to provide a sworn statement of the amount and kind of cargo, the number of passengers, and the destination of the passengers and cargo.

"(2) PROOF OF LANDING.—When applicable, the Secretary also may require satisfactory proof that the passengers and cargo were landed at a port described in subsection (c)(2). Until that proof is provided, the Secretary may assume the passengers and cargo were not landed at such a port, and the amount of a toll that otherwise would be imposed is a lien enforceable against the vessel when found in the waters of the United States.".

**SEC. 10. SUBTITLE VII OF TITLE 46.**

Subtitle VII of title 46, United States Code, as redesignated by section 9(a) of this Act, is amended as follows:

(1) The subtitle heading and analysis are amended to read as follows:

## "Subtitle VII—Security and Drug Enforcement

"Chapter Sec.
**"701. Port Security ..... 70101**
**"703. Maritime Security ..... 70301**
**"705. Maritime Drug Law Enforcement ..... 70501".**

(2) Add after chapter 701 the following:

### "CHAPTER 703—MARITIME SECURITY

"Sec.
"70301. Definitions.
"70302. International measures for seaport and vessel security.
"70303. Security standards at foreign ports.
"70304. Travel advisories on security at foreign ports.
"70305. Suspension of passenger services.
"70306. Report on terrorist threats.

### "§ 70301. Definitions

"In this chapter:

"(1) COMMON CARRIER.—The term 'common carrier' has the meaning given that term in section 40102 of this title.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' has the meaning given that term in section 2101 of this title.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

### "§ 70302. International measures for seaport and vessel security

"Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

"(1) seaport screening of cargo and baggage similar to that done at airports;

"(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

"(3) additional security on board vessels;

"(4) licensing or certification of compliance with appropriate security standards; and

"(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

**"§ 70303. Security standards at foreign ports**

"(a) GENERAL REQUIREMENTS.—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

"(b) NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.—If the Secretary, after implementing the plan under subsection (a), determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary) shall—

"(1) notify the appropriate government authorities of the country in which the port is located of the determination; and

"(2) recommend steps necessary to bring the security measures at that port up to the standard used by the Secretary in making the assessment under subsection (a).

"(c) ANTITERRORISM ASSISTANCE.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign countries, especially for a port that the Secretary determines under subsection (b) does not maintain and administer effective security measures.

**"§ 70304. Travel advisories on security at foreign ports**

"(a) GENERAL REQUIREMENTS.—On being notified by the Secretary that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that the Secretary has determined under section 70303(b) of this title does not maintain and administer effective security measures, the Secretary of State immediately shall issue a travel advisory for that port. The Secretary of State shall take the necessary steps to widely publicize the travel advisory.

Notification.

"(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a) may be lifted only if the Secretary, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port.

"(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Congress immediately of any change in the status of a travel advisory issued under this section.

**"§ 70305. Suspension of passenger services**

"(a) GENERAL AUTHORITY.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary

for, or in any way arms, aids, or abets, a terrorist or terrorist group that knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may suspend the right of any passenger vessel common carrier to operate to or from, and the right of any passenger vessel of the United States to use, a port in that foreign nation for passenger service. The suspension may be without notice or hearing and for as long as the President determines is necessary to ensure the security of passenger vessels against unlawful seizure.

"(b) PROHIBITION.—A passenger vessel common carrier, or a passenger vessel of the United States, may not operate in violation of a suspension under this section.

"(c) PENALTIES.—

"(1) DENIAL OF ENTRY.—If a person operates a vessel in violation of this section, the Secretary may deny the vessels of that person entry to ports of the United States.

"(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel uses a prohibited port is a separate violation.

### "§ 70306. Report on terrorist threats

"(a) CONTENT.—Not later than February 28 of each year, the Secretary shall submit a report to Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. The Secretary shall include a description of activities undertaken under title I of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2066) and an analysis of the effect of those activities on port security against acts of terrorism.

"(b) SUBMISSION.—The report shall be submitted to the Committee on International Relations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate. Any classified information in the report shall be submitted separately as an addendum.

Confidential information.

## "CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

"Sec.
"70501. Findings and declarations.
"70502. Definitions.
"70503. Manufacture, distribution, or possession of controlled substances on vessels.
"70504. Jurisdiction and venue.
"70505. Failure to comply with international law as a defense.
"70506. Penalties.
"70507. Forfeitures.

### "§ 70501. Findings and declarations

"Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

### "§ 70502. Definitions

"(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

"(b) VESSEL OF THE UNITED STATES.—In this chapter, the term 'vessel of the United States' means—

"(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

"(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

"(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

"(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

"(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States, placed under foreign registry, or operated under the authority of a foreign nation, whether or not the vessel has been granted the nationality of a foreign nation.

"(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

"(1) IN GENERAL.—In this chapter, the term 'vessel subject to the jurisdiction of the United States' includes—

"(A) a vessel without nationality;

"(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

"(C) a vessel registered in a foreign nation if that nation has consented or waived objection to the enforcement of United States law by the United States;

"(D) a vessel in the customs waters of the United States;

"(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

"(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

"(i) is entering the United States;

"(ii) has departed the United States; or

"(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

"(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

"(A) may be obtained by radio, telephone, or similar oral or electronic means; and

"(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

"(d) VESSEL WITHOUT NATIONALITY.—

"(1) IN GENERAL.—In this chapter, the term 'vessel without nationality' includes—

"(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the nation whose registry is claimed;

"(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

"(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

"(2) VERIFICATION OR DENIAL.—A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim is proved conclusively by certification of the Secretary of State or the Secretary's designee.

"(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

"(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

"(2) flying its nation's ensign or flag; or

"(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

**"§ 70503. Manufacture, distribution, or possession of controlled substances on vessels**

"(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

"(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

"(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

"(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

"(c) NONAPPLICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

"(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

"(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

"(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

"(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a

trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

**"§ 70504. Jurisdiction and venue**

"(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

"(b) VENUE.—A person violating section 70503 of this title shall be tried in the district court of the United States for—

"(1) the district at which the person enters the United States; or

"(2) the District of Columbia.

**"§ 70505. Failure to comply with international law as a defense**

"A person charged with violating section 70503 of this title does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

**"§ 70506. Penalties**

"(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

"(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

**"§ 70507. Forfeitures**

"(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

"(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

"(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

"(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

"(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

"(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

"(D) the presence of engines that are excessively overpowered in relation to the design and size of the vessel;

"(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

"(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

"(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

"(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

"(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

"(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

"(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

"(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

"(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

"(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

"(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.".

**SEC. 11. SUBTITLE VIII OF TITLE 46.**

Title 46, United States Code, is amended by adding after subtitle VII the following:

# "Subtitle VIII—Miscellaneous

"Chapter Sec.
**"801. Wrecks and Salvage ..... 80101**
**"803. Ice and Derelicts ..... 80301**
**"805. Safe Containers for International Cargo ..... 80501**

## "CHAPTER 801—WRECKS AND SALVAGE

"Sec.
"80101. Vessel stranded on foreign coast.
"80102. License to salvage on Florida coast.
"80103. Property on Florida coast to be taken to port of entry.
"80104. Salvaging operations by foreign vessels.
"80105. Canadian vessels aiding vessels in United States waters.
"80106. International agreement on derelicts.
"80107. Salvors of life to share in remuneration.

### "§ 80101. Vessel stranded on foreign coast

"(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

"(1) save and secure the vessel and property on the vessel; and

"(2) prepare an inventory of the property that is saved.

"(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

"(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

### "§ 80102. License to salvage on Florida coast

"(a) LICENSING REQUIREMENTS.—To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

"(b) JUDICIAL FINDINGS.—Before issuing a license under this section, the judge must be satisfied, when the license is for—

"(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

"(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.

### "§ 80103. Property on Florida coast to be taken to port of entry

"(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.

"(b) SEIZURE AND FORFEITURE.—A vessel transporting property described in subsection (a) to a foreign port may be seized by, and forfeited to, the United States Government. A forfeiture under this subsection accrues half to the informer and half to the Government.

**"§ 80104. Salvaging operations by foreign vessels**

"(a) PROHIBITION.—Except as provided in this section or section 80105 of this title, a foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico.

"(b) WHEN SUITABLE VESSEL NOT AVAILABLE.—The Secretary of Homeland Security may authorize a foreign vessel to engage in salvaging operations in a particular locality if, on investigation, the Secretary is satisfied that there is not available in that locality a suitable vessel that is—

"(1) owned only by citizens of the United States (including a Bowaters corporation under section 12118 of this title); and

"(2) documented under chapter 121 of this title or numbered under chapter 123 of this title.

"(c) OPERATIONS AUTHORIZED BY TREATY.—This section does not prohibit or restrict assistance to vessels or salvaging operations authorized by treaty, including—

"(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

Great Britain.

"(2) the Treaty between the United States of America and Mexico to facilitate assistance to and salvage of vessels in territorial waters, signed at Mexico City, June 13, 1935 (49 Stat. 3359).

Mexico.

**"§ 80105. Canadian vessels aiding vessels in United States waters**

"(a) IN GENERAL.—Canadian vessels and wrecking equipment may give aid to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to Canada, including—

"(1) the canal and improvement of the waters between Lake Erie and Lake Huron; and

"(2) the Saint Marys River and canal.

"(b) RECIPROCITY.—This section does not apply after the President proclaims that privileges reciprocal to those under subsection (a) have been withdrawn or rendered inoperative by the Government of Canada.

**"§ 80106. International agreement on derelicts**

"The President may make an international agreement with other governments interested in the navigation of the North Atlantic Ocean, providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation outside the coast waters of the countries bordering the North Atlantic Ocean.

**"§ 80107. Salvors of life to share in remuneration**

"(a) ENTITLEMENT OF SALVORS.—A salvor of human life, who gave aid following an accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging

the vessel or other property or preventing or minimizing damage to the environment.

"(b) COMMON OWNERSHIP OF VESSELS.—The right to remuneration for aid or salvage services is not affected by common ownership of the vessels giving and receiving the aid or salvage services.

"(c) TIME LIMIT ON BRINGING ACTIONS.—A civil action to recover remuneration for giving aid or salvage services must be brought within 2 years after the date the aid or salvage services were given, unless the court in which the action is brought is satisfied that during that 2-year period there had not been a reasonable opportunity to seize the aided or salvaged vessel within the jurisdiction of the court or within the territorial waters of the country of the plaintiff's residence or principal place of business.

"(d) NONAPPLICATION.—This section does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.

## "CHAPTER 803—ICE AND DERELICTS

"Sec.
"80301. International agreements.
"80302. Patrol services.
"80303. Speed of vessel in ice region.

### "§ 80301. International agreements

"(a) GENERAL AUTHORITY.—The President may make agreements with interested maritime countries to—

"(1) maintain in the North Atlantic Ocean a service of ice patrol, of study and observation of ice and current conditions, and of assistance to vessels and their crews requiring assistance within the limits of the patrol;

"(2) maintain a service of study and observation of ice and current conditions in the waters affecting the set and drift of ice in the North Atlantic Ocean; and

"(3) take all practicable steps to ensure the destruction or removal of derelicts in the northern part of the Atlantic Ocean, east of the line drawn from Cape Sable to a point in latitude 34 degrees north, longitude 70 degrees west, if the destruction or removal is necessary.

"(b) PAYMENT BETWEEN COUNTRIES.—The President may include in an agreement under subsection (a) a provision for—

"(1) payment to the United States Government by other countries for their proportionate share of the expense of maintaining the services; or

"(2) contribution by the Government for its proportionate share if the agreement provides for another country to maintain the services.

### "§ 80302. Patrol services

"(a) GENERAL REQUIREMENTS.—Unless the agreements made under section 80301 of this title provide otherwise, an ice patrol shall be maintained during the entire ice season in guarding the southeastern, southern, and southwestern limits of the region of icebergs in the vicinity of the Grand Banks of Newfoundland. The patrol shall inform trans-Atlantic and other passing vessels by radio and other available means of the ice conditions and the extent of the dangerous region. During the ice season, there shall be maintained a service of study of ice and current conditions,

a service of providing assistance to vessels and crews requiring assistance, and a service of removing and destroying derelicts. Any of these services may be maintained during the remainder of the year as may be advisable.

"(b) WARNINGS TO VESSELS.—An ice patrol vessel shall warn any vessel known to be approaching a dangerous area and recommend safe routes.

"(c) RECORDING AND REPORTING INCIDENTS.—

"(1) RECORDING.—An ice patrol vessel shall record the name of a vessel and the facts of the case when the patrol observes or knows that the vessel—

"(A) is on other than a regular recognized or advertised route crossing the North Atlantic Ocean;

"(B) has crossed the fishing banks of Newfoundland north of latitude 43 degrees north during the fishing season; or

"(C) has passed through regions known or believed to be endangered by ice when proceeding to and from ports of North America.

"(2) REPORTING.—The name of the vessel and all pertinent information about the incident shall be reported to the government of the country to which the vessel belongs if that government requests.

"(d) ADMINISTRATION.—The Commandant of the Coast Guard, under the direction of the Secretary of the department in which the Coast Guard is operating, shall carry out the services provided for in this section and shall assign necessary vessels, material, and personnel of the Coast Guard. On request of such Secretary, the head of an agency may detail personnel, lend or contribute material or equipment, or otherwise assist in carrying out the services provided for in this section.

"(e) ANNUAL REPORT.—The Commandant shall publish an annual report of the activities of the services provided for in this section. A copy of the report shall be provided to each interested foreign government and to each agency assisting in the work.

### "§ 80303. Speed of vessel in ice region

"(a) REQUIREMENT.—The master of a vessel of the United States, when ice is reported on or near the vessel's course, shall proceed at a moderate speed or change the course of the vessel to go well clear of the danger zone.

"(b) CIVIL PENALTY.—A master violating this section is liable to the United States Government for a civil penalty of not more than $500.

## "CHAPTER 805—SAFE CONTAINERS FOR INTERNATIONAL CARGO

"Sec.

"80501. Definitions.
"80502. Application of Convention.
"80503. General authority of the Secretary.
"80504. Approval and examination.
"80505. Enforcement.
"80506. Delegation of authority.
"80507. Employee protection.
"80508. Amendments to Convention.
"80509. Civil penalty.

**"§ 80501. Definitions**

"In this chapter:

"(1) CONTAINER.—The term 'container' has the meaning given that term in the Convention.

"(2) CONVENTION.—The term 'Convention' means the International Convention for Safe Containers, and its annexes, done at Geneva, Switzerland, December 2, 1972.

"(3) INTERNATIONAL TRANSPORT.—The term 'international transport' means the transportation of a container between—

"(A) a place in a foreign country and a place in the jurisdiction of the United States; or

"(B) two places outside the United States by United States carriers.

"(4) OWNER.—The term 'owner' includes the lessee or bailee of a container if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container.

"(5) SAFETY APPROVAL PLATE.—The term 'safety approval plate' has the meaning given that term in annex I of the Convention.

**"§ 80502. Application of Convention**

"The Convention applies to an owner of a container used in international transport if the owner is domiciled or has its principal office in the United States.

**"§ 80503. General authority of the Secretary**

"(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall carry out the Convention and this chapter in the United States.

"(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out this chapter. The regulations shall—

"(1) establish procedures for testing, inspecting, and initially approving containers and designs for containers, including procedures for attaching, invalidating, and removing safety approval plates for containers;

"(2) establish procedures to be followed by the owners of containers for the periodic examination of containers as provided in the Convention; and

"(3) provide a method for developing, collecting, and disseminating information about container safety and the international transport of containers.

"(c) SAFETY APPROVAL PLATES.—If the owner of a container without a safety approval plate establishes that the container satisfies the standards of the Convention, the Secretary may authorize a safety approval plate to be attached to the container.

"(d) SCHEDULE OF FEES.—The Secretary may prescribe a schedule of fees for services performed by the Secretary, or by a person delegated authority under section 80506 of this title, for the testing, inspection, and initial approval of containers and container designs.

"(e) ENCOURAGING INTERMODAL TRANSPORT.—To the maximum extent possible, the Secretary shall encourage the development and use of intermodal transport, using containers built to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading when it is being transported over land, air, and sea areas.

**"§ 80504. Approval and examination**

"(a) DOMICILE AND PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled and having its principal office in the United States shall have the container—

"(1) approved initially under procedures prescribed by the Secretary of the department in which the Coast Guard is operating or by the government of another country that is a party to the Convention; and

"(2) examined periodically as provided in the Convention under procedures prescribed by the Secretary.

"(b) DOMICILE OR PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled or having its principal office in the United States shall have the container—

"(1) approved initially under procedures prescribed by the Secretary or by the government of another country that is a party to the Convention; and

"(2) examined periodically as provided in the Convention, under procedures prescribed by the government of the country in which the owner is domiciled or has its principal office, as long as that country is a party to the Convention.

"(c) NEITHER DOMICILE NOR PRINCIPAL OFFICE IN UNITED STATES.—A container owner neither domiciled nor having its principal office in the United States or another country that is a party to the Convention may submit a container for initial approval and periodic examination under procedures prescribed by the Secretary.

**"§ 80505. Enforcement**

"(a) IN GENERAL.—To enforce the Convention, this chapter, and regulations prescribed under this chapter, the Secretary of the department in which the Coast Guard is operating may—

"(1) examine, or require to be examined, containers in international transport;

"(2) approve designs for containers;

"(3) inspect and test containers being manufactured;

"(4) issue a detention order removing or excluding a container from service until the container owner satisfies the Secretary that the container meets the standards of the Convention, if the container—

"(A) does not have a safety approval plate attached to it; or

"(B) has a safety approval plate attached but there is significant evidence that the container is in a condition that creates an obvious risk to safety;

"(5) take other appropriate action, including issuing necessary orders, to remove a container from service or restrict its use if the container is not in compliance with the Convention, this chapter, or regulations prescribed under this chapter, but does not present an obvious risk to safety; and

"(6) allow a container found to be unsafe or without a safety approval plate to be moved to another location for repair or other disposition, under restrictions consistent with the intent of the Convention.

"(b) PAYMENT OF EXPENSES.—

"(1) EXAMINATION.—The owner of a container involved in an action by the Secretary under this section related to an

examination of the container shall pay or reimburse the Secretary for the expenses arising from that action, except for the costs of routine examinations of the container or a safety approval plate.

"(2) TESTING, INSPECTION, AND INITIAL APPROVAL.—The owner of a container submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturer of a container that submits a design to the procedure established by the Secretary for testing, inspection, and initial approval, shall pay or reimburse the Secretary for the expenses arising from the testing, inspection, or approval.

"(3) CREDIT TO APPROPRIATION.—Amounts received by the Secretary as reimbursement shall be credited to the appropriation for operating expenses of the Coast Guard.

"(c) PRESUMPTION BASED ON SAFETY APPROVAL PLATE.—A container bearing a safety approval plate authorized by a country that is a party to the Convention is presumed to be in a safe condition unless there is significant evidence that the container is in a condition that creates an obvious risk to safety.

"(d) NOTICE OF ORDERS.—

"(1) IN GENERAL.—When the Secretary issues a detention or other order under this section, the Secretary promptly shall notify in writing—

"(A) the owner of the container;

"(B) the owner's agent; or

"(C) if the identity of the owner is not apparent from the container or shipping documents, the custodian.

"(2) INFORMATION TO INCLUDE.—The notification shall identify the container involved, give the location of the container, and describe the condition or situation giving rise to the order.

"(e) DURATION OF ORDERS.—An order issued by the Secretary under this section remains in effect until—

"(1) the Secretary declares the container to be in compliance with the standards of the Convention; or

"(2) the container is removed permanently from service.

"(f) NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY APPROVAL PLATE.—If the Secretary has reason to believe that a container bearing a safety approval plate issued by another country was defective at the time of approval, the Secretary shall notify that country.

### "§ 80506. Delegation of authority

"(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may delegate to any person, including a public or private agency or nonprofit organization, authority to grant initial approval for containers and designs and to attach safety approval plates.

"(b) REGULATIONS.—Before making a delegation under this section, the Secretary shall prescribe regulations establishing—

"(1) criteria to be followed in selecting a person to whom authority is to be delegated;

"(2) a detailed description of the duties and powers to be carried out by the person to whom authority is delegated, including the records the person shall keep; and

"(3) the review the Secretary will conduct to decide whether the person is carrying out the delegated duties and powers properly.

"(c) INSPECTION OF RECORDS.—A person delegated authority under this section shall make available to the Secretary for inspection, on request, records the person is required to keep.

"(d) PENALTIES AND ORDERS.—A person delegated authority under this section may not—

"(1) assess or collect, or attempt to assess or collect, a penalty for violation of the Convention, this chapter, or an order issued by the Secretary under this chapter; or

"(2) issue or attempt to issue a detention or other order.

"(e) PUBLICATION.—The Secretary shall publish in the Federal Register or other appropriate publication— Federal Register, publication.

"(1) the name and address of each person to whom authority is delegated;

"(2) the duties and powers delegated; and

"(3) the period of the delegation.

"(f) REVOCATION.—The Secretary may revoke a delegation of authority under this section at any time.

### "§ 80507. Employee protection

"(a) PROHIBITION.—A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

"(b) COMPLAINTS.—An employee alleging to have been discharged or discriminated against in violation of subsection (a) may file a complaint with the Secretary of Labor. The complaint must be filed within 60 days after the violation. Deadline.

"(c) ENFORCEMENT.—The Secretary of Labor may investigate the complaint. If the Secretary of Labor finds there has been a violation, the Secretary of Labor may bring a civil action in an appropriate district court of the United States. The court has jurisdiction to restrain violations of subsection (a) and order appropriate relief, including reinstatement of the employee to the employee's former position with back pay.

"(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a complaint under this section, the Secretary of Labor shall notify the complainant of the intended action on the complaint. Deadline.

### "§ 80508. Amendments to Convention

"(a) PROPOSALS BY UNITED STATES.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, may propose amendments to the Convention or request a conference for amending the Convention as provided in article IX of the Convention.

"(b) PROPOSALS BY OTHER COUNTRIES.—An amendment communicated to the United States under article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may declare that the United States does not accept an amendment.

"(c) AMENDMENTS TO ANNEXES.—

"(1) IN GENERAL.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating—

"(A) may propose amendments to the annexes to the Convention;

"(B) may propose a conference for amending annexes to the Convention; and

"(C) shall consider and act on amendments to the annexes to the Convention adopted by the Maritime Safety Committee of the International Maritime Organization and communicated to the United States under article X(2) of the Convention.

"(2) ACTION FOLLOWING APPROVAL OR OBJECTION.—If a proposed amendment to an annex is approved by the United States, the amendment shall enter into force as provided in article X of the Convention. If a proposed amendment is objected to, the Secretary of State promptly shall communicate the objection as provided in article X(3) of the Convention.

"(d) APPOINTMENT OF ARBITRATOR.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

### "§ 80509. Civil penalty

"(a) IN GENERAL.—An owner, agent, or custodian who has been notified of an order issued under section 80505 of this title and fails to take reasonable and prompt action to prevent or stop a container subject to the order from being moved in violation of the order is liable to the United States Government for a civil penalty of not more than $5,000 for each container moved. Each day the container remains in service while the order is in effect is a separate violation.

"(b) ASSESSMENT AND COLLECTION.—

"(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary of the department in which the Coast Guard is operating shall assess and collect any penalty under this section.

"(2) FACTORS TO CONSIDER.—In determining the amount of the penalty, the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of the Convention, this chapter, or regulations prescribed under this chapter.

"(3) REMISSION, MITIGATION, OR COMPROMISE.—The Secretary may remit, mitigate, or compromise a penalty under this section.

"(4) ENFORCEMENT.—If a person fails to pay a penalty under this section, the Secretary shall refer the matter to the Attorney General for collection in an appropriate district court of the United States.".

**SEC. 12. MARITIME ADMINISTRATION.**

Section 109 of title 49, United States Code, is amended to read as follows:

### "§ 109. Maritime Administration

"(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

"(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed

by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

"(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

"(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

"(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

"(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

"(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

"(h) CONTRACTS AND AUDITS.—

"(1) CONTRACTS.—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may make contracts for the United States Government and disburse amounts to—

"(A) carry out the Secretary's duties and powers under this section and subtitle V of title 46; and

"(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

"(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

"(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

"(A) acquisition, construction, or reconstruction of vessels;

"(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

"(C) costs of national defense features;

"(D) payments of obligations incurred for operating-differential subsidies;

"(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

"(F) the Vessel Operations Revolving Fund;

"(G) National Defense Reserve Fleet expenses;

"(H) expenses necessary to carry out part B of subtitle V of title 46; and

"(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

"(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.".

**SEC. 13. AMENDMENTS RELATING TO MARITIME SECURITY ACT OF 2003.**

(a) AMENDMENTS TO CHAPTER 531.—Chapter 531 of title 46, United States Code, is amended as follows:

(1) In section 53102—

(A) in the headings of paragraphs (1), (2), and (4) of subsection (c), strike "SECTION 2" and substitute "SECTION 50501";

(B) in subsection (c)(1), (2)(A)(i) and (ii)(II) and (B), and (4)(B), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(C) in subsection (d), strike "the first section of Public Law 81–891 (64 Stat. 1120; 46 U.S.C. App. note prec. 3)" and substitute "section 501 of this title"; and

(D) in subsection (e)(1)—

(i) strike "a documented vessel (as that term is defined in section 12101 of this title)" and substitute "documented under chapter 121 of this title,"; and

(ii) in subparagraph (B), strike "a documented vessel (as defined in that section)" and substitute "documented under chapter 121".

(2) In section 53103(c)—

(A) in the heading of paragraph (1)(C), strike "SECTION 2" and substitute "SECTION 50501";

(B) in paragraphs (1)(A)(iii) and (C)(i) and (ii), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(C) in paragraph (1)(B), strike "subparagraphs" and substitute "subparagraph"; and

(D) in paragraph (3)(B), strike "agreement" and substitute "agreements".

(3) In section 53104—

(A) in subsection (c)(3)(B)(ii)(I) and (II), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(B) in subsection (e)(2), strike "section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)" and substitute "section 56101 of this title"; and

(C) in subsection (e)(3), strike "section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)" and "section 902 of such Act" and substitute "chapter 563 of this title" and "chapter 563", respectively.

(4) In section 53105—

(A) in subsection (a)(1)(A), strike "section 12105" and substitute "section 12111"; and

(B) in subsection (f), strike "approve" and substitute "approves".

(5) In section 53106—

(A) in subsection (d)(1), strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)" and substitute "section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10";

(B) in subsection (d)(2), strike "section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)," and substitute "section 55302(a), 55305, or 55314 of this title"; and

(C) in subsection (e)(2), strike "section 2(c) of the Shipping Act, 1916 (46 U.S.C. App. 802(c))" and substitute "section 50501 of this title, applying the 75 percent ownership requirement of that section".

(6) In section 53107(f)—

(A) strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)" and substitute "section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10"; and

(B) strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), and 1241b)" and substitute "sections 55302(a), 55304, 55305, and 55314 of this title and section 2631 of title 10".

(7) In section 53108(b), strike "section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1))" and substitute "section 55305(a) of this title".

(b) OTHER CONFORMING PROVISIONS.—If this Act is enacted prior to October 1, 2005, then—

(1) until that date, the reference in section 12111(c)(3) of title 46, United States Code, as enacted by this Act, to "chapter 531 of this title" is deemed instead to be a reference to "subtitle B of title VI of the Merchant Marine Act, 1936"; and

(2) section 3534(b)(1) of the Maritime Security Act of 2003 (Public Law 108–136, 117 Stat. 1818) is repealed.

**SEC. 14. AMENDMENTS TO PARTIALLY RESTATED PROVISIONS.**

(a) Section 2793 of the Revised Statutes (19 U.S.C. 288, 46 App. U.S.C. 111, 123) is amended by striking "or tonnage tax".

(b) Section 809(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1213(a)), is amended by striking "and section 211(a)".

**SEC. 15. ADDITIONAL AMENDMENTS TO TITLE 46.**

Title 46, United States Code, is amended as follows:

(1) The analysis of subtitle II is amended as follows:

(A) In each chapter item, capitalize the first letter of each word containing 4 or more letters.

(B) Strike the item for chapter 39.

(C) The item for chapter 45 is amended to read as follows:

**"45. Uninspected Commercial Fishing Industry Vessels ..... 4501".**

(2) Section 2101 is amended as follows:

(A) Paragraphs (2), (3), (3a), (6), (10), (10a), (12), (17b), (36), (41), (44), (45), and (46) are repealed.

(B) In paragraph (8a), insert "Prevention" after "Abuse".

(C) In paragraph (18), strike "those".

(D) In paragraph (34)—

(i) strike ", except in part H,"; and

(ii) strike "head" and substitute "Secretary".

(3) In section 2102(b), strike "West" and "East" and substitute "west" and "east", respectively.

(4) In section 2106, strike "a district court of the United States" and substitute "the district court of the United States for any district".

(5) Section 2108 is repealed.

(6) In section 2110—

(A) in subsection (a)(2), strike "part B of this title" and substitute "part B of this subtitle";

(B) in subsection (b)(2)(A)(iii), strike the period at the end and substitute "; and";

(C) in subsection (b)(5), strike "fees" and substitute "fee";

(D) In subsection (f), strike "Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security shall deny the clearance required by section 60105 of this title"; and

(E) In subsection (j), strike "state" and substitute "State".

(7) In section 2301, strike "section" and substitute "sections 2304 and".

(8) In section 2304—

(A) insert the paragraph designation "(1)" after "(a)"; and

(B) insert at the end of subsection (a) the following new paragraph:

"(2) Paragraph (1) does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.".

(9) In section 2306(a)(2), strike "section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a)," and substitute "section 50113 of this title".

(10) In section 3205(d), strike "Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title".

(11) In section 3302—

(A) in subsection (b), insert a comma after "fishing vessel";

(B) in subsection (j)(2)(B), strike "section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c)" and substitute "chapter 515 of this title"; and

(C) in subsection (*l*)(1)(C), strike "Inc.." and substitute "Inc.".

(12) In section 3306(d), strike "section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))" and substitute "section 51102 of this title".

(13) In section 3318(f), strike the period after "felony".

(14) In the analysis of chapter 37, the item for section 3719 is amended to read as follows:

"3719. Reduction of oil spills from single hull non-self-propelled tank vessels.".

(15) In paragraphs (1)(C), (2), and (3) of section 3703a(c), strike "documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14)" and substitute "documentation as a wrecked vessel under section 12112 of this title".

(16) In section 3704, strike "section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)," and substitute "chapter 551 of this title".

(17) In section 3718(e)(1), strike "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security" and "section 60105 of this title", respectively.

(18) In section 4702, strike the subsection "(a)" designation.

(19) In section 4705—

(A) strike "subcontractor not" and substitute "subcontractor are not";

(B) strike "(a)(1)" and substitute "(a)";

(C) strike "(2) Paragraph (1)" and substitute "(b) Subsection (a)";

(D) strike "(A)" and substitute "(1)"; and

(E) strike "(B)" and substitute "(2)".

(20) In section 5113(b), strike "section 4197 of the Revised Statutes (46 App. U.S.C. 91)" and substitute "section 60105 of this title".

(21) In section 6101, redesignate the second subsection (g) and subsection (h) as subsections (h) and (i), respectively.

(22) In section 8103(a), strike "Only" and substitute "Except as otherwise provided in this title, only".

(23) In section 9307(b)(2)(A), strike "The" and substitute "the".

(24) In section 12503(a), in the matter before paragraph (1), strike "delegee" and substitute "delegate".

(25) In section 13102(a), insert "(26 U.S.C. 9504)" after "Internal Revenue Code of 1986".

(26) In section 14305(a)—

(A) in paragraph (1), strike "and sections 12106(c) and 12108(c)" and substitute "of this subtitle and section 12116";

(B) in paragraph (5), strike "section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183)" and substitute "section 30506 of this title";

(C) in paragraph (6), strike "sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883–1)" and substitute "sections 12118 and 12132 of this title"; and

(D) in paragraph (7), strike "Act of July 14, 1956 (46 App. U.S.C. 883a)" and substitute "section 12139(b) of this title".

(27) In section 31306(a), strike "section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835)" and substitute "section 56102 or 56103 of this title".

(28) In section 31308, strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.)" and substitute "chapter 537 of this title".

(29) In section 31322—

(A) in subsection (a)(4)(A), strike "section 12102(c)" and substitute "section 12113(c)";

(B) in subsection (a)(4)(E), strike "under section 12102(a)" and substitute "for purposes of documentation under section 12103"; and

(C) in subsection (f)(2), strike "section 12102(c)" and substitute "section 12113(c)".

(30) In section 31325(b)(3)(B), strike "section 9 or 37 of the Shipping Act, 1936 (46 App. U.S.C. 808, 835)" and substitute "section 56101 or 56102 of this title".

(31) In section 31326(b)—

(A) in paragraph (1), strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "chapter 537 of this title,"; and

(B) in paragraph (2), strike "title XI of that Act" and substitute "chapter 537 of this title".

(32) In section 31329—

(A) in subsection (a)(1), strike "section 12102" and substitute "section 12103"; and

(B) in subsection (b)—

(i) in paragraph (2), strike "section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)" and substitute "chapter 563 of this title"; and

(ii) in paragraph (3), strike "sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)" and

substitute "sale to a person not a citizen of the United States under section 12132 of this title".

(33)(A) Sections 70118 and 70119, as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293, 118 Stat. 1078), are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(B) Sections 70117 and 70118, as added by section 802(a)(2) of such Act, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(C) In section 70120(a) (as redesignated by subparagraph (B)), strike "section 70120" and substitute "section 70119".

(D) In section 70121(a) (as redesignated by subparagraph (B))—

(i) strike "section 70120" and substitute "section 70119"; and

(ii) strike "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and substitute "section 60105 of this title".

(E) In the analysis of chapter 701, strike the items relating to sections 70117–70119 and substitute the following:

"70117. Firearms, arrests, and seizure of property.
"70118. Enforcement by State and local officers.
"70119. Civil penalty.
"70120. In rem liability for civil penalties and certain costs.
"70121. Withholding of clearance.".

**SEC. 16. RECREATIONAL BOATING SAFETY TECHNICAL AMENDMENTS.**

(a) SECTION 2102.—Section 2102 of title 46, United States Code, is amended by—

(1) striking subsection (a); and

(2) striking the subsection (b) designation.

(b) CHAPTER 131.—Chapter 131 of title 46, United States Code, is amended as follows:

(1) Redesignate sections 13101 to 13106 as sections 13102 to 13107.

(2) Insert as the first section the following:

**"§ 13101. Definitions**

"In this chapter:

"(1) ELIGIBLE STATE.—The term 'eligible State' means a State that has a State recreational boating safety program accepted by the Secretary.

"(2) STATE RECREATIONAL BOATING SAFETY PROGRAM.—The term 'State recreational boating safety program' means education, assistance, and enforcement activities conducted for maritime casualty prevention, reduction, and reporting for recreational boating.".

(3) In the chapter analysis, redesignate items 13101 to 13106 as items 13102 to 13107 and insert as the first item the following:

"13101. Definitions.".

(c) CROSS REFERENCES.—

(1) Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended by striking "13106" wherever appearing and substituting "13107".

(2) Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(c)) is amended by striking "section 13106" and substituting "section 13107".

(3) Section 13102(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking "section 13103" and substituting "section 13104".

(4) Section 13103(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking "section 13106" and substituting "section 13107".

(5) Section 13107(a)(1) of title 46, United States Code, as redesignated by subsection (b), is amended by striking "section 13103" and substituting "section 13104".

(6) Section 13108(a) of title 46, United States Code, is amended by—

(A) striking "section 13103" and substituting "section 13104"; and

(B) striking "section 13105" and substituting "section 13106".

(7) Section 31322(d)(1)(A) of title 46, United States Code, is amended by striking "section 13106(b)(8)" and substituting "section 13107(b)(8)".

**SEC. 17. CONFORMING AMENDMENTS TO OTHER LAWS.**

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 374(b)(4)(A)(iv), strike "The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "Chapter 705 of title 46".

(2) In section 2218(d)(2), strike "sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund" and substitute "sections 57101–57104 and chapter 573 of title 46".

(3) In section 2350b(g)(2), strike "section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))" and substitute "section 55305 of title 46".

(4) In section 2645—

(A) in subsection (c), strike "the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))" and substitute "section 53909(b) of title 46";

(B) in subsection (h)(1), strike "title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.)," and substitute "chapter 539 of title 46"; and

(C) in subsection (h)(2), strike "the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))" and substitute "section 53909(a) of title 46".

(5) In section 5985, strike "section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c)," and substitute "chapter 515 of title 46".

(6) In section 7721(a), strike "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. App. 781–790)" and substitute "chapter 311 of title 46".

(b) TITLE 11.—Title 11, United States Code, is amended as follows:

(1) In section 362(b)—

(A) in paragraph (12), strike "section 207 or title XI of the Merchant Marine Act, 1936" and substitute "chapter 537 of title 46 or section 109(h) of title 49"; and

(B) in paragraph (13), strike "section 207 or title XI of the Merchant Marine Act, 1936" and substitute "chapter 537 of title 46".

(2) In section 1110(a)(3)(A)(ii), strike "documented vessel (as defined in section 30101(1) of title 46)" and substitute "vessel documented under chapter 121 of title 46".

(c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code, are each amended by striking paragraphs (3)–(5) and substituting the following:

"(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

"(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

"(5) Chapter 311 of title 46 (known as the Public Vessels Act).".

(d) TITLE 18.—Title 18, United States Code, is amended as follows:

(1) In section 229F(9)(C), strike "section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))" and substitute "section 70502(b) of title 46, United States Code".

(2) In section 507—

(A) in the first paragraph, strike "recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States" and substitute "documentation of any vessel";

(B) in the first paragraph, strike "collector or other"; and

(C) in the second paragraph, strike "license,".

(3) In section 924—

(A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46"; and

(B) in subsection (g)(2), strike "802 et seq." and substitute "801 et seq.".

(4) In section 929(a)(2), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(5) In section 965(a), strike "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and substitute "section 60105 of title 46".

(6) In section 2277(a), strike "registered, enrolled, or licensed" and substitute "documented".

(7) In section 3142(e) and (f)(1)(C), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(e) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 56(c)(2)—

(A) strike "section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)" and substitute "chapter 535 of title 46, United States Code"; and

(B) in subparagraphs (A) and (B), strike "such section 607" substitute "such chapter 535".

26 USC 140.

(2) In section 140(a)(4), strike "section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177)" and substitute "section 53507 of title 46, United States Code".

(3) In section 543(a)(1)(B), strike "section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1161 or 1177)" and substitute "chapter 533 or 535 of title 46, United States Code".

(4) In section 1023(2), strike "section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)" and substitute "chapter 533 of title 46, United States Code".

(5) In section 1061—

(A) in paragraph (1), strike "section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)" and substitute "chapter 573 of title 46, United States Code, see section 57307 of title 46";

(B) in paragraph (2), strike "section 511 of such Act, as amended (46 U.S.C. App. 1161)" and substitute "chapter 533 of title 46, United States Code"; and

(C) strike paragraph (3).

(6) In section 7518—

(A) in subsection (a)(1), strike "section 607 of the Merchant Marine Act, 1936" and substitute "chapter 535 of title 46 of the United States Code";

(B) in subsections (a)(2) and (c)(1)(A) and (D), strike "section 607 of the Merchant Marine Act, 1936" and substitute "chapter 535 of title 46, United States Code"; and

(C) in subsection (g)(3)(C)(iii), strike "Merchant Marine Act of 1936" and substitute "Merchant Marine Act, 1936,".

(f) TITLE 28.—Title 28, United States Code, is amended as follows:

(1) In section 994(h)(1)(B) and (2)(B), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(2) In section 1605(d), strike "the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following)" and "that Act" and substitute "section 31301 of title 46" and "chapter 313 of title 46", respectively.

(3) In section 2342(3)—

(A) in subparagraph (A), strike "section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)" and substitute "section 50501, 50502, 56101–56104, or 57109 of title 46"; and

(B) strike subparagraph (B) and substitute the following:

"(B) the Federal Maritime Commission issued pursuant to section 305, 41304, 41308, or 41309 or chapter 421 or 441 of title 46;".

(4) In section 2680(d), strike "sections 741–752, 781–790 of Title 46," and substitute "chapter 309 or 311 of title 46".

(g) TITLE 40.—Title 40, United States Code, is amended as follows:

(1) In section 548, strike "the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)," and substitute "part F of subtitle V of title 46".

(2) In section 3134(b), strike "the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "subtitle V of title 46".

(3) In section 3313(a)—

(A) in the matter before paragraph (1), strike "Except for the authority contained in section 3305(b) of this title, the" and substitute "The"; and

(B) in paragraph (1), strike "shall" and substitute "shall, except for the authority contained in section 3305(b) of this title,".

(h) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 5122(c)(1), strike "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security" and "section 60105 of title 46", respectively.

(2) In section 5901(3)(B), strike "section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)" and substitute "section 40102 of title 46".

(i) MISCELLANEOUS.—Section 5501(a) of the Oceans Act of 1992 (Public Law 102–587, 106 Stat. 5084) is amended by adding the following:

46 USC app. 292 note.

"(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906, as amended by paragraph (1).".

**SEC. 18. TRANSITIONAL AND SAVINGS PROVISIONS.**

46 USC note prec. 101.

(a) CUTOFF DATE.—This Act replaces certain provisions enacted on or before April 30, 2005. If a law enacted after that date amends or repeals a provision replaced by this Act, that law is deemed to amend or repeal, as the case may be, the corresponding provision enacted by this Act. If a law enacted after that date is otherwise inconsistent with this Act, it supersedes this Act to the extent of the inconsistency.

(b) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision supersedes another based on enactment later in time, the date of enactment of a provision enacted by this Act is deemed to be the date of enactment of the provision it replaced.

(c) REFERENCES TO PROVISIONS REPLACED.—A reference to a provision replaced by this Act is deemed to refer to the corresponding provision enacted by this Act.

(d) LAWS GOVERNING APPLICABILITY OF PRIOR AMENDMENTS.—This Act does not affect any law governing the applicability of an amendment to a provision replaced by this Act, notwithstanding the repeal by this Act of the provision that was amended. To the extent that any such law governed the applicability of a provision replaced by this Act, that law governs the applicability of the corresponding provision enacted by this Act.

(e) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A regulation, order, or other administrative action in effect under a provision replaced by this Act continues in effect under the corresponding provision enacted by this Act.

(f) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision replaced by this

Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

46 USC note prec. 101.

**SEC. 19. REPEALS.**

The following provisions are repealed, except with respect to rights and duties that matured, penalties that were incurred, or proceedings that were begun before the date of enactment of this Act:

Revised Statutes

| Revised Statutes Section | United States Code | |
|---|---|---|
| | Title | Section |
| 2792 | 46 App. | 124 |
| 4136 | 46 App. | 14 |
| 4173 | 46 App. | 42 |
| 4184 | 46 App. | 57 |
| 4188 | 46 App. | 59 |
| 4197 | 46 App. | 91 |
| 4202 | 46 App. | 97 |
| 4204 | 46 App. | 98 |
| 4206 | 46 App. | 100 |
| 4219 | 46 App. | 121 |
| 4220 | 46 App. | 122 |
| 4221 | 46 App. | 125 |
| 4225 | 46 App. | 128 |
| 4226 | 46 App. | 129 |
| 4227 | 46 App. | 135 |
| 4228 | 46 App. | 141 |
| 4238 | 46 App. | 721 |
| 4239 | 46 App. | 722 |
| 4240 | 46 App. | 723 |
| 4241 | 46 App. | 724 |
| 4281 | 46 App. | 181 |
| 4282 | 46 App. | 182 |
| 4283 | 46 App. | 183 |
| 4283A | 46 App. | 183b |
| 4283B | 46 App. | 183c |
| 4284 | 46 App. | 184 |
| 4285 | 46 App. | 185 |
| 4286 | 46 App. | 186 |
| 4287 | 46 App. | 187 |
| 4289 | 46 App. | 188 |
| 4309 | 46 App. | 354 |
| 4310 | 46 App. | 355 |
| 4311 | 46 App. | 251 |
| 4320 | 46 App. | 262 |
| 4336 | 46 App. | 277 |
| 4370 | 46 App. | 316 |
| 4373 | 46 App. | 321 |
| 4374 | 46 App. | 322 |
| 4375 | 46 App. | 323 |
| 4376 | 46 App. | 324 |
| 4378 | 46 App. | 326 |
| 4379 | 46 App. | 327 |
| 4380 | 46 App. | 328 |
| 4493 | 46 App. | 491 |

Statutes at Large

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| 1874 Apr. 18 | 110 | | 18 | 31 | 336 |
| 1878 June 19 | 324 | | 20 | 175 | 725 |
| 1884 June 26 | 121 | 14 | 23 | 57 | 121 |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| | | 18 | 23 | 57 | 189 |
| July 5 | 221 | 3 | 23 | 119 | 3 |
| | | 8(c) | | | 9 |
| 1886 June 19 | 421 | 8 | 24 | 81 | 289 |
| | | 9 | 24 | 81 | 320 |
| | | 17 | 24 | 82 | 142 |
| 1887 Mar. 3 | 339 | | 24 | 475 | 143 |
| 1892 July 26 | 248 | 1 | 27 | 267 | 144 |
| | | 2 | 27 | 268 | 145 |
| 1893 Feb. 13 | 105 | 1 | 27 | 445 | 190 |
| | | 2 | 27 | 445 | 191 |
| | | 3 | 27 | 445 | 192 |
| | | 4 | 27 | 445 | 193 |
| | | 5 | 27 | 446 | 194 |
| | | 6 | 27 | 446 | 196 |
| | | 7 | 27 | 446 | 195 |
| | | 8 | 27 | 446 | 190 nt |
| Oct. 31 | No. 13 | | 28 | 13 | 726 |
| 1898 Feb. 17 | 26 | 1 | 30 | 248 | 290 |
| | | 3 | 30 | 248 | 291 |
| 1900 Mar. 31 | 120 | 1–3 | 31 | 58 | 163 |
| 1906 May 28 | 2566 | 1 (except as may be applicable under section 5501(a)(2) of Pub. L. 102–587). | 34 | 204 | 292 |
| 1908 Mar. 24 | 96 | 1 | 35 | 46 | 133 |
| | | 2 | 35 | 46 | 134 |
| May 28 | 212 | 5 | 35 | 425 | 104 |
| 1909 Aug. 5 | 6 | 36 | 36 | 111 | 121 |
| 1910 Mar. 8 | 86 | | 36 | 234 | 132 |
| 1912 Aug. 1 | 268 | 1 | 37 | 242 | 727 |
| | | 3 | 37 | 242 | 729 |
| | | 4 | 37 | 242 | 730 |
| | | 5 | 37 | 242 | 731 |
| 1913 Oct. 3 | 16 | IV(J)(1)–(3) | 38 | 195 | 19 U.S.C. 128, 130, 131; 46 App. 146 |
| 1915 Mar. 4 | 153 | 20 | 38 | 1185 | 688 |
| | 171 | | 38 | 1193 | 19 U.S.C. 128, 131; 46 App. 121, 128, 146 |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| 1916 Sept. 7 | 451 | 1 | 39 | 728 | 801 |
| | | 2(a)–(c) | 39 | 729 | 802 |
| | | 2(d) | 39 | 729 | 803 |
| | | 9 | 39 | 730 | 808 |
| | | 12 | 39 | 732 | 811 |
| | | 34 | 39 | 738 | 833 |
| | | 36 | 39 | 738 | 834 |
| | | 37 | | | 835 |
| | | 38 | | | 836 |
| | | 39 | | | 837 |
| | | 41 | | | 839 |
| | | 46 | | | 842 |
| 1920 Mar. 9 | 95 | 1 | 41 | 525 | 741 |
| | | 2 | 41 | 525 | 742 |
| | | 3 | 41 | 526 | 743 |
| | | 4 | 41 | 526 | 744 |
| | | 5 | 41 | 526 | 745, 745 nt |
| | | 6 | 41 | 527 | 746 |
| | | 7 | 41 | 527 | 747 |
| | | 8 | 41 | 527 | 748 |
| | | 9 | 41 | 527 | 749 |
| | | 10 | 41 | 528 | 750 |
| | | 11 | 41 | 528 | 751 |
| | | 12 | 41 | 528 | 752 |
| Mar. 30 | 111 | 1 | 41 | 537 | 761 |
| | | 2 | 41 | 537 | 762 |
| | | 4 | 41 | 537 | 764 |
| | | 5 | 41 | 537 | 765 |
| | | 6 | 41 | 537 | 766 |
| | | 7 | 41 | 538 | 767 |
| | | 8 | 41 | 538 | 768 |
| June 5 | 250 | 1 | 41 | 988 | 861 |
| | | 6 | 41 | 991 | 865 |
| | | 7 | 41 | 991 | 866 |
| | | 8 | 41 | 992 | 867 |
| | | 9 | 41 | 992 | 868 |
| | | 10 | 41 | 992 | 869 |
| | | 12 | 41 | 993 | 871 |
| | | 13 | 41 | 993 | 872 |
| | | 17 | 41 | 994 | 875 |
| | | 19 | 41 | 995 | 876 |
| | | 21 | 41 | 997 | 877 |
| | | 27 | 41 | 999 | 883 |
| | | 27A | | | 883–1 |
| | | 28 | 41 | 999 | 884 |
| | | 36 | 41 | 1007 | 887 |
| | | 37 | 41 | 1008 | 888 |
| | | 39 | 41 | 1008 | 889 |
| 1925 Mar. 3 | 428 | 1 | 43 | 1112 | 781 |
| | | 2 | 43 | 1112 | 782 |
| | | 3 | 43 | 1112 | 783 |
| | | 4 | 43 | 1112 | 784 |
| | | 5 | 43 | 1113 | 785 |
| | | 6 | 43 | 1113 | 786 |
| | | 7 | 43 | 1113 | 787 |
| | | 8 | 43 | 1113 | 788 |
| | | 9 | 43 | 1113 | 789 |
| | | 10 | 43 | 1113 | 790 |
| 1928 May 22 | 675 | 1 | 45 | 689 | 891 |
| | | 202 | 45 | 690 | 891b |
| | | 203 | 45 | 690 | 891c |
| | | 703 | 45 | 698 | 891u |
| | | 704 | 45 | 698 | 891v |
| | | 705 | 45 | 698 | 891w |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| | | 706 | 45 | 698 | 891x |
| 1932 June 30 | 314 | 306 | 47 | 408 | 804a |
| | 315 | | 47 | 420 | 743a, 745 |
| 1934 Mar. 26 | 90 | | 48 | 500 | 1241–1 |
| June 14 | 523 | | 48 | 963 | 48 U.S.C. 1664 |
| 1936 June 25 | 807 | 1 | 49 | 1922 | 738 |
| | | 2 | 49 | 1922 | 738a |
| | | 4 | 49 | 1923 | 738c |
| June 29 | 858 | 101 | 49 | 1985 | 1101 |
| | | 201 | 49 | 1985 | 1111 |
| | | 202 | 49 | 1986 | 1112 |
| | | 204 | 49 | 1987 | 1114 |
| | | 205 | 49 | 1987 | 1115 |
| | | 206 | 49 | 1987 | 1116 |
| | | 207 | 49 | 1988 | 1117 |
| | | 208 | 49 | 1988 | 1118 |
| | | 209 | 49 | 1988 | 1119 |
| | | 210 | 49 | 1989 | 1120 |
| | | 211 | 49 | 1989 | 1121 |
| | | 212 | 49 | 1990 | 1122 |
| | | 212(A) | | | 1122a |
| | | 212(B) | | | 1122b |
| | | 213 | 49 | 1991 | 1123 |
| | | 214 | 49 | 1991 | 1124 |
| | | 215 | | | 1125 |
| | | 302 | | | 1132 |
| | | 508 | 49 | 2000 | 1158 |
| | | 510 | | | 1160 |
| | | 511 (added by Act Oct. 10, 1940) | | | 1161 |
| | | 607 | 49 | 2005 | 1177 |
| | | 701 | 49 | 2008 | 1191 |
| | | 702 | 49 | 2008 | 1192 |
| | | 703 | 49 | 2008 | 1193 |
| | | 704 | 49 | 2008 | 1194 |
| | | 705 | 49 | 2009 | 1195 |
| | | 706 | 49 | 2009 | 1196 |
| | | 707 | 49 | 2009 | 1197 |
| | | 708 | 49 | 2009 | 1198 |
| | | 709 | 49 | 2010 | 1199 |
| | | 710 | 49 | 2010 | 1200 |
| | | 711 | 49 | 2010 | 1201 |
| | | 712 | 49 | 2010 | 1202 |
| | | 713 | 49 | 2010 | 1203 |
| | | 714 | 49 | 2011 | 1204 |
| | | 715 | | | 1205 |
| | | 805 | 49 | 2012 | 1223 |
| | | 806(b)–(d) | 49 | 2014 | 1228 |
| | | 808 | 49 | 2015 | 1226 |
| | | 809(b) | | | 1213 |
| | | 810 | 49 | 2015 | 1227 |
| | | 901 | 49 | 2015 | 1241 |
| | | 901a | | | 1241e |
| | | 901b | | | 1241f |
| | | 901c | | | 1241g |
| | | 901d | | | 1241h |
| | | 901e | | | 1241i |
| | | 901f | | | 1241j |
| | | 901g | | | 1241k |
| | | 901h | | | 1241*l* |
| | | 901i | | | 1241m |
| | | 901j | | | 1241n |
| | | 901k | | | 1241o |
| | | 902 | 49 | 2015 | 1242 |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| | | 905 | 49 | 2016 | 1244 |
| | | 906 (1st sentence) | 49 | 2016 | 1245 |
| | | 908 | | | 1247 |
| | | 1101 | | | 1271 |
| | | 1102 | | | 1272 |
| | | 1103 | | | 1273 |
| | | 1104A | | | 1274 |
| | | 1104B | | | 1274a |
| | | 1105 | | | 1275 |
| | | 1108 | | | 1279a |
| | | 1109 | | | 1279b |
| | | 1110 | | | 1279c |
| | | 1111 | | | 1279d |
| | | 1111 | | | 1279f |
| | | 1112 | | | 1279e |
| | | 1112 | | | 1279g |
| | | 1201 | | | 1281 |
| | | 1202 | | | 1282 |
| | | 1203 | | | 1283 |
| | | 1204 | | | 1284 |
| | | 1205 | | | 1285 |
| | | 1206 | | | 1286 |
| | | 1207 | | | 1287 |
| | | 1208 | | | 1288 |
| | | 1209 | | | 1289 |
| | | 1210 | | | 1290 |
| | | 1211 | | | 1291 |
| | | 1212 | | | 1292 |
| | | 1213 | | | 1293 |
| | | 1214 | | | 1294 |
| | | 1301 | | | 1295 |
| | | 1302 | | | 1295a |
| | | 1303 | | | 1295b |
| | | 1304 | | | 1295c |
| | | 1305 | | | 1295d |
| | | 1306 | | | 1295e |
| | | 1307 | | | 1295f |
| | | 1308 | | | 1295g |
| 1938 Apr. 26 | 174 | | 52 | 223 | 289a |
| June 25 | 681 | 1st proviso on p. 1119 | 52 | 1119 | 1111a |
| 1940 June 29 | 442 | | 54 | 684 | 1242a |
| 1941 Feb. 6 | 5 | 4 | 55 | 6 | 1125a |
| 1947 Mar. 22 | 20 | proviso under heading "Independent Offices". | 61 | 18 | 1116a |
| 1948 June 19 | 526 | | 62 | 496 | 740 |
| June 30 | 775 | 101 (last proviso on p. 1199) | 62 | 1199 | 864a |
| 1949 June 29 | 281 | 1 (proviso) | 63 | 349 | 864b |
| 1950 Dec. 27 | 1155 | 1, 2 | 64 | 1120 | 3 nt prec. |
| 1951 June 2 | 121 | pars. under heading "Vessel Operations Revolving Fund". | 65 | 59 | 1241a |
| Nov. 1 | 664 | par. under heading "War-Risk Insurance Revolving Fund". | 65 | 746 | 1288a |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| 1956 June 20 | 415 | 101 (par. beginning with "Vessel operations revolving fund"). | 70 | 319 | 1241b, 1241b nt |
| July 14 | 600 | 2 | 70 | 544 | 883a |
| | | 3 | 70 | 544 | 883b |
| Aug. 1 | 846 | | 70 | 897 | 1241c |
| 1957 June 13 | 85–52 | 101 (1st proviso on p. 73) | 71 | 73 | 1177a |
| 1958 June 25 | 85–469 | 101 (par. under heading "Federal Ship Mortgage Insurance Fund"). | 72 | 231 | 1280 |
| 1960 June 12 | 86–518 | 9 | 74 | 217 | 1125 nt |
| 1961 June 30 | 87–77 | | 75 | 196 | 289b |
| Sept. 13 | 87–220 | 2 | 75 | 493 | 251a |
| | | 3 | 75 | 493 | 251b |
| 1965 June 30 | 89–56 | | 79 | 195 | 1111 nt |
| July 30 | 89–99 | 1 | 79 | 424 | 441 |
| | | 3 | 79 | 424 | 443 |
| | | 4 | 79 | 424 | 444 |
| 1966 Nov. 6 | 89–777 | 2 | 80 | 1356 | 817d |
| | | 3 | 80 | 1357 | 817e |
| 1976 July 14 | 94–361 | 603 | 90 | 929 | 1126–1 |
| Oct. 4 | 94–455 | 807 | 90 | 1606 | 1177–1 |
| 1977 Dec. 13 | 95–208 | 1 | 91 | 1475 | 1501 nt |
| | | 2 | 91 | 1475 | 1501 |
| | | 3 | 91 | 1476 | 1502 |
| | | 4 | 91 | 1476 | 1503 |
| | | 5 | 91 | 1477 | 1504 |
| | | 6 | 91 | 1478 | 1505 |
| | | 7 | 91 | 1479 | 1506 |
| | | 8 | 91 | 1479 | 1507 |
| 1980 Sept. 15 | 96–350 | 1 | 94 | 1159 | 1901 |
| | | 2 | 94 | 1160 | 1902 |
| | | 3 | 94 | 1160 | 1903 |
| | | 4 | 94 | 1160 | 1904 |
| Oct. 6 | 96–382 | 1 | 94 | 1525 | 763a |
| Oct. 7 | 96–387 | 5 | 94 | 1546 | 1121–1 |
| 1981 Aug. 6 | 97–31 | 2 | 95 | 151 | 1601 |
| | | 3 | 95 | 151 | 1602 |
| | | 4 | 95 | 151 | 1603 |
| | | 5 | 95 | 151 | 1604 |
| | | 6 | 95 | 151 | 1605 |
| | | 8 | 95 | 152 | 1607 |
| | | 9 | 95 | 152 | 1608 |
| 1982 Oct. 15 | 97–322 | 201 | 96 | 1588 | 446 nt |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| | | 204 | 96 | 1589 | 446 |
| | | 205 | 96 | 1589 | 446a |
| | | 206 | 96 | 1590 | 446b |
| | | 207 | 96 | 1590 | 446c |
| 1984 Mar. 20 | 98–237 | 1 | 98 | 67 | 1701 nt |
| | | 2 | 98 | 67 | 1701 |
| | | 3 | 98 | 67 | 1702 |
| | | 4 | 98 | 70 | 1703 |
| | | 5 | 98 | 70 | 1704 |
| | | 6 | 98 | 72 | 1705 |
| | | 7 | 98 | 73 | 1706 |
| | | 8 | 98 | 74 | 1707 |
| | | 9 | 98 | 76 | 1708 |
| | | 10 | 98 | 77 | 1709 |
| | | 11 | 98 | 80 | 1710 |
| | | 12 | 98 | 81 | 1711 |
| | | 13 | 98 | 82 | 1712 |
| | | 14 | 98 | 83 | 1713 |
| | | 15 | 98 | 84 | 1714 |
| | | 16 | 98 | 84 | 1715 |
| | | 17 | 98 | 84 | 1716 |
| | | 19 | 98 | 87 | 1718 |
| | | 20(e) | 98 | 90 | 1719 |
| Oct. 5 | 98–454 | 302 | 98 | 1734 | 808a |
| Oct. 30 | 98–563 | | 98 | 2916 | 289c |
| 1985 Dec. 23 | 99–198 | 1141 | 99 | 1490 | 1241d |
| | | 1143 | 99 | 1496 | 1241p |
| 1986 Aug. 27 | 99–399 | 902 | 100 | 889 | 1801 |
| | | 905 | 100 | 890 | 1802 |
| | | 907 | 100 | 891 | 1803 |
| | | 908 | 100 | 891 | 1804 |
| | | 909 | 100 | 892 | 1805 |
| | | 910 | 100 | 892 | 1806 |
| | | 911 | 100 | 892 | 1807 |
| | | 912 | 100 | 892 | 1808 |
| | | 913 | 100 | 892 | 1809 |
| 1987 Dec. 22 | 100–202 | 101(a) [title V (par. under heading "Ocean Freight Differential")]. | 101 | 1329, 1329–27 | 1241h nt |
| | | 101(a) [title V (4th proviso on p. 1329-28)]. | 101 | 1329, 1329–28 | 1295c–1 |
| 1988 May 30 | 100–324 | 1 | 102 | 576 | 2001 nt |
| | | 2 | 102 | 576 | 2001 |
| | | 3 | 102 | 576 | 2002 |
| | | 4 | 102 | 576 | 2003 |
| | | 5 | 102 | 576 | 2004 |
| | | 6 | 102 | 577 | 2005 |
| | | 7 | 102 | 577 | 2006 |
| | | 8 | 102 | 577 | 2007 |
| Aug. 23 | 100–418 | 10002 | 102 | 1570 | 1710a |
| 1989 Oct. 13 | 101–115 | 4 | 103 | 692 | 1295c nt |
| | | 8 | 103 | 694 | 1121–2 |
| 1990 Nov. 28 | 101–624 | 1521 | 104 | 3665 | 1241q |
| | | 1522 | 104 | 3665 | 1241r |
| | | 1523 | 104 | 3666 | 1241s |
| | | 1524 | 104 | 3667 | 1241t |
| | | 1526 | 104 | 3668 | 1241u |

Statutes at Large—Continued

| Date | Chapter or Public Law | Section | Statutes at Large | | U.S. Code (46 App. unless otherwise specified) |
|---|---|---|---|---|---|
| | | | Volume | Page | |
| | | 1527 | 104 | 3668 | 1241v |
| 1993 Nov. 30 | 103–160 | 1358 | 107 | 1816 | 1280a |
| 1996 Oct. 19 | 104–324 | 1117 | 110 | 3973 | 46 U.S.C. 12101 nt |
| | | 1120(f) | 110 | 3978 | 883 nt |
| 1998 Oct. 14 | 105–258 | 401 | 112 | 1916 | 1273a |
| Oct. 21 | 105–277 | 203(b)–(e) | 112 | 2681–619 | 46 U.S.C. 12102 nt |
| Nov. 13 | 105–383 | 502–504 | 112 | 3445 | 46 U.S.C. 12106 nt |
| 2000 Oct. 30 | 106–398 | 1 [§ 3506] | 114 | 1654, 1654A–494 | 1118 nt |
| 2002 Nov. 25 | 107–295 | 403 | 116 | 2114 | 46 U.S.C. 12119 nt |
| | | 404 | 116 | 2114 | 316a |
| 2003 Nov. 24 | 108–136 | 3527 | 117 | 1802 | 1280b |

Reorganization Plans

| Year | Plan No. | Section | Statutes at Large | |
|---|---|---|---|---|
| | | | Volume | Page |
| 1949 | 6 | | 63 | 1069 |
| 1950 | 21 | 201, 203, 204 | 64 | 1276 |
| 1961 | 7 | 101–105, 201, 301, 302 | 75 | 840, 842 |

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 1442:

HOUSE REPORTS: No. 109–170 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed House.
Vol. 152 (2006): Sept. 13, considered and passed Senate.

# Public Law 109–305
# 109th Congress

## An Act

To amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the Treasury, and for other purposes.

Oct. 6, 2006

[H.R. 5074]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Railroad Retirement Technical Improvement Act of 2006.
45 USC 231t note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Railroad Retirement Technical Improvement Act of 2006".

**SEC. 2. DISBURSEMENT AGENT.**

Section 7(b)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) is amended so that subparagraph (A) reads as follows:

> "(A) The Secretary of the Treasury shall serve as the disbursing agent for benefits payable under this Act, under such rules and regulations as the Secretary may in the Secretary's discretion prescribe.".

Approved October 6, 2006.

---

LEGISLATIVE HISTORY—H.R. 5074:

HOUSE REPORTS: No. 109–569 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 25, considered and passed House.
Sept. 25, considered and passed Senate.

# Public Law 109–306
# 109th Congress

## An Act

Oct. 6, 2006
[H.R. 5187]

To amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.**

(a) MAINTENANCE, REPAIR, AND SECURITY.—Section 13(a) of the John F. Kennedy Center Act (20 U.S.C. 76r(a)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking ", 2006, and 2007." and inserting "and 2006; and"; and

(3) by adding at the end the following:

"(3) $19,100,000 for fiscal year 2007.".

(b) CAPITAL PROJECTS.—Section 13(b) of such Act (20 U.S.C. 76r(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking ", 2006, and 2007." and inserting "and 2006; and"; and

(3) by adding at the end the following:

"(3) $20,000,000 for fiscal year 2007.".

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 5187:

HOUSE REPORTS: No. 109–514 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 25, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 109–307
109th Congress

# An Act

To amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

Oct. 6, 2006
[H.R. 5574]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Children's Hospital GME Support Reauthorization Act of 2006.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Children's Hospital GME Support Reauthorization Act of 2006".

**SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.**

(a) IN GENERAL.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in subsection (a), by inserting "and each of fiscal years 2007 through 2011" after "for each of fiscal years 2000 through 2005";

(2) in subsection (e)(1), by striking "26" and inserting "12";

(3) in subsection (f)(1)(A)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) for each of fiscal years 2007 through 2011, $110,000,000."; and

(4) in subsection (f)(2)—

(A) in the matter before subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(B)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(D) for each of fiscal years 2007 through 2011, $220,000,000.".

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) ANNUAL REPORTING REQUIRED.—

"(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—

"(i) IN GENERAL.—The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

"(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

"(II) such report fails to provide the information required under any clause of such subparagraph.

"(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

"(B) ANNUAL REPORT.—The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

"(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

"(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

"(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

"(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the

first year in which the hospital received payment under this section), including—

"(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

"(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

"(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

"(C) RESIDENTS.—The residents described in this subparagraph are those who—

"(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

"(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

"(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

"(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

"(ii) describing the results of the program carried out under this section; and

"(iii) making recommendations for improvements to the program.".

(c) TECHNICAL AMENDMENTS.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—

(1) in subsection (c)(2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year";

(2) in subsection (e)(2), by striking the first sentence; and

(3) in subsection (e)(3), by striking "made to pay" and inserting "made and pay".

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 5574 (S. 285):

HOUSE REPORTS: No. 109–508 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
June 21, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendment.

# Public Law 109–308
# 109th Congress

## An Act

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

Oct. 6, 2006
[H.R. 3858]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pets Evacuation and Transportation Standards Act of 2006.
42 USC 5121 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pets Evacuation and Transportation Standards Act of 2006".

**SEC. 2. STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS.**

Section 613 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS.—In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the Director shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.".

**SEC. 3. EMERGENCY PREPAREDNESS MEASURES OF THE DIRECTOR.**

Section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) is amended—

(1) in subsection (e)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) plans that take into account the needs of individuals with pets and service animals prior to, during, and following a major disaster or emergency."; and

(2) in subsection (j)—

(A) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States and local authorities for animal emergency

preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.".

**SEC. 4. PROVIDING ESSENTIAL ASSISTANCE TO INDIVIDUALS WITH HOUSEHOLD PETS AND SERVICE ANIMALS FOLLOWING A DISASTER.**

Section 403(a)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)(3)) is amended—

(1) in subparagraph (H), by striking "and" at the end;

(2) in subparagraph (I), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(J) provision of rescue, care, shelter, and essential needs—

"(i) to individuals with household pets and service animals; and

"(ii) to such pets and animals.".

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 3858:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 22, considered and passed House.
Aug. 3, considered and passed Senate, amended.
Sept. 20, House concurred in Senate amendment.

Public Law 109–309
109th Congress

# An Act

To amend the Ojito Wilderness Act to make a technical correction.

Oct. 6, 2006
[H.R. 4841]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. OJITO WILDERNESS MAP.**

Section 2(1) of the Ojito Wilderness Act (16 U.S.C. 1132 note; Public Law 109–94) is amended by striking "October 1, 2004" and inserting "January 24, 2006".

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 4841:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 14, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–310
# 109th Congress

## An Act

Oct. 6, 2006
[S. 3187]

To designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the "Richard L. Cevoli Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RICHARD L. CEVOLI POST OFFICE.**

(a) DESIGNATION.—The post office located at 5755 Post Road, East Greenwich, Rhode Island, shall be known and designated as the "Richard L. Cevoli Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the Richard L. Cevoli Post Office.

Approved October 6, 2006.

LEGISLATIVE HISTORY—S. 3187:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 20, considered and passed Senate.
Sept. 28, considered and passed House.

# Public Law 109–311
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the "Major George Quamo Post Office Building".

Oct. 6, 2006
[S. 3613]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MAJOR GEORGE QUAMO POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, shall be known and designated as the "Major George Quamo Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Major George Quamo Post Office Building".

Approved October 6, 2006.

LEGISLATIVE HISTORY—S. 3613:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Aug. 2, considered and passed Senate.
Sept. 28, considered and passed House.

# Public Law 109–312
# 109th Congress

## An Act

Oct. 6, 2006
[H.R. 683]

To amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Trademark Dilution Revision Act of 2006.
15 USC 1051 note.

**SECTION 1. SHORT TITLE.**

(a) SHORT TITLE.—This Act may be cited as the "Trademark Dilution Revision Act of 2006".

(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

**SEC. 2. DILUTION BY BLURRING; DILUTION BY TARNISHMENT.**

Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) DILUTION BY BLURRING; DILUTION BY TARNISHMENT.—

"(1) INJUNCTIVE RELIEF.—Subject to the principles of equity, the owner of a famous mark that is distinctive, inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

"(2) DEFINITIONS.—(A) For purposes of paragraph (1), a mark is famous if it is widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner. In determining whether a mark possesses the requisite degree of recognition, the court may consider all relevant factors, including the following:

"(i) The duration, extent, and geographic reach of advertising and publicity of the mark, whether advertised or publicized by the owner or third parties.

"(ii) The amount, volume, and geographic extent of sales of goods or services offered under the mark.

"(iii) The extent of actual recognition of the mark.

"(iv) Whether the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

"(B) For purposes of paragraph (1), 'dilution by blurring' is association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, including the following:

"(i) The degree of similarity between the mark or trade name and the famous mark.

"(ii) The degree of inherent or acquired distinctiveness of the famous mark.

"(iii) The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark.

"(iv) The degree of recognition of the famous mark.

"(v) Whether the user of the mark or trade name intended to create an association with the famous mark.

"(vi) Any actual association between the mark or trade name and the famous mark.

"(C) For purposes of paragraph (1), 'dilution by tarnishment' is association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.

"(3) EXCLUSIONS.—The following shall not be actionable as dilution by blurring or dilution by tarnishment under this subsection:

"(A) Any fair use, including a nominative or descriptive fair use, or facilitation of such fair use, of a famous mark by another person other than as a designation of source for the person's own goods or services, including use in connection with—

"(i) advertising or promotion that permits consumers to compare goods or services; or

"(ii) identifying and parodying, criticizing, or commenting upon the famous mark owner or the goods or services of the famous mark owner.

"(B) All forms of news reporting and news commentary.

"(C) Any noncommercial use of a mark.

"(4) BURDEN OF PROOF.—In a civil action for trade dress dilution under this Act for trade dress not registered on the principal register, the person who asserts trade dress protection has the burden of proving that—

"(A) the claimed trade dress, taken as a whole, is not functional and is famous; and

"(B) if the claimed trade dress includes any mark or marks registered on the principal register, the unregistered matter, taken as a whole, is famous separate and apart from any fame of such registered marks.

"(5) ADDITIONAL REMEDIES.—In an action brought under this subsection, the owner of the famous mark shall be entitled to injunctive relief as set forth in section 34. The owner of the famous mark shall also be entitled to the remedies set forth in sections 35(a) and 36, subject to the discretion of the court and the principles of equity if—

"(A) the mark or trade name that is likely to cause dilution by blurring or dilution by tarnishment was first used in commerce by the person against whom the injunction is sought after the date of enactment of the Trademark Dilution Revision Act of 2006; and

"(B) in a claim arising under this subsection—

"(i) by reason of dilution by blurring, the person against whom the injunction is sought willfully intended to trade on the recognition of the famous mark; or

"(ii) by reason of dilution by tarnishment, the person against whom the injunction is sought willfully intended to harm the reputation of the famous mark.

"(6) OWNERSHIP OF VALID REGISTRATION A COMPLETE BAR TO ACTION.—The ownership by a person of a valid registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register under this Act shall be a complete bar to an action against that person, with respect to that mark, that—

"(A)(i) is brought by another person under the common law or a statute of a State; and

"(ii) seeks to prevent dilution by blurring or dilution by tarnishment; or

"(B) asserts any claim of actual or likely damage or harm to the distinctiveness or reputation of a mark, label, or form of advertisement.

"(7) SAVINGS CLAUSE.—Nothing in this subsection shall be construed to impair, modify, or supersede the applicability of the patent laws of the United States."; and

(2) in subsection (d)(1)(B)(i)(IX), by striking "(c)(1) of section 43" and inserting "(c)".

**SEC. 3. CONFORMING AMENDMENTS.**

(a) MARKS REGISTRABLE ON THE PRINCIPAL REGISTER.—Section 2(f) of the Trademark Act of 1946 (15 U.S.C. 1052(f)) is amended—

(1) by striking the last two sentences; and

(2) by adding at the end the following: "A mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be refused registration only pursuant to a proceeding brought under section 13. A registration for a mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be canceled pursuant to a proceeding brought under either section 14 or section 24.".

(b) OPPOSITION.—Section 13(a) of the Trademark Act of 1946 (15 U.S.C. 1063(a)) is amended in the first sentence by striking "as a result of dilution" and inserting "the registration of any mark which would be likely to cause dilution by blurring or dilution by tarnishment".

(c) CANCELLATION.—Section 14 of the Trademark Act of 1946 (15 U.S.C. 1064) is amended, in the matter preceding paragraph (1) by striking ", including as a result of dilution under section 43(c)," and inserting ", including as a result of a likelihood of dilution by blurring or dilution by tarnishment under section 43(c),".

(d) MARKS FOR THE SUPPLEMENTAL REGISTER.—The second sentence of section 24 of the Trademark Act of 1946 (15 U.S.C. 1092) is amended to read as follows:

"Whenever any person believes that such person is or will be damaged by the registration of a mark on the supplemental register—

"(1) for which the effective filing date is after the date on which such person's mark became famous and which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c); or

"(2) on grounds other than dilution by blurring or dilution by tarnishment, such person may at any time, upon payment of the prescribed fee and the filing of a petition stating the ground therefor, apply to the Director to cancel such registration.".

(e) DEFINITIONS.—Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by striking the definition relating to the term "dilution".

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 683:

HOUSE REPORTS: No. 109–23 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Apr. 19, considered and passed House.
Vol. 152 (2006): Mar. 8, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment.

# Public Law 109–313
# 109th Congress

## An Act

Oct. 6, 2006
[H.R. 2066]

To amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

General Services Administration Modernization Act.
40 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "General Services Administration Modernization Act".

**SEC. 2. FEDERAL ACQUISITION SERVICE.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

### "§ 303. Federal Acquisition Service

"(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services shall appoint a Commissioner of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

"(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for carrying out functions related to the uses for which the Acquisition Services Fund is authorized under section 321 of this title, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.

"(c) REGIONAL EXECUTIVES.—The Administrator may appoint Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.".

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of such title is amended to read as follows:

"303. Federal Acquisition Service.".

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking "Commissioner, Federal Supply Service, General Services Administration." and inserting the following:

"Commissioner, Federal Acquisition Service, General Services Administration.".

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document— 40 USC 303 note.

(1) to the Federal Supply Service is deemed to refer to the Federal Acquisition Service; 22 USC 2669; 44 USC 2107 note.

(2) to the GSA Federal Technology Service is deemed to refer to the Federal Acquisition Service; 10 USC 2302 note.

(3) to the Commissioner of the Federal Supply Service is deemed to refer to the Commissioner of the Federal Acquisition Service; and

(4) to the Commissioner of the GSA Federal Technology Service is deemed to refer to the Commissioner of the Federal Acquisition Service.

**SEC. 3. ACQUISITION SERVICES FUND.**

(a) ABOLISHMENT OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished. 40 USC 321 note.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund and shall be merged with and be available for the purposes of the Acquisition Services Fund under section 321 of title 40, United States Code (as amended by this Act).

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

"(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

"(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

"(A) the net proceeds of disposal of surplus personal property; and

"(B) receipts from carriers and others for loss of, or damage to, personal property; and

"(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

"(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to

be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

"(4) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.".

(e) USES OF FUND.—Section 321(c) of such title is amended in paragraph (1)(A)—

(1) by striking "and" at the end of clause (i);

(2) by inserting "and" after the semicolon at the end of clause (ii); and

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

"(iii) personal services related to the provision of information technology (as defined in section 11101(6) of this title);".

(f) PAYMENT FOR PROPERTY AND SERVICES.—Section 321(d)(2)(A) of such title is amended—

(1) by striking "and" at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

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

"(v) the cost of personal services employed directly in providing information technology (as defined in section 11101(6) of this title); and".

(g) TRANSFER OF UNCOMMITTED BALANCES.—Subsection (f) of section 321 of such title is amended to read as follows:

"(f) TRANSFER OF UNCOMMITTED BALANCES.—Following the close of each fiscal year, after making provision for a sufficient level of inventory of personal property to meet the needs of Federal agencies, the replacement cost of motor vehicles, and other anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.".

(h) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 322 of such title is repealed.

(2) The heading for section 321 of such title is amended to read as follows:

**"§ 321. Acquisition Services Fund".**

(3) The table of sections for chapter 3 of such title is amended by striking the items relating to sections 321 and 322 and inserting the following:

"321. Acquisition Services Fund.".

(4) Section 573 of such title is amended by striking "General Supply Fund" both places it appears and inserting "Acquisition Services Fund".

(5) Section 604(b) of such title is amended—

(A) in the heading, by striking "GENERAL SUPPLY FUND" and inserting "ACQUISITION SERVICES FUND"; and

(B) in the text, by striking "General Supply Fund" and inserting "Acquisition Services Fund".

(6) Section 605 of such title is amended—

(A) in subsection (a)—

(i) in the heading, by striking "GENERAL SUPPLY FUND" and inserting "ACQUISITION SERVICES FUND"; and

(ii) in the text, by striking "General Supply Fund" and inserting "Acquisition Services Fund"; and

(B) in subsection (b)(2)—

(i) by striking "321(f)(1)" and inserting "321(f)"; and

(ii) by striking "General Supply Fund" and inserting "Acquisition Services Fund".

**SEC. 4. PROVISIONS RELATING TO ACQUISITION PERSONNEL.**

Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end the following new subsection:

"(i) PROVISIONS RELATING TO REEMPLOYMENT.—

"(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator and the Director of the Office of Personnel Management, shall establish policies and procedures under which the agency head may reemploy in an acquisition-related position (as described in subsection (g)(1)(A)) an individual receiving an annuity from the Civil Service Retirement and Disability Fund, on the basis of such individual's service, without discontinuing such annuity. The head of each executive agency shall keep the Administrator informed of the agency's use of this authority.

"(2) SERVICE NOT SUBJECT TO CSRS OR FERS.—An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

"(3) CRITERIA FOR EXERCISE OF AUTHORITY.—Polices and procedures established pursuant to this subsection shall authorize the head of the executive agency, on a case-by-case basis, to continue an annuity if—

"(A) the unusually high or unique qualifications of an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service,

"(B) the exceptional difficulty in recruiting or retaining a qualified employee, or

"(C) a temporary emergency hiring need,

makes the reemployment of an individual essential.

"(4) REPORTING REQUIREMENT.—The Administrator shall submit annually to the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the use of the authority under this subsection, including the number of employees reemployed under authority of this subsection.

"(5) SUNSET PROVISION.—The authority under this subsection shall expire on December 31, 2011.".

**SEC. 5. DISPOSAL OF FEDERAL SURPLUS PROPERTY TO HISTORIC LIGHT STATIONS.**

Section 549(c)(3)(B) of title 40, United States Code, is amended—

(1) in clause (vii), by striking "or" after the semicolon;

(2) in clause (viii), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(ix) a historic light station as defined under section 308(e)(2) of the National Historic Preservation

Act (16 U.S.C. 470w–7(e)(2)), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.".

5 USC 5316 note.

**SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 2066:

HOUSE REPORTS: No. 109–91 (Comm. on Government Reform).
SENATE REPORTS: No. 109–257 (Comm. on Homeland Security and Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 151 (2005): May 23, considered and passed House.
Vol. 152 (2006): Sept. 6, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendments.

Public Law 109–314
109th Congress

# An Act

To amend Public Law 104–329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes.

Oct. 6, 2006
[H.R. 2107]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

National Law Enforcement Officers Memorial Maintenance Fund Act of 2005. 16 USC 431 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Law Enforcement Officers Memorial Maintenance Fund Act of 2005".

**SEC. 2. COOPERATIVE AGREEMENT WITH RESPECT TO NATIONAL LAW ENFORCEMENT MEMORIAL MAINTENANCE FUND.**

(a) IN GENERAL.—Section 201 of Public Law 104–329 is amended by adding at the end the following new subsection:

"(d) COOPERATIVE AGREEMENT.—

"(1) IN GENERAL.—Effective on and after the date of the enactment of the National Law Enforcement Memorial Maintenance Fund Act of 2005, the following applies, notwithstanding other provisions of this Act:

Effective date.

"(A) The Secretary of the Interior, acting through the National Park Service, shall enter into a cooperative agreement with the National Law Enforcement Officers Memorial Fund, Inc., a nonprofit corporation incorporated under the laws of the District of Columbia, to carry out the purposes of the Fund as described in subsection (b).

"(B) In accordance with the terms of such agreement, the Secretary shall transfer all amounts in the Fund to the Corporation.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'Corporation' means the National Law Enforcement Officers Memorial Fund, Inc.; and

"(B) the term 'Secretary' means the Secretary of the Interior.".

(b) PURPOSES OF FUND.—Section 201(b) of Public Law 104–329 is amended—

(1) in paragraph (3), by inserting "and" after the semicolon;

(2) by striking paragraphs (4), (6), and (7), and redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4) (as so redesignated), by striking the semicolon and inserting a period.

Approved October 6, 2006.

LEGISLATIVE HISTORY—H.R. 2107:

SENATE REPORTS: No. 109–247 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): May 16, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

Public Law 109–315
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the "Jacob Samuel Fletcher Post Office Building".

Oct. 10, 2006
[H.R. 5664]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JACOB SAMUEL FLETCHER POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, shall be known and designated as the "Jacob Samuel Fletcher Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Jacob Samuel Fletcher Post Office Building".

Approved October 10, 2006.

LEGISLATIVE HISTORY—H.R. 5664:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 20, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–316
# 109th Congress

## An Act

Oct. 10, 2006
[H.R. 6159]

To extend temporarily certain authorities of the Small Business Administration.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TEMPORARY EXTENSION.**

Any program, authority, or provision, including any pilot program, authorized under the Small Business Act (15 U.S.C. 631 et seq.) or the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) as of September 30, 2006, that is scheduled to expire on or after September 30, 2006 and before February 2, 2007, shall remain authorized through February 2, 2007, under the same terms and conditions in effect on September 30, 2006.

Approved October 10, 2006.

LEGISLATIVE HISTORY—H.R. 6159:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 26, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–317
109th Congress

# An Act

To authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

Oct. 11, 2006
[H.R. 318]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NATIONAL PARK SERVICE STUDY REGARDING CASTLE NUGENT FARMS.**

(a) FINDINGS.—Congress finds the following:

(1) Castle Nugent Farms, located on the southeastern shore of St. Croix, U.S. Virgin Islands, is the largest parcel of privately-held land in the Virgin Islands and has been an operating cattle ranch for 50 years.

(2) This land has the largest and healthiest fringing coral reef anywhere in the Virgin Islands.

(3) It consists of Caribbean dry forest and pasturelands with considerable cultural resources including both pre-Columbian and post-European settlement.

(4) Castle Nugent Farms contains a large historic 17th century Danish estate house that sits on over 4 miles of pristine Caribbean oceanfront property.

(5) In addition to being an area for turtle nesting and night heron nesting, it is the home for the Senepol cattle breed, a unique breed of cattle that was developed on St. Croix in the early 1900's to adapt to the island's climate.

(b) STUDY.—The Secretary of the Interior shall carry out a study regarding the suitability and feasibility of designating Castle Nugent Farms as a unit of the National Park System.

(c) STUDY PROCESS AND COMPLETION.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study required by this section.

Approved October 11, 2006.

---

LEGISLATIVE HISTORY—H.R. 318:

SENATE REPORTS: No. 109–241 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 15, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–318
# 109th Congress

## An Act

To amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area, and for other purposes.

Oct. 11, 2006
[H.R. 326]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. YUMA CROSSING NATIONAL HERITAGE AREA BOUNDARY ADJUSTMENT.**

16 USC 461 note.

Section 3(b) of the Yuma Crossing National Heritage Area Act of 2000 (16 U.S.C. 461 note; Public Law 106–319; 114 Stat. 1281) is amended to read as follows:

"(b) BOUNDARIES.—The Heritage Area shall comprise the lands generally depicted on the map entitled 'Yuma Crossing National Heritage Area Boundary Adjustment', numbered 903–80071, and dated October 16, 2005.".

Approved October 11, 2006.

LEGISLATIVE HISTORY—H.R. 326:

HOUSE REPORTS: No. 109–294 (Comm. on Resources).
SENATE REPORTS: No. 109–242 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 15, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–319
# 109th Congress

## An Act

Oct. 11, 2006
[H.R. 1728]

To authorize the Secretary of the Interior to study the suitability and feasibility of designating portions of Ste. Genevieve County in the State of Missouri as a unit of the National Park System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Ste. Genevieve County National Historic Site Study Act of 2005.
Conservation.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ste. Genevieve County National Historic Site Study Act of 2005".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) AREA.—The term "Area" means Ste. Genevieve County, Missouri, which includes the Bequette-Ribault, St. Gemme-Amoureaux, and Wilhauk homes, and the related and supporting historical assets located in Ste. Genevieve County, Missouri.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

**SEC. 3. STUDY.**

Deadline.

(a) In General.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall, in consultation with the State of Missouri—

(1) complete a study on the suitability and feasibility of designating the Area as a unit of the National Park System, which shall include the potential impact that designation of the area as a unit of the National Park System is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted; and

Reports.

(2) submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings of the study.

(b) Contents.—The study under subsection (a) shall be conducted in accordance with Public Law 91–383 (16 U.S.C. 1a–1 et seq.).

Approved October 11, 2006.

LEGISLATIVE HISTORY—H.R. 1728:

HOUSE REPORTS: No. 109–338 (Comm. on Resources).
SENATE REPORTS: No. 109–246 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 28, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–320
# 109th Congress

## An Act

Oct. 11, 2006
[H.R. 2720]

To further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Salt Cedar and Russian Olive Control Demonstration Act.
7 USC 7781 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Salt Cedar and Russian Olive Control Demonstration Act".

7 USC 7781 note.

**SEC. 2. SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION PROGRAM.**

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this Act as the "Secretary"), acting through the Commissioner of Reclamation and the Director of the United States Geological Survey and in cooperation with the Secretary of Agriculture and the Secretary of Defense, shall carry out a salt cedar (Tamarix spp) and Russian olive (Elaeagnus angustifolia) assessment and demonstration program—

(1) to assess the extent of the infestation by salt cedar and Russian olive trees in the western United States;

(2) to demonstrate strategic solutions for—

(A) the long-term management of salt cedar and Russian olive trees; and

(B) the reestablishment of native vegetation; and

(3) to assess economic means to dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

(b) MEMORANDUM OF UNDERSTANDING.—As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of Agriculture shall enter into a memorandum of understanding providing for the administration of the program established under subsection (a).

(c) ASSESSMENT.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation on public and private land in the western United States.

(2) REQUIREMENTS.—In addition to describing the acreage of and severity of infestation by salt cedar and Russian olive trees in the western United States, the assessment shall—

(A) consider existing research on methods to control salt cedar and Russian olive trees;

(B) consider the feasibility of reducing water consumption by salt cedar and Russian olive trees;

(C) consider methods of and challenges associated with the revegetation or restoration of infested land; and

(D) estimate the costs of destruction of salt cedar and Russian olive trees, related biomass removal, and revegetation or restoration and maintenance of the infested land.

(3) REPORT.—

(A) IN GENERAL.—The Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources and the Committee on Agriculture of the House of Representatives a report that includes the results of the assessment conducted under paragraph (1). Reports.

(B) CONTENTS.—The report submitted under subparagraph (A) shall identify—

(i) long-term management and funding strategies identified under subsection (d) that could be implemented by Federal, State, tribal, and private land managers and owners to address the infestation by salt cedar and Russian olive;

(ii) any deficiencies in the assessment or areas for additional study; and

(iii) any field demonstrations that would be useful in the effort to control salt cedar and Russian olive.

(d) LONG-TERM MANAGEMENT STRATEGIES.—

(1) IN GENERAL.—The Secretary shall identify and document long-term management and funding strategies that—

(A) could be implemented by Federal, State, tribal, and private land managers in addressing infestation by salt cedar and Russian olive trees; and

(B) should be tested as components of demonstration projects under subsection (e).

(2) GRANTS.—

(A) IN GENERAL.—The Secretary may provide grants to eligible entities to provide technical experience, support, and recommendations relating to the identification and documentation of long-term management and funding strategies under paragraph (1).

(B) ELIGIBLE ENTITIES.—Institutions of higher education and nonprofit organizations with an established background and expertise in the public policy issues associated with the control of salt cedar and Russian olive trees shall be eligible for a grant under subparagraph (A).

(C) MINIMUM AMOUNT.—The amount of a grant provided under subparagraph (A) shall be not less than $250,000.

(e) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall establish a program that selects and funds not less than 5 projects proposed by and implemented in collaboration with Federal agencies, units of State and local government, national laboratories, Indian tribes, institutions of higher education, individuals, organizations, or soil and water conservation districts to demonstrate and evaluate the most Deadline.

effective methods of controlling salt cedar and Russian olive trees.

(2) PROJECT REQUIREMENTS.—The demonstration projects under paragraph (1) shall—

(A) be carried out over a time period and to a scale designed to fully assess long-term management strategies;

(B) implement salt cedar or Russian olive tree control using 1 or more methods for each project in order to assess the full range of control methods, including—

(i) airborne application of herbicides;

(ii) mechanical removal; and

(iii) biocontrol methods, such as the use of goats or insects;

(C) individually or in conjunction with other demonstration projects, assess the effects of and obstacles to combining multiple control methods and determine optimal combinations of control methods;

(D) assess soil conditions resulting from salt cedar and Russian olive tree infestation and means to revitalize soils;

(E) define and implement appropriate final vegetative states and optimal revegetation methods, with preference for self-maintaining vegetative states and native vegetation, and taking into consideration downstream impacts, wildfire potential, and water savings;

(F) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive trees;

(G) monitor and document any water savings from the control of salt cedar and Russian olive trees, including impacts to both groundwater and surface water;

(H) assess wildfire activity and management strategies;

(I) assess changes in wildlife habitat;

(J) determine conditions under which removal of biomass is appropriate (including optimal methods for the disposal or use of biomass); and

(K) assess economic and other impacts associated with control methods and the restoration and maintenance of land.

(f) DISPOSITION OF BIOMASS.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall complete an analysis of economic means to use or dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

(2) REQUIREMENTS.—The analysis shall—

(A) determine conditions under which removal of biomass is economically viable;

(B) consider and build upon existing research by the Department of Agriculture and other agencies on beneficial uses of salt cedar and Russian olive tree fiber; and

(C) consider economic development opportunities, including manufacture of wood products using biomass resulting from demonstration projects under subsection (e) as a means of defraying costs of control.

(g) COSTS.—

(1) IN GENERAL.—With respect to projects and activities carried out under this Act—

(A) the assessment under subsection (c) shall be carried out at a cost of not more than $4,000,000;

(B) the identification and documentation of long-term management strategies under subsection (d)(1) and the provision of grants under subsection (d)(2) shall be carried out at a cost of not more than $2,000,000;

(C) each demonstration project under subsection (e) shall be carried out at a Federal cost of not more than $7,000,000 (including costs of planning, design, implementation, maintenance, and monitoring); and

(D) the analysis under subsection (f) shall be carried out at a cost of not more than $3,000,000.

(2) COST-SHARING.—

(A) IN GENERAL.—The assessment under subsection (c), the identification and documentation of long-term management strategies under subsection (d), a demonstration project or portion of a demonstration project under subsection (e) that is carried out on Federal land, and the analysis under subsection (f) shall be carried out at full Federal expense.

(B) DEMONSTRATION PROJECTS CARRIED OUT ON NON-FEDERAL LAND.—

(i) IN GENERAL.—The Federal share of the costs of any demonstration project funded under subsection (e) that is not carried out on Federal land shall not exceed 75 percent.

(ii) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the costs of a demonstration project that is not carried out on Federal land may be provided in the form of in-kind contributions, including services provided by a State agency or any other public or private partner.

(h) COOPERATION.—In carrying out the assessment under subsection (c), the demonstration projects under subsection (e), and the analysis under subsection (f), the Secretary shall cooperate with and use the expertise of Federal agencies and the other entities specified in subsection (e)(1) that are actively conducting research on or implementing salt cedar and Russian olive tree control activities.

(i) INDEPENDENT REVIEW.—The Secretary shall subject to independent review—

(1) the assessment under subsection (c);

(2) the identification and documentation of long-term management strategies under subsection (d);

(3) the demonstration projects under subsection (e); and

(4) the analysis under subsection (f).

(j) REPORTING.—

(1) IN GENERAL.—The Secretary shall submit to Congress an annual report that describes the results of carrying out this Act, including a synopsis of any independent review under subsection (I) and details of the manner and purposes for which funds are expended.

(2) PUBLIC ACCESS.—The Secretary shall facilitate public access to all information that results from carrying out this Act.

(k) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act—

(A) $20,000,000 for fiscal year 2006; and

(B) $15,000,000 for each of fiscal years 2007 through 2010.

(2) ADMINISTRATIVE COSTS.—Not more than 15 percent of amounts made available under paragraph (1) shall be used to pay the administrative costs of carrying out the program established under subsection (a).

(l) TERMINATION OF AUTHORITY.—This Act and the authority provided by this Act terminate on the date that is 5 years after the date of the enactment of this Act.

Approved October 11, 2006.

LEGISLATIVE HISTORY—H.R. 2720:

HOUSE REPORTS: No. 109–341, Pt. 1 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 2, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–321
109th Congress

# An Act

To direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District.

Oct. 11, 2006
[H.R. 3443]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITIONS.**

In this Act:

(1) CONTRACT.—The term "contract" means—

(A) the contract between the United States and the Northern Colorado Water Conservancy District providing for the construction of the Colorado-Big Thompson Project, dated July 5, 1938; and

(B) any amendments and supplements to the contract described in subparagraph (A).

(2) DISTRICT.—The term "District" means the Northern Colorado Water Conservancy District.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRANSFERRED WATER DISTRIBUTION FACILITIES.—The term "transferred water distribution facilities" means the following facilities of the Colorado-Big Thompson Project located in the counties of Larimer, Boulder, and Weld, Colorado:

(A) The St. Vrain Supply Canal.

(B) The Boulder Creek Supply Canal that extends from the St. Vrain River to Boulder Creek, including that portion that extends from the St. Vrain River to Boulder Reservoir, which is also known as the "Boulder Feeder Canal".

(C) The South Platte Supply Canal.

**SEC. 2. CONVEYANCE OF TRANSFERRED WATER DISTRIBUTION FACILITIES.**

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law, convey to the District all right, title, and interest in and to the transferred water distribution facilities.

(b) CONSIDERATION.—

(1) DISTRICT.—

(A) FINDING.—Congress finds that the District has completed the obligation of the District to repay the capital costs of the Colorado-Big Thompson Project under the contract.

(B) NO CONSIDERATION REQUIRED.—The District shall not be required to provide additional consideration for the

conveyance of the transferred water distribution facilities under subsection (a).

(2) ELECTRIC CUSTOMERS.—The Western Area Power Administration shall continue to include the unpaid portion of the transferred facilities in its annual power repayment studies for the Loveland Area Projects until such facilities are repaid in accordance with the laws and policies regarding repayment of investment in effect on the date of enactment of this Act.

(c) NO EFFECT ON OBLIGATIONS AND RIGHTS.—Except as expressly provided in this Act, nothing in this Act affects or modifies the obligations and rights of the District under the contract, including the obligation of the District to make payments required under the contract.

**SEC. 3. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the transferred water distribution facilities under this Act, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on any prior ownership or operation by the United States of the transferred water distribution facilities.

**SEC. 4. EFFECT.**

Any actions or activities undertaken by the Secretary under this Act shall not affect, impact, or create any additional burdens or obligations on the New Consolidated Lower Boulder Reservoir and Ditch Company or the New Coal Ridge Ditch Company in the full exercise of their rights to water, water rights, or real property rights or in the full exercise of their rights to utilize facilities affected by this Act.

**SEC. 5. REPORTS.**

Deadline.

(a) IN GENERAL.—If the transferred water distribution facilities have not been conveyed by the Secretary to the District by the date that is 1 year after the date of enactment of this Act, not later than 30 days after that date, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes—

(1) the reasons for the failure to convey the transferred water distribution facilities; and

(2) the schedule for completing the transfer as soon as practicable.

(b) ANNUAL REPORTS.—The Secretary shall continue to provide annual reports that provide the information described in subsection

(a) until the date on which the transferred water distribution facilities are conveyed in accordance with this Act.

Approved October 11, 2006.

LEGISLATIVE HISTORY—H.R. 3443:

HOUSE REPORTS: No. 109–290 (Comm. on Resources).
SENATE REPORTS: No. 109–248 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 13, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–322
# 109th Congress

## An Act

Oct. 11, 2006
[H.R. 5539]

To reauthorize the North American Wetlands Conservation Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

North American Wetlands Conservation Reauthorization Act of 2006.
16 USC 4401 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "North American Wetlands Conservation Reauthorization Act of 2006".

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking "fiscal year 2007" and inserting "each of fiscal years 2008 through 2012".

Approved October 11, 2006.

---

LEGISLATIVE HISTORY—H.R. 5539 (S. 3617):

HOUSE REPORTS: No. 109–639 (Comm. on Resources).
SENATE REPORTS: No. 109–340 accompanying S. 3617 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–323
109th Congress

# An Act

To extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 109–148.

Oct. 11, 2006
[H.R. 6106]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AUTHORITY.**

Section 105 of title IV of division B of Public Law 109–148 (119 Stat. 2797) is amended—

(1) in subsection (b), by inserting "and, at the discretion of the Secretary, for fiscal year 2007" after "2006"; and

(2) in subsection (c)(2)—

(A) by inserting "or 2007" after "fiscal year 2006"; and

(B) by striking "fiscal year 2007" and inserting "for the respective succeeding fiscal year".

Approved October 11, 2006.

LEGISLATIVE HISTORY—H.R. 6106:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–324
# 109th Congress

## An Act

Oct. 11, 2006
[S. 213]

To direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Rio Arriba County Land Conveyance Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rio Arriba County Land Conveyance Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COUNTY.—The term "County" means the County of Rio Arriba, New Mexico.

(2) MAP.—The term "map" means the map entitled "Alcalde Proposed Land Transfer" and dated September 23, 2004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.**

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 171 acres of land located on the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

(c) REVERSION.—If any portion of the land conveyed under subsection (a) ceases to be used for public purposes the land shall, at the option of the Secretary, revert to the United States.

(d) CONDITIONS ON SALES.—If the County sells any portion of the land conveyed to the County under subsection (a)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the County shall pay to the Secretary an amount equal to the gross proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of New Mexico, without further appropriation.

(e) COSTS.—The County shall pay any costs associated with the conveyance of land under subsection (a).

Approved October 11, 2006.

LEGISLATIVE HISTORY—S. 213:

SENATE REPORTS: No. 109–166 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed Senate.
Vol. 152 (2006): Sept. 27, considered and passed House.

# Public Law 109–325
# 109th Congress

## An Act

Oct. 11, 2006
[S. 2146]

To extend relocation expenses test programs for Federal employees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF RELOCATION EXPENSES TEST PROGRAMS.**

(a) IN GENERAL.—Section 5739 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking "for a period not to exceed 24 months"; and

(2) in subsection (e), by striking "7 years" and inserting "11 years".

5 USC 5739 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

Approved October 11, 2006.

---

LEGISLATIVE HISTORY—S. 2146:

SENATE REPORTS: No. 109–289 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Aug. 1, considered and passed Senate.
Sept. 28, considered and passed House.

# Public Law 109–326
# 109th Congress

## An Act

To amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

Oct. 11, 2006
[S. 2430]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Great Lakes Fish and Wildlife Restoration Act of 2006.
16 USC 941 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 2006".

16 USC 941 note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

(3) it is in the national interest to undertake activities in the Great Lakes Basin that support sustainable fish and wildlife resources of common concern provided under the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force);

(4) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin;

(5) as of the date of enactment of this Act, actions are not funded that are considered essential to meet the goals and objectives in managing the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin; and

(6) the Great Lakes Fish and Wildlife Restoration Act (16 U.S.C. 941 et seq.) allows Federal agencies, States, and tribes to work in an effective partnership by providing the funding for restoration work.

**SEC. 3. DEFINITIONS.**

Section 1004 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941b) is amended—

(1) by striking paragraphs (1), (4), and (12);

(2) by redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), and (14) as paragraphs (1), (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12), respectively;

(3) in paragraph (4) (as redesignated by paragraph (2)), by inserting before the semicolon at the end the following: ", and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin"; and

(4) by inserting after paragraph (7) (as redesignated by paragraph (2)) the following:

"(8) the term 'regional project' means authorized activities of the United States Fish and Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement impacting multiple States or Indian Tribes with fish and wildlife management authority in the Great Lakes basin;".

**SEC. 4. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS.**

Section 1005 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941c) is amended to read as follows:

**"SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.**

"(a) IN GENERAL.—Subject to subsection (b)(2), the Director—

"(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects based on the results of the Report; and

"(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

"(b) IDENTIFICATION OF PROPOSALS AND REGIONAL PROJECTS.—

"(1) REQUEST BY THE DIRECTOR.—The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

"(2) REQUIREMENTS FOR PROPOSALS AND REGIONAL PROJECTS.—A proposal or regional project under paragraph (1) shall be—

"(A) submitted in the manner and form prescribed by the Director; and

"(B) consistent with—

"(i) the goals of the Great Lakes Water Quality Agreement, as amended;

"(ii) the 1954 Great Lakes Fisheries Convention;

"(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

"(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

"(v) the North American Waterfowl Management Plan and joint ventures established under the plan; and

"(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

"(3) SEA LAMPREY AUTHORITY.—The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

"(c) REVIEW OF PROPOSALS.—

"(1) ESTABLISHMENT OF COMMITTEE.—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

"(2) MEMBERSHIP AND APPOINTMENT.—

"(A) IN GENERAL.—The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

"(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

"(ii) 1 representative shall have expertise in wildlife management.

"(B) APPOINTMENTS.—Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

"(C) OBSERVER.—The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

"(D) RECUSAL.—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

"(3) FUNCTIONS.—The Committee shall—

"(A) meet at least annually;

"(B) review proposals and regional projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of this title; and

"(C) recommend to the Director any of those proposals and regional projects that should be funded and implemented under this section.

"(d) IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.—

"(1) IN GENERAL.—After considering recommendations of the Committee and the goals specified in section 1006, the Director shall—

"(A) select proposals and regional projects to be implemented; and

"(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

"(2) SELECTION CRITERIA.—In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws

applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

"(e) COST SHARING.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

"(2) REGIONAL PROJECTS.—Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

"(3) EXCLUSION OF FEDERAL FUNDS FROM NON-FEDERAL SHARE.—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

"(4) EFFECT ON CERTAIN INDIAN TRIBES.—Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).".

**SEC. 5. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.**

Section 1006 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941d) is amended by striking paragraph (1) and inserting the following:

"(1) Restoring and maintaining self-sustaining fish and wildlife resources.".

**SEC. 6. ESTABLISHMENT OF OFFICES.**

Section 1007 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941e) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GREAT LAKES COORDINATION OFFICE.—

"(1) IN GENERAL.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the 'Great Lakes Coordination Office'.

"(2) FUNCTIONAL RESPONSIBILITIES.—The functional responsibilities of the Great Lakes Coordination Office shall include—

"(A) intra- and interagency coordination;

"(B) information distribution; and

"(C) public outreach.

"(3) REQUIREMENTS.—The Great Lakes Coordination Office shall—

"(A) ensure that information acquired under this Act is made available to the public; and

"(B) report to the Director of Region 3, Great Lakes Big Rivers.";

(2) in subsection (b)—

(A) in the first sentence, by striking "The Director" and inserting the following:

"(1) IN GENERAL.—The Director";.

(B) in the second sentence, by striking "The office" and inserting the following:

"(2) NAME AND LOCATION.—The office"; and

(C) by adding at the end the following:

"(3) RESPONSIBILITIES.—The responsibilities of the Lower Great Lakes Fishery Resources Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes."; and

(3) in subsection (c)—

(A) in the first sentence, by striking "The Director" and inserting the following:

"(1) IN GENERAL.—The Director";.

(B) in the second sentence, by striking "Each of the offices" and inserting the following:

"(2) NAME AND LOCATION.—Each of the offices"; and

(C) by adding at the end the following:

"(3) RESPONSIBILITIES.—The responsibilities of the Upper Great Lakes Fishery Resources Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.".

**SEC. 7. REPORTS.**

Section 1008 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941f) is amended to read as follows:

**"SEC. 1008. REPORTS.**

"(a) IN GENERAL.—Not later than December 31, 2011, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes— Deadline.

"(1) actions taken to solicit and review proposals under section 1005;

"(2) the results of proposals implemented under section 1005; and

"(3) progress toward the accomplishment of the goals specified in section 1006.

"(b) PUBLIC ACCESS TO DATA.—For each of fiscal years 2007 through 2012, the Director shall make available through a public access website of the Department information that describes— Website.

"(1) actions taken to solicit and review proposals under section 1005;

"(2) the results of proposals implemented under section 1005;

"(3) progress toward the accomplishment of the goals specified in section 1006;

"(4) the priorities proposed for funding in the annual budget process under this title; and

"(5) actions taken in support of the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

"(c) REPORT.—Not later than June 30, 2007, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives the 2002 report required under this section as in effect on the day before the date of enactment of the Great Lakes Fish and Wildlife Restoration Act of 2006.". Deadline.

16 USC 941 note.

**SEC. 8. CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS.**

The Director of the United States Fish and Wildlife Service—

(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

(2) may reassess and update, as necessary, the findings and recommendations of the report entitled "Great Lakes Fishery Resources Restoration Study", submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

Section 1009 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941g) is amended to read as follows:

**"SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to the Director for each of fiscal years 2007 through 2012—

"(1) $14,000,000 to implement fish and wildlife restoration proposals as selected by the Director under section 1005(e), of which—

"(A) not more than the lesser of 33 1/3 percent or $4,600,000 may be allocated to implement regional projects by the United States Fish and Wildlife Service, as selected by the Director under section 1005(e); and

"(B) the lesser of 5 percent or $700,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity; and

"(2) $2,000,000, which shall be allocated for the activities of the Great Lakes Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and the Lower Great Lakes Fishery Resources Office under section 1007.".

Approved October 11, 2006.

LEGISLATIVE HISTORY—S. 2430:

SENATE REPORTS: No. 109–270 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 11, considered and passed Senate.
Sept. 27, considered and passed House, amended.
Sept. 29, Senate concurred in House amendment.

Public Law 109–327
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, as the "United States Representative Parren J. Mitchell Post Office".

Oct. 12, 2006
[H.R. 4109]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. UNITED STATES REPRESENTATIVE PARREN J. MITCHELL POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, shall be known and designated as the "United States Representative Parren J. Mitchell Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "United States Representative Parren J. Mitchell Post Office".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 4109:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 18, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–328
# 109th Congress

## An Act

Oct. 12, 2006
[H.R. 4674]

To designate the facility of the United States Postal Service located at 110 North Chestnut Street in Olathe, Kansas, as the "Governor John Anderson, Jr. Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 110 North Chestnut Street in Olathe, Kansas, shall be known and designated as the "Governor John Anderson, Jr. Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Governor John Anderson, Jr. Post Office Building".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 4674:

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 2, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–329
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 350 Uinta Drive in Green River, Wyoming, as the "Curt Gowdy Post Office Building".

Oct. 12, 2006
[H.R. 5224]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CURT GOWDY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 350 Uinta Drive in Green River, Wyoming, shall be known and designated as the "Curt Gowdy Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Curt Gowdy Post Office Building".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 5224:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–330
# 109th Congress

## An Act

Oct. 12, 2006
[H.R. 5504]

To designate the facility of the United States Postal Service located at 6029 Broadmoor Street in Mission, Kansas, as the "Larry Winn, Jr. Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LARRY WINN, JR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6029 Broadmoor Street in Mission, Kansas, shall be known and designated as the "Larry Winn, Jr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Larry Winn, Jr. Post Office Building".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 5504:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 19, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–331
# 109th Congress

## An Act

To designate the United States courthouse to be constructed in Greenville, South Carolina, as the "Carroll A. Campbell, Jr. United States Courthouse".

Oct. 12, 2006
[H.R. 5546]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse to be constructed in Greenville, South Carolina, building number SC0017ZZ, shall be known and designated as the "Carroll A. Campbell, Jr. United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Carroll A. Campbell, Jr. United States Courthouse".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 5546:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–332
# 109th Congress

## An Act

Oct. 12, 2006
[H.R. 5606]

To designate the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, as the "William M. Steger Federal Building and United States Courthouse".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, shall be known and designated as the "William M. Steger Federal Building and United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "William M. Steger Federal Building and United States Courthouse".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 5606:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–333
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the "Katherine Dunham Post Office Building".

Oct. 12, 2006
[H.R. 5929]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. KATHERINE DUNHAM POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, shall be known and designated as the "Katherine Dunham Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Katherine Dunham Post Office Building".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 5929:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–334
# 109th Congress

## An Act

Oct. 12, 2006
[H.R. 6033]

To designate the facility of the United States Postal Service located at 39–25 61st Street in Woodside, New York, as the "Thomas J. Manton Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. THOMAS J. MANTON POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 39–25 61st Street in Woodside, New York, shall be known and designated as the "Thomas J. Manton Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Thomas J. Manton Post Office Building".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 6033:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 13, 14, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–335
# 109th Congress

## An Act

To designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the "John F. Seiberling Federal Building and United States Courthouse".

Oct. 12, 2006
[H.R. 6051]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, shall be known and designated as the "John F. Seiberling Federal Building and United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "John F. Seiberling Federal Building and United States Courthouse".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 6051:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–336
# 109th Congress

## An Act

Oct. 12, 2006
[H.R. 6075]

To designate the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the "Robert J. Thompson Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ROBERT J. THOMPSON POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, shall be known and designated as the "Robert J. Thompson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert J. Thompson Post Office Building".

Approved October 12, 2006.

LEGISLATIVE HISTORY—H.R. 6075:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–337
109th Congress

# An Act

To establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

Oct. 12, 2006
[S. 56]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Rio Grande Natural Area Act.
16 USC 460rrr note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Rio Grande Natural Area Act".

16 USC 460rrr.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term "Commission" means the Rio Grande Natural Area Commission established by section 4(a).

(2) NATURAL AREA.—The term "Natural Area" means the Rio Grande Natural Area established by section 3(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

16 USC 460rrr–1.

**SEC. 3. ESTABLISHMENT OF RIO GRANDE NATURAL AREA.**

(a) IN GENERAL.—There is established the Rio Grande Natural Area in the State of Colorado to conserve, restore, and protect the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(b) BOUNDARIES.—The Natural Area shall include the Rio Grande River from the southern boundary of the Alamosa National Wildlife Refuge to the New Mexico State border, extending ¼ mile on either side of the bank of the River.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Natural Area.

(2) EFFECT.—The map and legal description of the Natural Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Natural Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

16 USC 460rrr–2.

**SEC. 4. ESTABLISHMENT OF THE COMMISSION.**

(a) ESTABLISHMENT.—There is established the Rio Grande Natural Area Commission.

(b) PURPOSE.—The Commission shall—

(1) advise the Secretary with respect to the Natural Area; and

(2) prepare a management plan relating to non-Federal land in the Natural Area under section 6(b)(2)(A).

(c) MEMBERSHIP.—The Commission shall be composed of 9 members appointed by the Secretary, of whom—

(1) 1 member shall represent the Colorado State Director of the Bureau of Land Management;

(2) 1 member shall be the manager of the Alamosa National Wildlife Refuge, ex officio;

(3) 3 members shall be appointed based on the recommendation of the Governor of Colorado, of whom—

(A) 1 member shall represent the Colorado Division of Wildlife;

(B) 1 member shall represent the Colorado Division of Water Resources; and

(C) 1 member shall represent the Rio Grande Water Conservation District; and

(4) 4 members shall—

(A) represent the general public;

(B) be citizens of the local region in which the Natural Area is established; and

(C) have knowledge and experience in the fields of interest relating to the preservation, restoration, and use of the Natural Area.

(d) TERMS OF OFFICE.—

(1) IN GENERAL.—Except for the manager of the Alamosa National Wildlife Refuge, the term of office of a member of the Commission shall be 5 years.

(2) REAPPOINTMENT.—A member may be reappointed to the Commission on completion of the term of office of the member.

(e) COMPENSATION.—A member of the Commission shall serve without compensation for service on the Commission.

(f) CHAIRPERSON.—The Commission shall elect a chairperson of the Commission.

(g) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of the chairperson.

(2) PUBLIC MEETINGS.—A meeting of the Commission shall be open to the public.

(3) NOTICE.—Notice of any meeting of the Commission shall be published in advance of the meeting.

(h) TECHNICAL ASSISTANCE.—The Secretary and the heads of other Federal agencies shall, to the maximum extent practicable, provide any information and technical services requested by the Commission to assist in carrying out the duties of the Commission.

16 USC 460rrr–3.

**SEC. 5. POWERS OF THE COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—For purposes of carrying out the management plan on non-Federal land in the Natural Area, the Commission may enter into a cooperative agreement with the State of Colorado, a political subdivision of the State, or any person.

(2) REQUIREMENTS.—A cooperative agreement entered into under paragraph (1) shall establish procedures for providing notice to the Commission of any action proposed by the State of Colorado, a political subdivision of the State, or any person that may affect the implementation of the management plan on non-Federal land in the Natural Area.

(3) EFFECT.—A cooperative agreement entered into under paragraph (1) shall not enlarge or diminish any right or duty of a Federal agency under Federal law.

(c) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The Commission may not acquire any real property or interest in real property.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Commission shall assist the Secretary in implementing the management plan by carrying out the activities described in paragraph (2) to preserve and interpret the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(2) AUTHORIZED ACTIVITIES.—In assisting with the implementation of the management plan under paragraph (1), the Commission may—

(A) assist the State of Colorado in preserving State land and wildlife within the Natural Area;

(B) assist the State of Colorado and political subdivisions of the State in increasing public awareness of, and appreciation for, the natural, historic, scientific, scenic, wildlife, and recreational resources in the Natural Area;

(C) encourage political subdivisions of the State of Colorado to adopt and implement land use policies that are consistent with—

(i) the management of the Natural Area; and

(ii) the management plan; and

(D) encourage and assist private landowners in the Natural Area in the implementation of the management plan.

**SEC. 6. MANAGEMENT PLAN.**

16 USC 460rrr–4.

Deadline.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary and the Commission, in coordination with appropriate agencies in the State of Colorado, political subdivisions of the State, and private landowners in the Natural Area, shall prepare management plans for the Natural Area as provided in subsection (b).

(b) DUTIES OF SECRETARY AND COMMISSION.—

(1) SECRETARY.—The Secretary shall prepare a management plan relating to the management of Federal land in the Natural Area.

(2) COMMISSION.—

(A) IN GENERAL.—The Commission shall prepare a management plan relating to the management of the non-Federal land in the Natural Area.

(B) APPROVAL OR DISAPPROVAL.—

(i) IN GENERAL.—The Commission shall submit to the Secretary the management plan prepared under subparagraph (A) for approval or disapproval.

(ii) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan submitted under clause (i), the Secretary shall—

(I) notify the Commission of the reasons for the disapproval; and

(II) allow the Commission to submit to the Secretary revisions to the management plan submitted under clause (i).

(3) COOPERATION.—The Secretary and the Commission shall cooperate to ensure that the management plans relating to the management of Federal land and non-Federal land are consistent.

(c) REQUIREMENTS.—The management plans shall—

(1) take into consideration Federal, State, and local plans in existence on the date of enactment of this Act to present a unified preservation, restoration, and conservation plan for the Natural Area;

(2) with respect to Federal land in the Natural Area—

(A) be developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);

(B) be consistent, to the maximum extent practicable, with the management plans adopted by the Director of the Bureau of Land Management for land adjacent to the Natural Area; and

(C) be considered to be an amendment to the San Luis Resource Management Plan of the Bureau of Land Management; and

(3) include—

(A) an inventory of the resources contained in the Natural Area (including a list of property in the Natural Area that should be preserved, restored, managed, developed, maintained, or acquired to further the purposes of the Natural Area); and

(B) a recommendation of policies for resource management, including the use of intergovernmental cooperative agreements, that—

(i) protect the resources of the Natural Area; and

(ii) provide for solitude, quiet use, and pristine natural values of the Natural Area.

(d) PUBLICATION.—The Secretary shall publish notice of the management plans in the Federal Register.

16 USC 460rrr–5.

**SEC. 7. ADMINISTRATION OF NATURAL AREA.**

(a) IN GENERAL.—The Secretary shall administer the Federal land in the Natural Area—

(1) in accordance with—

(A) the laws (including regulations) applicable to public land; and

(B) the management plan; and

(2) in a manner that provides for—

(A) the conservation, restoration, and protection of the natural, historic, scientific, scenic, wildlife, and recreational resources of the Natural Area;

(B) the continued use of the Natural Area for purposes of education, scientific study, and limited public recreation

in a manner that does not substantially impair the purposes for which the Natural Area is established;

(C) the protection of the wildlife habitat of the Natural Area;

(D) a prohibition on the construction of water storage facilities in the Natural Area; and

(E) the reduction in the use of or removal of roads in the Natural Area and, to the maximum extent practicable, the reduction in or prohibition against the use of motorized vehicles in the Natural Area (including the removal of roads and a prohibition against motorized use on Federal land in the area on the western side of the Rio Grande River from Lobatos Bridge south to the New Mexico State line).

(b) CHANGES IN STREAMFLOW.—The Secretary is encouraged to negotiate with the State of Colorado, the Rio Grande Water Conservation District, and affected water users in the State to determine if changes in the streamflow that are beneficial to the Natural Area may be accommodated.

(c) PRIVATE LAND.—The management plan prepared under section 6(b)(2)(A) shall apply to private land in the Natural Area only to the extent that the private landowner agrees in writing to be bound by the management plan.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Natural Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

(e) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire from willing sellers by purchase, exchange, or donation land or an interest in land in the Natural Area.

(2) ADMINISTRATION.—Any land or interest in land acquired under paragraph (1) shall be administered in accordance with the management plan and this Act.

(f) APPLICABLE LAW.—Section 5(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(d)(1)) shall not apply to the Natural Area.

**SEC. 8. EFFECT.** 16 USC 460rrr–6.

Nothing in this Act—

(1) amends, modifies, or is in conflict with the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, ch. 155);

(2) authorizes the regulation of private land in the Natural Area;

(3) authorizes the imposition of any mandatory streamflow requirements;

(4) creates an express or implied Federal reserved water right;

(5) imposes any Federal water quality standard within or upstream of the Natural Area that is more restrictive than would be applicable had the Natural Area not been established; or

(6) prevents the State of Colorado from acquiring an instream flow through the Natural Area under the terms, conditions, and limitations of State law to assist in protecting the natural environment to the extent and for the purposes authorized by State law.

16 USC 460rrr–7.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

16 USC 460rrr–8.

**SEC. 10. TERMINATION OF COMMISSION.**

The Commission shall terminate on the date that is 10 years after the date of enactment of this Act.

Approved October 12, 2006.

---

LEGISLATIVE HISTORY—S. 56:

SENATE REPORTS: No. 109–45 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 26, considered and passed Senate.
Vol. 152 (2006): Sept. 27, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 13, Presidential statement.

# Public Law 109–338
# 109th Congress

## An Act

To reduce temporarily the royalty required to be paid for sodium produced, to establish certain National Heritage Areas, and for other purposes.

Oct. 12, 2006
[S. 203]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Heritage Areas Act of 2006.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

16 USC 461 note.

(a) SHORT TITLE.—This Act may be cited as the "National Heritage Areas Act of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—SODA ASH ROYALTY REDUCTION

Sec. 101. Short title.
Sec. 102. Reduction in royalty rate on soda ash.
Sec. 103. Study.

TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

Subtitle A—Northern Rio Grande National Heritage Area

Sec. 201. Short title.
Sec. 202. Congressional findings.
Sec. 203. Definitions.
Sec. 204. Northern Rio Grande National Heritage Area.
Sec. 205. Authority and duties of the Management Entity.
Sec. 206. Duties of the Secretary.
Sec. 207. Private property protections; savings provisions.
Sec. 208. Sunset.
Sec. 209. Authorization of appropriations.

Subtitle B—Atchafalaya National Heritage Area

Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Atchafalaya National Heritage Area.
Sec. 214. Authorities and duties of the local coordinating entity.
Sec. 215. Management Plan.
Sec. 216. Requirements for inclusion of private property.
Sec. 217. Private property protection.
Sec. 218. Effect of subtitle.
Sec. 219. Reports.
Sec. 220. Authorization of appropriations.
Sec. 221. Termination of authority.

Subtitle C—Arabia Mountain National Heritage Area

Sec. 231. Short title.
Sec. 232. Findings and purposes.
Sec. 233. Definitions.
Sec. 234. Arabia Mountain National Heritage Area.
Sec. 235. Authorities and duties of the local coordinating entity.
Sec. 236. Management Plan.

Sec. 237. Technical and financial assistance.
Sec. 238. Effect on certain authority.
Sec. 239. Authorization of appropriations.
Sec. 240. Termination of authority.
Sec. 241. Requirements for inclusion of private property.
Sec. 242. Private property protection.

Subtitle D—Mormon Pioneer National Heritage Area

Sec. 251. Short title.
Sec. 252. Findings and purpose.
Sec. 253. Definitions.
Sec. 254. Mormon Pioneer National Heritage Area.
Sec. 255. Designation of Alliance as local coordinating entity.
Sec. 256. Management of the Heritage Area.
Sec. 257. Duties and authorities of Federal agencies.
Sec. 258A. Requirements for inclusion of private property.
Sec. 258B. Private property protection.
Sec. 259. Authorization of appropriations.
Sec. 260. Termination of authority.

Subtitle E—Freedom's Frontier National Heritage Area

Sec. 261. Short title.
Sec. 262. Purpose.
Sec. 263. Definitions.
Sec. 264. Freedom's Frontier National Heritage Area.
Sec. 265. Technical and financial assistance; other Federal agencies.
Sec. 266. Private property protection.
Sec. 267. Savings provisions.
Sec. 268. Authorization of appropriations.
Sec. 269. Termination of authority.

Subtitle F—Upper Housatonic Valley National Heritage Area

Sec. 271. Short title.
Sec. 272. Findings and purposes.
Sec. 273. Definitions.
Sec. 274. Upper Housatonic Valley National Heritage Area.
Sec. 275. Authorities, prohibitions, and duties of the Management Entity.
Sec. 276. Management Plan.
Sec. 277. Duties and authorities of the Secretary.
Sec. 278. Duties of other Federal agencies.
Sec. 279. Requirements for inclusion of private property.
Sec. 280. Private property protection.
Sec. 280A. Authorization of appropriations.
Sec. 280B. Sunset.

Subtitle G—Champlain Valley National Heritage Partnership

Sec. 281. Short title.
Sec. 282. Findings and purposes.
Sec. 283. Definitions.
Sec. 284. Heritage Partnership.
Sec. 285. Requirements for inclusion of private property.
Sec. 286. Private property protection.
Sec. 287. Effect.
Sec. 288. Authorization of appropriations.
Sec. 289. Termination of authority.

Subtitle H—Great Basin National Heritage Route

Sec. 291. Short title.
Sec. 291A. Findings and purposes.
Sec. 291B. Definitions.
Sec. 291C. Great Basin National Heritage Route.
Sec. 291D. Memorandum of understanding.
Sec. 291E. Management Plan.
Sec. 291F. Authority and duties of local coordinating entity.
Sec. 291G. Duties and authorities of Federal agencies.
Sec. 291H. Land use regulation; applicability of Federal law.
Sec. 291I. Authorization of appropriations.
Sec. 291J. Termination of authority.
Sec. 291K. Requirements for inclusion of private property.
Sec. 291L. Private property protection.

Subtitle I—Gullah/Geechee Heritage Corridor

Sec. 295. Short title.
Sec. 295A. Purposes.
Sec. 295B. Definitions.
Sec. 295C. Gullah/Geechee Cultural Heritage Corridor.
Sec. 295D. Gullah/Geechee Cultural Heritage Corridor Commission.
Sec. 295E. Operation of the local coordinating entity.
Sec. 295F. Management Plan.
Sec. 295G. Technical and financial assistance.
Sec. 295H. Duties of other Federal agencies.
Sec. 295I. Coastal Heritage Centers.
Sec. 295J. Private property protection.
Sec. 295K. Authorization of appropriations.
Sec. 295L. Termination of authority.

Subtitle J—Crossroads of the American Revolution National Heritage Area

Sec. 297. Short title.
Sec. 297A. Findings and purposes.
Sec. 297B. Definitions.
Sec. 297C. Crossroads of the American Revolution National Heritage Area.
Sec. 297D. Management Plan.
Sec. 297E. Authorities, duties, and prohibitions applicable to the local coordinating entity.
Sec. 297F. Technical and financial assistance; other Federal agencies.
Sec. 297G. Authorization of appropriations.
Sec. 297H. Termination of authority.
Sec. 297I. Requirements for inclusion of private property.
Sec. 297J. Private property protection.

TITLE III—NATIONAL HERITAGE AREA STUDIES

Subtitle A—Western Reserve Heritage Area Study

Sec. 301. Short title.
Sec. 302. National Park Service study regarding the Western Reserve, Ohio.

Subtitle B—St. Croix National Heritage Area Study

Sec. 311. Short title.
Sec. 312. Study.

Subtitle C—Southern Campaign of the Revolution

Sec. 321. Short title.
Sec. 322. Southern Campaign of the Revolution Heritage Area study.
Sec. 323. Private property.

TITLE IV—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS

Sec. 401. Short title.
Sec. 402. Transition and provisions for new local coordinating entity.
Sec. 403. Private property protection.
Sec. 404. Technical amendments.

TITLE V—MOKELUMNE RIVER FEASIBILITY STUDY

Sec. 501. Authorization of Mokelumne River Regional Water Storage and Conjunctive Use Project Study.
Sec. 502. Use of reports and other information.
Sec. 503. Cost shares.
Sec. 504. Water rights.
Sec. 505. Authorization of appropriations.

TITLE VI—DELAWARE NATIONAL COASTAL SPECIAL RESOURCES STUDY

Sec. 601. Short title.
Sec. 602. Study.
Sec. 603. Themes.
Sec. 604. Report.

TITLE VII—JOHN H. CHAFEE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR REAUTHORIZATION

Sec. 701. Short title.
Sec. 702. John H. Chafee Blackstone River Valley National Heritage Corridor.

Sec. 703. New Jersey Coastal Heritage Trail Route.

TITLE VIII—CALIFORNIA RECLAMATION GROUNDWATER REMEDIATION INITIATIVE

Sec. 801. Short title.
Sec. 802. Definitions.
Sec. 803. California basins remediation.
Sec. 804. Sunset of authority.

TITLE IX—NATIONAL COAL HERITAGE AREA

Sec. 901. National Coal Heritage Area amendments.

Soda Ash Royalty Reduction Act of 2006.

# TITLE I—SODA ASH ROYALTY REDUCTION

30 USC 262 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Soda Ash Royalty Reduction Act of 2006".

30 USC 262 note.

**SEC. 102. REDUCTION IN ROYALTY RATE ON SODA ASH.**

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of enactment of this Act shall be 2 percent.

30 USC 262 note.

**SEC. 103. STUDY.**

Reports.

After the end of the 4-year period beginning on the date of enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to Congress on the effects of the royalty reduction under this title, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of enactment of this Act.

# TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

## Subtitle A—Northern Rio Grande National Heritage Area

Northern Rio Grande National Heritage Area Act.
New Mexico.
16 USC 461 note.

**SEC. 201. SHORT TITLE.**

This subtitle may be cited as the "Northern Rio Grande National Heritage Area Act".

**SEC. 202. CONGRESSIONAL FINDINGS.**

The Congress finds that—

(1) northern New Mexico encompasses a mosaic of cultures and history, including 8 Pueblos and the descendants of Spanish ancestors who settled in the area in 1598;

(2) the combination of cultures, languages, folk arts, customs, and architecture make northern New Mexico unique;

(3) the area includes spectacular natural, scenic, and recreational resources;

(4) there is broad support from local governments and interested individuals to establish a National Heritage Area to coordinate and assist in the preservation and interpretation of these resources;

(5) in 1991, the National Park Service study Alternative Concepts for Commemorating Spanish Colonization identified several alternatives consistent with the establishment of a National Heritage Area, including conducting a comprehensive archaeological and historical research program, coordinating a comprehensive interpretation program, and interpreting a cultural heritage scene; and

(6) establishment of a National Heritage Area in northern New Mexico would assist local communities and residents in preserving these unique cultural, historical and natural resources.

**SEC. 203. DEFINITIONS.**

As used in this subtitle—

(1) the term "heritage area" means the Northern Rio Grande Heritage Area; and

(2) the term "Secretary" means the Secretary of the Interior.

**SEC. 204. NORTHERN RIO GRANDE NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is hereby established the Northern Rio Grande National Heritage Area in the State of New Mexico.

(b) BOUNDARIES.—The heritage area shall include the counties of Santa Fe, Rio Arriba, and Taos.

(c) MANAGEMENT ENTITY.—

(1) The Northern Rio Grande National Heritage Area, Inc., a non-profit corporation chartered in the State of New Mexico, shall serve as the management entity for the heritage area.

(2) The Board of Directors for the management entity shall include representatives of the State of New Mexico, the counties of Santa Fe, Rio Arriba and Taos, tribes and pueblos within the heritage area, the cities of Santa Fe, Espanola and Taos,

and members of the general public. The total number of Board members and the number of Directors representing State, local and tribal governments and interested communities shall be established to ensure that all parties have appropriate representation on the Board.

**SEC. 205. AUTHORITY AND DUTIES OF THE MANAGEMENT ENTITY.**

(a) MANAGEMENT PLAN.—

Deadline.

(1) Not later than 3 years after the date of enactment of this Act, the management entity shall develop and forward to the Secretary a management plan for the heritage area.

(2) The management entity shall develop and implement the management plan in cooperation with affected communities, tribal and local governments and shall provide for public involvement in the development and implementation of the management plan.

(3) The management plan shall, at a minimum—

(A) provide recommendations for the conservation, funding, management, and development of the resources of the heritage area;

(B) identify sources of funding;

(C) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the heritage area;

(D) provide recommendations for educational and interpretive programs to inform the public about the resources of the heritage area; and

(E) include an analysis of ways in which local, State, Federal, and tribal programs may best be coordinated to promote the purposes of this subtitle.

(4) If the management entity fails to submit a management plan to the Secretary as provided in paragraph (1), the heritage area shall no longer be eligible to receive Federal funding under this subtitle until such time as a plan is submitted to the Secretary.

Deadline.

(5) The Secretary shall approve or disapprove the management plan within 90 days after the date of submission. If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the plan.

Recommendations.

(6) The management entity shall periodically review the management plan and submit to the Secretary any recommendations for proposed revisions to the management plan. Any major revisions to the management plan must be approved by the Secretary.

(b) AUTHORITY.—The management entity may make grants and provide technical assistance to tribal and local governments, and other public and private entities to carry out the management plan.

(c) DUTIES.—The management entity shall—

(1) give priority in implementing actions set forth in the management plan;

(2) encourage by appropriate means economic viability in the heritage area consistent with the goals of the management plan; and

(3) assist local and tribal governments and non-profit organizations in—

(A) establishing and maintaining interpretive exhibits in the heritage area;

(B) developing recreational resources in the heritage area;

(C) increasing public awareness of, and appreciation for, the cultural, historical, archaeological and natural resources and sits in the heritage area;

(D) the restoration of historic structures related to the heritage area; and

(E) carrying out other actions that the management entity determines appropriate to fulfill the purposes of this subtitle, consistent with the management plan.

(d) PROHIBITION ON ACQUIRING REAL PROPERTY.—The management entity may not use Federal funds received under this subtitle to acquire real property or an interest in real property.

(e) PUBLIC MEETINGS.—The management entity shall hold public meetings at least annually regarding the implementation of the management plan.

(f) ANNUAL REPORTS AND AUDITS.—

(1) For any year in which the management entity receives Federal funds under this subtitle, the management entity shall submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each entity to which any grant was made by the management entity.

(2) The management entity shall make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds. The management entity shall also require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organization make available to the Secretary for audit all records concerning the expenditure of those funds.

**SEC. 206. DUTIES OF THE SECRETARY.**

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon request of the management entity, provide technical and financial assistance to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, archaeological, scenic, and recreational resources of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities consistent with the resources and associated values of the heritage area.

**SEC. 207. PRIVATE PROPERTY PROTECTIONS; SAVINGS PROVISIONS.**

(a) PRIVATE PROPERTY PROTECTION.—

(1) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation or promotion to the management entity.

(2) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the heritage area, shall have their property immediately removed from within the boundary by submitting a written request to the management entity.

(3) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(4) LIABILITY.—Designation of the heritage area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(5) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(6) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the heritage area to participate in or be associated with the heritage area.

(b) EFFECT OF ESTABLISHMENT.—The boundaries designated for the heritage area represent the area within which Federal funds appropriated for the purpose of this subtitle shall be expended. The establishment of the heritage area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the heritage area or its viewshed by the Secretary, the National Park Service, or the management entity.

(c) TRIBAL LANDS.—Nothing in this subtitle shall restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

(d) TRUST RESPONSIBILITIES.—Nothing in this subtitle shall diminish the Federal Government's trust responsibilities or government-to-government obligations to any federally recognized Indian tribe.

**SEC. 208. SUNSET.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

**SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

# Subtitle B—Atchafalaya National Heritage Area

Atchafalaya National Heritage Area Act. Louisiana. 16 USC 461 note.

**SEC. 211. SHORT TITLE.**

This subtitle may be cited as the "Atchafalaya National Heritage Area Act".

**SEC. 212. DEFINITIONS.**

In this subtitle:

(1) HERITAGE AREA.—The term "Heritage Area" means the Atchafalaya National Heritage Area established by section 213(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 213(c).

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 215.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Louisiana.

**SEC. 213. ATCHAFALAYA NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is established in the State the Atchafalaya National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the whole of the following parishes in the State: St. Mary, Iberia, St. Martin, St. Landry, Avoyelles, Pointe Coupee, Iberville, Assumption, Terrebonne, Lafayette, West Baton Rouge, Concordia, East Baton Rouge, and Ascension Parish.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The Atchafalaya Trace Commission shall be the local coordinating entity for the Heritage Area.

(2) COMPOSITION.—The local coordinating entity shall be composed of 14 members appointed by the governing authority of each parish within the Heritage Area.

**SEC. 214. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.**

(a) AUTHORITIES.—For the purposes of developing and implementing the management plan and otherwise carrying out this subtitle, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, units of local government, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—The local coordinating entity shall—

(1) submit to the Secretary for approval a management plan;

(2) implement the management plan, including providing assistance to units of government and others in—

(A) carrying out programs that recognize important resource values within the Heritage Area;

(B) encouraging sustainable economic development within the Heritage Area;

(C) establishing and maintaining interpretive sites within the Heritage Area; and

(D) increasing public awareness of, and appreciation for the natural, historic, and cultural resources of, the Heritage Area;

(3) adopt bylaws governing the conduct of the local coordinating entity; and

(4) for any year for which Federal funds are received under this subtitle, submit to the Secretary a report that describes, for the year—

(A) the accomplishments of the local coordinating entity; and

(B) the expenses and income of the local coordinating entity.

(c) ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or an interest in real property.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly.

**SEC. 215. MANAGEMENT PLAN.**

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the Heritage Area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, scenic, cultural, historic, and recreational resources of the Heritage Area.

(b) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the local coordinating entity shall—

(1) take into consideration State and local plans; and

(2) invite the participation of residents, public agencies, and private organizations in the Heritage Area.

(c) CONTENTS.—The management plan shall include—

Records.

(1) an inventory of the resources in the Heritage Area, including—

(A) a list of property in the Heritage Area that—

(i) relates to the purposes of the Heritage Area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the Heritage Area;

(2) provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with this subtitle;

(3) an interpretation plan for the Heritage Area; and

(4) a program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the Heritage Area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(d) SUBMISSION TO SECRETARY FOR APPROVAL.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle,

the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this subtitle until a management plan for the Heritage Area is submitted to the Secretary.

(e) APPROVAL.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (d)(1), the Secretary, in consultation with the State, shall approve or disapprove the management plan. Deadline.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(f) REVISION.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate. Recommendations.

(2) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

**SEC. 216. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent to the local coordinating entity for such preservation, conservation, or promotion.

(b) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Area shall have that private property immediately removed from the boundary by submitting a written request to the local coordinating entity.

**SEC. 217. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on that private property.

(c) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

**SEC. 218. EFFECT OF SUBTITLE.**

Nothing in this subtitle or in establishment of the Heritage Area—

(1) grants any Federal agency regulatory authority over any interest in the Heritage Area, unless cooperatively agreed on by all involved parties;

(2) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act;

(3) grants any power of zoning or land use to the local coordinating entity;

(4) imposes any environmental, occupational, safety, or other rule, standard, or permitting process that is different from those in effect on the date of enactment of this Act that would be applicable had the Heritage Area not been established;

(5)(A) imposes any change in Federal environmental quality standards; or

(B) authorizes designation of any portion of the Heritage Area that is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) as class 1 for the purposes of that part solely by reason of the establishment of the Heritage Area;

(6) authorizes any Federal or State agency to impose more restrictive water use designations, or water quality standards on uses of or discharges to, waters of the United States or waters of the State within or adjacent to the Heritage Area solely by reason of the establishment of the Heritage Area;

(7) abridges, restricts, or alters any applicable rule, standard, or review procedure for permitting of facilities within or adjacent to the Heritage Area; or

(8) affects the continuing use and operation, where located on the date of enactment of this Act, of any public utility or common carrier.

**SEC. 219. REPORTS.**

For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary a report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

**SEC. 220. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent unless the Secretary determines that no reasonable means are available through which the local coordinating entity can meet its cost sharing requirement for that activity.

**SEC. 221. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance to the local coordinating entity under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

## Subtitle C—Arabia Mountain National Heritage Area

Arabia Mountain National Heritage Area Act. Georgia. 16 USC 461 note.

**SEC. 231. SHORT TITLE.**

This subtitle may be cited as the "Arabia Mountain National Heritage Area Act".

**SEC. 232. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(2) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(3) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(A) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(B) includes federally-protected plant species.

(4) Panola Mountain, a national natural landmark, located in the 860-acre Panola Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(5) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(6) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(7) The community of Klondike is eligible for designation as a National Historic District.

(8) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural,

historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(2) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

**SEC. 233. DEFINITIONS.**

In this subtitle:

(1) HERITAGE AREA.—The term "heritage area" means the Arabia Mountain National Heritage Area established by section 234(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Arabia Mountain Heritage Area Alliance or a successor of the Arabia Mountain Heritage Area Alliance.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 236.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Georgia.

**SEC. 234. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(b) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled "Arabia Mountain National Heritage Area", numbered AMNHA–80,000, and dated October 2003.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the local coordinating entity for the heritage area.

**SEC. 235. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.**

(a) AUTHORITIES.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The local coordinating entity shall develop and submit to the Secretary the management plan.

(B) CONSIDERATIONS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(2) PRIORITIES.—The local coordinating entity shall give priority to implementing actions described in the management plan, including the following:

(A) Assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(B) Encouraging local governments to adopt land use policies consistent with the management of the heritage area and the goals of the management plan.

(3) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(4) ANNUAL REPORT.—For any year in which Federal funds have been made available under this title, the local coordinating entity shall submit to the Secretary an annual report that describes the following:

(A) The accomplishments of the local coordinating entity.

(B) The expenses and income of the local coordinating entity.

(5) AUDIT.—The local coordinating entity shall—

(A) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(B) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The local coordinating entity shall not use Federal funds made available under this title to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this title precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

**SEC. 236. MANAGEMENT PLAN.**

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(b) BASIS.—The management plan shall be based on the preferred concept in the document entitled "Arabia Mountain National Heritage Area Feasibility Study", dated February 28, 2001.

(c) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(1) take into consideration State and local plans; and

(2) involve residents, public agencies, and private organizations in the heritage area.

(d) REQUIREMENTS.—The management plan shall include the following:

(1) An inventory of the resources in the heritage area, including— Records.

(A) a list of property in the heritage area that—

(i) relates to the purposes of the heritage area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the heritage area.

(2) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this subtitle.

(3) An interpretation plan for the heritage area.

(4) A program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(5) A description and evaluation of the local coordinating entity, including the membership and organizational structure of the local coordinating entity.

(e) SUBMISSION TO SECRETARY FOR APPROVAL.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this subtitle until such date as a management plan for the heritage area is submitted to the Secretary.

(f) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (e), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(g) REVISION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

Recommendations.

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

**SEC. 237. TECHNICAL AND FINANCIAL ASSISTANCE.**

(a) IN GENERAL.—At the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

**SEC. 238. EFFECT ON CERTAIN AUTHORITY.**

(a) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this subtitle—

(1) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in section 234(b) but for the establishment of the heritage area by section 234(a); or

(2) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in section 234(b) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by section 234(a).

(b) LAND USE REGULATION.—Nothing in this subtitle—

(1) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(2) grants powers of zoning or land use to the local coordinating entity.

**SEC. 239. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this subtitle shall not exceed 50 percent.

**SEC. 240. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subsubtitle terminates on the date that is 15 years after the date of enactment of this Act.

**SEC. 241. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

**SEC. 242. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this subtitle may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

Mormon Pioneer National Heritage Area Act.
Utah.
16 USC 461 note.

## Subtitle D—Mormon Pioneer National Heritage Area

**SEC. 251. SHORT TITLE.**

This subtitle may be cited as the "Mormon Pioneer National Heritage Area Act".

**SEC. 252. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(2) in the area starting along the Highway 89 corridor at the Arizona border, passing through Kane, Garfield, Piute, Sevier, Wayne, and Sanpete Counties in the State of Utah,

and terminating in Fairview, Utah, there are a variety of heritage resources that demonstrate—

(A) the colonization of the western United States; and

(B) the expansion of the United States as a major world power;

(3) the great relocation to the western United States was facilitated by—

(A) the 1,400-mile trek from Illinois to the Great Salt Lake by the Mormon pioneers; and

(B) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California;

(4) the 250-mile Highway 89 corridor from Kanab to Fairview, Utah, contains some of the best features of the Mormon colonization experience in the United States;

(5) the landscape, architecture, traditions, beliefs, folk life, products, and events along Highway 89 convey the heritage of the pioneer settlement;

(6) the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers—

(A) interacted with Native Americans; and

(B) established towns and cities in a harsh, yet spectacular, natural environment;

(7) the colonization and settlement of the Mormon settlers opened up vast amounts of natural resources, including coal, uranium, silver, gold, and copper;

(8) the Mormon colonization played a significant role in the history and progress of the development and settlement of the western United States; and

(9) the artisans, crafters, innkeepers, outfitters, farmers, ranchers, loggers, miners, historic landscape, customs, national parks, and architecture in the Heritage Area make the Heritage Area unique.

(b) PURPOSE.—The purpose of this subtitle is to establish the Heritage Area to—

(1) foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities in the State;

(2) empower communities in the State to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(3) conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the Heritage Area; and

(4) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the Heritage Area.

**SEC. 253. DEFINITIONS.**

In this subtitle:

(1) ALLIANCE.—The term "Alliance" means the Utah Heritage Highway 89 Alliance.

(2) HERITAGE AREA.—The term "Heritage Area" means the Mormon Pioneer National Heritage Area established by section 254(a).

(3) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 255(a).

(4) MANAGEMENT PLAN.—The term "management plan" means the plan developed by the local coordinating entity under section 256(a).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Utah.

**SEC. 254. MORMON PIONEER NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is established the Mormon Pioneer National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the Heritage Area shall include areas in the State—

(A) that are related to the corridors—

(i) from the Arizona border northward through Kanab, Utah, and to the intersection of Highway 89 and Highway 12, including Highway 12 and Highway 24 as those highways loop off Highway 89 and rejoin Highway 89 at Sigurd;

(ii) from Highway 89 at the intersection of Highway 12 through Panguitch, Junction, Marysvale, and Sevier County to Sigurd;

(iii) continuing northward along Highway 89 through Axtell and Sterling, Sanpete County, to Fairview, Sanpete County, at the junction with Utah Highway 31; and

(iv) continuing northward along Highway 89 through Fairview and Thistle Junction, to the junction with Highway 6; and

(B) including the following communities: Kanab, Mt. Carmel, Orderville, Glendale, Alton, Cannonville, Tropic, Henrieville, Escalante, Boulder, Teasdale, Fruita, Hanksville, Torrey, Bicknell, Loa, Hatch, Panquitch, Circleville, Antimony, Junction, Marysvale, Koosharem, Sevier, Joseph, Monroe, Elsinore, Richfield, Glenwood, Sigurd, Aurora, Salina, Mayfield, Sterling, Gunnison, Fayette, Manti, Ephraim, Spring City, Mt. Pleasant, Moroni, Fountain Green, and Fairview.

(2) MAP.—The Secretary shall prepare a map of the Heritage Area, which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(3) NOTICE TO LOCAL GOVERNMENTS.—The local coordinating entity shall provide to the government of each city, town, and county that has jurisdiction over property proposed to be included in the Heritage Area written notice of the proposed inclusion.

(c) ADMINISTRATION.—The Heritage Area shall be administered in accordance with this subtitle.

**SEC. 255. DESIGNATION OF ALLIANCE AS LOCAL COORDINATING ENTITY.**

(a) IN GENERAL.—The Board of Directors of the Alliance shall be the local coordinating entity for the Heritage Area.

(b) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE FUNDS.—The local coordinating entity may receive amounts made available to carry out this subtitle.

(2) DISQUALIFICATION.—If a management plan is not submitted to the Secretary as required under section 256 within the time period specified in that section, the local coordinating entity may not receive Federal funding under this subtitle until a management plan is submitted to the Secretary.

(c) USE OF FEDERAL FUNDS.—The local coordinating entity may, for the purposes of developing and implementing the management plan, use Federal funds made available under this subtitle—

(1) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with or provide technical assistance to the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(3) to hire and compensate staff;

(4) to obtain funds from any source under any program or law requiring the recipient of funds to make a contribution in order to receive the funds; and

(5) to contract for goods and services.

(d) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds received under this subtitle to acquire real property or any interest in real property.

**SEC. 256. MANAGEMENT OF THE HERITAGE AREA.**

(a) HERITAGE AREA MANAGEMENT PLAN.—

(1) DEVELOPMENT AND SUBMISSION FOR REVIEW.—Not later than 3 years after the date on which funds are made available to carry out the subtitle, the local coordinating entity, with public participation, shall develop and submit for review to the Secretary a management plan for the Heritage Area. Deadline.

(2) CONTENTS.—The management plan shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area; Recommendations.

(B) take into consideration Federal, State, county, and local plans;

(C) involve residents, public agencies, and private organizations in the Heritage Area;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the Heritage Area;

(E) specify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area; and

(F) include—

(i) an inventory of resources in the Heritage Area that— Records.

(I) includes a list of property in the Heritage Area that should be conserved, restored, managed, developed, or maintained because of the historical, cultural, or natural significance of the property as the property relates to the themes of the Heritage Area; and

(II) does not include any property that is privately owned unless the owner of the property consents in writing to the inclusion;

Recommendations.

(ii) a recommendation of policies for resource management that consider the application of appropriate land and water management techniques, including policies for the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the Heritage Area in a manner that is consistent with the support of appropriate and compatible economic viability;

(iii) a program for implementation of the management plan, including plans for restoration and construction;

(iv) a description of any commitments that have been made by persons interested in management of the Heritage Area;

(v) an analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this subtitle; and

(vi) an interpretive plan for the Heritage Area.

(3) APPROVAL OR DISAPPROVAL OF THE MANAGEMENT PLAN.—

Deadline.

(A) IN GENERAL.—Not later than 180 days after submission of the management plan by the local coordinating entity, the Secretary shall approve or disapprove the management plan.

(B) DISAPPROVAL AND REVISIONS.—

(i) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary shall—

(I) advise the local coordinating entity, in writing, of the reasons for the disapproval; and

Recommendations.

(II) make recommendations for revision of the management plan.

Deadline.

(ii) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove proposed revisions to the management plan not later than 60 days after receipt of the revisions from the local coordinating entity.

(b) PRIORITIES.—The local coordinating entity shall give priority to the implementation of actions, goals, and policies set forth in the management plan, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations in—

(A) conserving the historical, cultural, and natural resources of the Heritage Area;

(B) establishing and maintaining interpretive exhibits in the Heritage Area;

(C) developing recreational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for the historical, cultural, and natural resources of the Heritage Area;

(E) restoring historic buildings that are—

(i) located within the boundaries of the Heritage Area; and

(ii) related to the theme of the Heritage Area; and

(F) ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means, including encouraging and soliciting the development of heritage products.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse units of government, businesses, private property owners, and nonprofit organizations in the Heritage Area.

(d) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least annually regarding the implementation of the management plan.

(e) ANNUAL REPORTS.—For any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes—

(1) the accomplishments of the local coordinating entity;

(2) the expenses and income of the local coordinating entity; and

(3) the entities to which the local coordinating entity made any grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—For any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, the local coordinating entity shall—

(1) make available for audit by Congress, the Secretary, and appropriate units of government all records and other information relating to the expenditure of the Federal funds and any matching funds; and

(2) require, with respect to all agreements authorizing expenditure of the Federal funds by other organizations, that the receiving organizations make available for audit all records and other information relating to the expenditure of the Federal funds.

(g) DELEGATION.—

(1) IN GENERAL.—The local coordinating entity may delegate the responsibilities and actions under this subtitle for each area identified in section 254(b)(1).

(2) REVIEW.—All delegated responsibilities and actions are subject to review and approval by the local coordinating entity.

**SEC. 257. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.**

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and, subject to the availability of appropriations, grants to—

(A) units of government, nonprofit organizations, and other persons, at the request of the local coordinating entity; and

(B) the local coordinating entity, for use in developing and implementing the management plan.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this subtitle, require any recipient of

the technical assistance or a grant to enact or modify any land use restriction.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall determine whether a unit of government, nonprofit organization, or other person shall be awarded technical assistance or grants and the amount of technical assistance—

(A) based on the extent to which the assistance—

(i) fulfills the objectives of the management plan; and

(ii) achieves the purposes of this subtitle; and

(B) after giving special consideration to projects that provide a greater leverage of Federal funds.

Public information.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the public with information concerning the location and character of the Heritage Area.

(c) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations for the purposes of implementing this subtitle.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—A Federal entity conducting any activity directly affecting the Heritage Area shall—

(1) consider the potential effect of the activity on the management plan; and

(2) consult with the local coordinating entity with respect to the activity to minimize the adverse effects of the activity on the Heritage Area.

**SEC. 258A. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

**SEC. 258B. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

**SEC. 259. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any activity carried out using funds made available under this subtitle shall not exceed 50 percent.

**SEC. 260. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

## Subtitle E—Freedom's Frontier National Heritage Area

Freedom's Frontier National Heritage Area Act.
Kansas.
Missouri.
16 USC 461 note.

**SEC. 261. SHORT TITLE.**

This subtitle may be cited as the "Freedom's Frontier National Heritage Area Act".

**SEC. 262. PURPOSE.**

The purpose of this subtitle is to use preservation, conservation, education, interpretation, and recreation in eastern Kansas and Western Missouri in heritage development and sustainability of the American story recognized by the American people.

**SEC. 263. DEFINITIONS.**

In this subtitle:

(1) HERITAGE AREA.—The term "Heritage Area" means the Freedom's Frontier National Heritage Area in eastern Kansas and western Missouri.

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means Territorial Kansas Heritage Alliance, recognized by the Secretary, in consultation with the Governors of the States, that agrees to perform the duties of a local coordinating entity under this subtitle, so long as that Alliance is composed of not less than 25 percent residents of Missouri.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 264(e).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means each of the States of Kansas and Missouri.

(6) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means the government of a State, a political subdivision of a State, or an Indian tribe.

**SEC. 264. FREEDOM'S FRONTIER NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is established in the States the Freedom's Frontier National Heritage Area.

(b) BOUNDARIES.—The Heritage Area may include the following:

(1) An area located in eastern Kansas and western Missouri, consisting of—

(A) Allen, Anderson, Atchison, Bourbon, Chautauqua, Cherokee, Clay, Coffey, Crawford, Douglas, Franklin, Geary, Jackson, Johnson, Labette, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Riley, Shawnee, Wabaunsee, Wilson, Woodson, Jefferson, Montgomery, Osage, and Wyandotte Counties in Kansas; and

(B) Buchanan, Platte, Clay, Ray, Lafayette, Jackson, Cass, Johnson, Bates, Vernon, Barton, and St. Clair Counties in Missouri.

(2) Contributing sites, buildings, and districts within the area that are recommended by the management plan.

(c) MAP.—The final boundary of the Heritage Area within the counties identified in subsection (b)(1) shall be specified in the management plan. A map of the Heritage Area shall be included in the management plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The local coordinating entity for the Heritage Area shall be Territorial Kansas Heritage Alliance, a nonprofit organization established in the State of Kansas, recognized by the Secretary, in consultation with the Governors of the States, so long as that Alliance is composed of not less than 25 percent residents of Missouri and agrees to perform the duties of the local coordinating entity under this subtitle.

(2) AUTHORITIES.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(A) make grants to, and enter into cooperative agreements with, the States, political subdivisions of the States, and private organizations;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(e) MANAGEMENT PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and submit to the Secretary a management plan reviewed by participating units of local government within the boundaries of the proposed Heritage Area.

(2) CONTENTS.—The management plan shall—

(A) present a comprehensive program for the conservation, interpretation, funding, management, and development of the Heritage Area, in a manner consistent with the existing local, State, and Federal land use laws and compatible economic viability of the Heritage Area;

Standards.

(B) establish criteria or standards to measure what is selected for conservation, interpretation, funding, management, and development;

(C) involve residents, public agencies, and private organizations working in the Heritage Area;

(D) specify and coordinate, as of the date of the management plan, existing and potential sources of technical and financial assistance under this and other Federal laws to protect, manage, and develop the Heritage Area; and

(E) include—

(i) actions to be undertaken by units of government and private organizations to protect, conserve, and interpret the resources of the Heritage Area;

(ii) an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that meets the establishing criteria (such as, but not exclusive to, visitor readiness) to merit preservation, restoration, management, development, or maintenance because of its natural, cultural, historical, or recreational significance; Records.

(iii) policies for resource management including the development of intergovernmental cooperative agreements, private sector agreements, or any combination thereof, to protect the historical, cultural, recreational, and natural resources of the Heritage Area in a manner consistent with supporting appropriate and compatible economic viability;

(iv) a program for implementation of the management plan by the designated local coordinating entity, in cooperation with its partners and units of local government;

(v) evidence that relevant State, county, and local plans applicable to the Heritage Area have been taken into consideration;

(vi) an analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this subtitle; and

(vii) a business plan that—

(I) describes in detail the role, operation, financing, and functions of the local coordinating entity for each activity included in the recommendations contained in the management plan; and

(II) provides, to the satisfaction of the Secretary, adequate assurances that the local coordinating entity is likely to have the financial resources necessary to implement the management plan for the Heritage Area, including resources to meet matching requirement for grants awarded under this subtitle.

(3) CONSIDERATIONS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area.

(4) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary within 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall be ineligible to receive additional funding under this subtitle Deadline.

until the date on which the Secretary receives the proposed management plan.

Deadline.

(5) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—The Secretary shall approve or disapprove the proposed management plan submitted under this subtitle not later than 90 days after receiving such proposed management plan.

Recommendations.

(6) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed management plan, the Secretary shall advise the local coordinating entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(7) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve substantial amendments to the management plan. Funds appropriated under this subtitle may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

(8) IMPLEMENTATION.—

(A) PRIORITIES.—The local coordinating entity shall give priority to implementing actions described in the management plan, including—

(i) assisting units of government and nonprofit organizations in preserving resources within the Heritage Area; and

(ii) encouraging local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the management plan.

(B) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan. Not less than 25 percent of the public meetings shall be conducted in Missouri.

(f) PUBLIC NOTICE.—The local coordinating entity shall place a notice of each of its public meetings in a newspaper of general circulation in the Heritage Area and shall make the minutes of the meeting available to the public.

(g) ANNUAL REPORT.—For any year in which Federal funds have been made available under this subtitle, the local coordinating entity shall submit to the Secretary an annual report that describes—

(1) the accomplishments of the local coordinating entity; and

(2) the expenses and income of the local coordinating entity.

(h) AUDIT.—The local coordinating entity shall—

(1) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(2) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of the Federal funds and any matching funds.

(i) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—No Federal funds made available under this subtitle may be used to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this subtitle precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

**SEC. 265. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.**

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, and natural resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) SPENDING FOR NON-FEDERAL PROPERTY.—The local coordinating entity may expend Federal funds made available under this subtitle on non-Federal property that—

(A) meets the criteria in the approved management plan; or

(B) is listed or eligible for listing on the National Register of Historic Places.

(4) OTHER ASSISTANCE.—The Secretary may enter into cooperative agreements with public and private organizations to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal entity conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consider the potential effect of the activity on the purposes of the Heritage Area and the management plan;

(2) consult with the local coordinating entity regarding the activity; and

(3) to the maximum extent practicable, conduct or support the activity to avoid adverse effects on the Heritage Area.

(c) OTHER ASSISTANCE NOT AFFECTED.—This subtitle does not affect the authority of any Federal official to provide technical or financial assistance under any other law.

(d) NOTIFICATION OF OTHER FEDERAL ACTIVITIES.—The head of each Federal agency shall provide to the Secretary and the local coordinating entity, to the extent practicable, advance notice of all activities that may have an impact on the Heritage Area.

**SEC. 266. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREAS.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) LAND USE REGULATION.—

(1) IN GENERAL.—The local coordinating entity shall provide assistance and encouragement to State and local governments, private organizations, and persons to protect and promote the resources and values of the Heritage Area.

(2) EFFECT.—Nothing in this subtitle—

(A) affects the authority of the State or local governments to regulate under law any use of land; or

(B) grants any power of zoning or land use to the local coordinating entity.

(f) PRIVATE PROPERTY.—

(1) IN GENERAL.—The local coordinating entity shall be an advocate for land management practices consistent with the purposes of the Heritage Area.

(2) EFFECT.—Nothing in this subtitle—

(A) abridges the rights of any person with regard to private property;

(B) affects the authority of the State or local government regarding private property; or

(C) imposes any additional burden on any property owner.

(g) REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.—

(1) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(2) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

**SEC. 267. SAVINGS PROVISIONS.**

(a) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this subtitle shall be construed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process in the Heritage Area that is different from those that would be applicable if the Heritage Area had not been established.

(b) WATER AND WATER RIGHTS.—Nothing in this subtitle shall be construed to authorize or imply the reservation or appropriation of water or water rights.

(c) NO DIMINISHMENT OF STATE AUTHORITY.—Nothing in this subtitle shall be construed to diminish the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area.

**SEC. 268. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this subtitle shall be not more than 50 percent.

**SEC. 269. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

## Subtitle F—Upper Housatonic Valley National Heritage Area

Upper Housatonic Valley National Heritage Area Act. Connecticut. Massachusetts. 16 USC 461 note.

**SEC. 271. SHORT TITLE.**

This subtitle may be cited as the "Upper Housatonic Valley National Heritage Area Act".

**SEC. 272. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places, including—

(A) five National Historic Landmarks—

(i) Edith Wharton's home, The Mount, Lenox, Massachusetts;

(ii) Herman Melville's home, Arrowhead, Pittsfield, Massachusetts;

(iii) W.E.B. DuBois' Boyhood Homesite, Great Barrington, Massachusetts;

(iv) Mission House, Stockbridge, Massachusetts; and

(v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) four National Natural Landmarks—

(i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;

(ii) Beckley Bog, Norfolk, Connecticut;

(iii) Bingham Bog, Salisbury, Connecticut; and

(iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B.

DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years and Mohicans had a formative role in contact with Europeans during the seventeenth and eighteenth centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) PURPOSES.—The purposes of this subtitle are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled "Upper Housatonic Valley National Heritage Area Feasibility Study, 2003".

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

**SEC. 273. DEFINITIONS.**

In this subtitle:

(1) HERITAGE AREA.—The term "Heritage Area" means the Upper Housatonic Valley National Heritage Area, established in section 274.

(2) MANAGEMENT ENTITY.—The term "Management Entity" means the management entity for the Heritage Area designated by section 274(d).

(3) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area specified in section 276.

(4) MAP.—The term "map" means the map entitled "Boundary Map Upper Housatonic Valley National Heritage Area", numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Connecticut and the Commonwealth of Massachusetts.

**SEC. 274. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut; and

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the management entity for the Heritage Area.

**SEC. 275. AUTHORITIES, PROHIBITIONS, AND DUTIES OF THE MANAGEMENT ENTITY.**

(a) DUTIES OF THE MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 276;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

Public meetings.

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

Reports.

(5) submit an annual report to the Secretary for any fiscal year in which the management entity receives Federal funds under this subtitle, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

Records.

(6) make available for audit for any fiscal year in which it receives Federal funds under this subtitle, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The management entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this subtitle to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their subdivisions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) PROHIBITIONS ON THE ACQUISITION OF REAL PROPERTY.—The management entity may not use Federal funds received under this subtitle to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

**SEC. 276. MANAGEMENT PLAN.**

(a) IN GENERAL.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies and recommendations for conservation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;

(5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; Records.

(6) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of implementation; and

(7) include an interpretive plan for the Heritage Area.

(b) DEADLINE AND TERMINATION OF FUNDING.—

(1) DEADLINE.—The management entity shall submit the management plan to the Secretary for approval within 3 years after funds are made available for this subtitle.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal funding under this subtitle until such time as the management plan is submitted to the Secretary.

**SEC. 277. DUTIES AND AUTHORITIES OF THE SECRETARY.**

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon the request of the management entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in— Contracts.

(1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan. Deadline.

(2) CRITERIA FOR APPROVAL.—In determining the approval of the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials whose cooperation is needed to ensure the effective implementation of the State and local aspects of the management plan.

Recommendations.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision within 60 days after the date it is submitted.

Deadline.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The management entity shall not use Federal funds authorized by this subtitle to implement any amendments until the Secretary has approved the amendments.

**SEC. 278. DUTIES OF OTHER FEDERAL AGENCIES.**

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this subtitle and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

**SEC. 279. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

**SEC. 280. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this subtitle may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

**SEC. 280A. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this subtitle.

(b) MATCHING FUNDS.—Federal funding provided under this subtitle may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this subtitle.

**SEC. 280B. SUNSET.**

The authority of the Secretary to provide assistance under this subtitle shall terminate on the day occurring 15 years after the date of the enactment of this subtitle.

## Subtitle G—Champlain Valley National Heritage Partnership

Champlain Valley National Heritage Partnership Act of 2006.
Vermont.
New York.
16 USC 461 note.

**SEC. 281. SHORT TITLE.**

This subtitle may be cited as the "Champlain Valley National Heritage Partnership Act of 2006".

**SEC. 282. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the Champlain Valley and its extensive cultural and natural resources have played a significant role in the history of the United States and the individual States of Vermont and New York;

(2) archaeological evidence indicates that the Champlain Valley has been inhabited by humans since the last retreat of the glaciers, with the Native Americans living in the area at the time of European discovery being primarily of Iroquois and Algonquin descent;

(3) the linked waterways of the Champlain Valley, including the Richelieu River in Canada, played a unique and significant role in the establishment and development of the United States and Canada through several distinct eras, including—

(A) the era of European exploration, during which Samuel de Champlain and other explorers used the waterways as a means of access through the wilderness;

(B) the era of military campaigns, including highly significant military campaigns of the French and Indian War, the American Revolution, and the War of 1812; and

(C) the era of maritime commerce, during which canal boats, schooners, and steamships formed the backbone of commercial transportation for the region;

(4) those unique and significant eras are best described by the theme "The Making of Nations and Corridors of Commerce";

(5) the artifacts and structures associated with those eras are unusually well-preserved;

(6) the Champlain Valley is recognized as having one of the richest collections of historical resources in North America;

(7) the history and cultural heritage of the Champlain Valley are shared with Canada and the Province of Quebec;

(8) there are benefits in celebrating and promoting this mutual heritage;

(9) tourism is among the most important industries in the Champlain Valley, and heritage tourism in particular plays a significant role in the economy of the Champlain Valley;

(10) it is important to enhance heritage tourism in the Champlain Valley while ensuring that increased visitation will not impair the historical and cultural resources of the region;

(11) according to the 1999 report of the National Park Service entitled "Champlain Valley Heritage Corridor Project", "the Champlain Valley contains resources and represents a theme 'The Making of Nations and Corridors of Commerce', that is of outstanding importance in United States history"; and

(12) it is in the interest of the United States to preserve and interpret the historical and cultural resources of the Champlain Valley for the education and benefit of present and future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York to recognize the importance of the historical, cultural, and recreational resources of the Champlain Valley region to the United States;

(2) to assist the States of Vermont and New York, including units of local government and nongovernmental organizations in the States, in preserving, protecting, and interpreting those resources for the benefit of the people of the United States;

(3) to use those resources and the theme "the making of nations and corridors of commerce" to—

(A) revitalize the economy of communities in the Champlain Valley; and

(B) generate and sustain increased levels of tourism in the Champlain Valley;

(4) to encourage—

(A) partnerships among State and local governments and nongovernmental organizations in the United States; and

(B) collaboration with Canada and the Province of Quebec to—

(i) interpret and promote the history of the waterways of the Champlain Valley region;

(ii) form stronger bonds between the United States and Canada; and

(iii) promote the international aspects of the Champlain Valley region; and

(5) to provide financial and technical assistance for the purposes described in paragraphs (1) through (4).

**SEC. 283. DEFINITIONS.**

In this subtitle:

(1) HERITAGE PARTNERSHIP.—The term "Heritage Partnership" means the Champlain Valley National Heritage Partnership established by section 104(a).

(2) MANAGEMENT ENTITY.—The term "management entity" means the Lake Champlain Basin Program.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan developed under section 284(b)(1)(B)(i).

(4) REGION.—

(A) IN GENERAL.—The term "region" means any area or community in 1 of the States in which a physical, cultural, or historical resource that represents the theme is located.

(B) INCLUSIONS.—The term "region" includes

(i) THE LINKED NAVIGABLE WATERWAYS OF.—

(I) Lake Champlain;

(II) Lake George;

(III) the Champlain Canal; and

(IV) the portion of the Upper Hudson River extending south to Saratoga;

(ii) portions of Grand Isle, Franklin, Chittenden, Addison, Rutland, and Bennington Counties in the State of Vermont; and

(iii) portions of Clinton, Essex, Warren, Saratoga and Washington Counties in the State of New York.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—the term "State" means

(A) the State of Vermont; and

(B) the State of New York.

(7) THEME.—The term "theme" means the theme "The Making of Nations and Corridors of Commerce", as the term is used in the 1999 report of the National Park Service entitled "Champlain Valley Heritage Corridor Project", that describes the periods of international conflict and maritime commerce during which the region played a unique and significant role in the development of the United States and Canada.

**SEC. 284. HERITAGE PARTNERSHIP.**

(a) ESTABLISHMENT.—There is established in the region the Champlain Valley National Heritage Partnership.

(b) MANAGEMENT ENTITY.—

(1) DUTIES.—

(A) IN GENERAL.—The management entity shall implement this subtitle.

(B) MANAGEMENT PLAN.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall develop a management plan for the Heritage Partnership. Deadline.

(ii) EXISTING PLAN.—Pending the completion and approval of the management plan, the management entity may implement the provisions of this subtitle

based on its federally authorized plan "Opportunities for Action, an Evolving Plan For Lake Champlain".

(iii) CONTENTS.—The management plan shall include—

Recommendations.

(I) recommendations for funding, managing, and developing the Heritage Partnership;

(II) a description of activities to be carried out by public and private organizations to protect the resources of the Heritage Partnership;

Records.

(III) a list of specific, potential sources of funding for the protection, management, and development of the Heritage Partnership;

(IV) an assessment of the organizational capacity of the management entity to achieve the goals for implementation; and

Recommendations.

(V) recommendations of ways in which to encourage collaboration with Canada and the Province of Quebec in implementing this subtitle.

(iv) CONSIDERATIONS.—In developing the management plan under clause (i), the management entity shall take into consideration existing Federal, State, and local plans relating to the region.

(v) SUBMISSION TO SECRETARY FOR APPROVAL.—

Deadline.

(I) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit the management plan to the Secretary for approval.

(II) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in subclause (I), the Secretary shall not provide any additional funding under this subtitle until a management plan for the Heritage Partnership is submitted to the Secretary.

Deadline.

(vi) APPROVAL.—Not later than 90 days after receiving the management plan submitted under clause (v)(I), the Secretary, in consultation with the States, shall approve or disapprove the management plan.

(vii) ACTION FOLLOWING DISAPPROVAL.—

(I) GENERAL.—If the Secretary disapproves a management plan under clause (vi), the Secretary shall—

(aa) advise the management entity in writing of the reasons for the disapproval;

Recommendations.

(bb) make recommendations for revisions to the management plan; and

(cc) allow the management entity to submit to the Secretary revisions to the management plan.

(II) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subclause (I)(cc), the Secretary shall approve or disapprove the revision.

(viii) AMENDMENT.—

(I) IN GENERAL.—After approval by the Secretary of the management plan, the management entity shall periodically—

(aa) review the management plan; and

(bb) submt to the Secretary, for review and approval by the Secretary, the recommendations of the management entity for any amendments to the management plan that the management entity considers to be appropriate.

Recommendations.

(II) EXPENDITURE OF FUNDS.—No funds made available under this subtitle shall be used to implement any amendment proposed by the management entity under subclause (I) until the Secretary approves the amendments.

(2) PARTNERSHIPS.—

(A) IN GENERAL.—In carrying out this subtitle, the management entity may enter into partnerships with—

(i) the States, including units of local governments in the States;

(ii) nongovernmental organizations;

(iii) Indian Tribes; and

(iv) other persons in the Heritage Partnership.

(B) GRANTS.—Subject to the availability of funds, the management entity may provide grants to partners under subparagraph (A) to assist in implementing this subtitle.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(c) ASSISTANCE FROM SECRETARY.—To carry out the purposes of this subtitle, the Secretary may provide technical and financial assistance to the management entity.

**SEC. 285. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan until—

(1) the management entity notifies the owner of the private property in writing; and

(2) the owner of the private property provides to the management entity written consent for the preservation, conservation, or promotion.

(b) LANDOWNER WITHDRAWAL.—Private property included within the boundary of the Heritage Partnership shall immediately be withdrawn from the Heritage Partnership if the owner of the property submits a written request to the management entity.

**SEC. 286. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle—

(1) requires a private property owner to allow public access (including access by the Federal Government or State or local governments) to private property; or

(2) modifies any provision of Federal, State, or local law with respect to public access to, or use of, private property.

(b) LIABILITY.—Designation of the Heritage Partnership under this subtitle does not create any liability, or have any effect on

liability under any other law, of a private property owner with respect to any persons injured on the private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle modifies any authority of the Federal Government or State or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS.—Nothing in this subtitle requires the owner of any private property located within the boundaries of the Heritage Partnership to participate in, or be associated with the Heritage Partnership.

(e) EFFECT OF ESTABLISHMENT.—

(1) IN GENERAL.—The boundaries designated for the Heritage Partnership represent the area within which Federal funds appropriated for the purpose of this subtitle shall be expended.

(2) REGULATORY AUTHORITY.—The establishment of the Heritage Partnership and the boundaries of the Heritage Partnership do not provide any regulatory authority that is not in existence on the date of enactment of this Act relating to land use within the Heritage Partnership or the viewshed of the Heritage Partnership by the Secretary, the National Park Service, or the management entity.

**SEC. 287. EFFECT.**

Nothing in this subtitle—

(1) grants powers of zoning or land use to the management entity; or

(2) obstructs or limits private business development activities or resource development activities.

**SEC. 288. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle not more than a total of $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of any activities carried out using Federal funds made available under subsection (a) shall be not less than 50 percent.

**SEC. 289. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

Great Basin National Heritage Route Act.
Utah.
Nevada.
Native Americans.
16 USC 461 note.

# Subtitle H—Great Basin National Heritage Route

**SEC. 291. SHORT TITLE.**

This subtitle may be cited as the "Great Basin National Heritage Route Act".

**SEC. 291A. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the natural, cultural, and historic heritage of the North American Great Basin is nationally significant;

(2) communities along the Great Basin Heritage Route (including the towns of Delta, Utah, Ely, Nevada, and the surrounding communities) are located in a classic western landscape that contains long natural vistas, isolated high desert

valleys, mountain ranges, ranches, mines, historic railroads, archaeological sites, and tribal communities;

(3) the Native American, pioneer, ranching, mining, timber, and railroad heritages associated with the Great Basin Heritage Route include the social history and living cultural traditions of a rich diversity of nationalities;

(4) the pioneer, Mormon, and other religious settlements, and ranching, timber, and mining activities of the region played and continue to play a significant role in the development of the United States, shaped by—

(A) the unique geography of the Great Basin;

(B) an influx of people of Greek, Chinese, Basque, Serb, Croat, Italian, and Hispanic descent; and

(C) a Native American presence (Western Shoshone, Northern and Southern Paiute, and Goshute) that continues in the Great Basin today;

(5) the Great Basin housed internment camps for Japanese-American citizens during World War II, 1 of which, Topaz, was located along the Heritage Route;

(6) the pioneer heritage of the Heritage Route includes the Pony Express route and stations, the Overland Stage, and many examples of 19th century exploration of the western United States;

(7) the Native American heritage of the Heritage Route dates back thousands of years and includes—

(A) archaeological sites;

(B) petroglyphs and pictographs;

(C) the westernmost village of the Fremont culture; and

(D) communities of Western Shoshone, Paiute, and Goshute tribes;

(8) the Heritage Route contains multiple biologically diverse ecological communities that are home to exceptional species such as—

(A) bristlecone pines, the oldest living trees in the world;

(B) wildlife adapted to harsh desert conditions;

(C) unique plant communities, lakes, and streams; and

(D) native Bonneville cutthroat trout;

(9) the air and water quality of the Heritage Route is among the best in the United States, and the clear air permits outstanding viewing of the night skies;

(10) the Heritage Route includes unique and outstanding geologic features such as numerous limestone caves, classic basin and range topography with playa lakes, alluvial fans, volcanics, cold and hot springs, and recognizable features of ancient Lake Bonneville;

(11) the Heritage Route includes an unusual variety of open space and recreational and educational opportunities because of the great quantity of ranching activity and public land (including city, county, and State parks, national forests, Bureau of Land Management land, and a national park);

(12) there are significant archaeological, historical, cultural, natural, scenic, and recreational resources in the Great Basin to merit the involvement of the Federal Government in the development, in cooperation with the Great Basin Heritage

Route Partnership and other local and governmental entities, of programs and projects to—

(A) adequately conserve, protect, and interpret the heritage of the Great Basin for present and future generations; and

(B) provide opportunities in the Great Basin for education; and

(13) the Great Basin Heritage Route Partnership shall serve as the local coordinating entity for a Heritage Route established in the Great Basin.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to foster a close working relationship with all levels of government, the private sector, and the local communities within White Pine County, Nevada, Millard County, Utah, and the Duckwater Shoshone Reservation;

(2) to enable communities referred to in paragraph (1) to conserve their heritage while continuing to develop economic opportunities; and

(3) to conserve, interpret, and develop the archaeological, historical, cultural, natural, scenic, and recreational resources related to the unique ranching, industrial, and cultural heritage of the Great Basin, in a manner that promotes multiple uses permitted as of the date of enactment of this Act, without managing or regulating land use.

**SEC. 291B. DEFINITIONS.**

In this subtitle:

(1) GREAT BASIN.—The term "Great Basin" means the North American Great Basin.

(2) HERITAGE ROUTE.—The term "Heritage Route" means the Great Basin National Heritage Route established by section 291C(a).

(3) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Great Basin Heritage Route Partnership established by section 291C(c).

(4) MANAGEMENT PLAN.—The term "management plan" means the plan developed by the local coordinating entity under section 291E(a).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

**SEC. 291C. GREAT BASIN NATIONAL HERITAGE ROUTE.**

(a) ESTABLISHMENT.—There is established the Great Basin National Heritage Route to provide the public with access to certain historical, cultural, natural, scenic, and recreational resources in White Pine County, Nevada, Millard County, Utah, and the Duckwater Shoshone Reservation in the State of Nevada, as designated by the local coordinating entity.

(b) BOUNDARIES.—The local coordinating entity shall determine the specific boundaries of the Heritage Route.

(c) LOCAL COORDINATING ENTITY.—

(1) IN GENERAL.—The Great Basin Heritage Route Partnership shall serve as the local coordinating entity for the Heritage Route.

(2) BOARD OF DIRECTORS.—The Great Basin Heritage Route Partnership shall be governed by a board of directors that consists of—

(A) 4 members who are appointed by the Board of County Commissioners for Millard County, Utah;

(B) 4 members who are appointed by the Board of County Commissioners for White Pine County, Nevada; and

(C) a representative appointed by each Native American Tribe participating in the Heritage Route.

**SEC. 291D. MEMORANDUM OF UNDERSTANDING.**

(a) IN GENERAL.—In carrying out this subtitle, the Secretary, in consultation with the Governors of the States of Nevada and Utah and the tribal government of each Indian tribe participating in the Heritage Route, shall enter into a memorandum of understanding with the local coordinating entity.

(b) INCLUSIONS.—The memorandum of understanding shall include information relating to the objectives and management of the Heritage Route, including—

(1) a description of the resources of the Heritage Route;

(2) a discussion of the goals and objectives of the Heritage Route, including—

(A) an explanation of the proposed approach to conservation, development, and interpretation; and

(B) a general outline of the anticipated protection and development measures;

(3) a description of the local coordinating entity;

(4) a list and statement of the financial commitment of the initial partners to be involved in developing and implementing the management plan; and

(5) a description of the role of the States of Nevada and Utah in the management of the Heritage Route.

(c) ADDITIONAL REQUIREMENTS.—In developing the terms of the memorandum of understanding, the Secretary and the local coordinating entity shall—

(1) provide opportunities for local participation; and

(2) include terms that ensure, to the maximum extent practicable, timely implementation of all aspects of the memorandum of understanding.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review any amendments of the memorandum of understanding proposed by the local coordinating entity or the Governor of the State of Nevada or Utah.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended to implement a change made by a proposed amendment described in paragraph (1) until the Secretary approves the amendment.

**SEC. 291E. MANAGEMENT PLAN.**

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and submit to the Secretary for approval a management plan for the Heritage Route that— Deadline.

(1) specifies—

(A) any resources designated by the local coordinating entity under section 291C(a); and

(B) the specific boundaries of the Heritage Route, as determined under section 291C(b); and

(2) presents clear and comprehensive recommendations for the conservation, funding, management, and development of the Heritage Route.

(b) CONSIDERATIONS.—In developing the management plan, the local coordinating entity shall—

(1) provide for the participation of local residents, public agencies, and private organizations located within the counties of Millard County, Utah, White Pine County, Nevada, and the Duckwater Shoshone Reservation in the protection and development of resources of the Heritage Route, taking into consideration State, tribal, county, and local land use plans in existence on the date of enactment of this Act;

(2) identify sources of funding;

(3) include—

(A) a program for implementation of the management plan by the local coordinating entity, including—

(i) plans for restoration, stabilization, rehabilitation, and construction of public or tribal property; and

(ii) specific commitments by the identified partners referred to in section 291D(b)(4) for the first 5 years of operation; and

(B) an interpretation plan for the Heritage Route; and

(4) develop a management plan that will not infringe on private property rights without the consent of the owner of the private property.

(c) FAILURE TO SUBMIT.—If the local coordinating entity fails to submit a management plan to the Secretary in accordance with subsection (a), the Heritage Route shall no longer qualify for Federal funding.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after receipt of a management plan under subsection (a), the Secretary, in consultation with the Governors of the States of Nevada and Utah, shall approve or disapprove the management plan.

(2) CRITERIA.—In determining whether to approve a management plan, the Secretary shall consider whether the management plan—

(A) has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments associated with the Heritage Route;

(B) is consistent with and complements continued economic activity along the Heritage Route;

(C) has a high potential for effective partnership mechanisms;

(D) avoids infringing on private property rights; and

(E) provides methods to take appropriate action to ensure that private property rights are observed.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

Recommendations.

(B) make recommendations for revisions to the management plan; and

Deadline.

(C) not later than 90 days after the receipt of any proposed revision of the management plan from the local

coordinating entity, approve or disapprove the proposed revision.

(e) IMPLEMENTATION.—On approval of the management plan as provided in subsection (d)(1), the local coordinating entity, in conjunction with the Secretary, shall take appropriate steps to implement the management plan.

(f) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

**SEC. 291F. AUTHORITY AND DUTIES OF LOCAL COORDINATING ENTITY.**

(a) AUTHORITIES.—The local coordinating entity may, for purposes of preparing and implementing the management plan, use funds made available under this subtitle to—

(1) make grants to, and enter into cooperative agreements with, a State (including a political subdivision), an Indian tribe, a private organization, or any person; and

(2) hire and compensate staff.

(b) DUTIES.—In addition to developing the management plan, the local coordinating entity shall—

(1) give priority to implementing the memorandum of understanding and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in—

(i) establishing and maintaining interpretive exhibits along the Heritage Route;

(ii) developing recreational resources along the Heritage Route;

(iii) increasing public awareness of and appreciation for the archaeological, historical, cultural, natural, scenic, and recreational resources and sites along the Heritage Route; and

(iv) if requested by the owner, restoring, stabilizing, or rehabilitating any private, public, or tribal historical building relating to the themes of the Heritage Route;

(B) encourage economic viability and diversity along the Heritage Route in accordance with the objectives of the management plan; and

(C) encourage the installation of clear, consistent, and environmentally appropriate signage identifying access points and sites of interest along the Heritage Route;

(2) consider the interests of diverse governmental, business, and nonprofit groups associated with the Heritage Route;

(3) conduct public meetings in the region of the Heritage Route at least semiannually regarding the implementation of the management plan;

(4) submit substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for approval by the Secretary; and

(5) for any year for which Federal funds are received under this subtitle—

(A) submit to the Secretary a report that describes, for the year—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) each entity to which any loan or grant was made;

(B) make available for audit all records pertaining to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing the expenditure of Federal funds by any entity, that the receiving entity make available for audit all records pertaining to the expenditure of the funds.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(d) PROHIBITION ON THE REGULATION OF LAND USE.—The local coordinating entity shall not regulate land use within the Heritage Route.

**SEC. 291G. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.**

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may, on request of the local coordinating entity, provide technical and financial assistance to develop and implement the management plan and memorandum of understanding.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall, on request of the local coordinating entity, give priority to actions that assist in—

(A) conserving the significant archaeological, historical, cultural, natural, scenic, and recreational resources of the Heritage Route; and

(B) providing education, interpretive, and recreational opportunities, and other uses consistent with those resources.

(b) APPLICATION OF FEDERAL LAW.—The establishment of the Heritage Route shall have no effect on the application of any Federal law to any property within the Heritage Route.

**SEC. 291H. LAND USE REGULATION; APPLICABILITY OF FEDERAL LAW.**

(a) LAND USE REGULATION.—Nothing in this subtitle—

(1) modifies, enlarges, or diminishes any authority of the Federal, State, tribal, or local government to regulate by law (including by regulation) any use of land; or

(2) grants any power of zoning or land use to the local coordinating entity.

(b) APPLICABILITY OF FEDERAL LAW.—Nothing in this subtitle—

(1) imposes on the Heritage Route, as a result of the designation of the Heritage Route, any regulation that is not applicable to the area within the Heritage Route as of the date of enactment of this Act; or

(2) authorizes any agency to promulgate a regulation that applies to the Heritage Route solely as a result of the designation of the Heritage Route under this subtitle.

**SEC. 291I. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of any activity assisted under this subtitle shall not exceed 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share may be in the form of in-kind contributions, donations, grants, and loans from individuals and State or local governments or agencies.

**SEC. 291J. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

**SEC. 291K. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Route until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Route shall have their property immediately removed from the boundary by submitting a written request to the management entity.

**SEC. 291L. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Route shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE ROUTE.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Route to participate in or be associated with the Heritage Route.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Route represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Route and its boundaries shall not

be construed to provide any nonexisting regulatory authority on land use within the Heritage Route or its viewshed by the Secretary, the National Park Service, or the management entity.

Gullah/Geechee Cultural Heritage Act. State listing. 16 USC 461 note.

# Subtitle I—Gullah/Geechee Heritage Corridor

**SEC. 295. SHORT TITLE.**

This subtitle may be cited as the "Gullah/Geechee Cultural Heritage Act".

**SEC. 295A. PURPOSES.**

The purposes of this subtitle are to—

(1) recognize the important contributions made to American culture and history by African Americans known as the Gullah/Geechee who settled in the coastal counties of South Carolina, Georgia, North Carolina, and Florida;

(2) assist State and local governments and public and private entities in South Carolina, Georgia, North Carolina, and Florida in interpreting the story of the Gullah/Geechee and preserving Gullah/Geechee folklore, arts, crafts, and music; and

(3) assist in identifying and preserving sites, historical data, artifacts, and objects associated with the Gullah/Geechee for the benefit and education of the public.

**SEC. 295B. DEFINITIONS.**

In this subtitle:

(1) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Gullah/Geechee Cultural Heritage Corridor Commission established by section 295D(a).

(2) HERITAGE CORRIDOR.—The term "Heritage Corridor" means the Gullah/Geechee Cultural Heritage Corridor established by section 295C(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 295C. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR.**

(a) ESTABLISHMENT.—There is established the Gullah/Geechee Cultural Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Corridor shall be comprised of those lands and waters generally depicted on a map entitled "Gullah/Geechee Cultural Heritage Corridor" numbered GGCHC 80,000 and dated September 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and in an appropriate State office in each of the States included in the Heritage Corridor. The Secretary shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act, a detailed description and map of the boundaries established under this subsection.

Federal Register, publication.

(2) REVISIONS.—The boundaries of the Heritage Corridor may be revised if the revision is—

(A) proposed in the management plan developed for the Heritage Corridor;

(B) approved by the Secretary in accordance with this subtitle; and

(C) placed on file in accordance with paragraph (1).

(c) ADMINISTRATION.—The Heritage Corridor shall be administered in accordance with the provisions of this subtitle.

**SEC. 295D. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.**

(a) ESTABLISHMENT.—There is hereby established a local coordinating entity to be known as the "Gullah/Geechee Cultural Heritage Corridor Commission" whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of a management plan for those land and waters specified in section 295C(b).

(b) MEMBERSHIP.—The local coordinating entity shall be composed of 15 members appointed by the Secretary as follows:

(1) Four individuals nominated by the State Historic Preservation Officer of South Carolina and two individuals each nominated by the State Historic Preservation Officer of each of Georgia, North Carolina, and Florida and appointed by the Secretary.

(2) Two individuals from South Carolina and one individual from each of Georgia, North Carolina, and Florida who are recognized experts in historic preservation, anthropology, and folklore, appointed by the Secretary.

(c) TERMS.—Members of the local coordinating entity shall be appointed to terms not to exceed 3 years. The Secretary may stagger the terms of the initial appointments to the local coordinating entity in order to assure continuity of operation. Any member of the local coordinating entity may serve after the expiration of their term until a successor is appointed. A vacancy shall be filled in the same manner in which the original appointment was made.

(d) TERMINATION.—The local coordinating entity shall terminate 10 years after the date of enactment of this Act.

**SEC. 295E. OPERATION OF THE LOCAL COORDINATING ENTITY.**

(a) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Corridor, the local coordinating entity shall—

(1) prepare and submit a management plan to the Secretary in accordance with section 295F;

(2) assist units of local government and other persons in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Corridor;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Corridor;

(C) developing recreational and educational opportunities in the Heritage Corridor;

(D) increasing public awareness of and appreciation for the historical, cultural, natural, and scenic resources of the Heritage Corridor;

(E) protecting and restoring historic sites and buildings in the Heritage Corridor that are consistent with Heritage Corridor themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Corridor; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Corridor;

(3) consider the interests of diverse units of government, business, organizations, and individuals in the Heritage Corridor in the preparation and implementation of the management plan;

Public meetings.

(4) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

Reports.

(5) submit an annual report to the Secretary for any fiscal year in which the local coordinating entity receives Federal funds under this subtitle, setting forth its accomplishments, expenses, and income, including grants made to any other entities during the year for which the report is made;

Records.

(6) make available for audit for any fiscal year in which it receives Federal funds under this subtitle, all information pertaining to the expenditure of such funds and any matching funds, and require all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organization make available for audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Corridor.

(b) AUTHORITIES.—The local coordinating entity may, for the purposes of preparing and implementing the management plan, use funds made available under this subtitle to—

(1) make grants to, and enter into cooperative agreements with, the States of South Carolina, North Carolina, Florida, and Georgia, political subdivisions of those States, a nonprofit organization, or any person;

(2) hire and compensate staff;

(3) obtain funds from any source including any that are provided under any other Federal law or program; and

(4) contract for goods and services.

**SEC. 295F. MANAGEMENT PLAN.**

(a) IN GENERAL.—The management plan for the Heritage Corridor shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Corridor;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the historical, cultural, and natural resources of the Heritage Corridor;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Corridor in the first 5 years of implementation;

Records.

(5) include an inventory of the historical, cultural, natural, resources of the Heritage Corridor related to the themes of

the Heritage Corridor that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the Heritage Corridor's historical, cultural, and natural resources;

(7) describe a program for implementation of the management plan including plans for resources protection, restoration, construction, and specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for the ways in which Federal, State, or local programs may best be coordinated to further the purposes of this subtitle; and

(9) include an interpretive plan for the Heritage Corridor.

(b) SUBMITTAL OF MANAGEMENT PLAN.—The local coordinating entity shall submit the management plan to the Secretary for approval not later than 3 years after funds are made available for this subtitle. Deadline.

(c) FAILURE TO SUBMIT.—If the local coordinating entity fails to submit the management plan to the Secretary in accordance with subsection (b), the Heritage Corridor shall not qualify for Federal funding until the management plan is submitted.

(d) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan. Deadline.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(B) the resource preservation and interpretation strategies contained in the management plan would adequately protect the cultural and historic resources of the Heritage Corridor; and

(C) the Secretary has received adequate assurances from appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the local coordinating entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision not later than 60 days after the date it is submitted. Recommendations. Deadline.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed and approved by the Secretary in the same manner as provided in the original management plan. The local coordinating entity shall not use Federal funds authorized by this subtitle to implement any amendments until the Secretary has approved the amendments.

**SEC. 295G. TECHNICAL AND FINANCIAL ASSISTANCE.**

(a) IN GENERAL.—Upon a request of the local coordinating entity, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(b) PRIORITY FOR ASSISTANCE.—In providing assistance under subsection (a), the Secretary shall give priority to actions that assist in—

(1) conserving the significant cultural, historical, and natural resources of the Heritage Corridor; and

(2) providing educational and interpretive opportunities consistent with the purposes of the Heritage Corridor.

(c) SPENDING FOR NON-FEDERAL PROPERTY.—

(1) IN GENERAL.—The local coordinating entity may expend Federal funds made available under this subtitle on nonfederally owned property that is—

(A) identified in the management plan; or

(B) listed or eligible for listing on the National Register for Historic Places.

(2) AGREEMENTS.—Any payment of Federal funds made pursuant to this subtitle shall be subject to an agreement that conversion, use, or disposal of a project so assisted for purposes contrary to the purposes of this subtitle, as determined by the Secretary, shall result in a right of the United States to compensation of all funds made available to that project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

**SEC. 295H. DUTIES OF OTHER FEDERAL AGENCIES.**

Any Federal agency conducting or supporting activities directly affecting the Heritage Corridor shall—

(1) consult with the Secretary and the local coordinating entity with respect to such activities;

(2) cooperate with the Secretary and the local coordinating entity in carrying out their duties under this subtitle and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner in which the local coordinating entity determines will not have an adverse effect on the Heritage Corridor.

Establishment.

**SEC. 295I. COASTAL HERITAGE CENTERS.**

In furtherance of the purposes of this subtitle and using the authorities made available under this subtitle, the local coordinating entity shall establish one or more Coastal Heritage Centers at appropriate locations within the Heritage Corridor in accordance with the preferred alternative identified in the Record of Decision for the Low Country Gullah Culture Special Resource Study and Environmental Impact Study, December 2003, and additional appropriate sites.

**SEC. 295J. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this subtitle shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this subtitle shall be construed

to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of the Heritage Corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this subtitle shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE CORRIDOR.—Nothing in this subtitle shall be construed to require the owner of any private property located within the boundaries of the Heritage Corridor to participate in or be associated with the Heritage Corridor.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Corridor represent the area within which Federal funds appropriated for the purpose of this subtitle shall be expended. The establishment of the Heritage Corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Corridor or its viewshed by the Secretary or the local coordinating entity.

(f) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Corridor until the owner of that private property has been notified in writing by the local coordinating entity and has given written consent for such preservation, conservation, or promotion to the local coordinating entity.

(g) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the Heritage Corridor shall have their property immediately removed from within the boundary by submitting a written request to the local coordinating entity.

**SEC. 295K. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this subtitle not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Corridor under this subtitle.

(b) COST SHARE.—Federal funding provided under this subtitle may not exceed 50 percent of the total cost of any activity for which assistance is provided under this subtitle.

(c) IN-KIND CONTRIBUTIONS.—The Secretary may accept in-kind contributions as part of the non-Federal cost share of any activity for which assistance is provided under this subtitle.

**SEC. 295L. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

# Subtitle J—Crossroads of the American Revolution National Heritage Area

Crossroads of the American Revolution National Heritage Area Act of 2006. New Jersey. 16 USC 461 note.

**SEC. 297. SHORT TITLE.**

This subtitle may be cited as the "Crossroads of the American Revolution National Heritage Area Act of 2006".

**SEC. 297A. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the State of New Jersey was critically important during the American Revolution because of the strategic location of the State between the British armies headquartered in New York City, New York, and the Continental Congress in the city of Philadelphia, Pennsylvania;

(2) General George Washington spent almost half of the period of the American Revolution personally commanding troops of the Continental Army in the State of New Jersey, including 2 severe winters spent in encampments in the area that is now Morristown National Historical Park, a unit of the National Park System;

(3) it was during the 10 crucial days of the American Revolution between December 25, 1776, and January 3, 1777, that General Washington, after retreating across the State of New Jersey from the State of New York to the Commonwealth of Pennsylvania in the face of total defeat, recrossed the Delaware River on the night of December 25, 1776, and went on to win crucial battles at Trenton and Princeton in the State of New Jersey;

(4) Thomas Paine, who accompanied the troops during the retreat, described the events during those days as "the times that try men's souls";

(5) the sites of 296 military engagements are located in the State of New Jersey, including—

(A) several important battles of the American Revolution that were significant to—

(i) the outcome of the American Revolution; and

(ii) the history of the United States; and

(B) several national historic landmarks, including Washington's Crossing, the Old Trenton Barracks, and Princeton, Monmouth, and Red Bank Battlefields;

(6) additional national historic landmarks in the State of New Jersey include the homes of—

(A) Richard Stockton, Joseph Hewes, John Witherspoon, and Francis Hopkinson, signers of the Declaration of Independence;

(B) Elias Boudinout, President of the Continental Congress; and

(C) William Livingston, patriot and Governor of the State of New Jersey from 1776 to 1790;

(7) portions of the landscapes important to the strategies of the British and Continental armies, including waterways, mountains, farms, wetlands, villages, and roadways—

(A) retain the integrity of the period of the American Revolution; and

(B) offer outstanding opportunities for conservation, education, and recreation;

(8) the National Register of Historic Places lists 251 buildings and sites in the National Park Service study area for the Crossroads of the American Revolution that are associated with the period of the American Revolution;

(9) civilian populations residing in the State of New Jersey during the American Revolution suffered extreme hardships because of—

(A) the continuous conflict in the State;

(B) foraging armies; and

(C) marauding contingents of loyalist Tories and rebel sympathizers;

(10) because of the important role that the State of New Jersey played in the successful outcome of the American Revolution, there is a Federal interest in developing a regional framework to assist the State of New Jersey, local governments and organizations, and private citizens in—

(A) preserving and protecting cultural, historic, and natural resources of the period; and

(B) bringing recognition to those resources for the educational and recreational benefit of the present and future generations of citizens of the United States; and

(11) the National Park Service has conducted a national heritage area feasibility study in the State of New Jersey that demonstrates that there is a sufficient assemblage of nationally distinctive cultural, historic, and natural resources necessary to establish the Crossroads of the American Revolution National Heritage Area.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to assist communities, organizations, and citizens in the State of New Jersey in preserving—

(A) the special historic identity of the State; and

(B) the importance of the State to the United States;

(2) to foster a close working relationship among all levels of government, the private sector, and local communities in the State;

(3) to provide for the management, preservation, protection, and interpretation of the cultural, historic, and natural resources of the State for the educational and inspirational benefit of future generations;

(4) to strengthen the value of Morristown National Historical Park as an asset to the State by—

(A) establishing a network of related historic resources, protected landscapes, educational opportunities, and events depicting the landscape of the State of New Jersey during the American Revolution; and

(B) establishing partnerships between Morristown National Historical Park and other public and privately owned resources in the Heritage Area that represent the strategic fulcrum of the American Revolution; and

(5) to authorize Federal financial and technical assistance for the purposes described in paragraphs (1) through (4).

**SEC. 297B. DEFINITIONS.**

In this subtitle:

(1) HERITAGE AREA.—The term "Heritage Area" means the Crossroads of the American Revolution National Heritage Area established by section 297C(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 297C(d).

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 297D.

(4) MAP.—The term "map" means the map entitled "Crossroads of the American Revolution National Heritage Area", numbered CRRE/80,000, and dated April 2002.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of New Jersey.

**SEC. 297C. CROSSROADS OF THE AMERICAN REVOLUTION NATIONAL HERITAGE AREA.**

(a) ESTABLISHMENT.—There is established in the State the Crossroads of the American Revolution National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Crossroads of the American Revolution Association, Inc., a nonprofit corporation in the State, shall be the local coordinating entity for the Heritage Area.

**SEC. 297D. MANAGEMENT PLAN.**

Deadline.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subtitle, the local coordinating entity shall develop and forward to the Secretary a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) describe actions that units of local government, private organizations, and individuals have agreed to take to protect the cultural, historic, and natural resources of the Heritage Area;

(4) identify existing and potential sources of funding for the protection, management, and development of the Heritage Area during the first 5 years of implementation of the management plan; and

(5) include—

(A) an inventory of the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area relating to the themes of the Heritage Area that should be restored, managed, or developed;

(B) recommendations of policies and strategies for resource management that result in—

(i) application of appropriate land and water management techniques; and

(ii) development of intergovernmental and interagency cooperative agreements to protect the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area;

(C) a program of implementation of the management plan that includes for the first 5 years of implementation—

(i) plans for resource protection, restoration, construction; and

(ii) specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual;

(D) an analysis of and recommendations for ways in which Federal, State, and local programs, including programs of the National Park Service, may be best coordinated to promote the purposes of this subtitle; and

(E) an interpretive plan for the Heritage Area.

(c) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan. Deadline.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Board of Directors of the local coordinating entity is representative of the diverse interests of the Heritage Area, including—

(i) governments;

(ii) natural and historic resource protection organizations;

(iii) educational institutions;

(iv) businesses; and

(v) recreational organizations;

(B) the local coordinating entity provided adequate opportunity for public and governmental involvement in the preparation of the management plan, including public hearings;

(C) the resource protection and interpretation strategies in the management plan would adequately protect the cultural, historic, and natural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and Recommendations.

(C) not later than 60 days after the receipt of any proposed revision of the management plan from the local coordinating entity, approve or disapprove the proposed revision. Deadline.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this subtitle shall not be expended by the local coordinating entity to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

(e) IMPLEMENTATION.—On completion of the 3-year period described in subsection (a), any funding made available under this

subtitle shall be made available to the local coordinating entity only for implementation of the approved management plan.

**SEC. 297E. AUTHORITIES, DUTIES, AND PROHIBITIONS APPLICABLE TO THE LOCAL COORDINATING ENTITY.**

(a) AUTHORITIES.—For purposes of preparing and implementing the management plan, the local coordinating entity may use funds made available under this subtitle to—

(1) make grants to, provide technical assistance to, and enter into cooperative agreements with, the State (including a political subdivision), a nonprofit organization, or any other person;

(2) hire and compensate staff, including individuals with expertise in—

(A) cultural, historic, or natural resource protection; or

(B) heritage programming;

(3) obtain funds or services from any source (including a Federal law or program);

(4) contract for goods or services; and

(5) support any other activity—

(A) that furthers the purposes of the Heritage Area; and

(B) that is consistent with the management plan.

(b) DUTIES.—In addition to developing the management plan, the local coordinating entity shall—

(1) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for cultural, historic, and natural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are installed throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(2) in preparing and implementing the management plan, consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area;

Public meetings.

(3) conduct public meetings at least semiannually regarding the development and implementation of the management plan;

(4) for any fiscal year for which Federal funds are received under this subtitle—

(A) submit to the Secretary a report that describes for the year— Reports.

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) each entity to which a grant was made;

(B) make available for audit all information relating to the expenditure of the funds and any matching funds; and Records.

(C) require, for all agreements authorizing expenditures of Federal funds by any entity, that the receiving entity make available for audit all records and other information relating to the expenditure of the funds;

(5) encourage, by appropriate means, economic viability that is consistent with the purposes of the Heritage Area; and

(6) maintain headquarters for the local coordinating entity at Morristown National Historical Park and in Mercer County.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—

(1) FEDERAL FUNDS.—The local coordinating entity shall not use Federal funds made available under this subtitle to acquire real property or any interest in real property.

(2) OTHER FUNDS.—Notwithstanding paragraph (1), the local coordinating entity may acquire real property or an interest in real property using any other source of funding, including other Federal funding.

**SEC. 297F. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.**

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the Heritage Area for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, natural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Morristown National Historical Park may, on request, provide to public and private organizations in the Heritage Area, including the local coordinating entity, any operational assistance that is appropriate for the purpose of supporting the implementation of the management plan.

(4) PRESERVATION OF HISTORIC PROPERTIES.—To carry out the purposes of this subtitle, the Secretary may provide assistance to a State or local government or nonprofit organization to provide for the appropriate treatment of—

(A) historic objects; or

(B) structures that are listed or eligible for listing on the National Register of Historic Places.

(5) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consult with the Secretary and the local coordinating entity regarding the activity;

(2)(A) cooperate with the Secretary and the local coordinating entity in carrying out the of the Federal agency under this subtitle; and

(B) to the maximum extent practicable, coordinate the activity with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct the activity to avoid adverse effects on the Heritage Area.

**SEC. 297G. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity assisted under this subtitle shall be not more than 50 percent.

**SEC. 297H. TERMINATION OF AUTHORITY.**

The authority of the Secretary to provide assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this Act.

**SEC. 297I. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

**SEC. 297J. PRIVATE PROPERTY PROTECTION.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

# TITLE III—NATIONAL HERITAGE AREA STUDIES

## Subtitle A—Western Reserve Heritage Area Study

Western Reserve Heritage Areas Study Act. Ohio.

### SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Western Reserve Heritage Areas Study Act".

### SEC. 302. NATIONAL PARK SERVICE STUDY REGARDING THE WESTERN RESERVE, OHIO.

(a) FINDINGS.—The Congress finds the following:

(1) The area that encompasses the modern-day counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio with the rich history in what was once the Western Reserve, has made a unique contribution to the cultural, political, and industrial development of the United States.

(2) The Western Reserve is distinctive as the land settled by the people of Connecticut after the Revolutionary War. The Western Reserve holds a unique mark as the original wilderness land of the West that many settlers migrated to in order to begin life outside of the original 13 colonies.

(3) The Western Reserve played a significant role in providing land to the people of Connecticut whose property and land was destroyed during the Revolution. These settlers were descendants of the brave immigrants who came to the Americas in the 17th century.

(4) The Western Reserve offered a new destination for those who moved west in search of land and prosperity. The agricultural and industrial base that began in the Western Reserve still lives strong in these prosperous and historical counties.

(5) The heritage of the Western Reserve remains transfixed in the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio. The people of these counties are proud of their heritage as shown through the unwavering attempts to preserve agricultural land and the industrial foundation that has been embedded in this region since the

establishment of the Western Reserve. Throughout these counties, historical sites, and markers preserve the unique traditions and customs of its original heritage.

(6) The counties that encompass the Western Reserve continue to maintain a strong connection to its historic past as seen through its preservation of its local heritage, including historic homes, buildings, and centers of public gatherings.

(7) There is a need for assistance for the preservation and promotion of the significance of the Western Reserve as the natural, historic and cultural heritage of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa and Ashland in Ohio.

(8) The Department of the Interior is responsible for protecting the Nation's cultural and historical resources. There are significant examples of such resources within these counties and what was once the Western Reserve to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the State of Ohio and other local governmental entities, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, acting through the National Park Service Rivers, Trails, and Conservation Assistance Program, Midwest Region, and in consultation with the State of Ohio, the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland, and other appropriate organizations, shall carry out a study regarding the suitability and feasibility of establishing the Western Reserve Heritage Area in these counties in Ohio.

(2) CONTENTS.—The study shall include analysis and documentation regarding whether the Study Area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the Study Area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government, and have demonstrated support for the concept of a national heritage area;

(G) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity;

(H) has a conceptual boundary map that is supported by the public; and

(I) has potential or actual impact on private property located within or abutting the Study Area.

(c) BOUNDARIES OF THE STUDY AREA.—The Study Area shall be comprised of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio.

## Subtitle B—St. Croix National Heritage Area Study

St. Croix National Heritage Area Study Act.

**SEC. 311. SHORT TITLE.**

This subtitle may be cited as the "St. Croix National Heritage Area Study Act".

**SEC. 312. STUDY.**

(a) IN GENERAL.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the island of St. Croix as the St. Croix National Heritage Area. The study shall include analysis, documentation, and determination regarding whether the island of St. Croix—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the island of St. Croix that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(b) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available for this section, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

(c) PRIVATE PROPERTY.—In conducting the study required by this section, the Secretary of the Interior shall analyze the potential impact that designation of the area as a national heritage area is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted.

Southern Campaign of the Revolution Heritage Area Study Act. South Carolina. North Carolina.

# Subtitle C—Southern Campaign of the Revolution

**SEC. 321. SHORT TITLE.**

This subtitle may be cited as the "Southern Campaign of the Revolution Heritage Area Study Act".

**SEC. 322. SOUTHERN CAMPAIGN OF THE REVOLUTION HERITAGE AREA STUDY.**

(a) STUDY.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, the South Carolina Department of Parks, Recreation, and Tourism, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the study area described in subsection (b) as the Southern Campaign of the Revolution Heritage Area. The study shall include analysis, documentation, and determination regarding whether the study area—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential local coordinating entity to work in partnership with residents, business interests, nonprofit

organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(b) STUDY AREA.—

(1) IN GENERAL.—

(A) SOUTH CAROLINA.—The study area shall include the following counties in South Carolina: Anderson, Pickens, Greenville County, Spartanburg, Cherokee County, Greenwood, Laurens, Union, York, Chester, Darlington, Florence, Chesterfield, Marlboro, Fairfield, Richland, Lancaster, Kershaw, Sumter, Orangeburg, Georgetown, Dorchester, Colleton, Charleston, Beaufort, Calhoun, Clarendon, and Williamsburg.

(B) NORTH CAROLINA.—The study area may include sites and locations in North Carolina as appropriate.

(2) SPECIFIC SITES.—The heritage area may include the following sites of interest:

(A) NATIONAL PARK SERVICE SITE.—Kings Mountain National Military Park, Cowpens National Battlefield, Fort Moultrie National Monument, Charles Pickney National Historic Site, and Ninety Six National Historic Site as well as the National Park Affiliate of Historic Camden Revolutionary War Site.

(B) STATE-MAINTAINED SITES.—Colonial Dorchester State Historic Site, Eutaw Springs Battle Site, Hampton Plantation State Historic Site, Landsford Canal State Historic Site, Andrew Jackson State Park, and Musgrove Mill State Park.

(C) COMMUNITIES.—Charleston, Beaufort, Georgetown, Kingstree, Cheraw, Camden, Winnsboro, Orangeburg, and Cayce.

(D) OTHER KEY SITES OPEN TO THE PUBLIC.—Middleton Place, Goose Creek Church, Hopsewee Plantation, Walnut Grove Plantation, Fort Watson, and Historic Brattonsville.

(c) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available to carry out this subtitle, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

**SEC. 323. PRIVATE PROPERTY.**

In conducting the study required by this subtitle, the Secretary of the Interior shall analyze the potential impact that designation of the area as a national heritage area is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted.

Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2006.

# TITLE IV—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS

16 USC 461 note.

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2006".

**SEC. 402. TRANSITION AND PROVISIONS FOR NEW LOCAL COORDINATING ENTITY.**

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended as follows:

16 USC 461 note.

(1) In section 103—

(A) in paragraph (8), by striking "and";

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) the term 'Association' means the Canal Corridor Association (an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code).".

16 USC 461 note.

(2) By adding at the end of section 112 the following new paragraph:

Memorandum.

"(7) The Secretary shall enter into a memorandum of understanding with the Association to help ensure appropriate transition of the local coordinating entity to the Association and coordination with the Association regarding that role.".

(3) By adding at the end the following new sections:

**"SEC. 119. ASSOCIATION AS LOCAL COORDINATING ENTITY.**

"Upon the termination of the Commission, the local coordinating entity for the corridor shall be the Association.

**"SEC. 120. DUTIES AND AUTHORITIES OF ASSOCIATION.**

"For purposes of preparing and implementing the management plan developed under section 121, the Association may use Federal funds made available under this title—

"(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person;

"(2) to hire, train, and compensate staff; and

"(3) to enter into contracts for goods and services.

**"SEC. 121. DUTIES OF THE ASSOCIATION.**

"The Association shall—

Deadline.

"(1) develop and submit to the Secretary for approval under section 123 a proposed management plan for the corridor not later than 2 years after Federal funds are made available for this purpose;

"(2) give priority to implementing actions set forth in the management plan, including taking steps to assist units of local government, regional planning organizations, and other organizations—

"(A) in preserving the corridor;

"(B) in establishing and maintaining interpretive exhibits in the corridor;

"(C) in developing recreational resources in the corridor;

"(D) in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the corridor; and

"(E) in facilitating the restoration of any historic building relating to the themes of the corridor;

"(3) encourage by appropriate means economic viability in the corridor consistent with the goals of the management plan;

"(4) consider the interests of diverse governmental, business, and other groups within the corridor;

"(5) conduct public meetings at least quarterly regarding the implementation of the management plan; Public meetings.

"(6) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary; and

"(7) for any year in which Federal funds have been received under this title—

"(A) submit an annual report to the Secretary setting forth the Association's accomplishments, expenses and income, and the identity of each entity to which any loans and grants were made during the year for which the report is made; Reports.

"(B) make available for audit all records pertaining to the expenditure of such funds and any matching funds; and Records.

"(C) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds. Records.

**"SEC. 122. USE OF FEDERAL FUNDS.**

"(a) IN GENERAL.—The Association shall not use Federal funds received under this title to acquire real property or an interest in real property.

"(b) OTHER SOURCES.—Nothing in this title precludes the Association from using Federal funds from other sources for authorized purposes.

**"SEC. 123. MANAGEMENT PLAN.**

"(a) PREPARATION OF MANAGEMENT PLAN.—Not later than 2 years after the date that Federal funds are made available for this purpose, the Association shall submit to the Secretary for approval a proposed management plan that shall— Deadline.

"(1) take into consideration State and local plans and involve residents, local governments and public agencies, and private organizations in the corridor;

"(2) present comprehensive recommendations for the corridor's conservation, funding, management, and development; Recommendations.

"(3) include actions proposed to be undertaken by units of government and nongovernmental and private organizations to protect the resources of the corridor;

"(4) specify the existing and potential sources of funding to protect, manage, and develop the corridor; and

"(5) include—

"(A) identification of the geographic boundaries of the corridor;

"(B) a brief description and map of the corridor's overall concept or vision that show key sites, visitor facilities and attractions, and physical linkages;

"(C) identification of overall goals and the strategies and tasks intended to reach them, and a realistic schedule for completing the tasks;

"(D) a listing of the key resources and themes of the corridor;

"(E) identification of parties proposed to be responsible for carrying out the tasks;

"(F) a financial plan and other information on costs and sources of funds;

"(G) a description of the public participation process used in developing the plan and a proposal for public participation in the implementation of the management plan;

"(H) a mechanism and schedule for updating the plan based on actual progress;

"(I) a bibliography of documents used to develop the management plan; and

"(J) a discussion of any other relevant issues relating to the management plan.

Deadline.

"(b) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary within 2 years after the date that Federal funds are made available for this purpose, the Association shall be ineligible to receive additional funds under this title until the Secretary receives a proposed management plan from the Association.

Deadline.

"(c) APPROVAL OF MANAGEMENT PLAN.—The Secretary shall approve or disapprove a proposed management plan submitted under this title not later than 180 days after receiving such proposed management plan. If action is not taken by the Secretary within the time period specified in the preceding sentence, the management plan shall be deemed approved. The Secretary shall consult with the local entities representing the diverse interests of the corridor including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners prior to approving the management plan. The Association shall conduct semi-annual public meetings, workshops, and hearings to provide adequate opportunity for the public and local and governmental entities to review and to aid in the preparation and implementation of the management plan.

Public meetings.

"(d) EFFECT OF APPROVAL.—Upon the approval of the management plan as provided in subsection (c), the management plan shall supersede the conceptual plan contained in the National Park Service report.

Recommendations.

"(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed management plan within the time period specified in subsection (c), the Secretary shall advise the Association in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan.

"(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve all substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation)

to the management plan. Funds made available under this title may not be expended to implement any changes made by a substantial amendment until the Secretary approves that substantial amendment.

**"SEC. 124. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.**

"(a) TECHNICAL AND FINANCIAL ASSISTANCE.—Upon the request of the Association, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Association to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the Association and other public or private entities for this purpose. In assisting the Association, the Secretary shall give priority to actions that in general assist in—

Contracts.

"(1) conserving the significant natural, historic, cultural, and scenic resources of the corridor; and

"(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the corridor.

"(b) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting activities directly affecting the corridor shall—

"(1) consult with the Secretary and the Association with respect to such activities;

"(2) cooperate with the Secretary and the Association in carrying out their duties under this title;

"(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

"(4) to the maximum extent practicable, conduct or support such activities in a manner which the Association determines is not likely to have an adverse effect on the corridor.

**"SEC. 125. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

"(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent of that cost.

**"SEC. 126. SUNSET.**

"The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this section.".

**SEC. 403. PRIVATE PROPERTY PROTECTION.**

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 is further amended by adding after section 126 (as added by section 402) the following new sections:

**"SEC. 127. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.**

"(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the corridor until the owner of that private property has been notified in writing by the Association and has given written consent for such preservation, conservation, or promotion to the Association.

"(b) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the corridor, and not notified under subsection (a), shall have their property immediately removed from the boundary of the corridor by submitting a written request to the Association.

**"SEC. 128. PRIVATE PROPERTY PROTECTION.**

"(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

"(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

"(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

"(b) LIABILITY.—Designation of the corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

"(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

"(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN CORRIDOR.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the corridor to participate in or be associated with the corridor.

"(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the corridor represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the corridor or its viewshed by the Secretary, the National Park Service, or the Association.".

**SEC. 404. TECHNICAL AMENDMENTS.**

16 USC 461 note.

Section 116 of Illinois and Michigan Canal National Heritage Corridor Act of 1984 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)" and all that follows through "For each" and inserting "(a) For each";

(B) by striking "Commission" and inserting "Association";

(C) by striking "Commission's" and inserting "Association's";

(D) by redesignating paragraph (2) as subsection (b); and

(E) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

# TITLE V—MOKELUMNE RIVER FEASIBILITY STUDY

**SEC. 501. AUTHORIZATION OF MOKELUMNE RIVER REGIONAL WATER STORAGE AND CONJUNCTIVE USE PROJECT STUDY.**

Deadline.

Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, not later than

2 years after the date of the enactment of this Act, the Secretary of the Interior (hereafter in this title referred to as the "Secretary"), through the Bureau of Reclamation, and in consultation and cooperation with the Mokelumne River Water and Power Authority, shall complete and submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate copies of a study to determine the feasibility of constructing a project to provide additional water supply and improve water management reliability through the development of new water storage and conjunctive use programs.

**SEC. 502. USE OF REPORTS AND OTHER INFORMATION.**

In developing the study under section 501, the Secretary shall use, as appropriate, reports and any other relevant information supplied by the Mokelumne River Water and Power Authority, the East Bay Municipal Utility District, and other Mokelumne River Forum stakeholders.

**SEC. 503. COST SHARES.**

(a) FEDERAL SHARE.—The Federal share of the costs of the study conducted under this title shall not exceed 50 percent of the total cost of the study.

(b) IN-KIND CONTRIBUTIONS.—The Secretary shall accept, as appropriate, such in-kind contributions of goods or services from the Mokelumne River Water and Power Authority as the Secretary determines will contribute to the conduct and completion of the study conducted under this title. Goods and services accepted under this section shall be counted as part of the non-Federal cost share for that study.

**SEC. 504. WATER RIGHTS.**

Nothing in this title shall be construed to invalidate, preempt, or create any exception to State water law, State water rights, or Federal or State permitted activities or agreements.

**SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Secretary $3,300,000 for the Federal cost share of the study conducted under this title.

# TITLE VI—DELAWARE NATIONAL COASTAL SPECIAL RESOURCES STUDY

Delaware National Coastal Special Resources Study Act.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Delaware National Coastal Special Resources Study Act".

**SEC. 602. STUDY.**

(a) IN GENERAL.—The Secretary of the Interior (referred to in this title as the "Secretary") shall conduct a special resources study of the national significance, suitability, and feasibility of including sites in the coastal region of the State of Delaware in the National Park System.

(b) INCLUSION OF SITES IN THE NATIONAL PARK SYSTEM.—The study under subsection (a) shall include an analysis and any recommendations of the Secretary concerning the suitability and feasibility of designating 1 or more of the sites along the Delaware

coast, including Fort Christina, as a unit of the National Park System that relates to the themes described in section 603.

(c) STUDY GUIDELINES.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) CONSULTATION.—In preparing and conducting the study under subsection (a), the Secretary shall consult with—

(1) the State of Delaware;

(2) the coastal region communities;

(3) owners of private property that would likely be impacted by a National Park Service designation; and

(4) the general public.

**SEC. 603. THEMES.**

The study authorized under section 602 shall evaluate sites along the coastal region of the State of Delaware that relate to—

(1) the history of indigenous peoples, which would explore the history of Native American tribes of Delaware, such as the Nanticoke and Lenni Lenape;

(2) the colonization and establishment of the frontier, which would chronicle the first European settlers in the Delaware Valley who built fortifications for the protection of settlers, such as Fort Christina;

(3) the founding of a nation, which would document the contributions of Delaware to the development of our constitutional republic;

(4) industrial development, which would investigate the exploitation of water power in Delaware with the mill development on the Brandywine River;

(5) transportation, which would explore how water served as the main transportation link, connecting Colonial Delaware with England, Europe, and other colonies;

(6) coastal defense, which would document the collection of fortifications spaced along the river and bay from Fort Delaware on Pea Patch Island to Fort Miles near Lewes;

(7) the last stop to freedom, which would detail the role Delaware has played in the history of the Underground Railroad network; and

(8) the coastal environment, which would examine natural resources of Delaware that provide resource-based recreational opportunities such as crabbing, fishing, swimming, and boating.

**SEC. 604. REPORT.**

Not later than 2 years after funds are made available to carry out this title under section 605, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study conducted under section 602.

# TITLE VII—JOHN H. CHAFEE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR REAUTHORIZATION

John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006.

**SEC. 701. SHORT TITLE.**

16 USC 461 note.

This title may be cited as the "John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006".

**SEC. 702. JOHN H. CHAFEE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.**

16 USC 461 note.

(a) COMMISSION MEMBERSHIP.—Section 3(b) of Public Law 99–647 (16 U.S.C. 461 note) is amended—

(1) by striking "nineteen members" and inserting "25 members";

(2) in paragraph (2)—

(A) by striking "six" and inserting "6"; and

(B) by striking "Department of Environmental Management Directors from Rhode Island and Massachusetts" and inserting "the Director of the Rhode Island Department of Environmental Management and the Secretary of the Massachusetts Executive Office of Environmental Affairs";

(3) in paragraph (3)—

(A) by striking "four" each place it appears and inserting "5"; and

(B) by striking "and" after the semicolon;

(4) in paragraph (4)—

(A) by striking "two" each place it appears and inserting "3"; and

(B) by striking the period and inserting "; and"; and

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

"(5) 1 representative of a nongovernmental organization from Massachusetts and 1 from Rhode Island, to be appointed by the Secretary, which have expertise in historic preservation, conservation, outdoor recreation, cultural conservation, traditional arts, community development, or tourism.".

(b) QUORUM.—Section 3(f)(1) of Public Law 99–647 (16 U.S.C. 461 note) is amended by striking "Ten" and inserting "13".

(c) UPDATE OF PLAN.—Section 6 of Public Law 99–647 (16 U.S.C. 461 note) is amended by adding at the end the following:

"(e) UPDATE OF PLAN.—(1) Not later than 2 years after the date of enactment of this subsection, the Commission shall update the plan under subsection (a).

Deadline.

"(2) In updating the plan under paragraph (1), the Commission shall take into account the findings and recommendations included in the Blackstone Sustainability Study conducted by the National Park Service Conservation Study Institute.

"(3) The update shall include—

"(A) performance goals; and

"(B) an analysis of—

"(i) options for preserving, enhancing, and interpreting the resources of the Corridor;

"(ii) the partnerships that sustain those resources; and

"(iii) the funding program for the Corridor.

"(4)(A) Except as provided in subparagraph (B), the Secretary shall approve or disapprove any changes to the plan proposed in the update in accordance with subsection (b).

"(B) Minor revisions to the plan shall not be subject to the approval of the Secretary.".

(d) EXTENSION OF COMMISSION.—Public Law 99–647 (16 U.S.C. 461 note) is amended by striking section 7 and inserting the following:

**"SEC. 7. TERMINATION OF COMMISSION.**

"The Commission shall terminate on the date that is 5 years after the date of enactment of the John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006.".

(e) SPECIAL RESOURCE STUDY.—Section 8 of Public Law 99–647 (16 U.S.C. 461 note) is amended by adding at the end the following:

"(d) SPECIAL RESOURCE STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a special resource study of sites and associated landscape features within the boundaries of the Corridor that contribute to the understanding of the Corridor as the birthplace of the industrial revolution in the United States.

Deadline.

"(2) EVALUATION.—Not later than 3 years after the date on which funds are made available to carry out this subsection, the Secretary shall complete the study under paragraph (1) to evaluate the possibility of—

"(A) designating 1 or more site or landscape feature as a unit of the National Park System; and

"(B) coordinating and complementing actions by the Commission, local governments, and State and Federal agencies, in the preservation and interpretation of significant resources within the Corridor.

"(3) COORDINATION.—The Secretary shall coordinate the Study with the Commission.

"(4) REPORT.—Not later than 30 days after the date on which the study under paragraph (1) is completed, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

"(A) the findings of the study; and

"(B) the conclusions and recommendations of the Secretary.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of Public Law 99–647 (16 U.S.C. 461 note) is amended—

(1) in subsection (a), by striking "$650,000" and inserting "$1,000,000"; and

(2) by striking subsection (b) and inserting the following:

"(b) DEVELOPMENT FUNDS.—There is authorized to be appropriated to carry out section 8(c) not more than $10,000,000 for the period of fiscal years 2006 through 2016, to remain available until expended.

"(c) SPECIAL RESOURCE STUDY.—There are authorized to be appropriated such sums as are necessary to carry out section 8(d).".

**SEC. 703. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Public Law 100–515 (16 U.S.C. 1244 note) is amended by striking section 6 and inserting the following:

**"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts made available under subsection (a) shall be used only for—

"(A) technical assistance; and

"(B) the design and fabrication of interpretative materials, devices, and signs.

"(2) LIMITATIONS.—No funds made available under subsection (a) shall be used for—

"(A) operation, repair, or construction costs, except for the costs of constructing interpretative exhibits; or

"(B) operation, maintenance, or repair costs for any road or related structure.

"(3) COST-SHARING REQUIREMENT.—

"(A) FEDERAL SHARE.—The Federal share of any project carried out with amounts made available under subsection (a)—

"(i) may not exceed 50 percent of the total project costs; and

"(ii) shall be provided on a matching basis.

"(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of carrying out a project with amounts made available under subsection (a) may be in the form of cash, materials, or in-kind services, the value of which shall be determined by the Secretary.

"(c) TERMINATION OF AUTHORITY.—The authorities provided to the Secretary under this Act shall terminate on September 30, 2007.".

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary of the Interior shall prepare a strategic plan for the New Jersey Coastal Heritage Trail Route. Deadline.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

(B) organizational options for sustaining the New Jersey Coastal Heritage Trail Route.

California Reclamation Groundwater Remediation Initiative.

# TITLE VIII—CALIFORNIA RECLAMATION GROUNDWATER REMEDIATION INITIATIVE

**SEC. 801. SHORT TITLE.**

This title may be cited as the "California Reclamation Groundwater Remediation Initiative".

**SEC. 802. DEFINITIONS.**

For the purposes of this title:

(1) GROUNDWATER REMEDIATION.—The term "groundwater remediation" means actions that are necessary to prevent, minimize, or mitigate damage to groundwater.

(2) LOCAL WATER AUTHORITY.—The term "local water authority" means the Santa Clara Valley Water District or a public water district, public water utility, public water planning agency, municipality, or Indian tribe located within the Santa Clara Valley; and a public water district, public water utility, public water planning agency, municipality, or Indian tribe located within the natural watershed of the Santa Ana river in the State of California.

(3) REMEDIATION FUND.—The term "Remediation Fund" means the California Basins Groundwater Remediation Fund established pursuant to section 803(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 803. CALIFORNIA BASINS REMEDIATION.**

(a) CALIFORNIA BASINS REMEDIATION.—

(1) ESTABLISHMENT OF REMEDIATION FUND.—There shall be established within the Treasury of the United States an interest bearing account to be known as the California Basins Groundwater Remediation Fund.

(2) ADMINISTRATION OF REMEDIATION FUND.—The Remediation Fund shall be administered by the Secretary of the Interior, acting through the Bureau of Reclamation. The Secretary shall administer the Remediation Fund in cooperation with the local water authority.

(3) PURPOSES OF REMEDIATION FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), the amounts in the Remediation Fund, including interest accrued, shall be used by the Secretary to provide grants to the local water authority to reimburse the local water authority for the Federal share of the costs associated with designing and constructing groundwater remediation projects to be administered by the local water authority.

(B) COST-SHARING LIMITATION.—

(i) IN GENERAL.—The Secretary may not obligate any funds appropriated to the Remediation Fund in a fiscal year until the Secretary has deposited into the Remediation Fund an amount provided by non-Federal interests sufficient to ensure that at least 35 percent of any funds obligated by the Secretary for a project are from funds provided to the Secretary for that project by the non-Federal interests.

(ii) NON-FEDERAL RESPONSIBILITY.—Each local water authority shall be responsible for providing the non-Federal amount required by clause (i) for projects under that local water authority. The State of California, local government agencies, and private entities may provide all or any portion of the non-Federal amount.

(iii) CREDITS TOWARD NON-FEDERAL SHARE.—For purposes of clause (ii), the Secretary shall credit the appropriate local water authority with the value of all prior expenditures by non-Federal interests made after January 1, 2000, that are compatible with the purposes of this section, including—

(I) all expenditures made by non-Federal interests to design and construct groundwater remediation projects, including expenditures associated with environmental analyses and public involvement activities that were required to implement the groundwater remediation projects in compliance with applicable Federal and State laws; and

(II) all expenditures made by non-Federal interests to acquire lands, easements, rights-of-way, relocations, disposal areas, and water rights that were required to implement a groundwater remediation project.

(b) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this section, the Secretary shall comply with any applicable Federal and State laws.

(c) RELATIONSHIP TO OTHER ACTIVITIES.—Nothing in this section shall be construed to affect other Federal or State authorities that are being used or may be used to facilitate remediation and protection of any groundwater subbasin eligible for funding pursuant to this title. In carrying out the activities described in this section, the Secretary shall integrate such activities with ongoing Federal and State projects and activities. None of the funds made available for such activities pursuant to this section shall be counted against any Federal authorization ceiling established for any previously authorized Federal projects or activities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Remediation Fund $25,000,000. Subject to the limitations in section 804, such funds shall remain available until expended.

**SEC. 804. SUNSET OF AUTHORITY.**

This title—

(1) shall take effect on the date of the enactment of this Act; and

Effective date.

(2) is repealed effective as of the date that is 10 years after the date of the enactment of this Act.

# TITLE IX—NATIONAL COAL HERITAGE AREA

**SEC. 901. NATIONAL COAL HERITAGE AREA AMENDMENTS.**

Title I of Division II of the Omnibus Parks and Public Lands Management Act of 1996 is amended as follows:

16 USC 461 note.

(1) In section 103(b)—

(A) by striking "comprised of the counties" and inserting "shall be comprised of the following:

"(1) The counties; and".

(B) by inserting after paragraph (1) (as so designated by paragraph (1) of this subsection) the following new paragraphs:

"(2) Lincoln County, West Virginia.

"(3) Paint Creek and Cabin Creek within Kanawha County, West Virginia.".

16 USC 461 note.

(2) In section 104, by striking "Governor" and all that follows through "organizations" and inserting "National Coal Heritage Area Authority, a public corporation and government instrumentality established by the State of West Virginia, pursuant to which the Secretary shall assist the National Coal Heritage Area Authority".

Approved October 12, 2006.

---

LEGISLATIVE HISTORY—S. 203:

SENATE REPORTS: No. 109–4 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 26, considered and passed Senate.
Vol. 152 (2006): July 24, considered and passed House, amended.
Sept. 29, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 13, Presidential statement.

Public Law 109–339
109th Congress

# An Act

To designate the United States courthouse at 300 North Hogan Street, Jacksonville, Florida, as the "John Milton Bryan Simpson United States Courthouse".

Oct. 13, 2006
[H.R. 315]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse at 300 North Hogan Street, Jacksonville, Florida, shall be known and designated as the "John Milton Bryan Simpson United States Courthouse".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "John Milton Bryan Simpson United States Courthouse".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 315:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Feb. 8, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–340
# 109th Congress

## An Act

Oct. 13, 2006
[H.R. 562]

To authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

40 USC 8903 note.

**SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.**

(a) IN GENERAL.—The Government of Ukraine is authorized to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932–1933.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with chapter 89 of title 40, United States Code (commonly known as the "Commemorative Works Act"), except that sections 8902(a)(1), 8906(b)(1), 8908(b)(2), and 8909(b) shall not apply with respect to the memorial.

40 USC 8903 note.

**SEC. 2. LIMITATION ON PAYMENT OF EXPENSES.**

The United States Government shall not pay any expense for the establishment of the memorial or its maintenance.

Approved October 13, 2006.

---

LEGISLATIVE HISTORY—H.R. 562:

SENATE REPORTS: No. 109–244 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–341
# 109th Congress

## An Act

To designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

Oct. 13, 2006
[H.R. 1463]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

(a) IN GENERAL.—The building and structure described in subsection (b) shall be known and designated as the "Justin W. Williams United States Attorney's Building".

(b) DESCRIPTION.—The building and structure to be designated under subsection (a) is that portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, that is attached to the Federal building's main tower structure, described as A-Wing in the architectural plans, and currently occupied by the Office of the United States Attorney for the Eastern District of Virginia, Alexandria Division.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building and structure described in section 1(b) shall be deemed to be a reference to the "Justin W. Williams United States Attorney's Building".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary for appropriate identifying designations to be affixed to the building and structure described in section 1(b) and for

an appropriate plaque reflecting the designation and honoring Justin W. Williams and his service to the Nation to be affixed to or displayed in such building and structure.

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 1463:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Apr. 13, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate.

# Public Law 109–342
# 109th Congress

## An Act

To designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the "Clyde S. Cahill Memorial Park".

Oct. 13, 2006
[H.R. 1556]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The parcel of land described in section 3, and located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, shall be known and designated as the "Clyde S. Cahill Memorial Park".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the parcel of land described in section 3 shall be deemed to be a reference to the "Clyde S. Cahill Memorial Park".

**SEC. 3. PROPERTY DESCRIPTION.**

The parcel of land designated under section 1 is the parcel bounded by South 10th Street, Clark Avenue, South 9th Street, and Walnut Street in St. Louis, Missouri.

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 1556:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–343
# 109th Congress

## An Act

Oct. 13, 2006
[H.R. 2322]

To designate the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building located at 320 North Main Street in McAllen, Texas, shall be known and designated as the "Kika de la Garza Federal Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Kika de la Garza Federal Building".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 2322:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–344
# 109th Congress

## An Act

To impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

Oct. 13, 2006
[H.R. 3127]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Darfur Peace and Accountability Act of 2006.
50 USC 1701 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Darfur Peace and Accountability Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Findings.
Sec. 4. Sense of Congress.
Sec. 5. Sanctions in support of peace in Darfur.
Sec. 6. Additional authorities to deter and suppress genocide in Darfur.
Sec. 7. Continuation of restrictions.
Sec. 8. Assistance efforts in Sudan.
Sec. 9. Reporting requirements.

**SEC. 2. DEFINITIONS.**

50 USC 1701 note.

In this Act:

(1) AMIS.—The term "AMIS" means the African Union Mission in Sudan.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.—The term "Comprehensive Peace Agreement for Sudan" means the peace agreement signed by the Government of Sudan and the SPLM/A in Nairobi, Kenya, on January 9, 2005.

(4) DARFUR PEACE AGREEMENT.—The term "Darfur Peace Agreement" means the peace agreement signed by the Government of Sudan and by Minni Minnawi, leader of the Sudan Liberation Movement/Army Faction, in Abuja, Nigeria, on May 5, 2006.

(5) GOVERNMENT OF SUDAN.—The term "Government of Sudan"—

(A) means—

(i) the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front); or

(ii) any successor government formed on or after the date of the enactment of this Act (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan); and

(B) does not include the regional government of Southern Sudan.

(6) OFFICIALS OF THE GOVERNMENT OF SUDAN.—The term "official of the Government of Sudan" does not include any individual—

(A) who was not a member of such government before July 1, 2005; or

(B) who is a member of the regional government of Southern Sudan.

(7) SPLM/A.—The term "SPLM/A" means the Sudan People's Liberation Movement/Army.

50 USC 1701 note.

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) On July 23, 2004, Congress declared, "the atrocities unfolding in Darfur, Sudan, are genocide".

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, "genocide has occurred and may still be occurring in Darfur", and "the Government of Sudan and the Janjaweed bear responsibility".

(3) On September 21, 2004, in an address before the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated,"[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide".

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556 (2004), calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, and establishing a ban on the sale or supply of arms and related materiel of all types, including the provision of related technical training or assistance, to all nongovernmental entities and individuals, including the Janjaweed.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564 (2004), determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556 (2004), calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry on Darfur to investigate violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 (2004) and 1564 (2004), including such actions as to affect Sudan's petroleum sector or individual members of the Government of Sudan.

(6) The Report of the International Commission of Inquiry on Darfur, submitted to the United Nations Secretary-General on January 25, 2005, established that the "Government of

the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law," that "these acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity," and that officials of the Government of Sudan and other individuals may have acted with "genocidal intent".

(7) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590 (2005), establishing the United Nations Mission in Sudan (referred to in this section as the "UNMIS"), consisting of up to 10,000 military personnel and 715 civilian police tasked with supporting the implementation of the Comprehensive Peace Agreement for Sudan and to "closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS)", which had been established by the African Union on May 24, 2004, to monitor the implementation of the N'Djamena Humanitarian Ceasefire Agreement, signed on April 8, 2004, "with a view towards expeditiously reinforcing the effort to foster peace in Darfur".

(8) On March 29, 2005, the United Nations Security Council passed Security Council Resolution 1591 (2005), extending the military embargo established by Security Council Resolution 1556 (2004) to all the parties to the N'Djamena Ceasefire Agreement of April 8, 2004, and any other belligerents in the states of North Darfur, South Darfur, and West Darfur, calling for an asset freeze and travel ban against those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military overflights, or violate the military embargo, and establishing a Committee of the Security Council and a panel of experts to assist in monitoring compliance with Security Council Resolutions 1556 (2004) and 1591 (2005).

(9) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593 (2005), referring the situation in Darfur since July 1, 2002, to the prosecutor of the International Criminal Court and calling on the Government of Sudan and all parties to the conflict to cooperate fully with the Court.

(10) On July 30, 2005, Dr. John Garang de Mabior, the newly appointed Vice President of Sudan and the leader of the SPLM/A for the past 21 years, was killed in a tragic helicopter crash in Southern Sudan, sparking riots in Khartoum and challenging the commitment of all Sudanese to the Comprehensive Peace Agreement for Sudan.

(11) On January 12, 2006, the African Union Peace and Security Council issued a communique endorsing, in principle, a transition from AMIS to a United Nations peacekeeping operation and requested the Chairperson of the Council to initiate consultations with the United Nations and other stakeholders toward this end.

(12) On February 3, 2006, the United Nations Security Council issued a Presidential Statement authorizing the initiation of contingency planning for a transition from AMIS to a United Nations peacekeeping operation.

(13) On March 10, 2006, the African Union Peace and Security Council extended the mandate of AMIS, which had reached a force size of 7,000, to September 30, 2006, while simultaneously endorsing the transition of AMIS to a United Nations peacekeeping operation and setting April 30, 2006 as the deadline for reaching an agreement to resolve the crisis in Darfur.

(14) On March 24, 2006, the United Nations Security Council passed Security Council Resolution 1663 (2006), which—

(A) welcomes the African Peace and Security Council's March 10, 2006 communique; and

(B) requests that the United Nations Secretary-General, jointly with the African Union and in consultation with the parties to the Abuja Peace Talks, expedite planning for the transition of AMIS to a United Nations peacekeeping operation.

(15) On March 29, 2006, during a speech at Freedom House, President Bush called for a transition to a United Nations peacekeeping operation and "additional forces with a NATO overlay . . . to provide logistical and command-and-control and airlift capacity, but also to send a clear signal to parties involved that the west is determined to help effect a settlement.".

(16) On April 25, 2006, the United Nations Security Council passed Security Council Resolution 1672 (2006), unanimously imposing targeted financial sanctions and travel restrictions on 4 individuals who had been identified as those who, among other acts, "impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities", including the Commander of the Western Military Region for the armed forces of Sudan, the Paramount Chief of the Jalul Tribe in North Darfur, the Commander of the Sudan Liberation Army, and the Field Commander of the National Movement for Reform and Development.

(17) On May 5, 2006, under the auspices of African Union mediation and the direct engagement of the international community, including the United States, the Government of Sudan and the largest rebel faction in Darfur, the Sudan Liberation Movement, led by Minni Minnawi, signed the Darfur Peace Agreement, which addresses security, power sharing, and wealth sharing issues between the parties.

(18) In August 2006, the Sudanese government began to amass military forces and equipment in the Darfur region in contravention of the Darfur Peace Agreement to which they are signatories in what appears to be preliminary to full scale war.

(19) On August 30, 2006, the United Nations Security Council passed Security Council Resolution 1706 (2006), without dissent and with abstentions by China, Russian Federation, and Qatar, thereby asserting that the existing United Nations Mission in Sudan "shall take over from AMIS responsibility for supporting the implementation of the Darfur Peace Agreement upon the expiration of AMIS' mandate but in any event no later than 31 December 2006", and that UNMIS "shall be strengthened by up to 17,300 military personnel . . . 3,300

civilian police personnel and up to 16 Formed Police Units", which "shall begin to be deployed [to Darfur] no later than 1 October 2006".

(20) Between August 30 and September 3, 2006, President Bashir and other senior members of his administration have publicly rejected United Nations Security Council Resolution 1706 (2006), calling it illegal and a western invasion of his country, despite the current presence of 10,000 United Nations peacekeepers under the UNMIS peacekeeping force.

(21) Since 1993, the Secretary of State has determined, pursuant to section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)), that Sudan is a country, the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

**SEC. 4. SENSE OF CONGRESS.**

50 USC 1701 note.

It is the sense of Congress that—

(1) the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan;

(2) all parties to the conflict in the Darfur region have continued to violate the N'Djamena Ceasefire Agreement of April 8, 2004, and the Abuja Protocols of November 9, 2004, and violence against civilians, humanitarian aid workers, and personnel of AMIS is increasing;

(3) the African Union should immediately make all necessary preparations for an orderly transition to a United Nations peacekeeping operation, which will maintain an appropriate level of African participation, with a mandate to protect civilians and humanitarian operations, assist in the implementation of the Darfur Peace Agreement, and deter violence in the Darfur region;

(4) the international community, including the United States and the European Union, should immediately act to mobilize sufficient political, military, and financial resources through the United Nations and the North Atlantic Treaty Organization, to support the transition of AMIS to a United Nations peacekeeping operation with the size, strength, and capacity necessary to protect civilians and humanitarian operations, to assist with the implementation of the Darfur Peace Agreement, and to end the continued violence in the Darfur region;

(5) if an expanded and reinforced AMIS or subsequent United Nations peacekeeping operation fails to stop genocide in the Darfur region, the international community should take additional measures to prevent and suppress acts of genocide in the Darfur region;

(6) acting under article 5 of the Charter of the United Nations, the United Nations Security Council should call for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks

upon civilians, demobilize and demilitarize the Janjaweed and associated militias, and grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region;

(7) the President should use all necessary and appropriate diplomatic means to ensure the full discharge of the responsibilities of the Committee of the United Nations Security Council and the panel of experts established pursuant to section 3(a) of Security Council Resolution 1591 (2005);

(8) the President should direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States to urge the adoption of a resolution by the United Nations Security Council that—

(A) extends the military embargo established by United Nations Security Resolutions 1556 (2004) and 1591 (2005) to include a total ban on the sale or supply of offensive military equipment to the Government of Sudan, except for use in an internationally recognized demobilization program or for nonlethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan or the Darfur Peace Agreement; and

(B) calls upon those member states of the United Nations that continue to undermine efforts to foster peace in Sudan by providing military assistance to the Government of Sudan, government supported militias, or any rebel group operating in Darfur in violation of the embargo on such assistance and equipment, as called for in United Nations Security Council Resolutions 1556 (2004) and 1591 (2005), to immediately cease and desist.

(9) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement, the support of the regional Government of Southern Sudan, the Transitional Darfur Regional Authority, and marginalized areas in Northern Sudan (including the Nuba Mountains, Southern Blue Nile, Abyei, Eastern Sudan (Beja), Darfur, and Nubia), or for humanitarian purposes in Sudan, until the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for the safe and voluntary return of refugees and internally displaced persons;

(10) the President should seek to assist members of the Sudanese diaspora in the United States by establishing a student loan forgiveness program for those individuals who commit to return to Southern Sudan for a period of not less than 5 years for the purpose of contributing professional skills needed for the reconstruction of Southern Sudan;

(11) the Presidential Special Envoy for Sudan should be provided with appropriate resources and a clear mandate to—

(A) provide stewardship of efforts to implement the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement;

(B) seek ways to bring stability and peace to the Darfur region;

(C) address instability elsewhere in Sudan, Chad, and northern Uganda; and

(D) pursue a truly comprehensive peace throughout the region;

(12) the international community should strongly condemn attacks against humanitarian workers and African Union personnel, and the forcible recruitment of refugees and internally displaced persons from camps in Chad and Sudan, and demand that all armed groups in the region, including the forces of the Government of Sudan, the Janjaweed, associated militias, the Sudan Liberation Movement/Army, the Justice and Equality Movement, the National Movement for Reform and Development (NMRD), and all other armed groups refrain from such activities;

(13) the United States should fully support the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement and urge rapid implementation of their terms;

(14) the May 5, 2006 signing of the Darfur Peace Agreement between the Government of Sudan and the Sudan Liberation Movement was a positive development in a situation that has seen little political progress in 2 years and should be seized upon by all sides to begin the arduous process of post-conflict reconstruction, restitution, justice, and reconciliation; and

(15) the new leadership of the Sudan People's Liberation Movement (referred to in this paragraph as "SPLM") should—

(A) seek to transform SPLM into an inclusive, transparent, and democratic body;

(B) reaffirm the commitment of SPLM to—

(i) bring peace to Southern Sudan, the Darfur region, and Eastern Sudan; and

(ii) eliminate safe haven for regional rebel movements, such as the Lord's Resistance Army; and

(C) remain united in the face of efforts to undermine SPLM.

**SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.**

50 USC 1701 note.

(a) BLOCKING OF ASSETS AND RESTRICTION ON VISAS.—Section 6 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is amended—

(1) in the heading of subsection (b), by inserting "OF APPROPRIATE SENIOR OFFICIALS OF THE GOVERNMENT OF SUDAN" after "ASSETS";

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(3) by inserting after subsection (b) the following:

"(c) BLOCKING OF ASSETS AND RESTRICTION ON VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE PRESIDENT.—

Effective date.

"(1) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members

or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.

Effective date.

"(2) RESTRICTION ON VISAS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall deny a visa and entry to any individual who the President determines to be complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.".

(b) WAIVER.—Section 6(d) of the Comprehensive Peace in Sudan Act of 2004, as redesignated by subsection (a), is amended by adding at the end the following: "The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to any individual if the President determines that such a waiver is in the national interests of the United States and, before exercising the waiver, notifies the appropriate congressional committees of the name of the individual and the reasons for the waiver.".

(c) SANCTIONS AGAINST JANJAWEED COMMANDERS AND COORDINATORS OR OTHER INDIVIDUALS.—It is the sense of Congress, that the President should immediately impose the sanctions described in section 6(c) of the Comprehensive Peace in Sudan Act of 2004, as added by subsection (a), against any individual, including the Janjaweed commanders and coordinators, identified as those who, among other acts, "impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities".

50 USC 1701 note.

**SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUPPRESS GENOCIDE IN DARFUR.**

(a) PRESIDENTIAL ASSISTANCE TO SUPPORT AMIS.—Subject to subsection (b) and notwithstanding any other provision of law, the President is authorized to provide AMIS with—

(1) assistance for any expansion of the mandate, size, strength, and capacity to protect civilians and humanitarian operations in order to help stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers; and

(2) assistance in the areas of logistics, transport, communications, material support, technical assistance, training, command and control, aerial surveillance, and intelligence.

(b) CONDITIONS.—

(1) IN GENERAL.—Assistance provided under subsection (a)—

(A) shall be used only in the Darfur region; and

(B) shall not be provided until AMIS has agreed not to transfer title to, or possession of, any such assistance to anyone not an officer, employee or agent of AMIS (or subsequent United Nations peacekeeping operation), and not to use or to permit the use of such assistance for any purposes other than those for which such assistance was furnished, unless the consent of the President has first been obtained, and written assurances reflecting all

of the forgoing have been obtained from AMIS by the President.

(2) CONSENT.—If the President consents to the transfer of such assistance to anyone not an officer, employee, or agent of AMIS (or subsequent United Nations peacekeeping operation), or agrees to permit the use of such assistance for any purposes other than those for which such assistance was furnished, the President shall immediately notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(c) NATO ASSISTANCE TO SUPPORT AMIS.—It is the sense of Congress that the President should continue to instruct the United States Permanent Representative to the North Atlantic Treaty Organization (referred to in this section as "NATO") to use the voice, vote, and influence of the United States at NATO to—

(1) advocate NATO reinforcement of the AMIS and its orderly transition to a United Nations peacekeeping operation, as appropriate;

(2) provide assets to help dissuade and deter air strikes directed against civilians and humanitarian workers in the Darfur region of Sudan; and

(3) provide other logistical, transportation, communications, training, technical assistance, command and control, aerial surveillance, and intelligence support.

(d) RULE OF CONSTRUCTION.—Nothing in this Act, or any amendment made by this Act, shall be construed as a provision described in section 5(b)(1) or 8(a)(1) of the War Powers Resolution (Public Law 93–148; 50 U.S.C. 1544(b), 1546(a)(1)).

(e) DENIAL OF ENTRY AT UNITED STATES PORTS TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

(1) IN GENERAL.—The President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues, including by prohibiting entry at United States ports to cargo ships or oil tankers engaged in business or trade activities in the oil sector of Sudan or involved in the shipment of goods for use by the armed forces of Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to cargo ships or oil tankers involved in—

(A) an internationally-recognized demobilization program;

(B) the shipment of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan or the Darfur Peace Agreement; or

(C) the shipment of military assistance necessary to carry out elements of an agreement referred to in subparagraph (B) if the President has made the determination set forth in section 8(c)(2).

(f) PROHIBITION ON ASSISTANCE TO COUNTRIES IN VIOLATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1556 AND 1591.—

(1) PROHIBITION.—Amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may not be used to provide assistance (other than humanitarian assistance) to the government of a country that is in violation of the embargo on military assistance with respect to Sudan imposed pursuant to United Nations Security Council Resolutions 1556 (2004) and 1591 (2005).

(2) WAIVER.—The President may waive the application of paragraph (1) if the President determines, and certifies to the appropriate congressional committees, that such waiver is in the national interests of the United States.

50 USC 1701 note.

**SEC. 7. CONTINUATION OF RESTRICTIONS.**

(a) IN GENERAL.—Restrictions against the Government of Sudan that were imposed pursuant to Executive Order No. 13067 of November 3, 1997 (62 Federal Register 59989), title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102), or any other similar provision of law, shall remain in effect, and shall not be lifted pursuant to such provisions of law, until the President certifies to the appropriate congressional committees that the Government of Sudan is acting in good faith to—

(1) implement the Darfur Peace Agreement;

(2) disarm, demobilize, and demilitarize the Janjaweed and all militias allied with the Government of Sudan;

(3) adhere to all associated United Nations Security Council Resolutions, including Security Council Resolutions 1556 (2004), 1564 (2004), 1591 (2005), 1593 (2005), 1663 (2006), 1665 (2006), and 1706 (2006);

(4) negotiate a peaceful resolution to the crisis in eastern Sudan;

(5) fully cooperate with efforts to disarm, demobilize, and deny safe haven to members of the Lord's Resistance Army in Sudan; and

(6) fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay, by—

(A) implementing the recommendations of the Abyei Boundaries Commission Report;

(B) establishing other appropriate commissions and implementing and adhering to the recommendations of such commissions consistent with the terms of the Comprehensive Peace Agreement for Sudan;

(C) adhering to the terms of the Wealth Sharing Agreement; and

(D) withdrawing government forces from Southern Sudan consistent with the terms of the Comprehensive Peace Agreement for Sudan.

(b) WAIVER.—The President may waive the application of subsection (a) if the President determines, and certifies to the appropriate congressional committees, that such waiver is in the national interests of the United States.

**SEC. 8. ASSISTANCE EFFORTS IN SUDAN.**

50 USC 1701 note.

(a) ASSISTANCE FOR INTERNATIONAL MALARIA CONTROL ACT.—Section 501 of the Assistance for International Malaria Control Act (Public Law 106–570; 50 U.S.C. 1701 note) is repealed.

(b) COMPREHENSIVE PEACE IN SUDAN ACT.—Section 7 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is repealed.

(c) ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide economic assistance for Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum, in an effort to provide emergency relief, to promote economic self-sufficiency, to build civil authority, to provide education, to enhance rule of law and the development of judicial and legal frameworks, and to support people to people reconciliation efforts, or to implement any nonmilitary program in support of any viable peace agreement in Sudan, including the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement.

Effective date.

(2) CONGRESSIONAL NOTIFICATION.—Assistance may not be obligated under this subsection until 15 days after the date on which the Secretary of State notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) of such obligation in accordance with the procedures applicable to reprogramming notifications under such section.

(d) AUTHORIZED MILITARY ASSISTANCE.—

(1) IN GENERAL.—If the President has not made a certification under section 12(a)(3) of the Sudan Peace Act (50 U.S.C. 1701 note) regarding the noncompliance of the SPLM/A or the Government of Southern Sudan with the Comprehensive Peace Agreement for Sudan, the President, notwithstanding any other provision of law, may authorize, for each of fiscal years 2006, 2007, and 2008, the provision of the following assistance to the Government of Southern Sudan for the purpose of constituting a professional military force—

(A) non-lethal military equipment and related defense services, including training, controlled under the International Traffic in Arms Regulations (22 C.F.R. 120.1 et seq.) if the President—

(i) determines that the provision of such items is in the national security interest of the United States; and

(ii) not later than 15 days before the provision of any such items, notifies the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of such determination; and

(B) small arms and ammunition under categories I and III of the United States Munitions List (22 C.F.R. 121.1 et seq.) if the President—

(i) determines that the provision of such equipment is essential to the national security interests of the United States; and

(ii) consistent with the procedures set forth in section 614(a)(3) of the Foreign Assistance Act of 1961

(22 U.S.C. 2364(a)(3)), notifies the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of such determination.

President.

(2) END USE ASSURANCES.—For each item exported pursuant to this subsection or subsection (c), the President shall include with the notification to Congress under subparagraphs (A)(ii) and (B)(ii) of paragraph (1)—

(A) an identification of the end users to which the provision of assistance is being made;

(B) the dollar value of the items being provided;

(C) a description of the items being provided; and

(D) a description of the end use verification procedures that will be applied to such items, including—

(i) any special assurances obtained from the Government of Southern Sudan or other authorized end users regarding such equipment; and

(ii) the end use or retransfer controls that will be applied to any items provided under this subsection.

(3) WAIVER AUTHORITY.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) shall not apply to assistance provided under paragraph (1).

(e) EXCEPTION TO PROHIBITIONS IN EXECUTIVE ORDER NUMBER 13067.—Notwithstanding any other provision of law, the prohibitions set forth with respect to Sudan in Executive Order No. 13067 (62 Fed. Reg. 59989) shall not apply to activities or related transactions with respect to Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, or marginalized areas in and around Khartoum.

50 USC 1701 note.

**SEC. 9. REPORTING REQUIREMENTS.**

Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note) is amended—

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

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

"(c) REPORT ON AFRICAN UNION MISSION IN SUDAN.—Until such time as AMIS concludes its mission in Darfur, in conjunction with the other reports required under this section, the Secretary of State, in consultation with all relevant Federal departments and agencies, shall prepare and submit a report, to the appropriate congressional committees, regarding—

"(1) a detailed description of all United States assistance provided to the African Union Mission in Sudan (referred to in this subsection as 'AMIS') since the establishment of AMIS, reported by fiscal year and the type and purpose of such assistance; and

"(2) the level of other international assistance provided to AMIS, including assistance from countries, regional and international organizations, such as the North Atlantic Treaty Organization, the European Union, the Arab League, and the United Nations, reported by fiscal year and the type and purpose of such assistance, to the extent possible.

"(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with the other reports required under this section, the Secretary of State shall submit a report to the appropriate congressional committees regarding sanctions imposed under section 6 of the Comprehensive Peace in Sudan Act of 2004, including—

"(1) a description of each sanction imposed under such provision of law;

"(2) the name of the individual or entity subject to the sanction, if applicable; and

"(3) whether or not such individual has been identified by the United Nations panel of experts.

"(e) REPORT ON UNITED STATES MILITARY ASSISTANCE.—In conjunction with the other reports required under this section, the Secretary of State shall submit a report to the appropriate congressional committees describing the effectiveness of any assistance provided under section 8 of the Darfur Peace and Accountability Act of 2006, including—

"(1) a detailed annex on any military assistance provided in the period covered by this report;

"(2) the results of any review or other monitoring conducted by the Federal Government with respect to assistance provided under that Act; and

"(3) any unauthorized retransfer or use of military assistance furnished by the United States.".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 3127 (S. 1462) (S. 3884):

HOUSE REPORTS: No. 109–392, Pt. 1 (Comm. on International Relations) and Pt. 2 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 5, considered and passed House.
Sept. 21, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 13, Presidential statement.

# Public Law 109–345
# 109th Congress

## An Act

Oct. 13, 2006
[H.R. 4768]

To designate the facility of the United States Postal Service located at 777 Corporation Street in Beaver, Pennsylvania, as the "Robert Linn Memorial Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ROBERT LINN MEMORIAL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 777 Corporation Street in Beaver, Pennsylvania, shall be known and designated as the "Robert Linn Memorial Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert Linn Memorial Post Office Building".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 4768:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 20, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–346
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 105 North Quincy Street in Clinton, Illinois, as the "Gene Vance Post Office Building".

Oct. 13, 2006
[H.R. 4805]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The facility of the United States Postal Service located at 105 North Quincy Street in Clinton, Illinois, shall be known and designated as the "Gene Vance Post Office Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Gene Vance Post Office Building".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 4805:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 28, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–347
# 109th Congress

## An Act

Oct. 13, 2006
[H.R. 4954]

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Security and Accountability For Every Port Act of 2006.
6 USC 901 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Security and Accountability For Every Port Act of 2006" or the "SAFE Port Act".

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

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

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

Sec. 101. Area Maritime Transportation Security Plan to include salvage response plan.
Sec. 102. Requirements relating to maritime facility security plans.
Sec. 103. Unannounced inspections of maritime facilities.
Sec. 104. Transportation security card.
Sec. 105. Study to identify redundant background records checks.
Sec. 106. Prohibition of issuance of transportation security cards to persons convicted of certain felonies.
Sec. 107. Long-range vessel tracking.
Sec. 108. Establishment of interagency operational centers for port security.
Sec. 109. Notice of arrival for foreign vessels on the Outer Continental Shelf.
Sec. 110. Enhanced crewmember identification.

Subtitle B—Port Security Grants; Training and Exercise Programs

Sec. 111. Risk assessment tool.
Sec. 112. Port security grants.
Sec. 113. Port Security Training Program.
Sec. 114. Port Security Exercise Program.
Sec. 115. Facility exercise requirements.

Subtitle C—Port Operations

Sec. 121. Domestic radiation detection and imaging.
Sec. 122. Inspection of car ferries entering from abroad.
Sec. 123. Random searches of containers.
Sec. 124. Work stoppages and employee-employer disputes.
Sec. 125. Threat assessment screening of port truck drivers.
Sec. 126. Border Patrol unit for United States Virgin Islands.
Sec. 127. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.
Sec. 128. Center of Excellence for Maritime Domain Awareness.

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

Subtitle A—General Provisions

Sec. 201. Strategic plan to enhance the security of the international supply chain.

Sec. 202. Post-incident resumption of trade.
Sec. 203. Automated Targeting System.
Sec. 204. Container security standards and procedures.
Sec. 205. Container Security Initiative.

Subtitle B—Customs–Trade Partnership Against Terrorism

Sec. 211. Establishment.
Sec. 212. Eligible entities.
Sec. 213. Minimum requirements.
Sec. 214. Tier 1 participants in C–TPAT.
Sec. 215. Tier 2 participants in C–TPAT.
Sec. 216. Tier 3 participants in C–TPAT.
Sec. 217. Consequences for lack of compliance.
Sec. 218. Third party validations.
Sec. 219. Revalidation.
Sec. 220. Noncontainerized cargo.
Sec. 221. C–TPAT program management.
Sec. 222. Additional personnel.
Sec. 223. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

Sec. 231. Pilot integrated scanning system.
Sec. 232. Screening and scanning of cargo containers.
Sec. 233. International cooperation and coordination.
Sec. 234. Foreign port assessments.
Sec. 235. Pilot program to improve the security of empty containers.
Sec. 236. Information sharing relating to supply chain security cooperation.

TITLE III—ADMINISTRATION

Sec. 301. Office of Cargo Security Policy.
Sec. 302. Reauthorization of Homeland Security Science and Technology Advisory Committee.
Sec. 303. Research, development, test, and evaluation efforts in furtherance of maritime and cargo security.

TITLE IV—AGENCY RESOURCES AND OVERSIGHT

Sec. 401. Trade and customs revenue functions of the department.
Sec. 402. Office of international trade; oversight.
Sec. 403. Resources.
Sec. 404. Negotiations.
Sec. 405. International Trade Data System.
Sec. 406. In-bond cargo.
Sec. 407. Sense of the Senate.

TITLE V—DOMESTIC NUCLEAR DETECTION OFFICE

Sec. 501. Establishment of Domestic Nuclear Detection Office.
Sec. 502. Technology research and development investment strategy for nuclear and radiological detection.

TITLE VI—COMMERCIAL MOBILE SERVICE ALERTS

Sec. 601. Short title.
Sec. 602. Federal Communications Commission duties.
Sec. 603. Commercial Mobile Service Alert Advisory Committee.
Sec. 604. Research and development.
Sec. 605. Grant program for remote community alert systems.
Sec. 606. Funding.
Sec. 607. Essential services disaster assistance.
Sec. 608. Community disaster loans.
Sec. 609. Public facilities.
Sec. 610. Expedited payments.
Sec. 611. Use of local contracting.
Sec. 612. FEMA programs.
Sec. 613. Homeland security definition.

TITLE VII—OTHER MATTERS

Sec. 701. Security plan for essential air service and small community airports.
Sec. 702. Disclosures regarding homeland security grants.
Sec. 703. Trucking security.
Sec. 704. Air and Marine Operations of the Northern Border Air Wing.
Sec. 705. Phaseout of vessels supporting oil and gas development.

Sec. 706. Coast Guard property in Portland, Maine.
Sec. 707. Methamphetamine and methamphetamine precursor chemicals.
Sec. 708. Aircraft charter customer and lessee prescreening program.
Sec. 709. Protection of health and safety during disasters.

TITLE VIII—UNLAWFUL INTERNET GAMBLING ENFORCEMENT

Sec. 801. Short title.
Sec. 802. Prohibition on acceptance of any payment instrument for unlawful Internet gambling.
Sec. 803. Internet gambling in or through foreign jurisdictions.

6 USC 901.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided, the term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Finance of the Senate;

(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

(E) the Committee on Appropriations of the House of Representatives;

(F) the Committee on Homeland Security of the House of Representatives;

(G) the Committee on Transportation and Infrastructure of the House of Representatives;

(H) the Committee on Ways and Means of the House of Representatives; and

(I) other congressional committees, as appropriate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) COMMERCIAL SEAPORT PERSONNEL.—The term "commercial seaport personnel" includes any person engaged in an activity relating to the loading or unloading of cargo or passengers, the movement or tracking of cargo, the maintenance and repair of intermodal equipment, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when a vessel is made fast or let go in the United States.

(4) COMMISSIONER.—The term "Commissioner" means the Commissioner responsible for the United States Customs and Border Protection of the Department of Homeland Security.

(5) CONTAINER.—The term "container" has the meaning given the term in the International Convention for Safe Containers, with annexes, done at Geneva, December 2, 1972 (29 UST 3707).

(6) CONTAINER SECURITY DEVICE.—The term "container security device" means a device, or system, designed, at a minimum, to identify positively a container, to detect and record the unauthorized intrusion of a container, and to secure a container against tampering throughout the supply chain. Such a device, or system, shall have a low false alarm rate as determined by the Secretary.

(7) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(8) EXAMINATION.—The term "examination" means an inspection of cargo to detect the presence of misdeclared, restricted, or prohibited items that utilizes nonintrusive imaging and detection technology.

(9) INSPECTION.—The term "inspection" means the comprehensive process used by the United States Customs and Border Protection to assess goods entering the United States to appraise them for duty purposes, to detect the presence of restricted or prohibited items, and to ensure compliance with all applicable laws. The process may include screening, conducting an examination, or conducting a search.

(10) INTERNATIONAL SUPPLY CHAIN.—The term "international supply chain" means the end-to-end process for shipping goods to or from the United States beginning at the point of origin (including manufacturer, supplier, or vendor) through a point of distribution to the destination.

(11) RADIATION DETECTION EQUIPMENT.—The term "radiation detection equipment" means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.

(12) SCAN.—The term "scan" means utilizing nonintrusive imaging equipment, radiation detection equipment, or both, to capture data, including images of a container.

(13) SCREENING.—The term "screening" means a visual or automated review of information about goods, including manifest or entry documentation accompanying a shipment being imported into the United States, to determine the presence of misdeclared, restricted, or prohibited items and assess the level of threat posed by such cargo.

(14) SEARCH.—The term "search" means an intrusive examination in which a container is opened and its contents are devanned and visually inspected for the presence of misdeclared, restricted, or prohibited items.

(15) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(16) TRANSPORTATION DISRUPTION.—The term "transportation disruption" means any significant delay, interruption, or stoppage in the flow of trade caused by a natural disaster, heightened threat level, an act of terrorism, or any transportation security incident (as defined in section 70101(6) of title 46, United States Code).

(17) TRANSPORTATION SECURITY INCIDENT.—The term "transportation security incident" has the meaning given the term in section 70101(6) of title 46, United States Code.

# TITLE I—SECURITY OF UNITED STATES SEAPORTS

## Subtitle A—General Provisions

### SEC. 101. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (E), by striking "and" after the semicolon;

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

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

"(F) include a salvage response plan—

"(i) to identify salvage equipment capable of restoring operational trade capacity; and

"(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as efficiently and quickly as possible after a maritime transportation security incident; and".

**SEC. 102. REQUIREMENTS RELATING TO MARITIME FACILITY SECURITY PLANS.**

Section 70103(c) of title 46, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (C)(ii), by striking "facility" and inserting "facility, including access by persons engaged in the surface transportation of intermodal containers in or out of a port facility";

(B) in subparagraph (F), by striking "and" at the end;

(C) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(H) in the case of a security plan for a facility, be resubmitted for approval of each change in the ownership or operator of the facility that may substantially affect the security of the facility."; and

(2) by adding at the end the following:

Citizenship.

"(8)(A) The Secretary shall require that the qualified individual having full authority to implement security actions for a facility described in paragraph (2) shall be a citizen of the United States.

"(B) The Secretary may waive the requirement of subparagraph (A) with respect to an individual if the Secretary determines that it is appropriate to do so based on a complete background check of the individual and a review of all terrorist watch lists to ensure that the individual is not identified on any such terrorist watch list.".

**SEC. 103. UNANNOUNCED INSPECTIONS OF MARITIME FACILITIES.**

Section 70103(c)(4)(D) of title 46, United States Code, is amended to read as follows:

"(D) subject to the availability of appropriations, verify the effectiveness of each such facility security plan periodically, but not less than 2 times per year, at least 1 of which shall be an inspection of the facility that is conducted without notice to the facility.".

**SEC. 104. TRANSPORTATION SECURITY CARD.**

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended by adding at the end the following:

"(g) APPLICATIONS FOR MERCHANT MARINERS' DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall concurrently process an application from an individual for merchant mariner's documents under chapter 73 of title 46,

United States Code, and an application from that individual for a transportation security card under this section.

"(h) FEES.—The Secretary shall ensure that the fees charged each individual applying for a transportation security card under this section who has passed a background check under section 5103a(d) of title 49, United States Code, and who has a current hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, and each individual with a current merchant mariners' document who has passed a criminal background check under section 7302(d)—

"(1) are for costs associated with the issuance, production, and management of the transportation security card, as determined by the Secretary; and

"(2) do not include costs associated with performing a background check for that individual, except for any incremental costs in the event that the scope of such background checks diverge.

"(i) IMPLEMENTATION SCHEDULE.—In implementing the transportation security card program under this section, the Secretary shall—

"(1) establish a priority for each United States port based on risk, including vulnerabilities assessed under section 70102; and

"(2) implement the program, based upon such risk and other factors as determined by the Secretary, at all facilities regulated under this chapter at— Deadlines.

"(A) the 10 United States ports that the Secretary designates top priority not later than July 1, 2007;

"(B) the 40 United States ports that are next in order of priority to the ports described in subparagraph (A) not later than January 1, 2008; and

"(C) all other United States ports not later than January 1, 2009.

"(j) TRANSPORTATION SECURITY CARD PROCESSING DEADLINE.—Not later than January 1, 2009, the Secretary shall process and issue or deny each application for a transportation security card under this section for individuals with current and valid merchant mariners' documents on the date of the enactment of the SAFE Port Act.

"(k) DEPLOYMENT OF TRANSPORTATION SECURITY CARD READERS.—

"(1) PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall conduct a pilot program to test the business processes, technology, and operational impacts required to deploy transportation security card readers at secure areas of the marine transportation system.

"(B) GEOGRAPHIC LOCATIONS.—The pilot program shall take place at not fewer than 5 distinct geographic locations, to include vessels and facilities in a variety of environmental settings.

"(C) COMMENCEMENT.—The pilot program shall commence not later than 180 days after the date of the enactment of the SAFE Port Act.

"(2) CORRELATION WITH TRANSPORTATION SECURITY CARDS.—

"(A) IN GENERAL.—The pilot program described in paragraph (1) shall be conducted concurrently with the issuance of the transportation security cards described in subsection (b) to ensure card and card reader interoperability.

"(B) FEE.—An individual charged a fee for a transportation security card issued under this section may not be charged an additional fee if the Secretary determines different transportation security cards are needed based on the results of the pilot program described in paragraph (1) or for other reasons related to the technology requirements for the transportation security card program.

Deadline.
Notice.
Public comment.

"(3) REGULATIONS.—Not later than 2 years after the commencement of the pilot program under paragraph (1)(C), the Secretary, after a notice and comment period that includes at least 1 public hearing, shall promulgate final regulations that require the deployment of transportation security card readers that are consistent with the findings of the pilot program and build upon the regulations prescribed under subsection (a).

"(4) REPORT.—Not later than 120 days before the promulgation of regulations under paragraph (3), the Secretary shall submit a comprehensive report to the appropriate congressional committees (as defined in section 2(1) of SAFE Port Act) that includes—

"(A) the findings of the pilot program with respect to technical and operational impacts of implementing a transportation security card reader system;

"(B) any actions that may be necessary to ensure that all vessels and facilities to which this section applies are able to comply with such regulations; and

"(C) an analysis of the viability of equipment under the extreme weather conditions of the marine environment.

"(l) PROGRESS REPORTS.—Not later than 6 months after the date of the enactment of the SAFE Port Act, and every 6 months thereafter until the requirements under this section are fully implemented, the Secretary shall submit a report on progress being made in implementing such requirements to the appropriate congressional committees (as defined in section 2(1) of the SAFE Port Act).

"(m) LIMITATION.—The Secretary may not require the placement of an electronic reader for transportation security cards on a vessel unless—

"(1) the vessel has more individuals on the crew that are required to have a transportation security card than the number the Secretary determines, by regulation issued under subsection (k)(3), warrants such a reader; or

"(2) the Secretary determines that the vessel is at risk of a severe transportation security incident.".

(b) CLARIFICATION OF ELIGIBILITY FOR TRANSPORTATION SECURITY CARDS.—Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (E), by striking "and" at the end;

(B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(G) other individuals as determined appropriate by the Secretary including individuals employed at a port not otherwise covered by this subsection."; and

(2) in subsection (c)(2), by inserting "subparagraph (A), (B), or (D)" before "paragraph (1)".

(c) DEADLINE FOR SECTION 70105 REGULATIONS.—Not later than January 1, 2007, the Secretary shall promulgate final regulations implementing the requirements for issuing transportation security cards under section 70105 of title 46, United States Code. The regulations shall include a background check process to enable newly hired workers to begin working unless the Secretary makes an initial determination that the worker poses a security risk. Such process shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government. 46 USC 70105 note.

**SEC. 105. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background records checks carried out for the Department that are similar to the background records check required under section 5103a of title 49, United States Code, to identify redundancies and inefficiencies in connection with such checks.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study, including—

(1) an identification of redundancies and inefficiencies referred to in subsection (a); and

(2) recommendations for eliminating such redundancies and inefficiencies.

**SEC. 106. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO PERSONS CONVICTED OF CERTAIN FELONIES.** 46 USC 70105 note.

The Secretary, in issuing a final rule pursuant to section 70105 of title 46, United States Code, shall provide for the disqualification of individuals who have been found guilty or have been found not guilty by reason of insanity of a felony, involving—

(1) treason, or conspiracy to commit treason;

(2) espionage, or conspiracy to commit espionage;

(3) sedition, or conspiracy to commit sedition; or

(4) a crime listed in chapter 113B of title 18, United States Code, a comparable State law, or conspiracy to commit such crime.

**SEC. 107. LONG-RANGE VESSEL TRACKING.**

(a) REGULATIONS.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking "The Secretary" and inserting "Not later than April 1, 2007, the Secretary".

(b) VOLUNTARY PROGRAM.—The Secretary may issue regulations to establish a voluntary long-range automated vessel tracking system for vessels described in section 70115 of title 46, United States Code, during the period before regulations are issued under such section. 46 USC 70105 note.

**SEC. 108. ESTABLISHMENT OF INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.**

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by inserting after section 70107 the following:

**"§ 70107A. Interagency operational centers for port security**

Deadline.

"(a) IN GENERAL.—The Secretary shall establish interagency operational centers for port security at all high-priority ports not later than 3 years after the date of the enactment of the SAFE Port Act.

"(b) CHARACTERISTICS.—The interagency operational centers established under this section shall—

"(1) utilize, as appropriate, the compositional and operational characteristics of existing centers, including—

"(A) the pilot project interagency operational centers for port security in Miami, Florida; Norfolk/Hampton Roads, Virginia; Charleston, South Carolina; and San Diego, California; and

"(B) the virtual operation center of the Port of New York and New Jersey;

"(2) be organized to fit the security needs, requirements, and resources of the individual port area at which each is operating;

"(3) in addition to the Coast Guard, provide, as the Secretary determines appropriate, for participation by representatives of the United States Customs and Border Protection, the United States Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders adversely affected by a transportation security incident or transportation disruption; and

"(4) be incorporated in the implementation and administration of—

"(A) maritime transportation security plans developed under section 70103;

"(B) maritime intelligence activities under section 70113 and information sharing activities consistent with section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 485) and the Homeland Security Information Sharing Act (6 U.S.C. 481 et seq.);

"(C) short- and long-range vessel tracking under sections 70114 and 70115;

"(D) protocols under section 201(b)(10) of the SAFE Port Act;

"(E) the transportation security incident response plans required by section 70104; and

"(F) other activities, as determined by the Secretary.

"(c) SECURITY CLEARANCES.—The Secretary shall sponsor and expedite individuals participating in interagency operational centers in gaining or maintaining their security clearances. Through the Captain of the Port, the Secretary may identify key individuals who should participate. The port or other entities may appeal to the Captain of the Port for sponsorship.

"(d) SECURITY INCIDENTS.—During a transportation security incident on or adjacent to waters subject to the jurisdiction of the United States, the Coast Guard Captain of the Port designated by the Commandant of the Coast Guard in a maritime security command center described in subsection (a) shall act as the incident commander, unless otherwise directed by the President.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the normal command and control procedures for operational entities in the Department, unless so directed by the Secretary.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $60,000,000 for each of the fiscal years 2007 through 2012 to carry out this section.".

(b) REPORT REQUIREMENT.—Nothing in this section or the amendments made by this section relieves the Commandant of the Coast Guard from complying with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293; 118 Stat. 1082). The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section. 46 USC 70107A note.

(c) BUDGET AND COST-SHARING ANALYSIS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the appropriate congressional committees a proposed budget analysis for implementing section 70107A of title 46, United States Code, as added by subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers to be established under such section. Deadline.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70107 the following:

"70107A. Interagency operational centers for port security".

**SEC. 109. NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON THE OUTER CONTINENTAL SHELF.** 33 USC 1223 note.

(a) NOTICE OF ARRIVAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall update and finalize the rulemaking on notice of arrival for foreign vessels on the Outer Continental Shelf. Deadline. Regulations.

(b) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to subsection (a) shall be consistent with information required under the Notice of Arrival under section 160.206 of title 33, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

**SEC. 110. ENHANCED CREWMEMBER IDENTIFICATION.**

Section 70111 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "The" and inserting "Not later than 1 year after the date of enactment of the SAFE Port Act, the"; and

(2) in subsection (b) by striking "The" and inserting "Not later than 1 year after the date of enactment of the SAFE Port Act, the".

# Subtitle B—Port Security Grants; Training and Exercise Programs

46 USC 70103 note.

**SEC. 111. RISK ASSESSMENT TOOL.**

In updating Area Maritime Security Plans required under section 70103(b)(2)(F) of title 46, United States Code, and in applying for grants under section 70107 of such title, the Secretary of the Department in which the Coast Guard is operating shall make available, and Area Maritime Security Committees may use a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard.

**SEC. 112. PORT SECURITY GRANTS.**

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking "for making a fair and equitable allocation of funds" and inserting "for the allocation of funds based on risk".

(b) ELIGIBLE USES.—Section 70107(b) of title 46, United States Code, is amended—

(1) in paragraph (2), by inserting after "crewmembers." the following: "Grants awarded under this section may not be used to construct buildings or other physical facilities, except those which are constructed under terms and conditions consistent with the requirements under section 611(j)(8) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121(j)(8)), including those facilities in support of this paragraph, and specifically approved by the Secretary. Costs eligible for funding under this paragraph may not exceed the greater of—

"(A) $1,000,000 per project; or

"(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the grant."; and

(2) by adding at the end the following:

"(5) The cost of conducting exercises or training for prevention and detection of, preparedness for, response to, or recovery from terrorist attacks.

"(6) The cost of establishing or enhancing mechanisms for sharing terrorism threat information and ensuring that the mechanisms are interoperable with Federal, State, and local agencies.

"(7) The cost of equipment (including software) required to receive, transmit, handle, and store classified information.".

(c) MULTIPLE-YEAR PROJECTS, ETC.—Section 70107 of title 46, United States Code, is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (d) the following:

"(e) MULTIPLE-YEAR PROJECTS.—

"(1) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to such authorities, operators, and agencies.

"(2) LIMITATION.—Not more than 20 percent of the grant funds awarded under this subsection in any fiscal year may be awarded for projects that span multiple years.

"(f) CONSISTENCY WITH PLANS.—The Secretary shall ensure that each grant awarded under subsection (e)—

"(1) is used to supplement and support, in a consistent and coordinated manner, the applicable Area Maritime Transportation Security Plan; and

"(2) is coordinated with any applicable State or Urban Area Homeland Security Plan.

"(g) APPLICATIONS.—Any entity subject to an Area Maritime Transportation Security Plan may submit an application for a grant under this section, at such time, in such form, and containing such information and assurances as the Secretary may require.

"(h) REPORTS.—Not later than 180 days after the date of the enactment of the SAFE Port Act, the Secretary, acting through the Commandant of the Coast Guard, shall submit a report to Congress, in a secure format, describing the methodology used to allocate port security grant funds on the basis of risk."; and

(2) in subsection (i)(1), as redesignated, by striking "program" and inserting "Secretary".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 70107(l) of title 46, United States Code, as redesignated, is amended to read as follows:

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.".

(e) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking "national economic and strategic defense concerns" and inserting "national economic, energy, and strategic defense concerns based upon the most current risk assessments available".

**SEC. 113. PORT SECURITY TRAINING PROGRAM.** 6 USC 911.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, shall establish a Port Security Training Program (referred to in this section as the "Training Program") for the purpose of enhancing the capabilities of each facility required to submit a plan under section 70103(c) of title 46, United States Code, to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism, natural disasters, and other emergencies.

(b) REQUIREMENTS.—The Training Program shall provide validated training that—

(1) reaches multiple disciplines, including Federal, State, and local government officials, commercial seaport personnel and management, and governmental and nongovernmental emergency response providers;

(2) provides training at the awareness, performance, and management and planning levels;

(3) utilizes multiple training mediums and methods;

(4) addresses port security topics, including—

(A) facility security plans and procedures, including how security plans and procedures are adjusted when threat levels increase;

(B) facility security force operations and management;

(C) physical security and access control at facilities;

(D) methods of security for preventing and countering cargo theft;

(E) container security;

(F) recognition and detection of weapons, dangerous substances, and devices;

(G) operation and maintenance of security equipment and systems;

(H) security threats and patterns;

(I) security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers; and

(J) evacuation procedures;

(5) is consistent with, and supports implementation of, the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

(6) is evaluated against clear and consistent performance measures;

(7) addresses security requirements under facility security plans; and

(8) educates, trains, and involves individuals in neighborhoods around facilities required to submit a plan under section 70103(c) of title 46, United States Code, on how to observe and report security risks.

(c) VESSEL AND FACILITY SECURITY PLANS.—Section 70103(c)(3) of title 46, United States Code, is amended—

(1) by redesignating subparagraphs (F), (G), and (H) (as added by section 102(1)(D)) as subparagraphs (G), (H), and (I), respectively; and

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

"(F) provide a strategy and timeline for conducting training and periodic unannounced drills;".

(d) CONSULTATION.—The Secretary shall ensure that, in carrying out the Program, the Office of Grants and Training shall consult with commercial seaport personnel and management.

(e) TRAINING PARTNERS.—In developing and delivering training under the Training Program, the Secretary, in coordination with the Maritime Administration of the Department of Transportation, and consistent with section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note), shall—

(1) work with government training facilities, academic institutions, private organizations, employee organizations, and other entities that provide specialized, state-of-the-art training for governmental and nongovernmental emergency responder providers or commercial seaport personnel and management; and

(2) utilize, as appropriate, government training facilities, courses provided by community colleges, public safety academies, State and private universities, and other facilities.

6 USC 912.

**SEC. 114. PORT SECURITY EXERCISE PROGRAM.**

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, shall establish a Port Security Exercise Program (referred to in this section as the "Exercise Program") for the purpose of testing and evaluating the capabilities of Federal, State, local, and foreign governments, commercial seaport personnel

and management, governmental and nongovernmental emergency response providers, the private sector, or any other organization or entity, as the Secretary determines to be appropriate, to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism, natural disasters, and other emergencies at facilities required to submit a plan under section 70103(c) of title 46, United States Code.

(b) REQUIREMENTS.—The Secretary shall ensure that the Exercise Program—

(1) conducts, on a periodic basis, port security exercises at such facilities that are—

(A) scaled and tailored to the needs of each facility;

(B) live, in the case of the most at-risk facilities;

(C) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(D) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

(E) evaluated against clear and consistent performance measures;

(F) assessed to learn best practices, which shall be shared with appropriate Federal, State, and local officials, commercial seaport personnel and management, governmental and nongovernmental emergency response providers, and the private sector; and

(G) followed by remedial action in response to lessons learned; and

(2) assists State and local governments and facilities in designing, implementing, and evaluating exercises that—

(A) conform to the requirements of paragraph (1); and

(B) are consistent with any applicable Area Maritime Transportation Security Plan and State or Urban Area Homeland Security Plan.

(c) IMPROVEMENT PLAN.—The Secretary shall establish a port security exercise improvement plan process to—

(1) identify and analyze each port security exercise for lessons learned and best practices;

(2) disseminate lessons learned and best practices to participants in the Exercise Program;

(3) monitor the implementation of lessons learned and best practices by participants in the Exercise Program; and

(4) conduct remedial action tracking and long-term trend analysis.

**SEC. 115. FACILITY EXERCISE REQUIREMENTS.** 6 USC 913.

The Secretary of the Department in which the Coast Guard is operating shall require each high risk facility to conduct live or full-scale exercises described in section 105.220(c) of title 33, Code of Federal Regulations, not less frequently than once every 2 years, in accordance with the facility security plan required under section 70103(c) of title 46, United States Code.

# Subtitle C—Port Operations

6 USC 921.

**SEC. 121. DOMESTIC RADIATION DETECTION AND IMAGING.**

Deadline.

(a) SCANNING CONTAINERS.—Subject to section 1318 of title 19, United States Code, not later than December 31, 2007, all containers entering the United States through the 22 ports through which the greatest volume of containers enter the United States by vessel shall be scanned for radiation. To the extent practicable, the Secretary shall deploy next generation radiation detection technology.

(b) STRATEGY.—The Secretary shall develop a strategy for the deployment of radiation detection capabilities that includes—

(1) a risk-based prioritization of ports of entry at which radiation detection equipment will be deployed;

(2) a proposed timeline of when radiation detection equipment will be deployed at each port of entry identified under paragraph (1);

(3) the type of equipment to be used at each port of entry identified under paragraph (1), including the joint deployment and utilization of radiation detection equipment and nonintrusive imaging equipment;

(4) standard operating procedures for examining containers with such equipment, including sensor alarming, networking, and communications and response protocols;

(5) operator training plans;

(6) an evaluation of the environmental health and safety impacts of nonintrusive imaging technology and a radiation risk reduction plan, in consultation with the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, that seeks to minimize radiation exposure of workers and the public to levels as low as reasonably achievable;

(7) the policy of the Department for using nonintrusive imaging equipment in tandem with radiation detection equipment; and

(8) a classified annex that—

(A) details plans for covert testing; and

(B) outlines the risk-based prioritization of ports of entry identified under paragraph (1).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit the strategy developed under subsection (b) to the appropriate congressional committees.

Deadline.

(d) UPDATE.—Not later than 180 days after the date of the submission of the report under subsection (c), the Secretary shall provide a more complete evaluation under subsection (b)(6).

Deadline.
Reports.

(e) OTHER WEAPONS OF MASS DESTRUCTION THREATS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the feasibility of, and a strategy for, the development of equipment to detect and prevent shielded nuclear and radiological threat material and chemical, biological, and other weapons of mass destruction from entering the United States.

Publication.

(f) STANDARDS.—The Secretary, acting through the Director for Domestic Nuclear Detection and in collaboration with the

National Institute of Standards and Technology, shall publish technical capability standards and recommended standard operating procedures for the use of nonintrusive imaging and radiation detection equipment in the United States. Such standards and procedures—

(1) should take into account relevant standards and procedures utilized by other Federal departments or agencies as well as those developed by international bodies; and

(2) shall not be designed so as to endorse specific companies or create sovereignty conflicts with participating countries.

(g) IMPLEMENTATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall fully implement the strategy developed under subsection (b).

(h) EXPANSION TO OTHER UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—As soon as practicable after—

(A) implementation of the program for the examination of containers for radiation at ports of entry described in subsection (a); and

(B) submission of the strategy developed under subsection (b) (and updating, if any, of that strategy under subsection (c)),

Deadline.

but not later than December 31, 2008, the Secretary shall expand the strategy developed under subsection (b), in a manner consistent with the requirements of subsection (b), to provide for the deployment of radiation detection capabilities at all other United States ports of entry not covered by the strategy developed under subsection (b).

(2) RISK ASSESSMENT.—In expanding the strategy under paragraph (1), the Secretary shall identify and assess the risks to those other ports of entry in order to determine what equipment and practices will best mitigate the risks.

(i) INTERMODAL RAIL RADIATION DETECTION TEST CENTER.—

(1) ESTABLISHMENT.—In accordance with subsection (b), and in order to comply with this section, the Secretary shall establish an Intermodal Rail Radiation Detection Test Center (referred to in this subsection as the "Test Center").

(2) PROJECTS.—The Secretary shall conduct multiple, concurrent projects at the Test Center to rapidly identify and test concepts specific to the challenges posed by on-dock rail.

(3) LOCATION.—The Test Center shall be located within a public port facility at which a majority of the containerized cargo is directly laden from (or unladen to) on-dock, intermodal rail.

**SEC. 122. INSPECTION OF CAR FERRIES ENTERING FROM ABROAD.**

Deadline.
6 USC 922.

Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, and in coordination with the Secretary of State and in cooperation with ferry operators and appropriate foreign government officials, shall seek to develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States facility required to submit a plan under section 70103(c) of title 46, United States Code.

**SEC. 123. RANDOM SEARCHES OF CONTAINERS.**

Deadline.
6 USC 923.

Not later than 1 year after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop and implement a plan, utilizing best practices for empirical scientific

research design and random sampling, to conduct random searches of containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Secretary. Nothing in this section shall be construed to mean that implementation of the random sampling plan precludes additional searches of containers not inspected pursuant to the plan.

**SEC. 124. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.**

Section 70101(6) of title 46, United States Code, is amended by adding at the end the following: "In this paragraph, the term 'economic disruption' does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employee-employer dispute.".

Deadline.
6 USC 924.

**SEC. 125. THREAT ASSESSMENT SCREENING OF PORT TRUCK DRIVERS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary shall implement a threat assessment screening, including name-based checks against terrorist watch lists and immigration status check, for all port truck drivers with access to secure areas of a port who have a commercial driver's license but do not have a current and valid hazardous materials endorsement issued in accordance with section 1572 of title 49, Code of Federal Regulations, that is the same as the threat assessment screening required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG–2006–24189 (Federal Register, Vol. 71, No. 82, Friday, April 28, 2006).

6 USC 925.

**SEC. 126. BORDER PATROL UNIT FOR UNITED STATES VIRGIN ISLANDS.**

(a) IN GENERAL.—The Secretary may establish at least 1 Border Patrol unit for the United States Virgin Islands.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that includes the schedule, if any, for carrying out subsection (a).

**SEC. 127. REPORT ON ARRIVAL AND DEPARTURE MANIFESTS FOR CERTAIN COMMERCIAL VESSELS IN THE UNITED STATES VIRGIN ISLANDS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the impact of implementing the requirements of section 231 of the Immigration and Nationality Act (8 U.S.C. 1221) (relating to providing United States border officers with arrival and departure manifests) with respect to commercial vessels that are fewer than 300 gross tons and operate exclusively between the territorial waters of the United States Virgin Islands and the territorial waters of the British Virgin Islands.

6 USC 926.

**SEC. 128. CENTER OF EXCELLENCE FOR MARITIME DOMAIN AWARENESS.**

(a) ESTABLISHMENT.—The Secretary shall establish a university-based Center for Excellence for Maritime Domain Awareness following the merit-review processes and procedures that have been established by the Secretary for selecting university program centers of excellence.

(b) DUTIES.—The Center established under subsection (a) shall—

(1) prioritize its activities based on the "National Plan To Improve Maritime Domain Awareness" published by the Department in October 2005;

(2) recognize the extensive previous and ongoing work and existing competence in the field of maritime domain awareness at numerous academic and research institutions, such as the Naval Postgraduate School;

(3) leverage existing knowledge and continue development of a broad base of expertise within academia and industry in maritime domain awareness; and

(4) provide educational, technical, and analytical assistance to Federal agencies with responsibilities for maritime domain awareness, including the Coast Guard, to focus on the need for interoperability, information sharing, and common information technology standards and architecture.

# TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

## Subtitle A—General Provisions

**SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF THE INTERNATIONAL SUPPLY CHAIN.** 6 USC 941.

(a) STRATEGIC PLAN.—The Secretary, in consultation with appropriate Federal, State, local, and tribal government agencies and private sector stakeholders responsible for security matters that affect or relate to the movement of containers through the international supply chain, shall develop, implement, and update, as appropriate, a strategic plan to enhance the security of the international supply chain.

(b) REQUIREMENTS.—The strategic plan required under subsection (a) shall—

(1) describe the roles, responsibilities, and authorities of Federal, State, local, and tribal government agencies and private-sector stakeholders that relate to the security of the movement of containers through the international supply chain;

(2) identify and address gaps and unnecessary overlaps in the roles, responsibilities, or authorities described in paragraph (1);

(3) identify and make recommendations regarding legislative, regulatory, and organizational changes necessary to improve coordination among the entities or to enhance the security of the international supply chain;

(4) provide measurable goals, including objectives, mechanisms, and a schedule, for furthering the security of commercial operations from point of origin to point of destination;

(5) build on available resources and consider costs and benefits;

(6) provide incentives for additional voluntary measures to enhance cargo security, as recommended by the Commissioner;

(7) consider the impact of supply chain security requirements on small- and medium-sized companies;

(8) include a process for sharing intelligence and information with private-sector stakeholders to assist in their security efforts;

(9) identify a framework for prudent and measured response in the event of a transportation security incident involving the international supply chain;

(10) provide protocols for the expeditious resumption of the flow of trade in accordance with section 202;

(11) consider the linkages between supply chain security and security programs within other systems of movement, including travel security and terrorism finance programs; and

(12) expand upon and relate to existing strategies and plans, including the National Response Plan, the National Maritime Transportation Security Plan, the National Strategy for Maritime Security, and the 8 supporting plans of the Strategy, as required by Homeland Security Presidential Directive 13.

(c) CONSULTATION.—In developing protocols under subsection (b)(10), the Secretary shall consult with Federal, State, local, and private sector stakeholders, including the National Maritime Security Advisory Committee and the Commercial Operations Advisory Committee.

(d) COMMUNICATION.—To the extent practicable, the strategic plan developed under subsection (a) shall provide for coordination with, and lines of communication among, appropriate Federal, State, local, and private-sector stakeholders on law enforcement actions, intermodal rerouting plans, and other strategic infrastructure issues resulting from a transportation security incident or transportation disruption.

(e) UTILIZATION OF ADVISORY COMMITTEES.—As part of the consultations described in subsection (a), the Secretary shall, to the extent practicable, utilize the Homeland Security Advisory Committee, the National Maritime Security Advisory Committee, and the Commercial Operations Advisory Committee to review, as necessary, the draft strategic plan and any subsequent updates to the strategic plan.

(f) INTERNATIONAL STANDARDS AND PRACTICES.—In furtherance of the strategic plan required under subsection (a), the Secretary is encouraged to consider proposed or established standards and practices of foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, the International Labor Organization, and the International Organization for Standardization, as appropriate, to establish standards and best practices for the security of containers moving through the international supply chain.

(g) REPORT.—

(1) INITIAL REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that contains the strategic plan required by subsection (a).

(2) FINAL REPORT.—Not later than 3 years after the date on which the strategic plan is submitted under paragraph (1), the Secretary shall submit a report to the appropriate congressional committees that contains an update of the strategic plan.

**SEC. 202. POST-INCIDENT RESUMPTION OF TRADE.** 6 USC 942.

(a) IN GENERAL.—The Secretary shall develop and update, as necessary, protocols for the resumption of trade in accordance with section 201(b)(10) in the event of a transportation disruption or a transportation security incident. The protocols shall include—

(1) the identification of the appropriate initial incident commander, if the Commandant of the Coast Guard is not the appropriate person, and lead departments, agencies, or offices to execute such protocols;

(2) a plan to redeploy resources and personnel, as necessary, to reestablish the flow of trade;

(3) a plan to provide training for the periodic instruction of personnel of the United States Customs and Border Protection, the Coast Guard, and the Transportation Security Administration in trade resumption functions and responsibilities; and

(4) appropriate factors for establishing prioritization of vessels and cargo determined by the President to be critical for response and recovery, including factors relating to public health, national security, and economic need.

(b) VESSELS.—In determining the prioritization of vessels accessing facilities (as defined under section 70101 of title 46, United States Code), the Commandant of the Coast Guard may, to the extent practicable and consistent with the protocols and plans required under this section to ensure the safe and secure transit of vessels to ports in the United States after a transportation security incident, give priority to a vessel—

(1) that has an approved security plan under section 70103(c) of title 46, United States Code, or a valid international ship security certificate, as provided under part 104 of title 33, Code of Federal Regulations;

(2) that is manned by individuals who are described in section 70105(b)(2)(B) of title 46, United States Code; and

(3) that is operated by validated participants in the Customs-Trade Partnership Against Terrorism program.

(c) CARGO.—In determining the prioritization of the resumption of the flow of cargo and consistent with the protocols established under this section, the Commissioner may give preference to cargo—

(1) entering a port of entry directly from a foreign seaport designated under the Container Security Initiative;

(2) from the supply chain of a validated C–TPAT participant and other private sector entities, as appropriate; or

(3) that has undergone—

(A) a nuclear or radiological detection scan;

(B) an x-ray, density, or other imaging scan; and

(C) a system to positively identify the container at the last port of departure prior to arrival in the United States, which data has been evaluated and analyzed by personnel of the United States Customs and Border Protection.

(d) COORDINATION.—The Secretary shall ensure that there is appropriate coordination among the Commandant of the Coast Guard, the Commissioner, and other Federal officials following a maritime disruption or maritime transportation security incident in order to provide for the resumption of trade.

(e) COMMUNICATION.—Consistent with section 201, the Commandant of the Coast Guard, Commissioner, and other appropriate

Federal officials, shall promptly communicate any revised procedures or instructions intended for the private sector following a maritime disruption or maritime transportation security incident.

6 USC 943.

**SEC. 203. AUTOMATED TARGETING SYSTEM.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall—

(1) identify and seek the submission of data related to the movement of a shipment of cargo through the international supply chain; and

(2) analyze the data described in paragraph (1) to identify high-risk cargo for inspection.

(b) REQUIREMENT.—The Secretary, acting through the Commissioner, shall require the electronic transmission to the Department of additional data elements for improved high-risk targeting, including appropriate security elements of entry data, as determined by the Secretary, to be provided as advanced information with respect to cargo destined for importation into the United States prior to loading of such cargo on vessels at foreign seaports.

(c) CONSIDERATION.—The Secretary, acting through the Commissioner, shall—

(1) consider the cost, benefit, and feasibility of—

(A) requiring additional nonmanifest documentation;

(B) reducing the time period allowed by law for revisions to a container cargo manifest;

(C) reducing the time period allowed by law for submission of certain elements of entry data, for vessel or cargo; and

(D) such other actions the Secretary considers beneficial for improving the information relied upon for the Automated Targeting System and any successor targeting system in furthering the security and integrity of the international supply chain; and

(2) consult with stakeholders, including the Commercial Operations Advisory Committee, and identify to them the need for such information, and the appropriate timing of its submission.

(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section. In promulgating such regulations, the Secretary shall adhere to the parameters applicable to the development of regulations under section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note), including provisions relating to consultation, technology, analysis, use of information, confidentiality, and timing requirements.

(e) SYSTEM IMPROVEMENTS.—The Secretary, acting through the Commissioner, shall—

(1) conduct, through an independent panel, a review of the effectiveness and capabilities of the Automated Targeting System;

(2) consider future iterations of the Automated Targeting System, which would incorporate smart features, such as more complex algorithms and real-time intelligence, instead of relying solely on rule sets that are periodically updated;

(3) ensure that the Automated Targeting System has the capability to electronically compare manifest and other available data for cargo entered into or bound for the United States

to detect any significant anomalies between such data and facilitate the resolution of such anomalies;

(4) ensure that the Automated Targeting System has the capability to electronically identify, compile, and compare select data elements for cargo entered into or bound for the United States following a maritime transportation security incident, in order to efficiently identify cargo for increased inspection or expeditious release; and

(5) develop a schedule to address the recommendations of the Comptroller General of the United States, the Inspector General of the Department of the Treasury, and the Inspector General of the Department with respect to the operation of the Automated Targeting System.

(f) SECURE TRANSMISSION OF CERTAIN INFORMATION.—All information required by the Department from supply chain partners shall be transmitted in a secure fashion, as determined by the Secretary, so as to protect the information from unauthorized access.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Customs and Border Protection to carry out the Automated Targeting System for identifying high-risk oceanborne container cargo for inspection—

(1) $33,200,000 for fiscal year 2008;

(2) $35,700,000 for fiscal year 2009; and

(3) $37,485,000 for fiscal year 2010.

**SEC. 204. CONTAINER SECURITY STANDARDS AND PROCEDURES.** 6 USC 944.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum standards and procedures for securing containers in transit to the United States. Deadline.

(2) INTERIM RULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue an interim final rule pursuant to the proceeding described in paragraph (1). Deadline.

(3) MISSED DEADLINE.—If the Secretary is unable to meet the deadline established pursuant to paragraph (2), the Secretary shall submit a letter to the appropriate congressional committees explaining why the Secretary is unable to meet that deadline and describing what must be done before such minimum standards and procedures can be established.

(4) DEADLINE FOR ENFORCEMENT.—Not later than 2 years after the date on which the standards and procedures are established pursuant to paragraph (1), all containers bound for ports of entry in the United States shall meet such standards and procedures.

(b) REVIEW AND ENHANCEMENT.—The Secretary shall regularly review and enhance the standards and procedures established pursuant to subsection (a), as appropriate, based on tests of technologies as they become commercially available to detect container intrusion and the highest consequence threats, particularly weapons of mass destruction.

(c) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary, in consultation with the Secretary of State, the Secretary of Energy, and other Federal Government officials, as appropriate, and with the Commercial Operations Advisory Committee, the

Homeland Security Advisory Committee, and the National Maritime Security Advisory Committee, is encouraged to promote and establish international standards for the security of containers moving through the international supply chain with foreign governments and international organizations, including the International Maritime Organization, the International Organization for Standardization, the International Labor Organization, and the World Customs Organization.

(d) INTERNATIONAL TRADE AND OTHER OBLIGATIONS.—In carrying out this section, the Secretary shall consult with appropriate Federal departments and agencies and private sector stakeholders and ensure that actions under this section do not violate international trade obligations or other international obligations of the United States.

6 USC 945.

**SEC. 205. CONTAINER SECURITY INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall establish and implement a program (referred to in this section as the "Container Security Initiative" or "CSI") to identify and examine or search maritime containers that pose a security risk before loading such containers in a foreign port for shipment to the United States, either directly or through a foreign port.

(b) ASSESSMENT.—The Secretary, acting through the Commissioner, may designate foreign seaports to participate in the Container Security Initiative after the Secretary has assessed the costs, benefits, and other factors associated with such designation, including—

(1) the level of risk for the potential compromise of containers by terrorists, or other threats as determined by the Secretary;

(2) the volume of cargo being imported to the United States directly from, or being transshipped through, the foreign seaport;

(3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46, United States Code;

(4) the commitment of the government of the country in which the foreign seaport is located to cooperating with the Department in sharing critical data and risk management information and to maintain programs to ensure employee integrity; and

(5) the potential for validation of security practices at the foreign seaport by the Department.

(c) NOTIFICATION.—The Secretary shall notify the appropriate congressional committees of the designation of a foreign port under the Container Security Initiative or the revocation of such a designation before notifying the public of such designation or revocation.

(d) NEGOTIATIONS.—The Secretary, in cooperation with the Secretary of State and in consultation with the United States Trade Representative, may enter into negotiations with the government of each foreign nation in which a seaport is designated under the Container Security Initiative to ensure full compliance with the requirements under the Container Security Initiative.

(e) OVERSEAS INSPECTIONS.—

(1) REQUIREMENTS AND PROCEDURES.—The Secretary shall—

(A) establish minimum technical capability criteria and standard operating procedures for the use of nonintrusive inspection and nuclear and radiological detection systems in conjunction with CSI;

(B) require each port designated under CSI to operate nonintrusive inspection and nuclear and radiological detection systems in accordance with the technical capability criteria and standard operating procedures established under subparagraph (A);

(C) continually monitor the technologies, processes, and techniques used to inspect cargo at ports designated under CSI to ensure adherence to such criteria and the use of such procedures; and

(D) consult with the Secretary of Energy in establishing the minimum technical capability criteria and standard operating procedures established under subparagraph (A) pertaining to radiation detection technologies to promote consistency in detection systems at foreign ports designated under CSI.

(2) CONSTRAINTS.—The criteria and procedures established under paragraph (1)(A)—

(A) shall be consistent, as practicable, with relevant standards and procedures utilized by other Federal departments or agencies, or developed by international bodies if the United States consents to such standards and procedures;

(B) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy; and

(C) shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport designated under the Container Security Initiative is located.

(f) SAVINGS PROVISION.—The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States.

(g) COORDINATION.—The Secretary shall—

(1) coordinate with the Secretary of Energy, as necessary, to provide radiation detection equipment required to support the Container Security Initiative through the Department of Energy's Second Line of Defense Program and Megaports Initiative; or

(2) work with the private sector or host governments, when possible, to obtain radiation detection equipment that meets the Department's and the Department of Energy's technical specifications for such equipment.

(h) STAFFING.—The Secretary shall develop a human capital management plan to determine adequate staffing levels in the United States and in foreign seaports including, as appropriate, the remote location of personnel in countries in which foreign seaports are designated under the Container Security Initiative.

(i) ANNUAL DISCUSSIONS.—The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Container Security Initiative are located regarding best practices, technical assistance, training needs, and

technological developments that will assist in ensuring the efficient and secure movement of international cargo.

(j) LESSER RISK PORT.—The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Container Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Container Security Initiative, for the purpose of clearing such cargo into the United States.

(k) PROHIBITION.—

(1) IN GENERAL.—The Secretary shall issue a "do not load" order, using existing authorities, to prevent the onload of any cargo loaded at a port designated under CSI that has been identified as high risk, including by the Automated Targeting System, unless the cargo is determined to no longer be high risk through—

(A) a scan of the cargo with nonintrusive imaging equipment and radiation detection equipment;

(B) a search of the cargo; or

(C) additional information received by the Department.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the ability of the Secretary to deny entry of any cargo into the United States.

(l) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2007, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit a report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The report shall include—

(A) a description of the technical assistance delivered to, as well as needed at, each designated seaport;

(B) a description of the human capital management plan at each designated seaport;

(C) a summary of the requests made by the United States to foreign governments to conduct physical or nonintrusive inspections of cargo at designated seaports, and whether each such request was granted or denied by the foreign government;

(D) an assessment of the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports and the effect on the flow of commerce at such seaports, as well as any recommendations for improving the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports;

(E) a description and assessment of the outcome of any security incident involving a foreign seaport designated under the Container Security Initiative;

(F) the rationale for the continuance of each port designated under CSI;

(G) a description of the potential for remote targeting to decrease the number of personnel who are deployed at foreign ports under CSI; and

(H) a summary and assessment of the aggregate number and extent of trade compliance lapses at each seaport designated under the Container Security Initiative.

(2) UPDATED REPORT.—Not later than September 30, 2010, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit an updated report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The updated report shall address each of the elements required to be included in the report provided for under paragraph (1).

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of this section—

(1) $144,000,000 for fiscal year 2008;

(2) $146,000,000 for fiscal year 2009; and

(3) $153,300,000 for fiscal year 2010.

# Subtitle B—Customs–Trade Partnership Against Terrorism

**SEC. 211. ESTABLISHMENT.** 6 USC 961.

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, is authorized to establish a voluntary government-private sector program (to be known as the "Customs–Trade Partnership Against Terrorism" or "C–TPAT") to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting or exceeding the program requirements. Participants in C–TPAT shall include Tier 1 participants, Tier 2 participants, and Tier 3 participants.

(b) MINIMUM SECURITY REQUIREMENTS.—The Secretary, acting through the Commissioner, shall review the minimum security requirements of C–TPAT at least once every year and update such requirements as necessary.

**SEC. 212. ELIGIBLE ENTITIES.** 6 USC 962.

Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C–TPAT.

**SEC. 213. MINIMUM REQUIREMENTS.** 6 USC 963.

An applicant seeking to participate in C–TPAT shall—

(1) demonstrate a history of moving cargo in the international supply chain;

(2) conduct an assessment of its supply chain based upon security criteria established by the Secretary, acting through the Commissioner, including—

(A) business partner requirements;

(B) container security;

(C) physical security and access controls;

(D) personnel security;

(E) procedural security;

(F) security training and threat awareness; and

(G) information technology security;

(3) implement and maintain security measures and supply chain security practices meeting security criteria established by the Commissioner; and

(4) meet all other requirements established by the Commissioner, in consultation with the Commercial Operations Advisory Committee.

6 USC 964.

**SEC. 214. TIER 1 PARTICIPANTS IN C–TPAT.**

(a) BENEFITS.—The Secretary, acting through the Commissioner, shall offer limited benefits to a Tier 1 participant who has been certified in accordance with the guidelines referred to in subsection (b). Such benefits may include a reduction in the score assigned pursuant to the Automated Targeting System of not greater than 20 percent of the high-risk threshold established by the Secretary.

Deadline.

(b) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall update the guidelines for certifying a C–TPAT participant's security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and extensive documentation review.

(c) TIMEFRAME.—To the extent practicable, the Secretary, acting through the Commissioner, shall complete the Tier 1 certification process within 90 days of receipt of an application for participation in C–TPAT.

6 USC 965.

**SEC. 215. TIER 2 PARTICIPANTS IN C–TPAT.**

(a) VALIDATION.—The Secretary, acting through the Commissioner, shall validate the security measures and supply chain security practices of a Tier 1 participant in accordance with the guidelines referred to in subsection (c). Such validation shall include on-site assessments at appropriate foreign locations utilized by the Tier 1 participant in its supply chain and shall, to the extent practicable, be completed not later than 1 year after certification as a Tier 1 participant.

(b) BENEFITS.—The Secretary, acting through the Commissioner, shall extend benefits to each C–TPAT participant that has been validated as a Tier 2 participant under this section, which may include—

(1) reduced scores in the Automated Targeting System;

(2) reduced examinations of cargo; and

(3) priority searches of cargo.

Deadline.

(c) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop a schedule and update the guidelines for validating a participant's security measures and supply chain security practices under this section.

6 USC 966.

**SEC. 216. TIER 3 PARTICIPANTS IN C–TPAT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish a third tier of C–TPAT participation that offers additional benefits to participants who demonstrate a sustained commitment to maintaining security measures and supply chain security practices that exceed the guidelines established for validation as a Tier 2 participant in C–TPAT under section 215.

(b) CRITERIA.—The Secretary, acting through the Commissioner, shall designate criteria for validating a C–TPAT participant

as a Tier 3 participant under this section. Such criteria may include—

(1) compliance with any additional guidelines established by the Secretary that exceed the guidelines established pursuant to section 215 of this Act for validating a C–TPAT participant as a Tier 2 participant, particularly with respect to controls over access to cargo throughout the supply chain;

(2) submission of additional information regarding cargo prior to loading, as determined by the Secretary;

(3) utilization of container security devices, technologies, policies, or practices that meet standards and criteria established by the Secretary; and

(4) compliance with any other cargo requirements established by the Secretary.

(c) BENEFITS.—The Secretary, acting through the Commissioner, in consultation with the Commercial Operations Advisory Committee and the National Maritime Security Advisory Committee, shall extend benefits to each C–TPAT participant that has been validated as a Tier 3 participant under this section, which may include—

(1) the expedited release of a Tier 3 participant's cargo in destination ports within the United States during all threat levels designated by the Secretary;

(2) further reduction in examinations of cargo;

(3) priority for examinations of cargo; and

(4) further reduction in the risk score assigned pursuant to the Automated Targeting System; and

(5) inclusion in joint incident management exercises, as appropriate.

(d) DEADLINE.—Not later than 2 years after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall designate appropriate criteria pursuant to subsection (b) and provide benefits to validated Tier 3 participants pursuant to subsection (c).

**SEC. 217. CONSEQUENCES FOR LACK OF COMPLIANCE.** 6 USC 967.

(a) IN GENERAL.—If at any time a C–TPAT participant's security measures and supply chain security practices fail to meet any of the requirements under this subtitle, the Commissioner may deny the participant benefits otherwise available under this subtitle, in whole or in part. The Commissioner shall develop procedures that provide appropriate protections to C–TPAT participants before benefits are revoked. Such procedures may not limit the ability of the Commissioner to take actions to protect the national security of the United States.

(b) FALSE OR MISLEADING INFORMATION.—If a C–TPAT participant knowingly provides false or misleading information to the Commissioner during the validation process provided for under this subtitle, the Commissioner shall suspend or expel the participant from C–TPAT for an appropriate period of time. The Commissioner, after the completion of the process under subsection (c), may publish in the Federal Register a list of participants who have been suspended or expelled from C–TPAT pursuant to this subsection, and may make such list available to C–TPAT participants.

(c) RIGHT OF APPEAL.—

(1) IN GENERAL.—A C–TPAT participant may appeal a decision of the Commissioner pursuant to subsection (a). Such appeal shall be filed with the Secretary not later than 90 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

Deadlines.

(2) APPEALS OF OTHER DECISIONS.—A C–TPAT participant may appeal a decision of the Commissioner pursuant to subsection (b). Such appeal shall be filed with the Secretary not later than 30 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

6 USC 968.

**SEC. 218. THIRD PARTY VALIDATIONS.**

(a) PLAN.—The Secretary, acting through the Commissioner, shall develop a plan to implement a 1-year voluntary pilot program to test and assess the feasibility, costs, and benefits of using third party entities to conduct validations of C–TPAT participants.

Deadline.
Reports.

(b) CONSULTATIONS.—Not later than 120 days after the date of the enactment of this Act, after consulting with private sector stakeholders, including the Commercial Operations Advisory Committee, the Secretary shall submit a report to the appropriate congressional committees on the plan described in subsection (a).

(c) PILOT PROGRAM.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the consultations described in subsection (b), the Secretary shall carry out the 1-year pilot program to conduct validations of C–TPAT participants using third party entities described in subsection (a).

(2) AUTHORITY OF THE SECRETARY.—The decision to validate a C–TPAT participant is solely within the discretion of the Secretary, or the Secretary's designee.

(d) CERTIFICATION OF THIRD PARTY ENTITIES.—The Secretary shall certify a third party entity to conduct validations under subsection (c) if the entity—

(1) demonstrates to the satisfaction of the Secretary that the entity has the ability to perform validations in accordance with standard operating procedures and requirements designated by the Secretary; and

(2) agrees—

(A) to perform validations in accordance with such standard operating procedures and requirements (and updates to such procedures and requirements); and

(B) to maintain liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary; and

(3) signs an agreement to protect all proprietary information of C–TPAT participants with respect to which the entity will conduct validations.

(e) INFORMATION FOR ESTABLISHING LIMITS OF LIABILITY INSURANCE.—A third party entity seeking a certificate under subsection (d) shall submit to the Secretary necessary information for establishing the limits of liability insurance required to be maintained by the entity under this Act.

(f) ADDITIONAL REQUIREMENTS.—The Secretary shall ensure that—

(1) any third party entity certified under this section does not have—

(A) any beneficial interest in or any direct or indirect control over the C–TPAT participant for which the validation services are performed; or

(B) any other conflict of interest with respect to the C–TPAT participant; and

(2) the C–TPAT participant has entered into a contract with the third party entity under which the C–TPAT participant agrees to pay all costs associated with the validation.

(g) MONITORING.—

(1) IN GENERAL.—The Secretary shall regularly monitor and inspect the operations of a third party entity conducting validations under subsection (c) to ensure that the entity is meeting the minimum standard operating procedures and requirements for the validation of C–TPAT participants established by the Secretary and all other applicable requirements for validation services.

(2) REVOCATION.—If the Secretary determines that a third party entity is not meeting the minimum standard operating procedures and requirements designated by the Secretary under subsection (d)(1), the Secretary shall—

(A) revoke the entity's certificate of conformance issued under subsection (d)(1); and

(B) review any validations conducted by the entity.

(h) LIMITATION ON AUTHORITY.—The Secretary may only grant a C–TPAT validation by a third party entity pursuant to subsection (c) if the C–TPAT participant voluntarily submits to validation by such third party entity.

(i) REPORT.—Not later than 30 days after the completion of the pilot program conducted pursuant to subsection (c), the Secretary shall submit a report to the appropriate congressional committees that contains—

(1) the results of the pilot program, including the extent to which the pilot program ensured sufficient protection for proprietary commercial information;

(2) the cost and efficiency associated with validations under the pilot program;

(3) the impact of the pilot program on the rate of validations conducted under C–TPAT;

(4) any impact on national security of the pilot program; and

(5) any recommendations by the Secretary based upon the results of the pilot program.

**SEC. 219. REVALIDATION.** 6 USC 969.

The Secretary, acting through the Commissioner, shall develop and implement—

(1) a revalidation process for Tier 2 and Tier 3 participants;

(2) a framework based upon objective criteria for identifying participants for periodic revalidation not less frequently than once during each 4-year period following the initial validation; and

(3) an annual plan for revalidation that includes—

(A) performance measures;

(B) an assessment of the personnel needed to perform the revalidations; and

(C) the number of participants that will be revalidated during the following year.

6 USC 970.

**SEC. 220. NONCONTAINERIZED CARGO.**

The Secretary, acting through the Commissioner, shall consider the potential for participation in C–TPAT by importers of noncontainerized cargoes that otherwise meet the requirements under this subtitle.

6 USC 971.

**SEC. 221. C–TPAT PROGRAM MANAGEMENT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish sufficient internal quality controls and record management to support the management systems of C–TPAT. In managing the program, the Secretary shall ensure that the program includes:

(1) STRATEGIC PLAN.—A 5-year plan to identify outcome-based goals and performance measures of the program.

(2) ANNUAL PLAN.—An annual plan for each fiscal year designed to match available resources to the projected workload.

(3) STANDARDIZED WORK PROGRAM.—A standardized work program to be used by agency personnel to carry out the certifications, validations, and revalidations of participants. The Secretary shall keep records and monitor staff hours associated with the completion of each such review.

(b) DOCUMENTATION OF REVIEWS.—The Secretary, acting through the Commissioner, shall maintain a record management system to document determinations on the reviews of each C–TPAT paricipant, including certifications, validations, and revalidations.

Procedures.

(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In consultation with the Commercial Operations Advisory Committee, the Secretary, acting through the Commissioner, shall develop and implement procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, and revalidation processes.

(d) RESOURCE MANAGEMENT STAFFING PLAN.—The Secretary, acting through the Commissioner, shall—

(1) develop a staffing plan to recruit and train staff (including a formalized training program) to meet the objectives identified in the strategic plan of the C–TPAT program; and

(2) provide cross-training in postincident trade resumption for personnel who administer the C–TPAT program.

(e) REPORT TO CONGRESS.—In connection with the President's annual budget submission for the Department, the Secretary shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, and revalidate C–TPAT participants. Such report shall be due on the same date that the President's budget is submitted to the Congress.

6 USC 972.

**SEC. 222. ADDITIONAL PERSONNEL.**

For fiscal years 2008 and 2009, the Commissioner shall increase by not less than 50 the number of full-time personnel engaged in the validation and revalidation of C–TPAT participants (over the number of such personnel on the last day of the previous fiscal year), and shall provide appropriate training and support to such additional personnel.

**SEC. 223. AUTHORIZATION OF APPROPRIATIONS.** 6 USC 973.

(a) C–TPAT.—There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of sections 211 through 221 to remain available until expended—

(1) $65,000,000 for fiscal year 2008;
(2) $72,000,000 for fiscal year 2009; and
(3) $75,600,000 for fiscal year 2010.

(b) ADDITIONAL PERSONNEL.—In addition to any amounts otherwise appropriated to the United States Customs and Border Protection, there are authorized to be appropriated for the purpose of meeting the staffing requirement provided for in section 222, to remain available until expended—

(1) $8,500,000 for fiscal year 2008;
(2) $17,600,000 for fiscal year 2009;
(3) $19,000,000 for fiscal year 2010;
(4) $20,000,000 for fiscal year 2011; and
(5) $21,000,000 for fiscal year 2012.

## Subtitle C—Miscellaneous Provisions

**SEC. 231. PILOT INTEGRATED SCANNING SYSTEM.** 6 USC 981.

(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall designate 3 foreign seaports through which containers pass or are transshipped to the United States for the establishment of pilot integrated scanning systems that couple nonintrusive imaging equipment and radiation detection equipment. In making the designations under this subsection, the Secretary shall consider 3 distinct ports with unique features and differing levels of trade volume. Deadline.

(b) COORDINATION.—The Secretary shall—

(1) coordinate with the Secretary of Energy, as necessary, to provide radiation detection equipment through the Department of Energy's Second Line of Defense and Megaports programs; or

(2) work with the private sector or, when possible, host governments to obtain radiation detection equipment that meets both the Department's and the Department of Energy's technical specifications for such equipment.

(c) PILOT SYSTEM IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall achieve a full-scale implementation of the pilot integrated scanning system at the ports designated under subsection (a), which— Deadline.

(1) shall scan all containers destined for the United States that are loaded in such ports;

(2) shall electronically transmit the images and information to appropriate United States Government personnel in the country in which the port is located or in the United States for evaluation and analysis;

(3) shall resolve every radiation alarm according to established Department procedures;

(4) shall utilize the information collected to enhance the Automated Targeting System or other relevant programs;

(5) shall store the information for later retrieval and analysis; and

(6) may provide an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(d) REPORT.—Not later than 180 days after achieving full-scale implementation under subsection (c), the Secretary, in consultation with the Secretary of State and, as appropriate, the Secretary of Energy, shall submit a report to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot system implemented under this subsection;

(2) an analysis of the efficacy of the Automated Targeting System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of the effectiveness of the integrated scanning system in detecting shielded and unshielded nuclear and radiological material;

(4) an evaluation of software and other technologies that are capable of automatically identifying potential anomalies in scanned containers; and

(5) an analysis of the need and feasibility of expanding the integrated scanning system to other container security initiative ports, including—

(A) an analysis of the infrastructure requirements;

(B) a projection of the effect on current average processing speed of containerized cargo;

(C) an evaluation of the scalability of the system to meet both current and future forecasted trade flows;

(D) the ability of the system to automatically maintain and catalog appropriate data for reference and analysis in the event of a transportation disruption;

(E) an analysis of requirements, including costs, to install and maintain an integrated scanning system;

(F) the ability of administering personnel to efficiently manage and utilize the data produced by a nonintrusive scanning system;

(G) the ability to safeguard commercial data generated by, or submitted to, a nonintrusive scanning system; and

(H) an assessment of the reliability of currently available technology to implement an integrated scanning system.

6 USC 982.

**SEC. 232. SCREENING AND SCANNING OF CARGO CONTAINERS.**

(a) ONE HUNDRED PERCENT SCREENING OF CARGO CONTAINERS AND 100 PERCENT SCANNING OF HIGH-RISK CONTAINERS.—

(1) SCREENING OF CARGO CONTAINERS.—The Secretary shall ensure that 100 percent of the cargo containers originating outside the United States and unloaded at a United States seaport undergo a screening to identify high-risk containers.

(2) SCANNING OF HIGH-RISK CONTAINERS.—The Secretary shall ensure that 100 percent of the containers that have been identified as high-risk under paragraph (1), or through other means, are scanned or searched before such containers leave a United States seaport facility.

(b) FULL-SCALE IMPLEMENTATION.—The Secretary, in coordination with the Secretary of Energy and foreign partners, as appropriate, shall ensure integrated scanning systems are fully deployed

to scan, using nonintrusive imaging equipment and radiation detection equipment, all containers entering the United States before such containers arrive in the United States as soon as possible, but not before the Secretary determines that the integrated scanning system—

(1) meets the requirements set forth in section 231(c);

(2) has a sufficiently low false alarm rate for use in the supply chain;

(3) is capable of being deployed and operated at ports overseas;

(4) is capable of integrating, as necessary, with existing systems;

(5) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(6) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(c) REPORT.—Not later than 6 months after the submission of a report under section 231(d), and every 6 months thereafter, the Secretary shall submit a report to the appropriate congressional committees describing the status of full-scale deployment under subsection (b) and the cost of deploying the system at each foreign port at which the integrated scanning systems are deployed.

**SEC. 233. INTERNATIONAL COOPERATION AND COORDINATION.** 6 USC 983.

(a) INSPECTION TECHNOLOGY AND TRAINING.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of State, the Secretary of Energy, and appropriate representatives of other Federal agencies, may provide technical assistance, equipment, and training to facilitate the implementation of supply chain security measures at ports designated under the Container Security Initiative.

(2) ACQUISITION AND TRAINING.—Unless otherwise prohibited by law, the Secretary may—

(A) lease, loan, provide, or otherwise assist in the deployment of nonintrusive inspection and radiation detection equipment at foreign land and sea ports under such terms and conditions as the Secretary prescribes, including nonreimbursable loans or the transfer of ownership of equipment; and

(B) provide training and technical assistance for domestic or foreign personnel responsible for operating or maintaining such equipment.

(b) ACTIONS AND ASSISTANCE FOR FOREIGN PORTS AND UNITED STATES TERRITORIES.—Section 70110 of title 46, United States Code, is amended—

(1) by striking the section header and inserting the following:

**"§ 70110. Actions and assistance for foreign ports and United States territories";**

and

(2) by adding at the end the following:

"(e) ASSISTANCE FOR FOREIGN PORTS AND UNITED STATES TERRITORIES.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, and the

Secretary of Energy, shall identify assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries and territories of the United States. The Secretary shall establish a program to utilize the programs that are capable of implementing port security antiterrorism measures at ports in foreign countries and territories of the United States that the Secretary finds to lack effective antiterrorism measures.

"(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of American States and the Commandant of the Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

"(A) the strategic location of such ports between South America and the United States;

"(B) the relative openness of such ports; and

"(C) the significant number of shipments of narcotics to the United States that are moved through such ports.".

(c) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the security of ports in the Caribbean Basin.

(2) CONTENTS.—The report submitted under paragraph (1)—

(A) shall include—

(i) an assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security;

(ii) an estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2007;

(iii) an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States; and

(iv) an assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin; and

(B) may be submitted in both classified and redacted formats.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

"70110. Actions and assistance for foreign ports and United States territories.".

**SEC. 234. FOREIGN PORT ASSESSMENTS.**

Section 70108 of title 46, United States Code, is amended by adding at the end the following:

"(d) PERIODIC REASSESSMENT.—The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of antiterrorism measures maintained at ports as described

under subsection (a) and of procedures described in subsection (b) not less than once every 3 years.".

**SEC. 235. PILOT PROGRAM TO IMPROVE THE SECURITY OF EMPTY CONTAINERS.** 6 USC 984.

(a) IN GENERAL.—The Secretary shall conduct a 1-year pilot program to assess the risk posed by and improve the security of empty containers at United States seaports to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers. The pilot program shall include the use of visual searches of empty containers at United States seaports.

(b) REPORT.—Not later than 90 days after the completion of the pilot program under paragraph (1), the Secretary shall prepare and submit to the appropriate congressional committees a report that contains—

(1) the results of the pilot program; and

(2) the determination of the Secretary on whether to expand the pilot program.

**SEC. 236. INFORMATION SHARING RELATING TO SUPPLY CHAIN SECURITY COOPERATION.** 6 USC 985.

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

(1) to establish continuing liaison and to provide for supply chain security cooperation between Department and the private sector; and

(2) to provide for regular and timely interchange of information between the private sector and the Department concerning developments and security risks in the supply chain environment.

(b) SYSTEM.—The Secretary shall develop a system to collect from and share appropriate risk information related to the supply chain with the private sector entities determined appropriate by the Secretary.

(c) CONSULTATION.—In developing the system under subsection (b), the Secretary shall consult with the Commercial Operations Advisory Committee and a broad range of public and private sector entities likely to utilize the system, including importers, exporters, carriers, customs brokers, and freight forwarders, among other parties.

(d) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a Federal, State, or local government entity, under applicable law, to obtain supply chain security information, including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(e) AUTHORITY TO ISSUE WARNINGS.—The Secretary may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential risks to the supply chain as appropriate. In issuing a warning, the Secretary shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted supply chain security information that forms the basis for the warning; and

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

# TITLE III—ADMINISTRATION

**SEC. 301. OFFICE OF CARGO SECURITY POLICY.**

(a) ESTABLISHMENT.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:

6 USC 239.

**"SEC. 431. OFFICE OF CARGO SECURITY POLICY.**

"(a) ESTABLISHMENT.—There is established within the Department an Office of Cargo Security Policy (referred to in this section as the 'Office').

"(b) PURPOSE.—The Office shall—

"(1) coordinate all Department policies relating to cargo security; and

"(2) consult with stakeholders and coordinate with other Federal agencies in the establishment of standards and regulations and to promote best practices.

"(c) DIRECTOR.—

"(1) APPOINTMENT.—The Office shall be headed by a Director, who shall—

"(A) be appointed by the Secretary; and

"(B) report to the Assistant Secretary for Policy.

"(2) RESPONSIBILITIES.—The Director shall—

"(A) advise the Assistant Secretary for Policy in the development of Department-wide policies regarding cargo security;

"(B) coordinate all policies relating to cargo security among the agencies and offices within the Department relating to cargo security; and

"(C) coordinate the cargo security policies of the Department with the policies of other executive agencies.".

6 USC 1001.

(b) DESIGNATION OF LIAISON OFFICE OF DEPARTMENT OF STATE.—The Secretary of State shall designate a liaison office within the Department of State to assist the Secretary, as appropriate, in negotiating cargo security-related international agreements.

6 USC 239 note.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect—

(1) the authorities, functions, or capabilities of the Coast Guard to perform its missions; or

(2) the requirement under section 888 of the Homeland Security Act (6 U.S.C. 468) that those authorities, functions, and capabilities be maintained intact.

(d) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 430 the following:

"Sec. 431. Office of Cargo Security Policy.".

**SEC. 302. REAUTHORIZATION OF HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.**

(a) IN GENERAL.—Section 311(j) of the Homeland Security Act of 2002 (6 U.S.C. 191(j)) is amended by striking "3 years after the effective date of this Act" and inserting "on December 31, 2008".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if enacted on the date of the enactment of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.). 6 USC 191 note.

(c) ADVISORY COMMITTEE.—The Under Secretary for Science and Technology shall utilize the Homeland Security Science and Technology Advisory Committee, as appropriate, to provide outside expertise in advancing cargo security technology. 6 USC 1002.

**SEC. 303. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION EFFORTS IN FURTHERANCE OF MARITIME AND CARGO SECURITY.** 6 USC 1003.

(a) IN GENERAL.—The Secretary shall—

(1) direct research, development, testing, and evaluation efforts in furtherance of maritime and cargo security;

(2) coordinate with public and private sector entities to develop and test technologies, and process innovations in furtherance of these objectives; and

(3) evaluate such technologies.

(b) COORDINATION.—The Secretary, in coordination with the Under Secretary for Science and Technology, the Assistant Secretary for Policy, the Commandant of the Coast Guard, the Director for Domestic Nuclear Detection, the Chief Financial Officer, and the heads of other appropriate offices or entities of the Department, shall ensure that—

(1) research, development, testing, and evaluation efforts funded by the Department in furtherance of maritime and cargo security are coordinated within the Department and with other appropriate Federal agencies to avoid duplication of efforts; and

(2) the results of such efforts are shared throughout the Department and with other Federal, State, and local agencies, as appropriate.

# TITLE IV—AGENCY RESOURCES AND OVERSIGHT

**SEC. 401. TRADE AND CUSTOMS REVENUE FUNCTIONS OF THE DEPARTMENT.** 6 USC 115.

(a) TRADE AND CUSTOMS REVENUE FUNCTIONS.—

(1) DESIGNATION OF APPROPRIATE OFFICIAL.—The Secretary shall designate an appropriate senior official in the office of the Secretary who shall—

(A) ensure that the trade and customs revenue functions of the Department are coordinated within the Department and with other Federal departments and agencies, and that the impact on legitimate trade is taken into account in any action impacting the functions; and

(B) monitor and report to Congress on the Department's mandate to ensure that the trade and customs revenue functions of the Department are not diminished, including how spending, operations, and personnel related to these functions have kept pace with the level of trade entering the United States.

(2) DIRECTOR OF TRADE POLICY.—There shall be a Director of Trade Policy (in this subsection referred to as the "Director"),

who shall be subject to the direction and control of the official designated pursuant to paragraph (1). The Director shall—

(A) advise the official designated pursuant to paragraph (1) regarding all aspects of Department policies relating to the trade and customs revenue functions of the Department;

(B) coordinate the development of Department-wide policies regarding trade and customs revenue functions and trade facilitation; and

(C) coordinate the trade and customs revenue-related policies of the Department with the policies of other Federal departments and agencies.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study evaluating the extent to which the Department of Homeland Security is meeting its obligations under section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) with respect to the maintenance of customs revenue functions.

(2) ANALYSIS.—The study shall include an analysis of—

(A) the extent to which the customs revenue functions carried out by the former United States Customs Service have been consolidated with other functions of the Department (including the assignment of noncustoms revenue functions to personnel responsible for customs revenue collection), discontinued, or diminished following the transfer of the United States Customs Service to the Department;

(B) the extent to which staffing levels or resources attributable to customs revenue functions have decreased since the transfer of the United States Customs Service to the Department; and

(C) the extent to which the management structure created by the Department ensures effective trade facilitation and customs revenue collection.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate congressional committees a report on the results of the study conducted under subsection (a).

Deadline.

(4) MAINTENANCE OF FUNCTIONS.—Not later than September 30, 2007, the Secretary shall ensure that the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding implementation of this paragraph.

(5) DEFINITION.—In this section, the term "customs revenue functions" means the functions described in section 412(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)(2)).

(c) CONSULTATION ON TRADE AND CUSTOMS REVENUE FUNCTIONS.—

(1) BUSINESS COMMUNITY CONSULTATIONS.—The Secretary shall consult with representatives of the business community involved in international trade, including seeking the advice and recommendations of the Commercial Operations Advisory Committee, on Department policies and actions that have a

significant impact on international trade and customs revenue functions.

(2) CONGRESSIONAL CONSULTATION AND NOTIFICATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall notify the appropriate congressional committees not later than 30 days prior to the finalization of any Department policies, initiatives, or actions that will have a major impact on trade and customs revenue functions. Such notifications shall include a description of the proposed policies, initiatives, or actions and any comments or recommendations provided by the Commercial Operations Advisory Committee and other relevant groups regarding the proposed policies, initiatives, or actions.

(B) EXCEPTION.—If the Secretary determines that it is important to the national security interest of the United States to finalize any Department policies, initiatives, or actions prior to the consultation described in subparagraph (A), the Secretary shall—

(i) notify and provide any recommendations of the Commercial Operations Advisory Committee received to the appropriate congressional committees not later than 45 days after the date on which the policies, initiatives, or actions are finalized; and

(ii) to the extent appropriate, modify the policies, initiatives, or actions based upon the consultations with the appropriate congressional committees.

(d) NOTIFICATION OF REORGANIZATION OF CUSTOMS REVENUE FUNCTIONS.—

(1) IN GENERAL.—Not less than 45 days prior to any change in the organization of any of the customs revenue functions of the Department, the Secretary shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred as part of such reorganization, and the reason for such transfer. The notification shall also include—

(A) an explanation of how trade enforcement functions will be impacted by the reorganization;

(B) an explanation of how the reorganization meets the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) that the Department not diminish the customs revenue and trade facilitation functions formerly performed by the United States Customs Service; and

(C) any comments or recommendations provided by the Commercial Operations Advisory Committee regarding such reorganization.

(2) ANALYSIS.—Any congressional committee referred to in paragraph (1) may request that the Commercial Operations Advisory Committee provide a report to the committee analyzing the impact of the reorganization and providing any recommendations for modifying the reorganization.

(3) REPORT.—Not later than 1 year after any reorganization referred to in paragraph (1) takes place, the Secretary, in

consultation with the Commercial Operations Advisory Committee, shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.

**SEC. 402. OFFICE OF INTERNATIONAL TRADE; OVERSIGHT.**

Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), is amended by adding at the end the following:

"(d) OFFICE OF INTERNATIONAL TRADE.—

"(1) ESTABLISHMENT.—There is established within the United States Customs and Border Protection an Office of International Trade that shall be headed by an Assistant Commissioner.

"(2) TRANSFER OF ASSETS, FUNCTIONS, AND PERSONNEL; ELIMINATION OF OFFICES.—

Abolished.
Deadline.

"(A) OFFICE OF STRATEGIC TRADE.—

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the SAFE Port Act, the Commissioner shall transfer the assets, functions, and personnel of the Office of Strategic Trade to the Office of International Trade established pursuant to paragraph (1) and the Office of Strategic Trade shall be abolished.

"(ii) LIMITATION ON FUNDS.—No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel of the Office of Strategic Trade, to an office other than the office established pursuant to paragraph (1) of this subsection.

Abolished.
Deadline.

"(B) OFFICE OF REGULATIONS AND RULINGS.—

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the SAFE Port Act, the Commissioner shall transfer the assets, functions, and personnel of the Office of Regulations and Rulings to the Office of International Trade established pursuant to paragraph (1) and the Office of Regulations and Rulings shall be abolished.

"(ii) LIMITATION ON FUNDS.—No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel of the Office of Regulations and Rulings, to an office other than the office established pursuant to paragraph (1) of this subsection.

"(C) OTHER TRANSFERS.—The Commissioner is authorized to transfer any other assets, functions, or personnel within the United States Customs and Border Protection to the Office of International Trade established pursuant to paragraph (1). Not less than 45 days prior to each such transfer, the Commissioner shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred,

Notification.

and the reason for such transfer. Such notification shall also include—

"(i) an explanation of how trade enforcement functions will be impacted by the reorganization;

"(ii) an explanation of how the reorganization meets the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) that the Department of Homeland Security not diminish the customs revenue and trade facilitation functions formerly performed by the United States Customs Service; and

"(iii) any comments or recommendations provided by the Commercial Operations Advisory Committee regarding such reorganization.

"(D) REPORT.—Not later than 1 year after any reorganization pursuant to subparagraph (C) takes place, the Commissioner, in consultation with the Commercial Operations Advisory Committee, shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.

"(E) LIMITATION ON AUTHORITY.—Notwithstanding any other provision of law, the Commissioner shall not transfer any assets, functions, or personnel from United States ports of entry, associated with the enforcement of laws relating to trade in textiles and apparel, to the Office of International Trade established pursuant to paragraph (1), until the following conditions are met:

"(i) The Commissioner submits the initial Resource Allocation Model required by section 301(h) of the Customs and Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) and includes in such Resource Allocation Model a section addressing the allocation of assets, functions, and personnel associated with the enforcement of laws relating to trade in textiles and apparel.

"(ii) The Commissioner consults with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding any subsequent transfer of assets, functions, or personnel associated with the enforcement of laws relating to trade in textiles and apparel, not less than 45 days prior to such transfer.

"(F) LIMITATION ON APPROPRIATIONS.—No funds appropriated to the United States Customs and Border Protection may be used to transfer the assets, functions, or personnel associated with the enforcement of laws relating to trade in textiles and apparel, before the Commissioner consults with the congressional committees pursuant to subparagraph (E)(ii).

"(e) INTERNATIONAL TRADE COMMITTEE.—

"(1) ESTABLISHMENT.—The Commissioner shall establish an International Trade Committee, to be chaired by the Commissioner, and to include the Deputy Commissioner, the Assistant Commissioner in the Office of Field Operations, the Assistant Commissioner in the Office of Finance, the Assistant

Commissioner in the Office of International Affairs, the Assistant Commissioner in the Office of International Trade, the Director of the Office of Trade Relations, and any other official determined by the Commissioner to be important to the work of the Committee.

"(2) RESPONSIBILITIES.—The International Trade Committee shall—

"(A) be responsible for advising the Commissioner with respect to the commercial customs and trade facilitation functions of the United States Customs and Border Protection;

"(B) assist the Commissioner in coordinating with the Secretary regarding commercial customs and trade facilitation functions; and

"(C) oversee the operation of all programs and systems that are involved in the assessment and collection of duties, bonds, and other charges or penalties associated with the entry of cargo into the United States, or the export of cargo from the United States, including the administration of duty drawback and the collection of antidumping and countervailing duties.

"(3) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the International Trade Committee shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The report shall—

"(A) detail the activities of the International Trade Committee during the preceding fiscal year; and

"(B) identify the priorities of the International Trade Committee for the fiscal year in which the report is filed.

"(f) DEFINITION.—In this section:

"(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.

"(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term 'Commercial Operations Advisory Committee' means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.".

**SEC. 403. RESOURCES.**

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended by adding at the end the following:

"(h) RESOURCE ALLOCATION MODEL.—

Deadlines.

"(1) RESOURCE ALLOCATION MODEL.—Not later than June 30, 2007, and every 2 years thereafter, the Commissioner shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a Resource Allocation Model to determine the optimal staffing levels required to carry out the commercial operations of United States Customs and Border Protection, including commercial inspection and release of cargo and the revenue functions described in section 412(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)(2)). The Model shall comply with the requirements of section 412(b)(1) of such Act and shall take into account previous staffing models, historic

and projected trade volumes, and trends. The Resource Allocation Model shall apply both risk-based and random sampling approaches for determining adequate staffing needs for priority trade functions, including— Applicability.

"(A) performing revenue functions;

"(B) enforcing antidumping and countervailing duty laws;

"(C) protecting intellectual property rights;

"(D) enforcing provisions of law relating to trade in textiles and apparel;

"(E) conducting agricultural inspections;

"(F) enforcing fines, penalties, and forfeitures; and

"(G) facilitating trade.

"(2) PERSONNEL.—

"(A) IN GENERAL.—Not later than September 30, 2007, the Commissioner shall ensure that the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the implementation of this subparagraph. Deadline. Reports.

"(B) CUSTOMS AND BORDER PROTECTION OFFICERS.—The initial Resource Allocation Model required pursuant to paragraph (1) shall provide for the hiring of a minimum of 200 additional Customs and Border Protection Officers per year for each of the fiscal years 2008 through 2012. The Commissioner shall hire such additional Officers subject to the appropriation of funds to pay for the salaries and expenses of such Officers. In assigning the 1,000 additional Officers authorized by this subparagraph, the Commissioner shall—

"(i) consider the volume of trade and the incidence of nonvoluntarily disclosed customs and trade law violations in addition to security priorities among United States ports of entry; and

"(ii) before October 1, 2010, assign at least 10 additional Officers among each service port and the ports of entry serviced by such service port, except as provided in subparagraph (C). Deadline.

"(C) ASSIGNMENT.—In assigning such Officers pursuant to subparagraph (B), the Commissioner shall consult with the port directors of each service port and the other ports of entry serviced by such service port. The Commissioner shall not assign an Officer to a port of entry pursuant to subparagraph (B)(ii) if the port director of the service port that services such port of entry certifies to the Commissioner that an additional Officer is not needed at such port of entry.

"(D) REPORT.—Not later than 60 days after the beginning of each of the fiscal years 2008 through 2012, the Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Ways and Means of the House of Representatives, that describes how the additional Officers authorized under subparagraph (B) will be allocated

among the ports of entry in the United States in accordance with subparagraph (C).

"(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to any monies hereafter appropriated to United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the requirements of paragraph (2)(B), to remain available until expended—

"(A) $36,000,000 for fiscal year 2008;
"(B) $75,000,000 for fiscal year 2009;
"(C) $118,000,000 for fiscal year 2010;
"(D) $165,000,000 for fiscal year 2011; and
"(E) $217,000,000 for fiscal year 2012.

"(4) REPORT.—Not later than 30 days after the end of each fiscal year, the Commissioner shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources directed to commercial and trade facilitation functions within the Office of Field Operations for the preceding fiscal year. Such information shall be reported for each category of personnel within the Office of Field Operations.

Deadline.

"(5) REGULATIONS TO IMPLEMENT TRADE AGREEMENTS.—Not later than 30 days after the date of the enactment of the SAFE Port Act, the Commissioner shall designate and maintain not less than 5 attorneys within the Office of International Trade established pursuant to section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), with responsibility for the prompt development and promulgation of regulations necessary to implement any trade agreement entered into by the United States, in addition to any other responsibilities assigned by the Commissioner.

"(6) DEFINITION.—In this subsection, the term 'Commissioner' means the Commissioner responsible for United States Customs and Border Protection in the Department of Homeland Security.".

**SEC. 404. NEGOTIATIONS.**

Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) is amended by adding at the end the following:

"(h) CUSTOMS PROCEDURES AND COMMITMENTS.—

"(1) IN GENERAL.—The Secretary of Homeland Security, the United States Trade Representative, and other appropriate Federal officials shall work through appropriate international organizations including the World Customs Organization (WCO), the World Trade Organization (WTO), the International Maritime Organization, and the Asia-Pacific Economic Cooperation, to align, to the extent practicable, customs procedures, standards, requirements, and commitments in order to facilitate the efficient flow of international trade.

"(2) UNITED STATES TRADE REPRESENTATIVE.—

"(A) IN GENERAL.—The United States Trade Representative shall seek commitments in negotiations in the WTO regarding the articles of GATT 1994 that are described in subparagraph (B) that make progress in achieving—

"(i) harmonization of import and export data collected by WTO members for customs purposes, to the extent practicable;

"(ii) enhanced procedural fairness and transparency with respect to the regulation of imports and exports by WTO members;

"(iii) transparent standards for the efficient release of cargo by WTO members, to the extent practicable; and

"(iv) the protection of confidential commercial data.

"(B) ARTICLES DESCRIBED.—The articles of the GATT 1994 described in this subparagraph are the following:

"(i) Article V (relating to transit).

"(ii) Article VIII (relating to fees and formalities associated with importation and exportation).

"(iii) Article X (relating to publication and administration of trade regulations).

"(C) GATT 1994.—The term 'GATT 1994' means the General Agreement on Tariff and Trade annexed to the WTO Agreement.

"(3) CUSTOMS.—The Secretary of Homeland Security, acting through the Commissioner and in consultation with the United States Trade Representative, shall work with the WCO to facilitate the efficient flow of international trade, taking into account existing international agreements and the negotiating objectives of the WTO. The Commissioner shall work to—

"(A) harmonize, to the extent practicable, import data collected by WCO members for customs purposes;

"(B) automate and harmonize, to the extent practicable, the collection and storage of commercial data by WCO members;

"(C) develop, to the extent practicable, transparent standards for the release of cargo by WCO members;

"(D) develop and harmonize, to the extent practicable, standards, technologies, and protocols for physical or non-intrusive examinations that will facilitate the efficient flow of international trade; and

"(E) ensure the protection of confidential commercial data.

"(4) DEFINITION.—In this subsection, the term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.".

**SEC. 405. INTERNATIONAL TRADE DATA SYSTEM.**

Section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is amended by adding at the end the following:

"(d) INTERNATIONAL TRADE DATA SYSTEM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury (in this subsection, referred to as the 'Secretary') shall oversee the establishment of an electronic trade data interchange system to be known as the 'International Trade Data System' (ITDS). The ITDS shall be implemented not later than the date that the Automated Commercial Environment (commonly referred to as 'ACE') is fully implemented. Deadline.

"(B) PURPOSE.—The purpose of the ITDS is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing

a single portal system, operated by the United States Customs and Border Protection, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

"(C) PARTICIPATION.—

"(i) IN GENERAL.—All Federal agencies that require documentation for clearing or licensing the importation and exportation of cargo shall participate in the ITDS.

"(ii) WAIVER.—The Director of the Office of Management and Budget may waive, in whole or in part, the requirement for participation for any Federal agency based on the vital national interest of the United States.

"(D) CONSULTATION.—The Secretary shall consult with and assist the United States Customs and Border Protection and other agencies in the transition from paper to electronic format for the submission, issuance, and storage of documents relating to data required to enter cargo into the United States. In so doing, the Secretary shall also consult with private sector stakeholders, including the Commercial Operations Advisory Committee, in developing uniform data submission requirements, procedures, and schedules, for the ITDS.

"(E) COORDINATION.—The Secretary shall be responsible for coordinating the operation of the ITDS among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

"(2) DATA ELEMENTS.—

"(A) IN GENERAL.—The Interagency Steering Committee (established under paragraph (3)) shall, in consultation with the agencies participating in the ITDS, define the standard set of data elements to be collected, stored, and shared in the ITDS, consistent with laws applicable to the collection and protection of import and export information. The Interagency Steering Committee shall periodically review the data elements in order to update the standard set of data elements, as necessary.

"(B) COMMITMENTS AND OBLIGATIONS.—The Interagency Steering Committee shall ensure that the ITDS data requirements are compatible with the commitments and obligations of the United States as a member of the World Customs Organization (WCO) and the World Trade Organization (WTO) for the entry and movement of cargo.

Estabishment.

"(3) INTERAGENCY STEERING COMMITTEE.—There is established an Interagency Steering Committee (in this section, referred to as the 'Committee'). The members of the Committee shall include the Secretary (who shall serve as the chairperson of the Committee), the Director of the Office of Management and Budget, and the head of each agency participating in the ITDS. The Committee shall assist the Secretary in overseeing the implementation of, and participation in, the ITDS.

President.

"(4) REPORT.—The President shall submit a report before the end of each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Each report shall include information on—

"(A) the status of the ITDS implementation;

"(B) the extent of participation in the ITDS by Federal agencies;

"(C) the remaining barriers to any agency's participation;

"(D) the consistency of the ITDS with applicable standards established by the World Customs Organization and the World Trade Organization;

"(E) recommendations for technological and other improvements to the ITDS; and

"(F) the status of the development, implementation, and management of the Automated Commercial Environment within the United States Customs and Border Protection.

"(5) SENSE OF CONGRESS.—It is the sense of Congress that agency participation in the ITDS is an important priority of the Federal Government and that the Secretary shall coordinate the operation of the ITDS closely among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

"(6) CONSTRUCTION.—Nothing in this section shall be construed as amending or modifying subsection (g) of section 301 of title 13, United States Code.

"(7) DEFINITION.—The term 'Commercial Operations Advisory Committee' means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.".

**SEC. 406. IN-BOND CARGO.**

Title IV of the Tariff Act of 1930 is amended by inserting after section 553 the following:

**"SEC. 553A. REPORT ON IN-BOND CARGO.** 19 USC 1553–1.

"(a) REPORT.—Not later than June 30, 2007, the Commissioner shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Finance of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that includes—

"(1) a plan for closing in-bond entries at the port of arrival;

"(2) an assessment of the personnel required to ensure 100 percent reconciliation of in-bond entries between the port of arrival and the port of destination or exportation;

"(3) an assessment of the status of investigations of overdue in-bond shipments and an evaluation of the resources required to ensure adequate investigation of overdue in-bond shipments;

"(4) a plan for tracking in-bond cargo within the Automated Commercial Environment (ACE);

"(5) an assessment of whether any particular technologies should be required in the transport of in-bond cargo;

"(6) an assessment of whether ports of arrival should require any additional information regarding shipments of in-bond cargo;

"(7) an evaluation of the criteria for targeting and examining in-bond cargo; and

"(8) an assessment of the feasibility of reducing the transit time for in-bond shipments, including an assessment of the impact of such a change on domestic and international trade.

"(b) DEFINITION.—In this section, the term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.".

**SEC. 407. SENSE OF THE SENATE.**

It is the sense of the Senate that nothing in sections 111 through 114, 121, and 201 through 236, or the amendments made by such sections, shall be construed to affect the jurisdiction of any Standing Committee of the Senate.

# TITLE V—DOMESTIC NUCLEAR DETECTION OFFICE

**SEC. 501. ESTABLISHMENT OF DOMESTIC NUCLEAR DETECTION OFFICE.**

(a) ESTABLISHMENT OF OFFICE.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

# "TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

6 USC 591.

**"SEC. 1801. DOMESTIC NUCLEAR DETECTION OFFICE.**

"(a) ESTABLISHMENT.—There shall be established in the Department a Domestic Nuclear Detection Office (referred to in this title as the 'Office'). The Secretary may request that the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Attorney General, the Nuclear Regulatory Commission, and the directors of other Federal agencies, including elements of the Intelligence Community, provide for the reimbursable detail of personnel with relevant expertise to the Office.

President.

"(b) DIRECTOR.—The Office shall be headed by a Director for Domestic Nuclear Detection, who shall be appointed by the President.

6 USC 592.

**"SEC. 1802. MISSION OF OFFICE.**

"(a) MISSION.—The Office shall be responsible for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

"(1) serve as the primary entity of the United States Government to further develop, acquire, and support the deployment of an enhanced domestic system to detect and report on attempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the United States, and improve that system over time;

"(2) enhance and coordinate the nuclear detection efforts of Federal, State, local, and tribal governments and the private sector to ensure a managed, coordinated response;

"(3) establish, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Energy, additional protocols and procedures for use within the United States to ensure that the detection of unauthorized nuclear explosive devices, fissile material, or radiological material is promptly reported to the Attorney General, the Secretary, the Secretary of Defense, the Secretary of Energy, and other appropriate officials or their respective designees for appropriate action by law enforcement, military, emergency response, or other authorities;

"(4) develop, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of State, the Secretary of Defense, and the Secretary of Energy, an enhanced global nuclear detection architecture with implementation under which—

"(A) the Office will be responsible for the implementation of the domestic portion of the global architecture;

"(B) the Secretary of Defense will retain responsibility for implementation of Department of Defense requirements within and outside the United States; and

"(C) the Secretary of State, the Secretary of Defense, and the Secretary of Energy will maintain their respective responsibilities for policy guidance and implementation of the portion of the global architecture outside the United States, which will be implemented consistent with applicable law and relevant international arrangements;

"(5) ensure that the expertise necessary to accurately interpret detection data is made available in a timely manner for all technology deployed by the Office to implement the global nuclear detection architecture;

"(6) conduct, support, coordinate, and encourage an aggressive, expedited, evolutionary, and transformational program of research and development to generate and improve technologies to detect and prevent the illicit entry, transport, assembly, or potential use within the United States of a nuclear explosive device or fissile or radiological material, and coordinate with the Under Secretary for Science and Technology on basic and advanced or transformational research and development efforts relevant to the mission of both organizations;

"(7) carry out a program to test and evaluate technology for detecting a nuclear explosive device and fissile or radiological material, in coordination with the Secretary of Defense and the Secretary of Energy, as appropriate, and establish performance metrics for evaluating the effectiveness of individual detectors and detection systems in detecting such devices or material—

"(A) under realistic operational and environmental conditions; and

"(B) against realistic adversary tactics and countermeasures;

"(8) support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism

community, other government agencies, and foreign governments, as well as provide appropriate information to such entities;

"(9) further enhance and maintain continuous awareness by analyzing information from all Office mission-related detection systems; and

"(10) perform other duties as assigned by the Secretary.

6 USC 593.

**"SEC. 1803. HIRING AUTHORITY.**

"In hiring personnel for the Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note). The term of appointments for employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.

6 USC 594.

**"SEC. 1804. TESTING AUTHORITY.**

"(a) IN GENERAL.—The Director shall coordinate with the responsible Federal agency or other entity to facilitate the use by the Office, by its contractors, or by other persons or entities, of existing Government laboratories, centers, ranges, or other testing facilities for the testing of materials, equipment, models, computer software, and other items as may be related to the missions identified in section 1802. Any such use of Government facilities shall be carried out in accordance with all applicable laws, regulations, and contractual provisions, including those governing security, safety, and environmental protection, including, when applicable, the provisions of section 309. The Office may direct that private sector entities utilizing Government facilities in accordance with this section pay an appropriate fee to the agency that owns or operates those facilities to defray additional costs to the Government resulting from such use.

"(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available shall be confidential and shall not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

"(c) FEES.—Fees for services made available under this section shall not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

"(d) USE OF FEES.—Fees received for services made available under this section may be credited to the appropriation from which funds were expended to provide such services.

6 USC 595.

**"SEC. 1805. RELATIONSHIP TO OTHER DEPARTMENT ENTITIES AND FEDERAL AGENCIES.**

"The authority of the Director under this title shall not affect the authorities or responsibilities of any officer of the Department or of any officer of any other department or agency of the United States with respect to the command, control, or direction of the functions, personnel, funds, assets, and liabilities of any entity within the Department or any Federal department or agency.

**"SEC. 1806. CONTRACTING AND GRANT MAKING AUTHORITIES.** 6 USC 596.

"The Secretary, acting through the Director for Domestic Nuclear Detection, in carrying out the responsibilities under paragraphs (6) and (7) of section 1802(a), shall—

"(1) operate extramural and intramural programs and distribute funds through grants, cooperative agreements, and other transactions and contracts;

"(2) ensure that activities under paragraphs (6) and (7) of section 1802(a) include investigations of radiation detection equipment in configurations suitable for deployment at seaports, which may include underwater or water surface detection equipment and detection equipment that can be mounted on cranes and straddle cars used to move shipping containers; and

"(3) have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues and carry out other responsibilities under this title.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) in section 103(d) (6 U.S.C. 113(d)), by adding at the end the following:

"(5) A Director for Domestic Nuclear Detection.";

(2) in section 302 (6 U.S.C. 182)—

(A) in paragraph (2), by striking "radiological, nuclear"; and

(B) in paragraph (5)(A), by striking "radiological, nuclear"; and

(3) in the table of contents, by adding at the end the following:

"TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

"Sec. 1801. Domestic Nuclear Detection Office.
"Sec. 1802. Mission of Office.
"Sec. 1803. Hiring authority.
"Sec. 1804. Testing authority.
"Sec. 1805. Relationship to other Department entities and Federal agencies.
"Sec. 1806. Contracting and grant making authorities.".

**SEC. 502. TECHNOLOGY RESEARCH AND DEVELOPMENT INVESTMENT STRATEGY FOR NUCLEAR AND RADIOLOGICAL DETECTION.** 6 USC 592a.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary, the Secretary of Energy, the Secretary of Defense, and the Director of National Intelligence shall submit to Congress a research and development investment strategy for nuclear and radiological detection. Deadline.

(b) CONTENTS.—The strategy under subsection (a) shall include—

(1) a long term technology roadmap for nuclear and radiological detection applicable to the mission needs of the Department, the Department of Energy, the Department of Defense, and the Office of the Director of National Intelligence;

(2) budget requirements necessary to meet the roadmap; and

(3) documentation of how the Department, the Department of Energy, the Department of Defense, and the Office of the Director of National Intelligence will execute this strategy.

(c) INITIAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on—

(1) the impact of this title, and the amendments made by this title, on the responsibilities under section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182); and

(2) the efforts of the Department to coordinate, integrate, and establish priorities for conducting all basic and applied research, development, testing, and evaluation of technology and systems to detect, prevent, protect, and respond to chemical, biological, radiological, and nuclear terrorist attacks.

(d) ANNUAL REPORT.—The Director for Domestic Nuclear Detection and the Under Secretary for Science and Technology shall jointly and annually notify Congress that the strategy and technology road map for nuclear and radiological detection developed under subsections (a) and (b) is consistent with the national policy and strategic plan for identifying priorities, goals, objectives, and policies for coordinating the Federal Government's civilian efforts to identify and develop countermeasures to terrorist threats from weapons of mass destruction that are required under section 302(2) of the Homeland Security Act of 2002 (6 U.S.C. 182(2)).

Warning, Alert, and Response Network Act.

# TITLE VI—COMMERCIAL MOBILE SERVICE ALERTS

42 USC 1201 note.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Warning, Alert, and Response Network Act".

42 USC 1201.

**SEC. 602. FEDERAL COMMUNICATIONS COMMISSION DUTIES.**

Deadline.

(a) COMMERCIAL MOBILE SERVICE ALERT REGULATIONS.—Within 180 days after the date on which the Commercial Mobile Service Alert Advisory Committee, established pursuant to section 603(a), transmits recommendations to the Federal Communications Commission, the Commission shall complete a proceeding to adopt relevant technical standards, protocols, procedures, and other technical requirements based on the recommendations of such Advisory Committee necessary to enable commercial mobile service alerting capability for commercial mobile service providers that voluntarily elect to transmit emergency alerts. The Commission shall consult with the National Institute of Standards and Technology regarding the adoption of technical standards under this subsection.

(b) COMMERCIAL MOBILE SERVICE ELECTION.—

Deadline.

(1) AMENDMENT OF COMMERCIAL MOBILE SERVICE LICENSE.—Within 120 days after the date on which the Federal Communications Commission adopts relevant technical standards and other technical requirements pursuant to subsection (a), the Commission shall complete a proceeding—

(A) to allow any licensee providing commercial mobile service (as defined in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1))) to transmit emergency alerts to subscribers to, or users of, the commercial mobile service provided by such licensee;

(B) to require any licensee providing commercial mobile service that elects, in whole or in part, under paragraph (2) not to transmit emergency alerts to provide clear and

conspicuous notice at the point of sale of any devices with which its commercial mobile service is included, that it will not transmit such alerts via the service it provides for the device; and

(C) to require any licensee providing commercial mobile service that elects under paragraph (2) not to transmit emergency alerts to notify its existing subscribers of its election.

(2) ELECTION.—

(A) IN GENERAL.—Within 30 days after the Commission issues its order under paragraph (1), each licensee providing commercial mobile service shall file an election with the Commission with respect to whether or not it intends to transmit emergency alerts. Deadline.

(B) TRANSMISSION STANDARDS; NOTIFICATION.—If a licensee providing commercial mobile service elects to transmit emergency alerts via its commercial mobile service, the licensee shall—

(i) notify the Commission of its election; and

(ii) agree to transmit such alerts in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission.

(C) NO FEE FOR SERVICE.—A commercial mobile service licensee that elects to transmit emergency alerts may not impose a separate or additional charge for such transmission or capability.

(D) WITHDRAWAL; LATE ELECTION.—The Commission shall establish a procedure— Procedures.

(i) for a commercial mobile service licensee that has elected to transmit emergency alerts to withdraw its election without regulatory penalty or forfeiture upon advance written notification of the withdrawal to its affected subscribers;

(ii) for a commercial mobile service licensee to elect to transmit emergency alerts at a date later than provided in subparagraph (A); and

(iii) under which a subscriber may terminate a subscription to service provided by a commercial mobile service licensee that withdraws its election without penalty or early termination fee.

(E) CONSUMER CHOICE TECHNOLOGY.—Any commercial mobile service licensee electing to transmit emergency alerts may offer subscribers the capability of preventing the subscriber's device from receiving such alerts, or classes of such alerts, other than an alert issued by the President. Within 2 years after the Commission completes the proceeding under paragraph (1), the Commission shall examine the issue of whether a commercial mobile service provider should continue to be permitted to offer its subscribers such capability. The Commission shall submit a report with its recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Deadline. Reports.

Deadline.

(c) DIGITAL TELEVISION TRANSMISSION TOWERS RETRANSMISSION CAPABILITY.—Within 90 days after the date on which the Commission adopts relevant technical standards based on recommendations of the Commercial Mobile Service Alert Advisory Committee, established pursuant to section 603(a), the Commission shall complete a proceeding to require licensees and permittees of noncommercial educational broadcast stations or public broadcast stations (as those terms are defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6))) to install necessary equipment and technologies on, or as part of, any broadcast television digital signal transmitter to enable the distribution of geographically targeted alerts by commercial mobile service providers that have elected to transmit emergency alerts under this section.

(d) FCC REGULATION OF COMPLIANCE.—The Federal Communications Commission may enforce compliance with this title but shall have no rulemaking authority under this title, except as provided in subsections (a), (b), (c), and (f).

(e) LIMITATION OF LIABILITY.—

(1) IN GENERAL.—Any commercial mobile service provider (including its officers, directors, employees, vendors, and agents) that transmits emergency alerts and meets its obligations under this title shall not be liable to any subscriber to, or user of, such person's service or equipment for—

(A) any act or omission related to or any harm resulting from the transmission of, or failure to transmit, an emergency alert; or

(B) the release to a government agency or entity, public safety, fire service, law enforcement official, emergency medical service, or emergency facility of subscriber information used in connection with delivering such an alert.

(2) ELECTION NOT TO TRANSMIT ALERTS.—The election by a commercial mobile service provider under subsection (b)(2)(A) not to transmit emergency alerts, or to withdraw its election to transmit such alerts under subsection (b)(2)(D) shall not, by itself, provide a basis for liability against the provider (including its officers, directors, employees, vendors, and agents).

Regulations.

(f) TESTING.—The Commission shall require by regulation technical testing for commercial mobile service providers that elect to transmit emergency alerts and for the devices and equipment used by such providers for transmitting such alerts.

47 USC 1202.

**SEC. 603. COMMERCIAL MOBILE SERVICE ALERT ADVISORY COMMITTEE.**

Deadline.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the chairman of the Federal Communications Commission shall establish an advisory committee, to be known as the Commercial Mobile Service Alert Advisory Committee (referred to in this section as the "Advisory Committee").

(b) MEMBERSHIP.—The chairman of the Federal Communications Commission shall appoint the members of the Advisory Committee, as soon as practicable after the date of enactment of this Act, from the following groups:

(1) STATE AND LOCAL GOVERNMENT REPRESENTATIVES.—Representatives of State and local governments and representatives of emergency response providers, selected from among

individuals nominated by national organizations representing such governments and personnel.

(2) TRIBAL GOVERNMENTS.—Representatives from Federally recognized Indian tribes and National Indian organizations.

(3) SUBJECT MATTER EXPERTS.—Individuals who have the requisite technical knowledge and expertise to serve on the Advisory Committee in the fulfillment of its duties, including representatives of—

(A) communications service providers;

(B) vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for the provision of communications services;

(C) third-party service bureaus;

(D) technical experts from the broadcasting industry;

(E) the national organization representing the licensees and permittees of noncommercial broadcast television stations;

(F) national organizations representing individuals with special needs, including individuals with disabilities and the elderly; and

(G) other individuals with relevant technical expertise.

(4) QUALIFIED REPRESENTATIVES OF OTHER STAKEHOLDERS AND INTERESTED PARTIES.—Qualified representatives of such other stakeholders and interested and affected parties as the chairman deems appropriate.

(c) DEVELOPMENT OF SYSTEM-CRITICAL RECOMMENDATIONS.—Within 1 year 1after the date of enactment of this Act, the Advisory Committee shall develop and submit to the Federal Communications Commission recommendations— Deadline.

(1) for protocols, technical capabilities, and technical procedures through which electing commercial mobile service providers receive, verify, and transmit alerts to subscribers;

(2) for the establishment of technical standards for priority transmission of alerts by electing commercial mobile service providers to subscribers;

(3) for relevant technical standards for devices and equipment and technologies used by electing commercial mobile service providers to transmit emergency alerts to subscribers;

(4) for the technical capability to transmit emergency alerts by electing commercial mobile providers to subscribers in languages in addition to English, to the extent practicable and feasible;

(5) under which electing commercial mobile service providers may offer subscribers the capability of preventing the subscriber's device from receiving emergency alerts, or classes of such alerts, (other than an alert issued by the President), consistent with section 602(b)(2)(E);

(6) for a process under which commercial mobile service providers can elect to transmit emergency alerts if—

(A) not all of the devices or equipment used by such provider are capable of receiving such alerts; or

(B) the provider cannot offer such alerts throughout the entirety of its service area; and

(7) as otherwise necessary to enable electing commercial mobile service providers to transmit emergency alerts to subscribers.

(d) MEETINGS.—

Deadline.

(1) INITIAL MEETING.—The initial meeting of the Advisory Committee shall take place not later than 60 days after the date of the enactment of this Act.

(2) OTHER MEETINGS.—After the initial meeting, the Advisory Committee shall meet at the call of the chair.

(3) NOTICE; OPEN MEETINGS.—Any meetings held by the Advisory Committee shall be duly noticed at least 14 days in advance and shall be open to the public.

(e) RULES.—

(1) QUORUM.—One-third of the members of the Advisory Committee shall constitute a quorum for conducting business of the Advisory Committee.

(2) SUBCOMMITTEES.—To assist the Advisory Committee in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Advisory Committee and other subject matter experts as deemed necessary.

(3) ADDITIONAL RULES.—The Advisory Committee may adopt other rules as needed.

(f) FEDERAL ADVISORY COMMITTEE ACT.—Neither the Federal Advisory Committee Act (5 U.S.C. App.) nor any rule, order, or regulation promulgated under that Act shall apply to the Advisory Committee.

(g) CONSULTATION WITH NIST.—The Advisory Committee shall consult with the National Institute of Standards and Technology in its work on developing recommendations under paragraphs (2) and (3) of subsection (c).

47 USC 1203.

**SEC. 604. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Under Secretary of Homeland Security for Science and Technology, in consultation with the director of the National Institute of Standards and Technology and the chairman of the Federal Communications Commission, shall establish a research, development, testing, and evaluation program based on the recommendations of the Commercial Mobile Service Alert Advisory Committee, established pursuant to section 603(a), to support the development of technologies to increase the number of commercial mobile service devices that can receive emergency alerts.

(b) FUNCTIONS.—The program established under subsection (a) shall—

(1) fund research, development, testing, and evaluation at academic institutions, private sector entities, government laboratories, and other appropriate entities; and

(2) ensure that the program addresses, at a minimum—

(A) developing innovative technologies that will transmit geographically targeted emergency alerts to the public; and

(B) research on understanding and improving public response to warnings.

47 USC 1204.

**SEC. 605. GRANT PROGRAM FOR REMOTE COMMUNITY ALERT SYSTEMS.**

Deadline.

(a) GRANT PROGRAM.—The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of Homeland Security, shall establish a program under which grants may be made to provide for outdoor alerting technologies in remote communities effectively unserved by commercial mobile service (as determined by the Federal Communications Commission within

180 days after the date of enactment of this Act) for the purpose of enabling residents of those communities to receive emergency alerts.

(b) APPLICATIONS AND CONDITIONS.—In conducting the program, the Under Secretary—

(1) shall establish a notification and application procedure; and Procedures.

(2) may establish such conditions, and require such assurances, as may be appropriate to ensure the efficiency and integrity of the grant program.

(c) SUNSET.—The Under Secretary may not make grants under subsection (a) more than 5 years after the date of enactment of this Act.

(d) LIMITATION.—The sum of the amounts awarded for all fiscal years as grants under this section may not exceed $10,000,000.

**SEC. 606. FUNDING.** 47 USC 1205.

(a) IN GENERAL.—In addition to any amounts provided by appropriation Acts, funding for this title shall be provided from the Digital Transition and Public Safety Fund in accordance with section 3010 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

(b) COMPENSATION.—The Assistant Secretary of Commerce for7Communications and Information shall compensate any such broadcast station licensee or permittee for reasonable costs incurred in complying with the requirements imposed pursuant to section 602(c) from funds made available under this section. The Assistant Secretary shall ensure that sufficient funds are made available to effectuate geographically targeted alerts.

(c) CREDIT.—The Assistant Secretary of Commerce for Communications and Information, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Commerce for Oceans and Atmosphere, may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $106,000,000, to implement this title. The Assistant Secretary of Commerce for Communications and Information shall ensure that the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Commerce for Oceans and Atmosphere are provided adequate funds to carry out their responsibilities under sections 604 and 605 of this title. The Treasury shall be reimbursed, without interest, from amounts in the Digital Television Transition and Public Safety Fund as funds are deposited into the Fund. Effective date. Reimbursement.

**SEC. 607. ESSENTIAL SERVICES DISASTER ASSISTANCE.**

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

**"SEC. 425. ESSENTIAL SERVICE PROVIDERS.** 42 USC 5189e.

"(a) DEFINITION.—In this section, the term 'essential service provider' means an entity that—

"(1) provides—

"(A) telecommunications service;

"(B) electrical power;

"(C) natural gas;

"(D) water and sewer services; or

"(E) any other essential service, as determined by the President;

"(2) is—

"(A) a municipal entity;

"(B) a nonprofit entity; or

"(C) a private, for profit entity; and

"(3) is contributing to efforts to respond to an emergency or major disaster.

"(b) AUTHORIZATION FOR ACCESSIBILITY.—Unless exceptional circumstances apply, in an emergency or major disaster, the head of a Federal agency, to the greatest extent practicable, shall not—

"(1) deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or

"(2) impede the restoration or repair of the services described in subsection (a)(1).

"(c) IMPLEMENTATION.—In implementing this section, the head of a Federal agency shall follow all applicable Federal laws, regulations, and policies.".

**SEC. 608. COMMUNITY DISASTER LOANS.**

Section 417(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184(b)) is amended—

(1) by striking "exceed 25 per centum" and inserting the following: "exceed—

"(1) 25 percent"; and

(2) by striking the period at the end and inserting the following: "; or

"(2) if the loss of tax and other revenues of the local government as a result of the major disaster is at least 75 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, 50 percent of the annual operating budget of that local government for the fiscal year in which the major disaster occurs, and shall not exceed $5,000,000.".

**SEC. 609. PUBLIC FACILITIES.**

Section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) is amended—

(1) in subparagraph (A), by striking "75" and inserting "90";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

**SEC. 610. EXPEDITED PAYMENTS.**

Section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173) is amended by adding at the end the following:

"(e) EXPEDITED PAYMENTS.—

President.

"(1) GRANT ASSISTANCE.—In making a grant under subsection (a)(2), the President shall provide not less than 50 percent of the President's initial estimate of the Federal share of assistance as an initial payment in accordance with paragraph (2).

Deadlines.

"(2) DATE OF PAYMENT.—Not later than 60 days after the date of the estimate described in paragraph (1) and not later

than 90 days after the date on which the State or local government or owner or operator of a private nonprofit facility applies for assistance under this section, an initial payment described in paragraph (1) shall be paid.".

**SEC. 611. USE OF LOCAL CONTRACTING.**

Section 307(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by the Post-Katrina Emergency Management Reform Act of 2006, is amended by adding at the end the following:

"(3) FORMULATION OF REQUIREMENTS.—The head of a Federal agency, as feasible and practicable, shall formulate appropriate requirements to facilitate compliance with this section.".

**SEC. 612. FEMA PROGRAMS.** 6 USC 314a.

Notwithstanding any other provision of Federal law, as of April 1, 2007, the Director of the Federal Emergency Management Agency shall be responsible for the radiological emergency preparedness program and the chemical stockpile emergency preparedness program. Effective date.

**SEC. 613. HOMELAND SECURITY DEFINITION.**

Section 2(6) of the Homeland Security Act of 2002 (6 U.S.C. 101(6)) is amended by inserting "governmental and nongovernmental" after "local".

# TITLE VII—OTHER MATTERS

**SEC. 701. SECURITY PLAN FOR ESSENTIAL AIR SERVICE AND SMALL COMMUNITY AIRPORTS.**

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall submit to Congress a security plan for— Deadline.

(1) Essential Air Service airports in the United States; and

(2) airports whose community or consortia of communities receive assistance under the Small Community Air Service Development Program authorized under section 41743 of title 49, United States Code, and maintain, resume, or obtain scheduled passenger air carrier service with assistance from that program in the United States.

(b) ELEMENTS OF PLAN.—The security plans required under subsection (a) shall include the following:

(1) Recommendations for improved security measures at such airports.

(2) Recommendations for proper passenger and cargo security screening procedures at such airports.

(3) A timeline for implementation of recommended security measures or procedures at such airports.

(4) Cost analysis for implementation of recommended security measures or procedures at such airports.

**SEC. 702. DISCLOSURES REGARDING HOMELAND SECURITY GRANTS.** 6 USC 470.

(a) DEFINITIONS.—In this section:

(1) HOMELAND SECURITY GRANT.—The term "homeland security grant" means any grant made or administered by the Department, including—

(A) the State Homeland Security Grant Program;

(B) the Urban Area Security Initiative Grant Program;

(C) the Law Enforcement Terrorism Prevention Program;

(D) the Citizen Corps; and

(E) the Metropolitan Medical Response System.

(2) LOCAL GOVERNMENT.—The term "local government" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

Deadlines. Reports.

(b) REQUIRED DISCLOSURES.—Each State or local government that receives a homeland security grant shall, not later than 12 months after the later of the date of the enactment of this Act and the date of receipt of such grant, and every 12 months thereafter until all funds provided under such grant are expended, submit a report to the Secretary that contains a list of all expenditures made by such State or local government using funds from such grant.

Deadlines Regulations. 49 USC 31100 note.

**SEC. 703. TRUCKING SECURITY.**

(a) LEGAL STATUS VERIFICATION FOR LICENSED UNITED STATES COMMERCIAL DRIVERS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary, shall issue regulations to implement the recommendations contained in the memorandum of the Inspector General of the Department of Transportation issued on June 4, 2004 (Control No. 2004–054).

(b) COMMERCIAL DRIVER'S LICENSE ANTIFRAUD PROGRAMS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary, shall issue a regulation to implement the recommendations contained in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program (MH–2006–037).

(c) VERIFICATION OF COMMERCIAL MOTOR VEHICLE TRAFFIC.—

(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall draft guidelines for Federal, State, and local law enforcement officials, including motor carrier safety enforcement personnel, on how to identify noncompliance with Federal laws uniquely applicable to commercial motor vehicles and commercial motor vehicle operators engaged in cross-border traffic and communicate such noncompliance to the appropriate Federal authorities. Such guidelines shall be coordinated with the training and outreach activities of the Federal Motor Carrier Safety Administration under section 4139 of SAFETEA-LU (Public Law 109–59).

(2) VERIFICATION.—Not later than 18 months after the date of the enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration shall modify the final rule regarding the enforcement of operating authority (Docket No. FMCSA–2002–13015) to establish a system or process by which a carrier's operating authority can be verified during a roadside inspection.

**SEC. 704. AIR AND MARINE OPERATIONS OF THE NORTHERN BORDER AIR WING.**

Appropriation authorization.

In addition to any other amounts authorized to be appropriated for Air and Marine Operations of United States Customs and Border Protection for fiscal year 2008, there are authorized to be appropriated such sums as may be necessary for operation expenses and aviation assets, for primary and secondary sites, of the Northern Border Air Wing Branch in Great Falls, Montana.

**SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.**

Alaska.

(a) IN GENERAL.—Notwithstanding section 12105(c) of title 46, United States Code, a foreign-flag vessel may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

(1) until December 31, 2009, if the Secretary of Transportation determines after publishing notice in the Federal Register, that insufficient vessels documented under section 12105(c) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

Deadline.
Federal Register, publication.

(2) for an additional 2-year period beginning January 1, 2010, if the Secretary of Transportation determines —

Extension date.

(A) as of December 31, 2009, the lessee has entered into a binding agreement to employ an eligible vessel or vessels to be documented under section 12105(c) of title 46, United States Code, in sufficient numbers and with sufficient suitability to replace any vessel or vessels operating under this section; and

(B) after publishing notice in the Federal Register, that insufficient vessels documented under section 12105(c) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

Federal Register, publication.

(b) LESSEE DEFINED.—In this section, the term "lessee" means the holder of a lease (as defined in section 1331(c) of title 43, United States Code).

(c) SAVINGS PROVISION.—Nothing in subsection (a) may be construed to authorize the employment in the coastwise trade of a vessel that does not meet the requirements of section 12106 of title 46, United States Code.

**SEC. 706. COAST GUARD PROPERTY IN PORTLAND, MAINE.**

Section 347(c) of the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2109) is amended by striking "within 30 months from the date of conveyance" and inserting "by December 31, 2009".

6 USC 220.

**SEC. 707. METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.**

(a) COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.—As part of the annual performance plan required in the budget submission of the United States Customs and Border Protection under section 1115 of title 31, United States Code, the Commissioner shall establish performance indicators relating to the seizure of methamphetamine and methamphetamine precursor chemicals in order to evaluate the performance goals of the United States Customs and Border Protection with respect to the interdiction of illegal drugs entering the United States.

(b) STUDY AND REPORT RELATING TO METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.—

(1) ANALYSIS.—The Commissioner shall, on an ongoing basis, analyze the movement of methamphetamine and methamphetamine precursor chemicals into the United States. In conducting the analysis, the Commissioner shall—

(A) consider the entry of methamphetamine and methamphetamine precursor chemicals through ports of entry, between ports of entry, through international mails, and through international courier services;

(B) examine the export procedures of each foreign country where the shipments of methamphetamine and methamphetamine precursor chemicals originate and determine if changes in the country's customs over time provisions would alleviate the export of methamphetamine and methamphetamine precursor chemicals; and

(C) identify emerging trends in smuggling techniques and strategies.

(2) REPORT.—Not later than September 30, 2007, and each 2-year period thereafter, the Commissioner, in the consultation with the Attorney General, United States Immigration and Customs Enforcement, the United States Drug Enforcement Administration, and the United States Department of State, shall submit a report to the Committee on Finance of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on International Relations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives, that includes—

(A) a comprehensive summary of the analysis described in paragraph (1); and

(B) a description of how the Untied States Customs and Border Protection utilized the analysis described in paragraph (1) to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005 (Public Law 109–177).

(3) AVAILABILITY OF ANALYSIS.—The Commissioner shall ensure that the analysis described in paragraph (1) is made available in a timely manner to the Secretary of State to facilitate the Secretary in fulfilling the Secretary's reporting requirements in section 722 of the Combat Methamphetamine Epidemic Act of 2005.

(c) DEFINITION.—In this section, the term "methamphetamine precursor chemicals" means the chemicals ephedrine,

pseudoephedrine, or phenylpropanolamine, including each of the salts, optical isomers, and salts of optical isomers of such chemicals.

**SEC. 708. AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING PROGRAM.**

(a) IMPLEMENTATION STATUS.—Not later than 270 days after the implementation of the Department's aircraft charter customer and lessee prescreening process required under section 44903(j)(2) of title 49, United States Code, the Comptroller General of the United States shall— Deadline.

(1) assess the status and implementation of the program and the use of the program by the general aviation charter and rental community; and

(2) submit a report containing the findings, conclusions, and recommendations, if any, of such assessment to— Reports.

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Homeland Security of the House of Representatives; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 709. PROTECTION OF HEALTH AND SAFETY DURING DISASTERS.** 42 USC 300hh–14.

(a) DEFINITIONS.—In this section:

(1) CERTIFIED MONITORING PROGRAM.—The term "certified monitoring program" means a medical monitoring program—

(A) in which a participating responder is a participant as a condition of the employment of such participating responder; and

(B) that the Secretary of Health and Human Services certifies includes an adequate baseline medical screening.

(2) DISASTER AREA.—The term "disaster area" means an area in which the President has declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), during the period of such declaration.

(3) HIGH EXPOSURE LEVEL.—The term "high exposure level" means a level of exposure to a substance of concern that is for such a duration, or of such a magnitude, that adverse effects on human health can be reasonably expected to occur, as determined by the President, acting through the Secretary of Health and Human Services, in accordance with human monitoring or environmental or other appropriate indicators.

(4) INDIVIDUAL.—The term "individual" includes—

(A) a worker or volunteer who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, including—

(i) a police officer;

(ii) a firefighter;

(iii) an emergency medical technician;

(iv) any participating member of an urban search and rescue team; and

(v) any other relief or rescue worker or volunteer that the President, acting through the Secretary of Health and Human Services, determines to be appropriate;

(B) a worker who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

(C) a person whose place of residence is in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States;

(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States, of the United States; and

(E) any other person that the President, acting through the Secretary of Health and Human Services, determines to be appropriate.

(5) PARTICIPATING RESPONDER.—The term "participating responder" means an individual described in paragraph (4)(A).

(6) PROGRAM.—The term "program" means a program described in subsection (b) that is carried out for a disaster area.

(7) SUBSTANCE OF CONCERN.—The term "substance of concern" means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President, acting through the Secretary of Health and Human Services, and in coordination with the Agency for Toxic Substances and Disease Registry, the Environmental Protection Agency, the Centers for Disease Control and Prevention, the National Institutes of Health, the Federal Emergency Management Agency, the Occupational Health and Safety Administration, and other agencies.

President.

(b) PROGRAM.—

(1) IN GENERAL.—If the President, acting through the Secretary of Health and Human Services, determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area and disrupts the transportation system of the United States, the President, acting through the Secretary of Health and Human Services, may carry out a program for the coordination, protection, assessment, monitoring, and study of the health and safety of individuals with high exposure levels to ensure that—

(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern in a timely manner;

(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

(i) any short- and long-term health impacts of any substance of concern; and

(ii) any mental health impacts;

(C) the individuals receive health care referrals as needed and appropriate; and

(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

(A) collecting and analyzing environmental exposure data;

(B) developing and disseminating information and educational materials;

(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

(D) establishing and maintaining an exposure registry;

(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

(3) TIMING.—To the maximum extent practicable, activities under any program carried out under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

(A) IN GENERAL.—Participation in any registry or study that is part of a program carried out under paragraph (1) shall be voluntary.

(B) PROTECTION OF PRIVACY.—The President, acting through the Secretary of Health and Human Services, shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

(C) PRIORITY.—

(i) IN GENERAL.—Except as provided in clause (ii), the President, acting through the Secretary of Health and Human Services, shall give priority in any registry or study described in subparagraph (A) to the protection, monitoring and study of the health and safety of individuals with the highest level of exposure to a substance of concern.

(ii) MODIFICATIONS.—Notwithstanding clause (i), the President, acting through the Secretary of Health and Human Services, may modify the priority of a registry or study described in subparagraph (A), if the President, acting through the Secretary of Health and Human Services, determines such modification to be appropriate.

(5) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—The President, acting through the Secretary of Health and Human Services, may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

(B) SELECTION CRITERIA.—To the maximum extent practicable, the President, acting through the Secretary of Health and Human Services, shall select, to carry out

a program under paragraph (1), a medical institution or a consortium of medical institutions that—

(i) is located near—

(I) the disaster area with respect to which the program is carried out; and

(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

(II) conducting long-term health monitoring and epidemiological studies;

(III) conducting long-term mental health studies; and

(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

(6) INVOLVEMENT.—

(A) IN GENERAL.—In carrying out a program under paragraph (1), the President, acting through the Secretary of Health and Human Services, shall involve interested and affected parties, as appropriate, including representatives of—

(i) Federal, State, and local government agencies;

(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

(iii) local residents, businesses, and schools (including parents and teachers);

(iv) health care providers;

(v) faith based organizations; and

(vi) other organizations and persons.

(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

(7) PRIVACY.—The President, acting through the Secretary of Health and Human Services, shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

(8) EXISTING PROGRAMS.—In carrying out a program under paragraph (1), the President, acting through the Secretary of Health and Human Services, may—

(A) include the baseline clinical health examination of a participating responder under a certified monitoring programs; and

(B) substitute the baseline clinical health examination of a participating responder under a certified monitoring program for a baseline clinical health examination under paragraph (1).

(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, acting through the Secretary of Health and Human

Services, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), may submit a report to the Secretary of Homeland Security, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress describing the programs and studies carried out under the program.

(d) NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.—

Contracts.
Reports.

(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(2) PARTICIPATION OF EXPERTS.—The report under paragraph (1) shall be prepared with the participation of individuals who have expertise in—

(A) environmental health, safety, and medicine;

(B) occupational health, safety, and medicine;

(C) clinical medicine, including pediatrics;

(D) environmental toxicology;

(E) epidemiology;

(F) mental health;

(G) medical monitoring and surveillance;

(H) environmental monitoring and surveillance;

(I) environmental and industrial hygiene;

(J) emergency planning and preparedness;

(K) public outreach and education;

(L) State and local health departments;

(M) State and local environmental protection departments;

(N) functions of workers that respond to disasters, including first responders;

(O) public health; and

(P) family services, such as counseling and other disaster-related services provided to families.

(3) CONTENTS.—The report under paragraph (1) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(A) the establishment of protocols for monitoring and responding to chemical or substance releases in a disaster area to protect public health and safety, including—

(i) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(ii) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(iii) chemical- or substance-specific methods of sample analysis;

(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(v) procedures for providing monitoring results to—

(I) appropriate Federal, State, and local government agencies;

(II) appropriate response personnel; and

(III) the public;

(vi) responsibilities of Federal, State, and local agencies for—

(I) collecting and analyzing samples;

(II) reporting results; and

(III) taking appropriate response actions; and

(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(B) other issues specified by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

Unlawful Internet Gambling Enforcement Act of 2006.
31 USC 5301 note.

# TITLE VIII—UNLAWFUL INTERNET GAMBLING ENFORCEMENT

**SEC. 801. SHORT TITLE.**

This title may be cited as the "Unlawful Internet Gambling Enforcement Act of 2006".

**SEC. 802. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT INSTRUMENT FOR UNLAWFUL INTERNET GAMBLING.**

(a) IN GENERAL.—Chapter 53 of title 31, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

**"§ 5361. Congressional findings and purpose**

"(a) FINDINGS.—Congress finds the following:

"(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

"(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent such sites.

"(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry.

"(4) New mechanisms for enforcing gambling laws on the Internet are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling

prohibitions or regulations on the Internet, especially where such gambling crosses State or national borders.

"(b) RULE OF CONSTRUCTION.—No provision of this subchapter shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.

**"§ 5362. Definitions**

"In this subchapter:

"(1) BET OR WAGER.—The term 'bet or wager'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28;

"(D) includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering; and

"(E) does not include—

"(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 for the purchase or sale of securities (as that term is defined in section 3(a)(10) of that Act);

"(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act;

"(iii) any over-the-counter derivative instrument;

"(iv) any other transaction that—

"(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

"(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

"(v) any contract of indemnity or guarantee;

"(vi) any contract for insurance;

"(vii) any deposit or other transaction with an insured depository institution;

"(viii) participation in any game or contest in which participants do not stake or risk anything of value other than—

"(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

"(II) points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

"(ix) participation in any fantasy or simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

"(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

"(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

"(III) No winning outcome is based—

"(aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(2) BUSINESS OF BETTING OR WAGERING.—The term 'business of betting or wagering' does not include the activities of a financial transaction provider, or any interactive computer service or telecommunications service.

"(3) DESIGNATED PAYMENT SYSTEM.—The term 'designated payment system' means any system utilized by a financial transaction provider that the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, jointly determine, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

"(4) FINANCIAL TRANSACTION PROVIDER.—The term 'financial transaction provider' means a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local payment network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, or other participant in a designated payment system.

"(5) INTERNET.—The term 'Internet' means the international computer network of interoperable packet switched data networks.

"(6) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' has the meaning given the term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

"(7) RESTRICTED TRANSACTION.—The term 'restricted transaction' means any transaction or transmittal involving any

credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(9) STATE.—The term 'State' means any State of the United States, the District of Columbia, or any commonwealth, territory, or other possession of the United States.

"(10) UNLAWFUL INTERNET GAMBLING.—

"(A) IN GENERAL.—The term 'unlawful Internet gambling' means to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.

"(B) INTRASTATE TRANSACTIONS.—The term 'unlawful Internet gambling' does not include placing, receiving, or otherwise transmitting a bet or wager where—

"(i) the bet or wager is initiated and received or otherwise made exclusively within a single State;

"(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and placed in accordance with the laws of such State, and the State law or regulations include—

"(I) age and location verification requirements reasonably designed to block access to minors and persons located out of such State; and

"(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with such State's law or regulations; and

"(iii) the bet or wager does not violate any provision of—

"(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

"(II) chapter 178 of title 28 (commonly known as the 'Professional and Amateur Sports Protection Act');

"(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

"(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

"(C) INTRATRIBAL TRANSACTIONS.—The term 'unlawful Internet gambling' does not include placing, receiving, or otherwise transmitting a bet or wager where—

"(i) the bet or wager is initiated and received or otherwise made exclusively—

"(I) within the Indian lands of a single Indian tribe (as such terms are defined under the Indian Gaming Regulatory Act); or

"(II) between the Indian lands of 2 or more Indian tribes to the extent that intertribal gaming is authorized by the Indian Gaming Regulatory Act;

"(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and complies with the requirements of—

"(I) the applicable tribal ordinance or resolution approved by the Chairman of the National Indian Gaming Commission; and

"(II) with respect to class III gaming, the applicable Tribal-State Compact;

"(iii) the applicable tribal ordinance or resolution or Tribal-State Compact includes—

"(I) age and location verification requirements reasonably designed to block access to minors and persons located out of the applicable Tribal lands; and

"(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with the applicable tribal ordinance or resolution or Tribal-State Compact; and

"(iv) the bet or wager does not violate any provision of—

"(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

"(II) chapter 178 of title 28 (commonly known as the 'Professional and Amateur Sports Protection Act');

"(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

"(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

"(D) INTERSTATE HORSERACING.—

"(i) IN GENERAL.—The term 'unlawful Internet gambling' shall not include any activity that is allowed under the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

"(ii) RULE OF CONSTRUCTION REGARDING PREEMPTION.—Nothing in this subchapter may be construed to preempt any State law prohibiting gambling.

"(iii) SENSE OF CONGRESS.—It is the sense of Congress that this subchapter shall not change which activities related to horse racing may or may not be allowed under Federal law. This subparagraph is intended to address concerns that this subchapter could have the effect of changing the existing relationship between the Interstate Horseracing Act and other Federal statutes in effect on the date of the enactment of this subchapter. This subchapter is not intended to change that relationship. This subchapter is not intended to resolve any existing disagreements over how to interpret the relationship between the Interstate Horseracing Act and other Federal statutes.

"(E) INTERMEDIATE ROUTING.—The intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received, or otherwise made.

"(11) OTHER TERMS.—

"(A) CREDIT; CREDITOR; CREDIT CARD; AND CARD ISSUER.—The terms 'credit', 'creditor', 'credit card', and 'card issuer' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

"(B) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer'—

"(i) has the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a), except that the term includes transfers that would otherwise be excluded under section 903(6)(E) of that Act; and

"(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

"(C) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given the term in section 903 of the Electronic Fund Transfer Act, except that such term does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received.

"(D) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution'—

"(i) has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); and

"(ii) includes an insured credit union (as defined in section 101 of the Federal Credit Union Act).

"(E) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meanings given the terms in section 5330(d) (determined without regard to any regulations prescribed by the Secretary thereunder).

### "§ 5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling

"No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

"(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

"(2) an electronic fund transfer, or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

"(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

"(4) the proceeds of any other form of financial transaction, as the Secretary and the Board of Governors of the Federal Reserve System may jointly prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

**"§ 5364. Policies and procedures to identify and prevent restricted transactions**

Deadline.

"(a) REGULATIONS.—Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate) requiring each designated payment system, and all participants therein, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions in any of the following ways:

"(1) The establishment of policies and procedures that—

"(A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and

"(B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).

"(2) The establishment of policies and procedures that prevent or prohibit the acceptance of the products or services of the payment system in connection with a restricted transaction.

"(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations under subsection (a), the Secretary and the Board of Governors of the Federal Reserve System shall—

"(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed, as applicable, to be reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of the products or services with respect to each type of restricted transaction;

"(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing or prohibiting the acceptance of the products or services of the payment system or participant in connection with, restricted transactions;

"(3) exempt certain restricted transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and the Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions; and

"(4) ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling in subparagraph (B), (C), or (D)(i) of section 5362(10) are not blocked or otherwise prevented or prohibited by the prescribed regulations.

"(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A financial transaction provider shall be considered to be in compliance with the regulations prescribed under subsection (a) if—

"(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—

"(A) identify and block restricted transactions; or

"(B) otherwise prevent or prohibit the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

"(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

"(d) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that identifies and blocks a transaction, prevents or prohibits the acceptance of its products or services in connection with a transaction, or otherwise refuses to honor a transaction—

"(1) that is a restricted transaction;

"(2) that such person reasonably believes to be a restricted transaction; or

"(3) as a designated payment system or a member of a designated payment system in reliance on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under subsection (a),

shall not be liable to any party for such action.

"(e) REGULATORY ENFORCEMENT.—The requirements under this section shall be enforced exclusively by—

"(1) the Federal functional regulators, with respect to the designated payment systems and financial transaction providers subject to the respective jurisdiction of such regulators under section 505(a) of the Gramm-Leach-Bliley Act and section 5g of the Commodities Exchange Act; and

"(2) the Federal Trade Commission, with respect to designated payment systems and financial transaction providers not otherwise subject to the jurisdiction of any Federal functional regulators (including the Commission) as described in paragraph (1).

**"§ 5365. Civil remedies**

"(a) JURISDICTION.—In addition to any other remedy under current law, the district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain restricted transactions by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

"(b) PROCEEDINGS.—

"(1) INSTITUTION BY FEDERAL GOVERNMENT.—

"(A) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this section to prevent or restrain a restricted transaction.

"(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

"(A) IN GENERAL.—The attorney general (or other appropriate State official) of a State in which a restricted transaction allegedly has been or will be initiated, received, or otherwise made may institute proceedings under this

section to prevent or restrain the violation or threatened violation.

"(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(3) INDIAN LANDS.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a restricted transaction that allegedly has been or will be initiated, received, or otherwise made on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

"(i) the United States shall have the enforcement authority provided under paragraph (1); and

"(ii) the enforcement authorities specified in an applicable Tribal-State Compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

"(B) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

"(c) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

"(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

"(A) be limited to the removal of, or disabling of access to, an online site violating section 5363, or a hypertext link to an online site violating such section, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section under section 5367;

"(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

"(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

"(D) specify the interactive computer service to which it applies; and

"(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

"(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084(d) of title 18, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

"(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful

bets or wagers are offered to be placed, received, or otherwise made; or

"(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

"(d) LIMITATION ON INJUNCTIONS AGAINST REGULATED PERSONS.—Notwithstanding any other provision of this section, and subject to section 5367, no provision of this subchapter shall be construed as authorizing the Attorney General of the United States, or the attorney general (or other appropriate State official) of any State to institute proceedings to prevent or restrain a restricted transaction against any financial transaction provider, to the extent that the person is acting as a financial transaction provider.

**"§ 5366. Criminal penalties**

"(a) IN GENERAL.—Any person who violates section 5363 shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) PERMANENT INJUNCTION.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

**"§ 5367. Circumventions prohibited**

"Notwithstanding section 5362(2), a financial transaction provider, or any interactive computer service or telecommunications service, may be liable under this subchapter if such person has actual knowledge and control of bets and wagers, and—

"(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

"(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

"5361. Congressional findings and purpose.

"5362. Definitions.

"5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling.

"5364. Policies and procedures to identify and prevent restricted transactions.

"5365. Civil remedies.

"5366. Criminal penalties.

"5367. Circumventions prohibited.".

31 USC 5361 note.

**SEC. 803. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.**

(a) IN GENERAL.—In deliberations between the United States Government and any foreign country on money laundering, corruption, and crime issues, the United States Government should—

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act; and

(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering purposes.

(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 4954 (S. 2008) (S. 2459):

HOUSE REPORTS: Nos. 109–447, Pt. 1 (Comm. on Homeland Security) and 109–711 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 4, considered and passed House.
Sept. 7, 8, 11–14, considered and passed Senate, amended.
Sept. 29, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 13, Presidential remarks and statement.

# Public Law 109–348
# 109th Congress

## An Act

To designate the Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, as the "Andres Toro Building".

Oct. 13, 2006
[H.R. 5026]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, shall be known and designated as the "Andrés Toro Building".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Andrés Toro Building".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 5026:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–349
## 109th Congress

## An Act

Oct. 13, 2006
[H.R. 5428]

To designate the facility of the United States Postal Service located at 202 East Washington Street in Morris, Illinois, as the "Joshua A. Terando Morris Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOSHUA A. TERANDO MORRIS POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 202 East Washington Street in Morris, Illinois, shall be known and designated as the "Joshua A. Terando Morris Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Joshua A. Terando Morris Post Office Building".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 5428:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–350
# 109th Congress

## An Act

To designate the facility of the United States Postal Service located at 40 South Walnut Street in Chillicothe, Ohio, as the "Larry Cox Post Office".

Oct. 13, 2006
[H.R. 5434]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LARRY COX POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 40 South Walnut Street in Chillicothe, Ohio, shall be known and designated as the "Larry Cox Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Larry Cox Post Office".

Approved October 13, 2006.

LEGISLATIVE HISTORY—H.R. 5434:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–351
# 109th Congress

## An Act

Oct. 13, 2006
[S. 2856]

To provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Financial Services Regulatory Relief Act of 2006.
12 USC 1811 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Regulatory Relief Act of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—BROKER RELIEF

Sec. 101. Joint rulemaking required for revised definition of broker in the Securities Exchange Act of 1934.

TITLE II—MONETARY POLICY PROVISIONS

Sec. 201. Authorization for the Federal Reserve to pay interest on reserves.
Sec. 202. Increased flexibility for the Federal Reserve Board to establish reserve requirements.
Sec. 203. Effective date.

TITLE III—NATIONAL BANK PROVISIONS

Sec. 301. Voting in shareholder elections.
Sec. 302. Simplifying dividend calculations for national banks.
Sec. 303. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.
Sec. 304. Repeal of obsolete provision in the Revised Statutes.
Sec. 305. Enhancing the authority for banks to make community development investments.

TITLE IV—SAVINGS ASSOCIATION PROVISIONS

Sec. 401. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.
Sec. 402. Repeal of overlapping rules governing purchased mortgage servicing rights.
Sec. 403. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
Sec. 404. Repeal of limitation on loans to one borrower.

TITLE V—CREDIT UNION PROVISIONS

Sec. 501. Leases of land on Federal facilities for credit unions.
Sec. 502. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
Sec. 503. Check cashing and money transfer services offered within the field of membership.
Sec. 504. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.
Sec. 505. Amendments relating to nonfederally insured credit unions.

TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

Sec. 601. Reporting requirements relating to insider lending.
Sec. 602. Investments by insured savings associations in bank service companies authorized.
Sec. 603. Authorization for member bank to use pass-through reserve accounts.
Sec. 604. Streamlining reports of condition.
Sec. 605. Expansion of eligibility for 18-month examination schedule for community banks.
Sec. 606. Streamlining depository institution merger application requirements.
Sec. 607. Nonwaiver of privileges.
Sec. 608. Clarification of application requirements for optional conversion for Federal savings associations.
Sec. 609. Exemption from disclosure of privacy policy for accountants.
Sec. 610. Inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
Sec. 611. Modification to cross marketing restrictions.

TITLE VII—BANKING AGENCY PROVISIONS

Sec. 701. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
Sec. 702. Enhancing the safety and soundness of insured depository institutions.
Sec. 703. Cross guarantee authority.
Sec. 704. Golden parachute authority and nonbank holding companies.
Sec. 705. Amendments relating to change in bank control.
Sec. 706. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
Sec. 707. Interagency data sharing.
Sec. 708. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
Sec. 709. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
Sec. 710. Prohibition on participation by convicted individuals.
Sec. 711. Coordination of State examination authority.
Sec. 712. Deputy Director; succession authority for Director of the Office of Thrift Supervision.
Sec. 713. Office of Thrift Supervision representation on Basel Committee on Banking Supervision.
Sec. 714. Federal Financial Institutions Examination Council.
Sec. 715. Technical amendments relating to insured institutions.
Sec. 716. Clarification of enforcement authority.
Sec. 717. Federal banking agency authority to enforce deposit insurance conditions.
Sec. 718. Receiver or conservator consent requirement.
Sec. 719. Acquisition of FICO scores.
Sec. 720. Elimination of criminal indictments against receiverships.
Sec. 721. Resolution of deposit insurance disputes.
Sec. 722. Recordkeeping.
Sec. 723. Preservation of records.
Sec. 724. Technical amendments to information sharing provision in the Federal Deposit Insurance Act.
Sec. 725. Technical and conforming amendments relating to banks operating under the Code of Law for the District of Columbia.
Sec. 726. Technical corrections to the Federal Credit Union Act.
Sec. 727. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.
Sec. 728. Development of model privacy forms.

TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

Sec. 801. Exception for certain bad check enforcement programs.
Sec. 802. Other amendments.

TITLE IX—CASH MANAGEMENT MODERNIZATION

Sec. 901. Collateral modernization.

TITLE X—STUDIES AND REPORTS

Sec. 1001. Study and report by the Comptroller General on the currency transaction report filing system.
Sec. 1002. Study and report on institution diversity and consolidation.

# TITLE I—BROKER RELIEF

### SEC. 101. JOINT RULEMAKING REQUIRED FOR REVISED DEFINITION OF BROKER IN THE SECURITIES EXCHANGE ACT OF 1934.

(a) FINAL RULES REQUIRED.—

(1) AMENDMENT TO SECURITIES EXCHANGE ACT.—Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended by adding at the end the following:

"(F) JOINT RULEMAKING REQUIRED.—The Commission and the Board of Governors of the Federal Reserve System shall jointly adopt a single set of rules or regulations to implement the exceptions in subparagraph (B).".

Deadline.
15 USC 78c note.

(2) TIMING.—Not later than 180 days after the date of the enactment of this Act, the Securities and Exchange Commission (in this section referred to as the "Commission") and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall jointly issue a proposed single set of rules or regulations to define the term "broker" in accordance with section 3(a)(4) of the Securities Exchange Act of 1934, as amended by this subsection.

(3) RULEMAKING SUPERSEDES PREVIOUS RULEMAKING.—A final single set of rules or regulations jointly adopted in accordance with this section shall supersede any other proposed or final rule issued by the Commission on or after the date of enactment of section 201 of the Gramm-Leach-Bliley Act with regard to the exceptions to the definition of a broker under section 3(a)(4)(B) of the Securities Exchange Act of 1934. No such other rule, whether or not issued in final form, shall have any force or effect on or after that date of enactment.

(b) CONSULTATION.—Prior to jointly adopting the single set of final rules or regulations required by this section, the Commission and the Board shall consult with and seek the concurrence of the Federal banking agencies concerning the content of such rulemaking in implementing section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by this section and section 201 of the Gramm-Leach-Bliley Act.

(c) DEFINITION.—For purposes of this section, the term "Federal banking agencies" means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation.

# TITLE II—MONETARY POLICY PROVISIONS

### SEC. 201. AUTHORIZATION FOR THE FEDERAL RESERVE TO PAY INTEREST ON RESERVES.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following:

"(12) EARNINGS ON BALANCES.—

"(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

"(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).".

(b) CONFORMING AMENDMENT.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A), by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

**SEC. 202. INCREASED FLEXIBILITY FOR THE FEDERAL RESERVE BOARD TO ESTABLISH RESERVE REQUIREMENTS.**

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking "the ratio of 3 per centum" and inserting "a ratio of not greater than 3 percent (and which may be zero)"; and

(2) in clause (ii), by striking "and not less than 8 per centum," and inserting "(and which may be zero),".

**SEC. 203. EFFECTIVE DATE.** 12 USC 461 note.

The amendments made by this title shall take effect October 1, 2011.

# TITLE III—NATIONAL BANK PROVISIONS

**SEC. 301. VOTING IN SHAREHOLDER ELECTIONS.**

Section 5144 of the Revised Statutes of the United States (12 U.S.C. 61) is amended—

(1) by striking "or to cumulate" and inserting "or, if so provided by the articles of association of the national bank, to cumulate"; and

(2) by striking the comma after "his shares shall equal".

**SEC. 302. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.**

(a) IN GENERAL.—Section 5199 of the Revised Statutes of the United States (12 U.S.C. 60) is amended to read as follows:

**"SEC. 5199. NATIONAL BANK DIVIDENDS.**

"(a) IN GENERAL.—Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

"(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank for the preceding 2 years, minus the sum of any transfers required by the Comptroller of the Currency and any transfers required to be made to a fund for the retirement of any preferred stock, unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter three of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5199 and inserting the following:

"5199. National bank dividends.".

**SEC. 303. REPEAL OF OBSOLETE LIMITATION ON REMOVAL AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.**

Section 8(e)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(4)) is amended by striking the 5th sentence.

**SEC. 304. REPEAL OF OBSOLETE PROVISION IN THE REVISED STATUTES.**

Section 5143 of the Revised Statutes of the United States (12 U.S.C. 59) is amended to read as follows:

**"SEC. 5143. REDUCTION OF CAPITAL.**

"(a) IN GENERAL.—Subject to the approval of the Comptroller of the Currency, a national banking association may, by a vote of shareholders owning, in the aggregate, two-thirds of its capital stock, reduce its capital.

"(b) SHAREHOLDER DISTRIBUTIONS AUTHORIZED.—As part of its capital reduction plan approved in accordance with subsection (a), and with the affirmative vote of shareholders owning at least two thirds of the shares of each class of its stock outstanding (each voting as a class), a national banking association may distribute cash or other assets to its shareholders.".

**SEC. 305. ENHANCING THE AUTHORITY FOR BANKS TO MAKE COMMUNITY DEVELOPMENT INVESTMENTS.**

(a) NATIONAL BANKS.—The paragraph designated as the "Eleventh." of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended to read as follows:

"Eleventh. To make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing

housing, services, or jobs). An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 15 percent of the association's capital stock actually paid in and unimpaired and 15 percent of the association's unimpaired surplus fund. The foregoing standards and limitations apply to investments under this paragraph made by a national bank directly and by its subsidiaries.".

(b) CONFORMING AMENDMENTS FOR STATE MEMBER BANKS.—The 23rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended to read as follows:

"(23) A State member bank may make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law. A State member bank shall not make any such investment if the investment would expose the State member bank to unlimited liability. The Board shall limit a State member bank's investment in any 1 project and a State member bank's aggregate investments under this paragraph. The aggregate amount of investments of any State member bank under this paragraph may not exceed an amount equal to the sum of 5 percent of the State member bank's capital stock actually paid in and unimpaired and 5 percent of the State member bank's unimpaired surplus, unless the Board determines, by order, that a higher amount will pose no significant risk to the affected deposit insurance fund; and the State member bank is adequately capitalized. In no case shall the aggregate amount of investments of any State member bank under this paragraph exceed an amount equal to the sum of 15 percent of the State member bank's capital stock actually paid in and unimpaired and 15 percent of the State member bank's unimpaired surplus. The foregoing standards and limitations apply to investments under this paragraph made by a State member bank directly and by its subsidiaries.".

# TITLE IV—SAVINGS ASSOCIATION PROVISIONS

## SEC. 401. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934 AND THE INVESTMENT ADVISERS ACT OF 1940.

(a) SECURITIES EXCHANGE ACT OF 1934.—

(1) DEFINITION OF BANK.—Section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) is amended—

(A) in subparagraph (A), by inserting "or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act" after "a banking institution organized under the laws of the United States"; and

(B) in subparagraph (C)—

(i) by inserting "or savings association, as defined in section 2(4) of the Home Owners' Loan Act" after "banking institution"; and

(ii) by inserting "or savings associations" after "having supervision over banks".

(2) INCLUSION OF OTS UNDER THE DEFINITION OF APPROPRIATE REGULATORY AGENCY FOR CERTAIN PURPOSES.—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (A)—

(i) in clause (ii), by striking "(i) or (iii)" and inserting "(i), (iii), or (iv)";

(ii) in clause (iii), by striking "and" at the end;

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

(iv) by inserting after clause (iii) the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding company; and";

(B) in subparagraph (B)—

(i) in clause (ii), by striking "(i) or (iii)" and inserting "(i), (iii), or (iv)";

(ii) in clause (iii), by striking "and" at the end;

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

(iv) by inserting after clause (iii) the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and";

(C) in subparagraph (C)—

(i) in clause (ii), by striking "(i) or (iii)" and inserting "(i), (iii), or (iv)";

(ii) in clause (iii), by striking "and" at the end;

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

(iv) by inserting after clause (iii) the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a savings and loan holding company, or a subsidiary of a savings and loan holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and";

(D) in subparagraph (D)—

(i) in clause (ii), by striking "and" at the end;

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

(iii) by inserting after clause (ii) the following:

"(iii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and";

(E) in subparagraph (F)—

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

(ii) by inserting after clause (i) the following:

"(ii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation; and";

(F) by moving subparagraph (H) and inserting such subparagraph immediately after subparagraph (G); and

(G) by adding at the end of the undesignated matter at the end the following: "As used in this paragraph, the term 'savings and loan holding company' has the same meaning as in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).".

(3) CONFORMING EXEMPTION TO REPORTING REQUIREMENT.—Section 23(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(1)) is amended by inserting "other than the Office of Thrift Supervision," before "shall each".

(b) INVESTMENT ADVISERS ACT OF 1940.—

(1) DEFINITION OF BANK.—Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act" after "a banking institution organized under the laws of the United States"; and

(B) in subparagraph (C)—

(i) by inserting ", savings association, as defined in section 2(4) of the Home Owners' Loan Act," after "banking institution"; and

(ii) by inserting "or savings associations" after "having supervision over banks".

(2) CONFORMING AMENDMENTS.—Section 210A of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10a) is amended in each of subsections (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b), by striking "bank holding company" each place that term appears and inserting "bank holding company or savings and loan holding company".

(c) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by inserting after "1956)" the following: "or any one savings and loan holding company, together with its affiliates and subsidiaries (as such terms are defined in section 10 of the Home Owners' Loan Act),".

**SEC. 402. REPEAL OF OVERLAPPING RULES GOVERNING PURCHASED MORTGAGE SERVICING RIGHTS.**

Section 5(t) of the Home Owners' Loan Act (12 U.S.C. 1464(t)) is amended—

(1) by striking paragraph (4) and inserting the following: "(4) [Repealed].'; and

(2) in paragraph (9)(A), by striking "intangible assets, plus" and all that follows through the period at the end and inserting "intangible assets.".

**SEC. 403. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS ASSOCIATIONS FOR FEDERAL COURT JURISDICTION.**

Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(x) HOME STATE CITIZENSHIP.—In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its home office.".

**SEC. 404. REPEAL OF LIMITATION ON LOANS TO ONE BORROWER.**

Section 5(u)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(2)(A)) is amended—

(1) in clause (i)—

(A) by striking "for any" and inserting "For any"; and

(B) by striking "; or" and inserting a period; and

(2) in clause (ii)—

(A) by striking "to develop domestic" and inserting "To develop domestic";

(B) by striking subclause (I); and

(C) by redesignating subclauses (II) through (V) as subclauses (I) through (IV), respectively.

# TITLE V—CREDIT UNION PROVISIONS

**SEC. 501. LEASES OF LAND ON FEDERAL FACILITIES FOR CREDIT UNIONS.**

(a) IN GENERAL.—Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended—

(1) by striking "Upon application by any credit union" and inserting "Notwithstanding any other provision of law, upon application by any credit union";

(2) by inserting "on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or" after "officer or agency of the United States charged with the allotment of space";

(3) by inserting "lease land or" after "such officer or agency may in his or its discretion"; and

(4) by inserting "or the facility built on the lease land" after "credit union to be served by the allotment of space".

(b) CLERICAL AMENDMENT.—The section heading for section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by inserting "**OR FEDERAL LAND**" after "**BUILDINGS**".

**SEC. 502. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.**

Section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended in the matter preceding subparagraph (A), by striking "to make loans, the maturities of which shall not exceed twelve years" and inserting "to make loans, the maturities of which shall not exceed 15 years,".

**SEC. 503. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.**

Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

"(12) in accordance with regulations prescribed by the Board— Regulations.

"(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and

"(B) to cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee;".

**SEC. 504. CLARIFICATION OF DEFINITION OF NET WORTH UNDER CERTAIN CIRCUMSTANCES FOR PURPOSES OF PROMPT CORRECTIVE ACTION.**

Section 216(o)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)(A)) is amended—

(1) by inserting "the" before "retained earnings balance"; and

(2) by inserting ", together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined" before the semicolon at the end.

**SEC. 505. AMENDMENTS RELATING TO NONFEDERALLY INSURED CREDIT UNIONS.**

(a) IN GENERAL.—Subsection (a) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is amended by adding at the end the following new paragraph:

"(3) ENFORCEMENT BY APPROPRIATE STATE SUPERVISOR.—Any appropriate State supervisor of a private deposit insurer, and any appropriate State supervisor of a depository institution which receives deposits that are insured by a private deposit insurer, may examine and enforce compliance with this subsection under the applicable regulatory authority of such supervisor.".

(b) AMENDMENT RELATING TO DISCLOSURES REQUIRED, PERIODIC STATEMENTS, AND ACCOUNT RECORDS.—Section 43(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(1)) is amended by striking "or similar instrument evidencing a deposit" and inserting "or share certificate.".

(c) AMENDMENTS RELATING TO DISCLOSURES REQUIRED, ADVERTISING, PREMISES.—Section 43(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(2)) is amended to read as follows:

"(2) ADVERTISING; PREMISES.—

"(A) IN GENERAL.—Include clearly and conspicuously in all advertising, except as provided in subparagraph (B);

and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

"(B) EXCEPTIONS.—The following need not include a notice that the institution is not federally insured:

"(i) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution's products or services or information otherwise promoting the institution.

"(ii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.".

(d) AMENDMENTS RELATING TO ACKNOWLEDGMENT OF DISCLOSURE.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS OBTAINED OTHER THAN THROUGH A CONVERSION OR MERGER.—With respect to any depositor who was not a depositor at the depository institution before the effective date of the Financial Services Regulatory Relief Act of 2006, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal insurance after the effective date of the Financial Services Regulatory Relief Act of 2006, receive any deposit for the account of such depositor only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

Deadline.

"(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

"(C) CURRENT DEPOSITORS.—Receive any deposit after the effective date of the Financial Services Regulatory Relief Act of 2006 for the account of any depositor who was a depositor on that date only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (E) which are applicable as of the date of the deposit.

"(D) ALTERNATIVE PROVISION OF NOTICE TO NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—

"(i) IN GENERAL.—Transmit to each depositor who has not signed a written acknowledgement described in subparagraph (A)—

"(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(E) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before the effective date of the Financial Services Regulatory Relief Act of 2006, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.— Deadlines.

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via mail not later than three months after the effective date of the Financial Services Regulatory Relief Act of 2006.

"(II) SECOND NOTICE.—Make a second transmission described in clause (i) via mail not less than 30 days and not more than three months after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.".

(e) AMENDMENTS RELATING TO MANNER AND CONTENT OF DISCLOSURE.—Section 43(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)) is amended to read as follows:

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section, which shall be presented in such format and in such type size and manner as to be simple and easy to understand.". Regulations.

(f) REPEAL OF PROVISION PROHIBITING NONDEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOSITS.—Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(g) REPEAL OF FTC AUTHORITY TO ENFORCE INDEPENDENT AUDIT REQUIREMENT; CONCURRENT STATE ENFORCEMENT.—Subsection (f) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

"(f) ENFORCEMENT.—

"(1) LIMITED FTC ENFORCEMENT AUTHORITY.—Compliance with the requirements of subsections (b), (c) and (e), and any regulation prescribed or order issued under any such subsection, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(2) BROAD STATE ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Subject to subparagraph (C), an appropriate State supervisor of a depository institution lacking Federal deposit insurance may examine and enforce compliance with the requirements of this section, and any regulation prescribed under this section.

"(B) STATE POWERS.—For purposes of bringing any action to enforce compliance with this section, no provision of this section shall be construed as preventing an appropriate State supervisor of a depository institution lacking Federal deposit insurance from exercising any powers conferred on such official by the laws of such State.

"(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisor may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this section that is alleged in that complaint.".

# TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

### SEC. 601. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.

(a) REPORTING REQUIREMENTS REGARDING LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by striking paragraphs (6) and (9); and

(2) by redesignating paragraphs (7), (8), and (10) as paragraphs (6), (7), and (8), respectively.

(b) REPORTING REQUIREMENTS REGARDING LOANS FROM CORRESPONDENT BANKS TO EXECUTIVE OFFICERS AND SHAREHOLDERS OF INSURED BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

### SEC. 602. INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN BANK SERVICE COMPANIES AUTHORIZED.

(a) IN GENERAL.—Sections 2 and 3 of the Bank Service Company Act (12 U.S.C. 1862, 1863) are each amended by striking

"insured bank" each place that term appears and inserting "insured depository institution".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK SERVICE COMPANY ACT DEFINITIONS.—Section 1(b) of the Bank Service Company Act (12 U.S.C. 1861(b)) is amended—

(A) in paragraph (4)—

(i) by inserting ", except when such term appears in connection with the term 'insured depository institution'," after "means"; and

(ii) by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision";

(B) by striking paragraph (5) and inserting the following:

"(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act;";

(C) by striking "and" at the end of paragraph (7);

(D) by striking the period at the end of paragraph (8) and inserting "; and";

(E) by adding at the end the following:

"(9) the terms 'State depository institution', 'Federal depository institution', 'State savings association' and 'Federal savings association' have the same meanings as in section 3 of the Federal Deposit Insurance Act.";

(F) in paragraph (2), in subparagraphs (A)(ii) and (B)(ii), by striking "insured banks" each place that term appears and inserting "insured depository institutions"; and

(G) in paragraph (8)—

(i) by striking "insured bank" and inserting "insured depository institution";

(ii) by striking "insured banks" each place that term appears and inserting "insured depository institutions"; and

(iii) by striking "the bank's" and inserting "the depository institution's".

(2) AMOUNT OF INVESTMENT.—Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting "or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners' Loan Act" after "relating to banks".

(3) LOCATION OF SERVICES.—Section 4 of the Bank Service Company Act (12 U.S.C. 1864) is amended—

(A) in subsection (b), by inserting "as permissible under subsection (c), (d), or (e) or" after "Except";

(B) in subsection (c), by inserting "or State savings association" after "State bank" each place that term appears;

(C) in subsection (d), by inserting "or Federal savings association" after "national bank" each place that term appears;

(D) by striking subsection (e) and inserting the following:

"(e) PERFORMANCE WHERE STATE BANK AND NATIONAL BANK ARE SHAREHOLDERS OR MEMBERS.—A bank service company may perform—

"(1) only those services that each depository institution shareholder or member is otherwise authorized to perform under any applicable Federal or State law; and

"(2) such services only at locations in a State in which each such shareholder or member is authorized to perform such services."; and

(E) in subsection (f), by inserting "or savings associations" after "location of banks".

(4) PRIOR APPROVAL OF INVESTMENTS.—Section 5 of the Bank Service Company Act (12 U.S.C. 1865) is amended—

(A) in subsection (a)—

(i) by striking "insured bank" and inserting "insured depository institution"; and

(ii) by striking "bank's"; and

(iii) by inserting before the period "for the insured depository institution";

(B) in subsection (b)—

(i) by striking "insured bank" and inserting "insured depository institution";

(ii) by inserting "authorized only" after "performs any service"; and

(iii) by inserting "authorized only" after "perform any activity"; and

(C) in subsection (c)—

(i) by striking "the bank or banks" and inserting "any insured depository institution"; and

(ii) by striking "capability of the bank" and inserting "capability of the insured depository institution".

(5) REGULATION AND EXAMINATION.—Section 7 of the Bank Service Company Act (12 U.S.C. 1867) is amended—

(A) in subsection (b), by striking "insured bank" and inserting "insured depository institution"; and

(B) in subsection (c)—

(i) by striking "a bank" each place that term appears and inserting "a depository institution"; and

(ii) by striking "the bank" each place that term appears and inserting "the depository institution".

**SEC. 603. AUTHORIZATION FOR MEMBER BANK TO USE PASS-THROUGH RESERVE ACCOUNTS.**

Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

**SEC. 604. STREAMLINING REPORTS OF CONDITION.**

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following:

"(11) STREAMLINING REPORTS OF CONDITION.—

Deadlines.

"(A) REVIEW OF INFORMATION AND SCHEDULES.—Before the end of the 1-year period beginning on the date of enactment of the Financial Services Regulatory Relief Act of 2006 and before the end of each 5-year period thereafter, each Federal banking agency shall, in conjunction with the other relevant Federal banking agencies, review the information and schedules that are required to be filed

by an insured depository institution in a report of condition required under paragraph (3).

"(B) REDUCTION OR ELIMINATION OF INFORMATION FOUND TO BE UNNECESSARY.—After completing the review required by subparagraph (A), a Federal banking agency, in conjunction with the other relevant Federal banking agencies, shall reduce or eliminate any requirement to file information or schedules under paragraph (3) (other than information or schedules that are otherwise required by law) if the agency determines that the continued collection of such information or schedules is no longer necessary or appropriate.".

**SEC. 605. EXPANSION OF ELIGIBILITY FOR 18-MONTH EXAMINATION SCHEDULE FOR COMMUNITY BANKS.**

Section 10(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)(A)) is amended by striking "$250,000,000" and inserting "$500,000,000".

**SEC. 606. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.**

(a) IN GENERAL.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended to read as follows:

"(4) REPORTS ON COMPETITIVE FACTORS.—

"(A) REQUEST FOR REPORT.—In the interests of uniform standards and subject to subparagraph (B), before acting on any application for approval of a merger transaction, the responsible agency shall—

"(i) request a report on the competitive factors involved from the Attorney General of the United States; and

"(ii) provide a copy of the request to the Corporation (when the Corporation is not the responsible agency). Records.

"(B) FURNISHING OF REPORT.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency— Deadlines.

"(i) not later than 30 calendar days after the date on which the Attorney General received the request; or

"(ii) not later than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.

"(C) EXCEPTIONS.—A responsible agency may not be required to request a report under subparagraph (A) if—

"(i) the responsible agency finds that it must act immediately in order to prevent the probable failure of 1 of the insured depository institutions involved in the merger transaction; or

"(ii) the merger transaction involves solely an insured depository institution and 1 or more of the affiliates of such depository institution.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended—

(1) in the second sentence, by striking "banks or savings associations involved and reports on the competitive factors

have" and inserting "insured depository institutions involved, or if the proposed merger transaction is solely between an insured depository institution and 1 or more of its affiliates, and the report on the competitive factors has"; and

Deadline.

(2) by striking the penultimate sentence and inserting the following: "If the agency has advised the Attorney General under paragraph (4)(B)(ii) of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.".

**SEC. 607. NONWAIVER OF PRIVILEGES.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

"(x) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

"(1) IN GENERAL.—The submission by any person of any information to any Federal banking agency, State bank supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such agency, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such agency, supervisor, or authority.

"(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

"(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

"(B) any person would waive any privilege applicable to any information by submitting the information to any Federal banking agency, State bank supervisor, or foreign banking authority, but for this subsection."

(b) INSURED CREDIT UNIONS.—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end the following:

"(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

"(1) IN GENERAL.—The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

"(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

"(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

"(B) any person would waive any privilege applicable to any information by submitting the information to the

Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.".

**SEC. 608. CLARIFICATION OF APPLICATION REQUIREMENTS FOR OPTIONAL CONVERSION FOR FEDERAL SAVINGS ASSOCIATIONS.**

(a) HOME OWNERS' LOAN ACT.—Section 5(i)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(5)) is amended to read as follows:

"(5) CONVERSION TO NATIONAL OR STATE BANK.—

"(A) IN GENERAL.—Any Federal savings association chartered and in operation before the date of enactment of the Gramm-Leach-Bliley Act, with branches in operation before such date of enactment in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency for each national bank, and with the approval of the appropriate State bank supervisor and the appropriate Federal banking agency for each State bank, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before such date of enactment in 1 or more States subject to subparagraph (B).

"(B) CONDITIONS OF CONVERSION.—The authority in subparagraph (A) shall apply only if each resulting national or State bank—

"(i) will meet all financial, management, and capital requirements applicable to the resulting national or State bank; and

"(ii) if more than 1 national or State bank results from a conversion under this subparagraph, has received approval from the Federal Deposit Insurance Corporation under section 5(a) of the Federal Deposit Insurance Act.

"(C) NO MERGER APPLICATION UNDER FDIA REQUIRED.—No application under section 18(c) of the Federal Deposit Insurance Act shall be required for a conversion under this paragraph.

"(D) DEFINITIONS.—For purposes of this paragraph, the terms 'State bank' and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 4(c) of the Federal Deposit Insurance Act (12 U.S.C. 1814(c)) is amended—

(1) by inserting "of this Act and section 5(i)(5) of the Home Owners' Loan Act" after "Subject to section 5(d)"; and

(2) in paragraph (2), after "insured State," by inserting "or Federal".

**SEC. 609. EXEMPTION FROM DISCLOSURE OF PRIVACY POLICY FOR ACCOUNTANTS.**

(a) IN GENERAL.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

"(d) EXEMPTION FOR CERTIFIED PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—The disclosure requirements of subsection (a) do not apply to any person, to the extent that the person is—

"(A) a certified public accountant;

"(B) certified or licensed for such purpose by a State; and

"(C) subject to any provision of law, rule, or regulation issued by a legislative or regulatory body of the State, including rules of professional conduct or ethics, that prohibits disclosure of nonpublic personal information without the knowing and expressed consent of the consumer.

"(2) LIMITATION.—Nothing in this subsection shall be construed to exempt or otherwise exclude any financial institution that is affiliated or becomes affiliated with a certified public accountant described in paragraph (1) from any provision of this section.

"(3) DEFINITIONS.—For purposes of this subsection, the term 'State' means any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands.".

(b) CLERICAL AMENDMENTS.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended—

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

(2) in subsection (a), by striking "Such disclosures" and inserting the following:

"(b) REGULATIONS.—Disclosures required by subsection (a)".

**SEC. 610. INFLATION ADJUSTMENT FOR THE SMALL DEPOSITORY INSTITUTION EXCEPTION UNDER THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.**

Section 203(1) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(1)) is amended by striking "$20,000,000" and inserting "$50,000,000".

**SEC. 611. MODIFICATION TO CROSS MARKETING RESTRICTIONS.**

Section 4(n)(5)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(n)(5)(B)) is amended by striking "subsection (k)(4)(I)" and inserting "subparagraph (H) or (I) of subsection (k)(4)".

# TITLE VII—BANKING AGENCY PROVISIONS

**SEC. 701. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW OF APPOINTMENT OF A RECEIVER FOR DEPOSITORY INSTITUTIONS.**

(a) NATIONAL BANKS.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by amending the section heading to read as follows:

**"SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL BANK.**

"(a) IN GENERAL.—The Comptroller of the Currency"; and

(2) by adding at the end the following:

Deadline.

"(b) JUDICIAL REVIEW.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon

the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.".

(b) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(7)) is amended to read as follows:

"(7) JUDICIAL REVIEW.—If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, not later than 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.". Deadline.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to conservators or receivers appointed on or after the date of enactment of this Act. 12 USC 191 note.

**SEC. 702. ENHANCING THE SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS.**

(a) CLARIFICATION RELATING TO THE ENFORCEABILITY OF AGREEMENTS AND CONDITIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

**"SEC. 50. ENFORCEMENT OF AGREEMENTS.** 12 USC 1831aa.

"(a) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), the appropriate Federal banking agency for a depository institution may enforce, under section 8, the terms of—

"(1) any condition imposed in writing by the agency on the depository institution or an institution-affiliated party in connection with any action on any application, notice, or other request concerning the depository institution; or

"(2) any written agreement entered into between the agency and the depository institution or an institution-affiliated party.

"(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—After the appointment of the Corporation as the receiver or conservator for a depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) imposed on or entered into with such institution or institution-affiliated party through an action brought in an appropriate United States district court.".

(b) PROTECTION OF CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—Section 18(u)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(u)(1)) is amended—

(1) by striking subparagraph (B);

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

(3) in subparagraph (A), by adding "and" at the end.

(c) CONFORMING AMENDMENTS.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (3), by striking "This subsection and subsections (c) through (s) and subsection (u) of this section" and

inserting "This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 of this Act"; and

(2) in paragraph (4), by striking "This subsection and subsections (c) through (s) and subsection (u) of this section" and inserting "This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 of this Act".

**SEC. 703. CROSS GUARANTEE AUTHORITY.**

Section 5(e)(9)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended to read as follows:

"(A) such institutions are controlled by the same company; or".

**SEC. 704. GOLDEN PARACHUTE AUTHORITY AND NONBANK HOLDING COMPANIES.**

Section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) is amended—

(1) in paragraph (2)(A), by striking "or depository institution holding company" and inserting "or covered company";

(2) in paragraph (2), by striking subparagraph (B), and inserting the following:

"(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for—

"(i) the insolvency of the depository institution or covered company;

"(ii) the appointment of a conservator or receiver for the depository institution; or

"(iii) the troubled condition of the depository institution (as defined in the regulations prescribed pursuant to section 32(f)).";

(3) in paragraph (2)(F), by striking "depository institution holding company" and inserting "covered company,";

(4) in paragraph (3) in the matter preceding subparagraph (A), by striking "depository institution holding company" and inserting "covered company";

(5) in paragraph (3)(A), by striking "holding company" and inserting "covered company";

(6) in paragraph (4)(A)—

(A) by striking "depository institution holding company" each place that term appears and inserting "covered company"; and

(B) by striking "holding company" each place that term appears (other than in connection with the term referred to in subparagraph (A)) and inserting "covered company";

(7) in paragraph (5)(A), by striking "depository institution holding company" and inserting "covered company";

(8) in paragraph (5), by adding at the end the following:

"(D) COVERED COMPANY.—The term 'covered company' means any depository institution holding company (including any company required to file a report under section 4(f)(6) of the Bank Holding Company Act of 1956), or any other company that controls an insured depository institution."; and

(9) in paragraph (6)—

(A) by striking "depository institution holding company" and inserting "covered company,"; and

(B) by striking "or holding company" and inserting "or covered company".

**SEC. 705. AMENDMENTS RELATING TO CHANGE IN BANK CONTROL.**

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (1)(D)—

(A) by striking "is needed to investigate" and inserting "is needed—

"(i) to investigate";

(B) by striking "United States Code." and inserting "United States Code; or"; and

(C) by adding at the end the following:

"(ii) to analyze the safety and soundness of any plans or proposals described in paragraph (6)(E) or the future prospects of the institution."; and

(2) in paragraph (7)(C), by striking "the financial condition of any acquiring person" and inserting "either the financial condition of any acquiring person or the future prospects of the institution".

**SEC. 706. AMENDMENT TO PROVIDE THE FEDERAL RESERVE BOARD WITH DISCRETION CONCERNING THE IMPUTATION OF CONTROL OF SHARES OF A COMPANY BY TRUSTEES.**

Section 2(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting before the period at the end ", unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this Act".

**SEC. 707. INTERAGENCY DATA SHARING.**

(a) FEDERAL BANKING AGENCIES.—Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by adding at the end the following:

"(C) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been appointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the discretion of the agency, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

"(i) any other Federal or State agency or authority with supervisory or regulatory authority over the depository institution or other entity;

"(ii) any officer, director, or receiver of such depository institution or entity; and

"(iii) any other person that the Federal banking agency determines to be appropriate.".

(b) NATIONAL CREDIT UNION ADMINISTRATION.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end the following:

"(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the discretion of the Board, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

"(A) any other Federal or State agency or authority with supervisory or regulatory authority over the credit union or other entity;

"(B) any officer, director, or receiver of such credit union or entity; and

"(C) any other person that the Board determines to be appropriate.".

**SEC. 708. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.**

(a) INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "is charged in any information, indictment, or complaint, with the commission of or participation in" and inserting "is the subject of any information, indictment, or complaint, involving the commission of or participation in";

(ii) by striking "may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution," and insert "posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),"; and

(iii) by striking "affairs of the depository institution" and inserting "affairs of any depository institution";

(B) in subparagraph (B)(i), by striking "the depository institution" and inserting "any depository institution that the subject of the notice is affiliated with at the time the notice is issued";

(C) in subparagraph (C)(i)—

(i) by striking "may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution," and insert "posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),"; and

(ii) by striking "affairs of the depository institution" and inserting "affairs of any depository institution";

(D) in subparagraph (C)(ii), by striking "affairs of the depository institution" and inserting "affairs of any depository institution";

(E) in subparagraph (D)(i), by striking "the depository institution" and inserting "any depository institution that the subject of the order is affiliated with at the time the order is issued"; and

(F) by adding at the end the following:

"(E) RELEVANT DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'relevant depository institution' means any depository institution of which the party is or was an institution-affiliated party at the time at which—

"(i) the information, indictment, or complaint described in subparagraph (A) was issued; or

"(ii) the notice is issued under subparagraph (A) or the order is issued under subparagraph (C)(i).".

(2) CLERICAL AMENDMENT.—The subsection heading for section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—".

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended—

(A) in subparagraph (A), by striking "the credit union" each place that term appears and inserting "any credit union";

(B) in subparagraph (B)(i), by inserting "of which the subject of the order is, or most recently was, an institution-affiliated party" before the period at the end;

(C) in subparagraph (C)—

(i) by striking "the credit union" each place such term appears and inserting "any credit union"; and

(ii) by striking "the credit union's" and inserting "any credit union's";

(D) in subparagraph (D)(i), by striking "upon such credit union" and inserting "upon the credit union of which the subject of the order is, or most recently was, an institution-affiliated party"; and

(E) by adding at the end the following:

"(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

"(i) whether such individual is an institution-affiliated party at any credit union at the time the order is considered or issued by the Board; or

"(ii) whether the credit union at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the Board.".

(2) CLERICAL AMENDMENT.—Section 206(i) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended by striking "(i)" at the beginning and inserting the following:

"(i) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—".

**SEC. 709. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.**

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following:

"(c) CONFIDENTIAL INFORMATION RECEIVED FROM FOREIGN SUPERVISORS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), a Federal banking agency may not be compelled to disclose information received from a foreign regulatory or supervisory authority if—

"(A) the Federal banking agency determines that the foreign regulatory or supervisory authority has, in good faith, determined and represented in writing to such Federal banking agency that public disclosure of the information would violate the laws applicable to that foreign regulatory or supervisory authority; and

"(B) the relevant Federal banking agency obtained such information pursuant to—

"(i) such procedures as the Federal banking agency may establish for use in connection with the administration and enforcement of Federal banking laws; or

"(ii) a memorandum of understanding or other similar arrangement between the Federal banking agency and the foreign regulatory or supervisory authority.

"(2) TREATMENT UNDER TITLE 5, UNITED STATES CODE.—For purposes of section 552 of title 5, United States Code, this subsection shall be treated as a statute described in subsection (b)(3)(B) of such section.

"(3) SAVINGS PROVISION.—No provision of this section shall be construed as—

"(A) authorizing any Federal banking agency to withhold any information from any duly authorized committee of the House of Representatives or the Senate; or

"(B) preventing any Federal banking agency from complying with an order of a court of the United States in an action commenced by the United States or such agency.

"(4) FEDERAL BANKING AGENCY DEFINED.—For purposes of this subsection, the term 'Federal banking agency' means the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision.".

**SEC. 710. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUALS.**

(a) EXTENSION OF AUTOMATIC PROHIBITION.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by adding at the end the following new subsections:

"(d) BANK HOLDING COMPANIES.—

Applicability.

"(1) IN GENERAL.—Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding

company and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, as if such bank holding company or organization were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting 'Board of Governors of the Federal Reserve System' for 'Corporation' each place that term appears in such subsections.

"(2) AUTHORITY OF BOARD.—The Board of Governors of the Federal Reserve System may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.

"(e) SAVINGS AND LOAN HOLDING COMPANIES.—

"(1) IN GENERAL.—Subsections (a) and (b) shall apply to any savings and loan holding company as if such savings and loan holding company were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting 'Director of the Office of Thrift Supervision' for 'Corporation' each place that term appears in such subsections.

Applicability.

"(2) AUTHORITY OF DIRECTOR.—The Director of the Office of Thrift Supervision may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.".

(b) ENHANCED DISCRETION TO REMOVE CONVICTED INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

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

(2) by striking the comma at the end of clause (iii) and inserting "; or"; and

"(3) by adding at the end the following new clause:

"(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company or of a subsidiary (other than a savings association) of a savings and loan holding company has been convicted of any criminal offense involving dishonesty or a breach of trust or a criminal offense under section 1956, 1957, or 1960 of title 18, United States Code, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense,".

**SEC. 711. COORDINATION OF STATE EXAMINATION AUTHORITY.**

Section 10(h) of the Federal Deposit Insurance Act (12 U.S.C. 1820(h)) is amended to read as follows:

"(h) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) STATE BANK SUPERVISORS OF HOME AND HOST STATES.—

"(A) HOME STATE OF BANK.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

"(B) HOST STATE BRANCHES.—The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise its respective authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

"(C) SUPERVISORY FEES.—Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

"(2) HOST STATE EXAMINATION.—

"(A) IN GENERAL.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44, or that was established in such State pursuant to section 5155(g) of the Revised Statutes of the United States, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

"(i) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j), including those that govern community reinvestment, fair lending, and consumer protection; and

"(ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

"(B) NOTICE OF DETERMINATION.—

"(i) IN GENERAL.—The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition.

Deadline.

"(ii) TIMING OF NOTICE.—The State bank supervisor of the home State of an insured State bank shall provide notice under clause (i) as soon as is reasonably possible, but in all cases not later than 15 business days after the date on which the State bank supervisor has made such final determination or has received written notification of such final determination.

"(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j), including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with

written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(4) COOPERATIVE AGREEMENT.—

"(A) IN GENERAL.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(B) DEFINITION.—For purposes of this subsection, the term 'cooperative agreement' means a written agreement that is signed by the home State bank supervisor and the host State bank supervisor to facilitate State regulatory supervision of State banks, and includes nationwide or multi-State cooperative agreements and cooperative agreements solely between the home State and host State.

"(C) RULE OF CONSTRUCTION.—Except for State bank supervisors, no provision of this subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home State and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j).

"(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

"(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(7) DEFINITIONS.—For purpose of this section, the following definitions shall apply:

"(A) HOST STATE, HOME STATE, OUT-OF-STATE BANK.—The terms 'host State', 'home State', and 'out-of-State bank' have the same meanings as in section 44(g).

"(B) STATE SUPERVISORY FEES.—The term 'State supervisory fees' means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

"(C) TROUBLED CONDITION.—Solely for purposes of paragraph (2)(B), an insured State bank has been determined to be in 'troubled condition' if the bank—

"(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System;

"(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

"(iii) is subject to a proceeding initiated by the State bank supervisor of the bank's home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

"(D) FINAL DETERMINATION.—For purposes of paragraph (2)(B), the term 'final determination' means the transmittal of a report of examination to the bank or transmittal of official notice of proceedings to the bank.".

**SEC. 712. DEPUTY DIRECTOR; SUCCESSION AUTHORITY FOR DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.**

(a) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR.—Section 3(c)(5) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

"(5) DEPUTY DIRECTOR.—

"(A) IN GENERAL.—The Secretary of the Treasury shall appoint a Deputy Director, and may appoint not more than 3 additional Deputy Directors of the Office.

"(B) FIRST DEPUTY DIRECTOR.—If the Secretary of the Treasury appoints more than 1 Deputy Director of the Office, the Secretary shall designate one such appointee as the First Deputy Director.

"(C) DUTIES.—Each Deputy Director appointed under this paragraph shall take an oath of office and perform such duties as the Director shall direct.

"(D) COMPENSATION AND BENEFITS.—The Director shall fix the compensation and benefits for each Deputy Director in accordance with this Act.".

(b) SERVICE OF DEPUTY DIRECTOR AS ACTING DIRECTOR.—Section 3(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(3)) is amended—

(1) by striking "**VACANCY**.—A vacancy in the position of Director" and inserting "**VACANCY**.—

"(A) IN GENERAL.—A vacancy in the position of Director"; and

(2) by adding at the end the following:

"(B) ACTING DIRECTOR.—

"(i) IN GENERAL.—In the event of a vacancy in the position of Director or during the absence or disability of the Director, the Deputy Director shall serve as Acting Director.

"(ii) SUCCESSION IN CASE OF 2 OR MORE DEPUTY DIRECTORS.—If there are 2 or more Deputy Directors serving at the time a vacancy in the position of Director occurs or the absence or disability of the Director commences, the First Deputy Director shall serve as Acting Director under clause (i) followed by such other Deputy Directors under any order of succession the Director may establish.

"(iii) AUTHORITY OF ACTING DIRECTOR.—Any Deputy Director, while serving as Acting Director under this subparagraph, shall be vested with all authority, duties, and privileges of the Director under this Act and any other provision of Federal law.".

**SEC. 713. OFFICE OF THRIFT SUPERVISION REPRESENTATION ON BASEL COMMITTEE ON BANKING SUPERVISION.**

Government organization.

(a) IN GENERAL.—Section 912 of the International Lending Supervision Act of 1983 (12 U.S.C. 3911) is amended—

(1) in the section heading, by inserting at the end the following: "**AND THE OFFICE OF THRIFT SUPERVISION**";

(2) by striking "As one of the three" and inserting the following:

"(a) IN GENERAL.—As one of the 4"; and

(3) by adding at the end the following:

"(b) As one of the 4 Federal bank regulatory and supervisory agencies, the Office of Thrift Supervision shall be given equal representation with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.".

(b) CONFORMING AMENDMENTS.—Section 910(a) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909(a)) is amended—

(1) in paragraph (2), by striking "insured bank" and inserting "insured depository institution"; and

(2) in paragraph (3), by striking "an 'insured bank', as such term is used in section 3(h)" and inserting "an 'insured depository institution', as such term is defined in section 3(c)(2)".

**SEC. 714. FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.**

(a) COUNCIL MEMBERSHIP.—Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(1) in paragraph (4), by striking "Thrift" and all that follows through the end of the paragraph and inserting "Thrift Supervision,";

(2) in paragraph (5) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following:

"(6) the Chairman of the State Liaison Committee.".

(b) CHAIRPERSON OF LIAISON COMMITTEE.—Section 1007 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3306) is amended by adding at the end the following: "Members of the Liaison Committee shall elect a chairperson from among the members serving on the committee.".

**SEC. 715. TECHNICAL AMENDMENTS RELATING TO INSURED INSTITUTIONS.**

(a) TECHNICAL AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting "or order" after "notice" each place that term appears.

(b) TECHNICAL AMENDMENT TO THE FEDERAL CREDIT UNION ACT.—Section 206(k)(3) of the Federal Credit Union Act (12 U.S.C.

1786(k)(3)) is amended by inserting "or order" after "notice" each place that term appears.

**SEC. 716. CLARIFICATION OF ENFORCEMENT AUTHORITY.**

(a) ACTIONS ON APPLICATIONS, NOTICES, AND OTHER REQUESTS; CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "the granting of any application or other request by the depository institution" and inserting "any action on any application, notice, or other request by the depository institution or institution-affiliated party,";

(2) in subsection (e)(1)(A)(i)(III), by striking "the grant of any application or other request by such depository institution" and inserting "any action on any application, notice, or request by such depository institution or institution-affiliated party"; and

(3) in subsection (i)(2)(A)(iii), by striking "the grant of any application or other request by such depository institution" and inserting "any action on any application, notice, or other request by the depository institution or institution-affiliated party".

(b) CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "the granting of any application or other request by the credit union" and inserting "any action on any application, notice, or other request by the credit union or institution-affiliated party,";

(2) in subsection (g)(1)(A)(i)(III), by striking "the grant of any application or other request by such credit union" and inserting "any action on any application, notice, or request by such credit union or institution-affiliated party"; and

(3) in subsection (k)(2)(A)(iii), by striking "the grant of any application or other request by such credit union" and inserting "any action on any application, notice, or other request by the credit union or institution-affiliated party".

**SEC. 717. FEDERAL BANKING AGENCY AUTHORITY TO ENFORCE DEPOSIT INSURANCE CONDITIONS.**

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the 1st sentence—

(A) by striking "in writing by the agency" and inserting "in writing by a Federal banking agency"; and

(B) by striking "the agency may issue and serve" and inserting "the appropriate Federal banking agency for the depository institution may issue and serve";

(2) in subsection (e)(1)—

(A) in subparagraph (A)(i)(III), by striking "in writing by the appropriate Federal banking agency" and inserting "in writing by a Federal banking agency"; and

(B) in the undesignated matter at the end, by striking "the agency may serve upon such party" and inserting "the appropriate Federal banking agency for the depository institution may serve upon such party"; and

(3) in subsection (i)(2)(A)(iii), by striking "in writing by the appropriate Federal banking agency" and inserting "in writing by a Federal banking agency".

**SEC. 718. RECEIVER OR CONSERVATOR CONSENT REQUIREMENT.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by adding at the end the following:

"(C) CONSENT REQUIREMENT.—

"(i) IN GENERAL.—Except as otherwise provided by this section or section 15, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the depository institution is a party, or to obtain possession of or exercise control over any property of the institution or affect any contractual rights of the institution, without the consent of the conservator or receiver, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the receiver, as applicable.

"(ii) CERTAIN EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a depository institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to the rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contract.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(12) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)) is amended by adding the following:

"(C) CONSENT REQUIREMENT.—

"(i) IN GENERAL.—Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the credit union is a party, or to obtain possession of or exercise control over any property of the credit union or affect any contractual rights of the credit union, without the consent of the conservator or liquidating agent, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the liquidating agent, as applicable.

"(ii) CERTAIN EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a credit union bond, or to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or shall be construed as permitting the conservator or liquidating

agent to fail to comply with otherwise enforceable provisions of such contract.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.".

**SEC. 719. ACQUISITION OF FICO SCORES.**

Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended by adding at the end the following:

"(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act or the Federal Credit Union Act, or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.".

**SEC. 720. ELIMINATION OF CRIMINAL INDICTMENTS AGAINST RECEIVERSHIPS.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 15(b) of the Federal Deposit Insurance Act (12 U.S.C. 1825(b)) is amended by inserting immediately after paragraph (3) the following:

"(4) EXEMPTION FROM CRIMINAL PROSECUTION.—The Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the institution, or persons acting on behalf of the institution, prior to the appointment of the Corporation as receiver.".

(b) INSURED CREDIT UNIONS.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by adding at the end the following:

"(K) EXEMPTION FROM CRIMINAL PROSECUTION.—The Administration shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by a credit union, or persons acting on behalf of a credit union, prior to the appointment of the Administration as liquidating agent.".

**SEC. 721. RESOLUTION OF DEPOSIT INSURANCE DISPUTES.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking paragraphs (3) through (5) and inserting the following:

"(3) RESOLUTION OF DISPUTES.—A determination by the Corporation regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Corporation may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit.

"(4) REVIEW OF CORPORATION DETERMINATION.—A final determination made by the Corporation regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code,

by the United States district court for the Federal judicial district where the principal place of business of the depository institution is located.

"(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Corporation regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.". Deadline.

(b) INSURED CREDIT UNIONS.—Section 207(d) of the Federal Credit Union Act (12 U.S.C. 1787(d)) is amended by striking paragraphs (3) through (5) and inserting the following:

"(3) RESOLUTION OF DISPUTES.—A determination by the Administration regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Board may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit. A final determination made by the Board regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code, by the United States district court for the Federal judicial district where the principal place of business of the credit union is located.

"(4) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Board regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.". Deadline.

**SEC. 722. RECORDKEEPING.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

(1) by striking "After the end of the 6-year period" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period"; and

(2) by adding at the end the following:

"(ii) OLD RECORDS.—Notwithstanding clause (i), the Corporation may destroy records of an insured depository institution which are at least 10 years old as of the date on which the Corporation is appointed as the receiver of such depository institution in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).".

(b) INSURED CREDIT UNIONS.—Section 207(b)(15)(D) of the Federal Credit Union Act (12 U.S.C. 1787(b)(15)(D)) is amended—

(1) by striking "After the end of the 6-year period" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period"; and

(2) by adding at the end the following:

"(ii) OLD RECORDS.—Notwithstanding clause (i) the Board may destroy records of an insured credit union which are at least 10 years old as of the date on which the Board is appointed as liquidating agent of

such credit union in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).".

**SEC. 723. PRESERVATION OF RECORDS.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) is amended to read as follows:

"(f) PRESERVATION OF AGENCY RECORDS.—

"(1) IN GENERAL.—A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

"(A) photographed or microphotographed or otherwise reproduced upon film; or

"(B) preserved in any electronic medium or format which is capable of—

"(i) being read or scanned by computer; and

"(ii) being reproduced from such electronic medium or format by printing any other form of reproduction of electronically stored data.

"(2) TREATMENT AS ORIGINAL RECORDS.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

"(3) AUTHORITY OF THE FEDERAL BANKING AGENCIES.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.".

(b) INSURED CREDIT UNIONS.—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended by adding at the end the following:

"(9) PRESERVATION OF RECORDS.—

"(A) IN GENERAL.—The Board may cause any and all records, papers, or documents kept by the Administration or in the possession or custody of the Administration to be—

"(i) photographed or microphotographed or otherwise reproduced upon film; or

"(ii) preserved in any electronic medium or format which is capable of—

"(I) being read or scanned by computer; and

"(II) being reproduced from such electronic medium or format by printing or any other form of reproduction of electronically stored data.

"(B) TREATMENT AS ORIGINAL RECORDS.—Any photographs, micrographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii)

shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

"(C) AUTHORITY OF THE ADMINISTRATION.—Any photographs, microphotographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii) shall be preserved in such manner as the Administration shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Administration may direct.".

**SEC. 724. TECHNICAL AMENDMENTS TO INFORMATION SHARING PROVISION IN THE FEDERAL DEPOSIT INSURANCE ACT.**

Section 11(t) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)) is amended—

(1) in paragraph (1), by inserting ", in any capacity," after "A covered agency"; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking "appropriate";

(B) by striking clause (ii); and

(C) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively.

**SEC. 725. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO BANKS OPERATING UNDER THE CODE OF LAW FOR THE DISTRICT OF COLUMBIA.**

(a) FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) in the second undesignated paragraph of the first section (12 U.S.C. 221), by adding at the end the following: "For purposes of this Act, a State bank includes any bank which is operating under the Code of Law for the District of Columbia."; and

(2) in the first sentence of the first undesignated paragraph of section 9 (12 U.S.C. 321), by striking "incorporated by special law of any State, or" and inserting "incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or".

(b) BANK CONSERVATION ACT.—Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by striking "means (1) any national" and inserting "means any national"; and

(2) by striking ", and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency".

(c) DEPOSITORY INSTITUTION DEREGULATION AND MONETARY CONTROL ACT OF 1980.—Part C of title VII of the Depository Institution Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216 et seq.) is amended—

(1) in paragraph (1) of section 731 (12 U.S.C. 216(1)), by striking "and closed banks in the District of Columbia"; and

(2) in paragraph (2) of section 732 (12 U.S.C. 216a(2)), by striking "or closed banks in the District of Columbia".

(d) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(a)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(2)(B)) is amended by striking "(except a national bank)".

(e) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—Section 7(1) of the National Bank Consolidation and Merger Act (12 U.S.C. 215b(1)) is amended by striking "(except a national banking association located in the District of Columbia)".

(f) ACT OF AUGUST 17, 1950.—Section 1(a) of the Act entitled "An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes" and approved August 17, 1950 (12 U.S.C. 214(a)) is amended by striking "(except a national banking association)".

(g) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(1) in subparagraph (A), by striking ", banks operating under the code of law for the District of Columbia,"; and

(2) in subparagraph (B), by striking "and banks operating under the code of law for the District of Columbia".

**SEC. 726. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.**

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended as follows:

12 USC 1752.

(1) In section 101(3), strike "and" after the semicolon.

(2) In section 101(5), strike the terms "account account" and "account accounts" each place any such term appears and insert "account".

12 USC 1757.

(3) In section 107(5)(E), strike the period at the end and insert a semicolon.

(4) In each of paragraphs (6) and (7) of section 107, strike the period at the end and insert a semicolon.

(5) In section 107(7)(D), strike "the Federal Savings and Loan Insurance Corporation or".

(6) In section 107(7)(E), strike "the Federal Home Loan Bank Board," and insert "the Federal Housing Finance Board,".

(7) In section 107(9), strike "subchapter III" and insert "title III".

(8) In section 107(13), strike "and" after the semicolon at the end.

12 USC 1759.

(9) In section 109(c)(2)(A)(i), strike "(12 U.S.C. 4703(16))".

12 USC 1766.

(10) In section 120(h), strike "the Act approved July 30, 1947 (6 U.S.C., secs. 6–13)," and insert "chapter 93 of title 31, United States Code,".

12 USC 1781.

(11) In section 201(b)(5), strike "section 116 of".

12 USC 1782.

(12) In section 202(h)(3), strike "section 207(c)(1)" and insert "section 207(k)(1)".

12 USC 1784.

(13) In section 204(b), strike "such others powers" and insert "such other powers".

12 USC 1786.

(14) In section 206(e)(3)(D), strike "and" after the semicolon at the end.

(15) In section 206(f)(1), strike "subsection (e)(3)(B)" and insert "subsection (e)(3)".

(16) In section 206(g)(7)(D), strike "and subsection (1)".

(17) In section 206(t)(2)(B), insert "regulations" after "as defined in".

(18) In section 206(t)(2)(C), strike "material affect" and insert "material effect".

(19) In section 206(t)(4)(A)(ii)(II), strike "or" after the semicolon at the end.

(20) In section 206A(a)(2)(A), strike "regulator agency" and insert "regulatory agency". 12 USC 1786a.

(21) In section 207(c)(5)(B)(i)(I), insert "and" after the semicolon at the end. 12 USC 1787.

(22) In the heading for subparagraph (A) of section 207(d)(3), strike "TO" and insert "WITH".

(23) In section 207(f)(3)(A), strike "category or claimants" and insert "category of claimants".

(24) In section 209(a)(8), strike the period at the end and insert a semicolon. 12 USC 1789.

(25) In section 216(n), insert "any action" before "that is required". 12 USC 1790d.

(26) In section 304(b)(3), strike "the affairs or such credit union" and insert "the affairs of such credit union". 12 USC 1795c.

(27) In section 310, strike "section 102(e)" and insert "section 102(d)". 12 USC 1795i.

**SEC. 727. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.**

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

(2) by striking subsection (m) and inserting the following: "(m) [Repealed]".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking "(G), (H), (I), or (J) of section 2(c)(2)" and inserting "(G), or (H) of section 2(c)(2)".

**SEC. 728. DEVELOPMENT OF MODEL PRIVACY FORM.**

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803), as amended by section 609, is amended by adding at the end the following:

"(e) MODEL FORMS.—

"(1) IN GENERAL.—The agencies referred to in section 504(a)(1) shall jointly develop a model form which may be used, at the option of the financial institution, for the provision of disclosures under this section.

"(2) FORMAT.—A model form developed under paragraph (1) shall—

"(A) be comprehensible to consumers, with a clear format and design;

"(B) provide for clear and conspicuous disclosures;

"(C) enable consumers easily to identify the sharing practices of a financial institution and to compare privacy practices among financial institutions; and

"(D) be succinct, and use an easily readable type font.

"(3) TIMING.—A model form required to be developed by this subsection shall be issued in proposed form for public comment not later than 180 days after the date of enactment of this subsection. Deadline.

"(4) SAFE HARBOR.—Any financial institution that elects to provide the model form developed by the agencies under this subsection shall be deemed to be in compliance with the disclosures required under this section.".

# TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

**SEC. 801. EXCEPTION FOR CERTAIN BAD CHECK ENFORCEMENT PROGRAMS.**

(a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

15 USC 1692 note.

(1) by redesignating section 818 as section 819; and

(2) by inserting after section 817 the following:

15 USC 1692p.

**"§ 818. Exception for certain bad check enforcement programs operated by private entities**

"(a) IN GENERAL.—

Contracts.

"(1) TREATMENT OF CERTAIN PRIVATE ENTITIES.—Subject to paragraph (2), a private entity shall be excluded from the definition of a debt collector, pursuant to the exception provided in section 803(6), with respect to the operation by the entity of a program described in paragraph (2)(A) under a contract described in paragraph (2)(B).

"(2) CONDITIONS OF APPLICABILITY.—Paragraph (1) shall apply if—

"(A) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (b), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution;

"(B) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision, and control of such State or district attorney, operates the pretrial diversion program described in subparagraph (A); and

"(C) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in subparagraph (B)—

"(i) complies with the penal laws of the State;

"(ii) conforms with the terms of the contract and directives of the State or district attorney;

"(iii) does not exercise independent prosecutorial discretion;

"(iv) contacts any alleged offender referred to in subparagraph (A) for purposes of participating in a program referred to in such paragraph—

"(I) only as a result of any determination by the State or district attorney that probable cause of a bad check violation under State penal law exists, and that contact with the alleged offender for purposes of participation in the program is appropriate; and

"(II) the alleged offender has failed to pay the bad check after demand for payment, pursuant to State law, is made for payment of the check amount;

"(v) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that—

"(I) the alleged offender may dispute the validity of any alleged bad check violation;

"(II) where the alleged offender knows, or has reasonable cause to believe, that the alleged bad check violation is the result of theft or forgery of the check, identity theft, or other fraud that is not the result of the conduct of the alleged offender, the alleged offender may file a crime report with the appropriate law enforcement agency; and

"(III) if the alleged offender notifies the private entity or the district attorney in writing, not later than 30 days after being contacted for the first time pursuant to clause (iv), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the district attorney or an employee of the district attorney authorized to make such a determination makes a determination that there is probable cause to believe that a crime has been committed; and Deadline.

"(vi) charges only fees in connection with services under the contract that have been authorized by the contract with the State or district attorney.

"(b) CERTAIN CHECKS EXCLUDED.—A check is described in this subsection if the check involves, or is subsequently found to involve—

"(1) a postdated check presented in connection with a payday loan, or other similar transaction, where the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn, or delivered;

"(2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;

"(3) a check dishonored because of an adjustment to the issuer's account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn, or delivered;

"(4) a check for partial payment of a debt where the payee had previously accepted partial payment for such debt;

"(5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn, or delivered; or

"(6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or district attorney at the time the check was made, drawn, or delivered.

"(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply: Applicability.

"(1) STATE OR DISTRICT ATTORNEY.—The term 'State or district attorney' means the chief elected or appointed prosecuting attorney in a district, county (as defined in section 2 of title 1, United States Code), municipality, or comparable jurisdiction, including State attorneys general who act as chief elected or appointed prosecuting attorneys in a district, county (as so defined), municipality or comparable jurisdiction, who may be referred to by a variety of titles such as district attorneys, prosecuting attorneys, commonwealth's attorneys, solicitors, county attorneys, and state's attorneys, and who are responsible for the prosecution of State crimes and violations of jurisdiction-specific local ordinances.

"(2) CHECK.—The term 'check' has the same meaning as in section 3(6) of the Check Clearing for the 21st Century Act.

"(3) BAD CHECK VIOLATION.—The term 'bad check violation' means a violation of the applicable State criminal law relating to the writing of dishonored checks.".

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

"818. Exception for certain bad check enforcement programs operated by private entities.".

**SEC. 802. OTHER AMENDMENTS.**

(a) LEGAL PLEADINGS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding at the end the following new subsection:

"(d) LEGAL PLEADINGS.—A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).".

(b) NOTICE PROVISIONS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding after subsection (d) (as added by subsection (a) of this section) the following new subsection:

"(e) NOTICE PROVISIONS.—The sending or delivery of any form or notice which does not relate to the collection of a debt and is expressly required by the Internal Revenue Code of 1986, title V of Gramm-Leach-Bliley Act, or any provision of Federal or State law relating to notice of data security breach or privacy, or any regulation prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.".

(c) ESTABLISHMENT OF RIGHT TO COLLECT WITHIN THE FIRST 30 DAYS.—Section 809(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(b)) is amended by adding at the end the following new sentences: "Collection activities and communications that do not otherwise violate this title may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and

address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.".

# TITLE IX—CASH MANAGEMENT MODERNIZATION

**SEC. 901. COLLATERAL MODERNIZATION.**

(a) IN GENERAL.—Section 9301(2) of title 31, United States Code, is amended to read as follows:

"(2) 'eligible obligation' means any security designated as acceptable in lieu of a surety bond by the Secretary of the Treasury.".

(b) USE OF ELIGIBLE OBLIGATIONS INSTEAD OF SURETY BONDS.—Section 9303(a)(2) of title 31, United States Code, is amended to read as follows:

"(2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and".

(c) TECHNICAL AMENDMENTS.—Section 9303 of title 31, United States Code, is amended—

(1) in the section heading, by striking **"Government obligations"** and inserting **"eligible obligations"**;

(2) in subsection (f), by striking "Government obligations" and inserting "eligible obligations";

(3) by striking "a Government obligation" each place that term appears and inserting "an eligible obligation"; and

(4) by striking "Government obligation" each place that term appears and inserting "eligible obligation".

# TITLE X—STUDIES AND REPORTS

**SEC. 1001. STUDY AND REPORT BY THE COMPTROLLER GENERAL ON THE CURRENCY TRANSACTION REPORT FILING SYSTEM.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the volume of currency transaction reports filed with the Secretary of the Treasury under section 5313(a) of title 31, United States Code.

(b) PURPOSE.—The purpose of the study required under subsection (a) shall be—

(1) to evaluate, on the basis of actual filing data, patterns of currency transaction reports filed by depository institutions of all sizes and locations; and

(2) to identify whether and the extent to which the filing rules for currency transaction reports described in section 5313(a) of title 31, United States Code—

(A) are burdensome; and

(B) can or should be modified to reduce such burdens without harming the usefulness of such filing rules to Federal, State, and local anti-terrorism, law enforcement, and regulatory operations.

(c) PERIOD COVERED.—The study required under subsection (a) shall cover the period beginning at least 3 calendar years prior to the date of enactment of this section.

(d) CONTENT.—The study required under subsection (a) shall include a detailed evaluation of—

(1) the extent to which depository institutions are availing themselves of the exemption system for the filing of currency transaction reports set forth in section 103.22(d) of title 31, Code of Federal Regulations, as in effect during the study period (in this section referred to as the "exemption system"), including specifically, for the study period—

(A) the number of currency transaction reports filed (out of the total annual numbers) involving companies that are listed on the New York Stock Exchange or the NASDAQ National Market;

(B) the number of currency transaction reports filed by the 100 largest depository institutions in the United States by asset size, and thereafter in tiers of 100, by asset size;

(C) the number of currency transaction reports filed by the 200 smallest depository institutions in the United States, including the number of such currency transaction reports involving companies listed on the New York Stock Exchange or the NASDAQ National Market; and

(D) the number of currency transaction reports that would have been filed during the filing period if the exemption system had been used by all depository institutions in the United States;

(2) what types of depository institutions are using the exemption system, and the extent to which such exemption system is used;

(3) difficulties that limit the willingness or ability of depository institutions to reduce their currency transaction reports reporting burden by making use of the exemption system, including considerations of cost, especially in the case of small depository institutions;

(4) the extent to which bank examination difficulties have limited the use of the exemption system, especially with respect to—

(A) the exemption of privately-held companies permitted under such exemption system; and

(B) whether, on a sample basis, the reaction of bank examiners to implementation of such exemption system is justified or inhibits use of such exemption system without an offsetting compliance benefit;

(5) ways to improve the use of the exemption system by depository institutions, including making such exemption system mandatory in order to reduce the volume of currency transaction reports unnecessarily filed; and

(6) the usefulness of currency transaction reports filed to law enforcement agencies, taking into account—

(A) advances in information technology;

(B) the impact, including possible loss of investigative data, that various changes in the exemption system would have on the usefulness of such currency transaction reports; and

(C) changes that could be made to the exemption system without affecting the usefulness of currency transaction reports.

(e) ASSISTANCE.—The Secretary of the Treasury shall provide such information processing and other assistance, including from the Commissioner of the Internal Revenue Service and the Director of the Financial Crimes Enforcement Network, to the Comptroller General in analyzing currency transaction report filings for the study period described in subsection (c), as is necessary to provide the information required by subsection (a).

(f) VIEWS.—The study required under subsection (a) shall, if appropriate, include a discussion of the views of a representative sample of Federal, State, and local law enforcement and regulatory officials and officials of depository institutions of all sizes.

(g) RECOMMENDATIONS.—The study required under subsection (a) shall, if appropriate, include recommendations for changes to the exemption system that would reflect a reduction in unnecessary cost to depository institutions, assuming reasonably full implementation of such exemption system, without reducing the usefulness of the currency transaction report filing system to anti-terrorism, law enforcement, and regulatory operations.

(h) REPORT.—Not later than 15 months after the date of enactment of this section, the Comptroller General shall submit a report on the study required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

**SEC. 1002. STUDY AND REPORT ON INSTITUTION DIVERSITY AND CONSOLIDATION.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study regarding—

(1) the vast diversity in the size and complexity of institutions in the banking and financial services sector, including the differences in capital, market share, geographical limitations, product offerings, and general activities;

(2) the differences in powers among the depository institution charters, including—

(A) identification of the historical trends in the evolution of depository institution charters;

(B) an analysis of the impact of charter differences to the overall safety and soundness of the banking industry, and the effectiveness of the applicable depository institution regulator; and

(C) an analysis of the impact that the availability of options for depository institution charters on the development of the banking industry;

(3) the impact that differences of size and overall complexity among financial institutions makes with respect to regulatory oversight, efficiency, safety and soundness, and charter options for financial institutions; and

(4) the aggregate cost and breakdown associated with regulatory compliance for banks, savings associations, credit unions, or any other financial institution, including potential disproportionate impact that the cost of compliance may pose on smaller institutions, given the percentage of personnel that the institution must dedicate solely to compliance.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Comptroller General shall consider the efficacy and efficiency of the consolidation of financial regulators, as well as charter simplification and homogenization.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study required by this section.

Approved October 13, 2006.

LEGISLATIVE HISTORY—S. 2856:

SENATE REPORTS: No. 109–256 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
May 25, considered and passed Senate.
Sept. 27, considered and passed House, amended.
Sept. 29, Senate concurred in House amendment.

Public Law 109–352
109th Congress

# An Act

To amend section 29 of the International Air Transportation Competition Act of 1979 relating to air transportation to and from Love Field, Texas.

Oct. 13, 2006
[S. 3661]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Wright Amendment Reform Act of 2006.

This Act may be cited as the "Wright Amendment Reform Act of 2006".

**SEC. 2. MODIFICATION OF PROVISIONS REGARDING FLIGHTS TO AND FROM LOVE FIELD, TEXAS.**

(a) EXPANDED SERVICE.—Section 29(c) of the International Air Transportation Competition Act of 1979 (Public Law 96–192; 94 Stat. 35) is amended by striking "carrier, if (1)" and all that follows and inserting the following: "carrier. Air carriers and, with regard to foreign air transportation, foreign air carriers, may offer for sale and provide through service and ticketing to or from Love Field, Texas, and any United States or foreign destination through any point within Texas, New Mexico, Oklahoma, Kansas, Arkansas, Louisiana, Mississippi, Missouri, or Alabama.".

Effective date.

(b) REPEAL.—Section 29 of the International Air Transportation Competition Act of 1979 (94 Stat. 35), as amended by subsection (a), is repealed on the date that is 8 years after the date of enactment of this Act.

**SEC. 3. TREATMENT OF INTERNATIONAL NONSTOP FLIGHTS TO AND FROM LOVE FIELD, TEXAS.**

No person shall provide, or offer to provide, air transportation of passengers for compensation or hire between Love Field, Texas, and any point or points outside the 50 States or the District of Columbia on a nonstop basis, and no official or employee of the Federal Government may take any action to make or designate Love Field as an initial point of entry into the United States or a last point of departure from the United States.

**SEC. 4. CHARTER FLIGHTS AT LOVE FIELD, TEXAS.**

(a) IN GENERAL.—Charter flights (as defined in section 212.2 of title 14, Code of Federal Regulations) at Love Field, Texas, shall be limited to—

(1) destinations within the 50 States and the District of Columbia; and

(2) no more than 10 per month per air carrier for charter flights beyond the States of Texas, New Mexico, Oklahoma, Kansas, Arkansas, Louisiana, Mississippi, Missouri, and Alabama.

(b) CARRIERS WHO LEASE GATES.—All flights operated to or from Love Field by air carriers that lease terminal gate space at Love Field shall depart from and arrive at one of those leased gates; except for—

(1) flights operated by an agency of the Federal Government or by an air carrier under contract with an agency of the Federal Government; and

(2) irregular operations.

(c) CARRIERS WHO DO NOT LEASE GATES.—Charter flights from Love Field, Texas, operated by air carriers that do not lease terminal space at Love Field may operate from nonterminal facilities or one of the terminal gates at Love Field.

**SEC. 5. LOVE FIELD GATES.**

(a) IN GENERAL.—The city of Dallas, Texas, shall reduce as soon as practicable, the number of gates available for passenger air service at Love Field to no more than 20 gates. Thereafter, the number of gates available for such service shall not exceed a maximum of 20 gates. The city of Dallas, pursuant to its authority to operate and regulate the airport as granted under chapter 22 of the Texas Transportation Code and this Act, shall determine the allocation of leased gates and manage Love Field in accordance with contractual rights and obligations existing as of the effective date of this Act for certificated air carriers providing scheduled passenger service at Love Field on July 11, 2006. To accommodate new entrant air carriers, the city of Dallas shall honor the scarce resource provision of the existing Love Field leases.

(b) REMOVAL OF GATES AT LOVE FIELD.—No Federal funds or passenger facility charges may be used to remove gates at the Lemmon Avenue facility, Love Field, in reducing the number of gates as required under this Act, but Federal funds or passenger facility charges may be used for other airport facilities under chapter 471 of title 49, United States Code.

(c) GENERAL AVIATION.—Nothing in this Act shall affect general aviation service at Love Field, including flights to or from Love Field by general aviation aircraft for air taxi service, private or sport flying, aerial photography, crop dusting, corporate aviation, medical evacuation, flight training, police or fire fighting, and similar general aviation purposes, or by aircraft operated by any agency of the Federal Government or by any air carrier under contract to any agency of the Federal Government.

(d) ENFORCEMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation and the Administrator of the Federal Aviation Administration may not make findings or determinations, issue orders or rules, withhold airport improvement grants or approvals thereof, deny passenger facility charge applications, or take any other actions, either self-initiated or on behalf of third parties—

(A) that are inconsistent with the contract dated July 11, 2006, entered into by the city of Dallas, the city of Fort Worth, the DFW International Airport Board, and others regarding the resolution of the Wright Amendment issues, unless actions by the parties to the contract are not reasonably necessary to implement such contract; or

(B) that challenge the legality of any provision of such contract.

(2) COMPLIANCE WITH TITLE 49 REQUIREMENTS.—A contract described in paragraph (1)(A) of this subsection, and any actions taken by the parties to such contract that are reasonably necessary to implement its provisions, shall be deemed to comply in all respects with the parties' obligations under title 49, United States Code.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this Act shall be construed—

(A) to limit the obligations of the parties under the programs of the Department of Transportation and the Federal Aviation Administration relating to aviation safety, labor, environmental, national historic preservation, civil rights, small business concerns (including disadvantaged business enterprise), veteran's preference, disability access, and revenue diversion;

(B) to limit the authority of the Department of Transportation or the Federal Aviation Administration to enforce the obligations of the parties under the programs described in subparagraph (A);

(C) to limit the obligations of the parties under the security programs of the Department of Homeland Security, including the Transportation Security Administration, at Love Field, Texas;

(D) to authorize the parties to offer marketing incentives that are in violation of Federal law, rules, orders, agreements, and other requirements; or

(E) to limit the authority of the Federal Aviation Administration or any other Federal agency to enforce requirements of law and grant assurances (including subsections (a)(1), (a)(4), and (s) of section 47107 of title 49, United States Code) that impose obligations on Love Field to make its facilities available on a reasonable and nondiscriminatory basis to air carriers seeking to use such facilities, or to withhold grants or deny applications to applicants violating such obligations with respect to Love Field.

(2) FACILITIES.—Paragraph (1)(E)—

(A) shall only apply with respect to facilities that remain at Love Field after the city of Dallas has reduced the number of gates at Love Field as required by subsection (a); and

(B) shall not be construed to require the city of Dallas, Texas—

(i) to construct additional gates beyond the 20 gates referred to in subsection (a); or

(ii) to modify or eliminate preferential gate leases with air carriers in order to allocate gate capacity to new entrants or to create common use gates, unless such modification or elimination is implemented on a nationwide basis.

**SEC. 6. APPLICABILITY.**

The provisions of this Act shall apply to actions taken with respect to Love Field, Texas, or air transportation to or from Love Field, Texas, and shall have no application to any other airport (other than an airport owned or operated by the city of Dallas or the city of Fort Worth, or both).

**SEC. 7. EFFECTIVE DATE.**

Sections 1 through 6, including the amendments made by such sections, shall take effect on the date that the Administrator of the Federal Aviation Administration notifies Congress that aviation operations in the airspace serving Love Field and the Dallas-Fort Worth area which are likely to be conducted after enactment of this Act can be accommodated in full compliance with Federal Aviation Administration safety standards in accordance with section 40101 of title 49, United States Code, and, based on current expectations, without adverse effect on use of airspace in such area.

Approved October 13, 2006.

LEGISLATIVE HISTORY—S. 3661 (H.R. 5830):

SENATE REPORTS: No. 109–317 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate and House.

Public Law 109–353
109th Congress

# An Act

To promote nuclear nonproliferation in North Korea.

Oct. 13, 2006
[S. 3728]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

North Korea Nonproliferation Act of 2006. 50 USC 1701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "North Korea Nonproliferation Act of 2006".

**SEC. 2. STATEMENT OF POLICY.**

(a) In view of —

(1) North Korea's manifest determination to produce missiles, nuclear weapons, and other weapons of mass destruction and to proliferate missiles, in violation of international norms and expectations; and

(2) United Nations Security Council Resolution 1695, adopted on July 15, 2006, which requires all Member States, in accordance with their national legal authorities and consistent with international law, to exercise vigilance and prevent—

(A) missile and missile-related items, materials, goods, and technology from being transferred to North Korea's missile or weapons of mass destruction programs; and

(B) the procurement of missiles or missile-related items, materials, goods, and technology from North Korea, and the transfer of any financial resources in relation to North Korea's missile or weapons of mass destruction programs,

it should be the policy of the United States to impose sanctions on persons who transfer such weapons, and goods and technology related to such weapons, to and from North Korea in the same manner as persons who transfer such items to and from Iran and Syria currently are sanctioned under United States law.

**SEC. 3. AMENDMENTS TO IRAN AND SYRIA NONPROLIFERATION ACT.**

(a) REPORTING REQUIREMENTS.—Section 2 of the Iran and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in the heading, by inserting "**, NORTH KOREA,**" after "**IRAN**"; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Iran, or" and inserting "Iran,"; and

(ii) by inserting after "Syria" the following: ", or on or after January 1, 2006, transferred to or acquired from North Korea" after "Iran"; and

(B) in paragraph (2), by inserting ", North Korea," after "Iran".

(b) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) in section 1, by inserting ", North Korea," after "Iran";

(2) in section 5(a), by inserting ", North Korea," after "Iran" both places it appears; and

(3) in section 6(b)—

(A) in the heading, by inserting ", NORTH KOREA," after "IRAN"; and

(B) by inserting ", North Korea," after "Iran" each place it appears.

**SEC. 4. SENSE OF CONGRESS ON INTERNATIONAL COOPERATION.**

Congress urges all governments to comply promptly with United Nations Security Council Resolution 1695 and to impose measures on persons involved in such proliferation that are similar to those imposed by the United States Government pursuant to the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note), as amended by this Act.

Approved October 13, 2006.

LEGISLATIVE HISTORY—S. 3728:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 25, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 109–354
109th Congress

# An Act

To revise the boundaries of John H. Chafee Coastal Barrier Resources System Jekyll Island Unit GA–06P.

Oct. 16, 2006
[H.R. 138]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Georgia.

**SECTION 1. REPLACEMENT OF CERTAIN JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM MAP.**

16 USC 3503 note.

(a) IN GENERAL.—The map subtitled "GA–06P", relating to the John H. Chafee Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Jekyll Island Unit GA–06P, that is included in the set of maps entitled "John H. Chafee Coastal Barrier Resources System" and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), is hereby replaced by another map relating to the unit entitled "John H. Chafee Coastal Barrier Resources System Jekyll Island Unit GA–06P" and dated July 10, 2006.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the replacement map referred to in subsection (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 138:

HOUSE REPORTS: No. 109–618 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–355
# 109th Congress

## An Act

Oct. 16, 2006
[H.R. 479]

To replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL–95P in Walton County, Florida.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

16 USC 3503 note.

**SECTION 1. REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAP RELATING TO GRAYTON BEACH UNIT FL–95P IN WALTON COUNTY, FLORIDA.**

(a) IN GENERAL.—The map described in subsection (b) relating to the Coastal Barrier Resources System unit Grayton Beach Unit FL–95P, located in Walton County, Florida, as included in the set of maps entitled "Coastal Barrier Resources System" referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), is hereby replaced by another map relating to that unit entitled "Grayton Beach Unit FL–95P and Draper Lake Unit FL–96" and dated "July 24, 2006".

(b) REPLACED MAP DESCRIBED.—The map replaced under subsection (a) is subtitled "COASTAL BARRIER RESOURCES SYSTEM GRAYTON BEACH UNIT FL–95P DRAPER LAKE UNIT FL–96" and dated October 24, 1990.

(c) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsections (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 479:

HOUSE REPORTS: No. 109–620 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–356
# 109th Congress

## An Act

To authorize improvements in the operation of the government of the District of Columbia, and for other purposes.

Oct. 16, 2006
[H.R. 3508]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

2005 District of Columbia Omnibus Authorization Act.
5 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "2005 District of Columbia Omnibus Authorization Act".

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

Sec. 1. Short title; table of contents.

TITLE I—GOVERNANCE OF DISTRICT OF COLUMBIA

Subtitle A—General District of Columbia Governance

Sec. 101. Budget flexibility.
Sec. 102. Additional Authority to allocate amounts in Reserve Funds.
Sec. 103. Permitting General Services Administration to obtain space and services on behalf of District of Columbia Public Defender Service.
Sec. 104. Authority to enter into Interstate Insurance Product Regulation Compact.
Sec. 105. Metered taxicabs in the District of Columbia.

Subtitle B—District of Columbia Courts

Sec. 111. Modernization of Office of Register of Wills.
Sec. 112. Increase in cap on rates of pay for nonjudicial employees.
Sec. 113. Clarification of rate for individuals providing services to indigent defendants.
Sec. 114. Authority of Courts to conduct proceedings outside of District of Columbia during emergencies.
Sec. 115. Authority of Court Services and Offender Supervision Agency to use services of volunteers.
Sec. 116. Technical corrections relating to courts.
Sec. 117. Inclusion of court employees in enhanced dental and vision benefit program.

Subtitle C—Other Miscellaneous Technical Corrections

Sec. 121. 2004 District of Columbia Omnibus Authorization Act.
Sec. 122. District of Columbia Appropriations Act, 2005.
Sec. 123. Technical and conforming amendments relating to banks operating under the Code of Law for the District of Columbia.
Sec. 124. District of Columbia Schools fiscal year.
Sec. 125. Gifts to libraries.

TITLE II—INDEPENDENCE OF THE CHIEF FINANCIAL OFFICER

Sec. 201. Promoting independence of Chief Financial Officer.
Sec. 202. Personnel Authority.
Sec. 203. Procurement Authority.
Sec. 204. Fiscal impact statements.

TITLE III—AUTHORIZATION OF CERTAIN GENERAL APPROPRIATIONS PROVISIONS

Sec. 301. Acceptance of gifts by Court Services and Offender Supervision Agency.

Sec. 302. Evaluation process for public school employees.
Sec. 303. Clarification of application of pay provisions of Merit Personnel System to all District employees.
Sec. 304. Criteria for renewing or extending sole source contracts.
Sec. 305. Acceptance of grant amounts not included in annual budget.
Sec. 306. Standards for annual independent audit.
Sec. 307. Use of fines imposed for violation of traffic alcohol laws for enforcement and prosecution of laws.
Sec. 308. Certifications for attorneys in cases brought under Individuals With Disabilities Education Act.

# TITLE I—GOVERNANCE OF DISTRICT OF COLUMBIA

## Subtitle A—General District of Columbia Governance

**SEC. 101. BUDGET FLEXIBILITY.**

(a) PERMITTING INCREASE IN AMOUNT APPROPRIATED AS LOCAL FUNDS DURING A FISCAL YEAR.—Subpart 1 of part D of title IV of the District of Columbia Home Rule Act (sec. 1–204.41 et seq., D.C. Official Code) is amended by inserting after section 446 the following new section:

"PERMITTING INCREASE IN AMOUNT APPROPRIATED AS LOCAL FUNDS DURING A FISCAL YEAR

"SEC. 446A. (a) IN GENERAL.—Notwithstanding the fourth sentence of section 446, to account for an unanticipated growth of revenue collections, the amount appropriated as District of Columbia funds under budget approved by Act of Congress as provided in such section may be increased—

"(1) by an aggregate amount of not more than 25 percent, in the case of amounts allocated under the budget as 'Other-Type Funds'; and

"(2) by an aggregate amount of not more than 6 percent, in the case of any other amounts allocated under the budget.

"(b) CONDITIONS.—The District of Columbia may obligate and expend any increase in the amount of funds authorized under this section only in accordance with the following conditions:

"(1) The Chief Financial Officer of the District of Columbia shall certify—

"(A) the increase in revenue; and

"(B) that the use of the amounts is not anticipated to have a negative impact on the long-term financial, fiscal, or economic health of the District.

"(2) The amounts shall be obligated and expended in accordance with laws enacted by the Council of the District of Columbia in support of each such obligation and expenditure, consistent with any other requirements under law.

"(3) The amounts may not be used to fund any agencies of the District government operating under court-ordered receivership.

Deadline.

"(4) The amounts may not be obligated or expended unless the Mayor has notified the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the

Committee on Homeland Security and Governmental Affairs of the Senate not fewer than 30 days in advance of the obligation or expenditure.

"(c) EFFECTIVE DATE.—This section shall apply with respect to fiscal years 2006 through 2007.".

(b) CONFORMING AMENDMENT.—The fourth sentence of section 446 of such Act (sec. 1–204.46, D.C. Official Code) is amended by inserting "section 446A," after "section 445A(b),".

(c) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 446 the following new item:

"Sec. 446A. Permitting increase in amount appropriated as local funds during a fiscal year.".

**SEC. 102. ADDITIONAL AUTHORITY TO ALLOCATE AMOUNTS IN RESERVE FUNDS.**

(a) IN GENERAL.—Section 450A of the District of Columbia Home Rule Act (sec. 1–204.50A, D.C. Official Code) is amended—

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

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

"(c) ADDITIONAL AUTHORITY TO ALLOCATE AMOUNTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, in addition to the authority provided under this section to allocate and use amounts from the emergency reserve fund under subsection (a) and the contingency reserve fund under subsection (b), the District of Columbia may allocate amounts from such funds during a fiscal year and use such amounts for cash flow management purposes.

"(2) LIMITS ON AMOUNT ALLOCATED.—

"(A) AMOUNT OF INDIVIDUAL ALLOCATION.—The amount of an allocation made from the emergency reserve fund or the contingency reserve fund pursuant to the authority of this subsection may not exceed 50 percent of the balance of the fund involved at the time the allocation is made.

"(B) AGGREGATE AMOUNT ALLOCATED.—The aggregate amount allocated from the emergency reserve fund or the contingency reserve fund pursuant to the authority of this subsection during a fiscal year may not exceed 50 percent of the balance of the fund involved as of the first day of such fiscal year.

"(3) REPLENISHMENT.—If the District of Columbia allocates any amounts from a reserve fund pursuant to the authority of this subsection during a fiscal year, the District shall fully replenish the fund for the amounts allocated not later than the earlier of—

"(A) the expiration of the 9-month period which begins on the date the allocation is made; or

"(B) the last day of the fiscal year.

"(4) EFFECTIVE DATE.—This subsection shall apply with respect to fiscal years 2006 through 2007.".

(b) SPECIAL RULE FOR TIMING OF REPLENISHMENT AFTER SUBSEQUENT ALLOCATION.—

(1) EMERGENCY RESERVE FUND.—Section 450A(a)(7) of such Act (sec. 1–204.50A(a)(7), D.C. Official Code) is amended—

(A) by striking "(7) REPLENISHMENT.—" and inserting the following:

"(7) REPLENISHMENT.—

"(A) IN GENERAL.—The District of Columbia"; and

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

"(B) SPECIAL RULE FOR REPLENISHMENT AFTER ALLOCATION FOR CASH FLOW MANAGEMENT.—

"(i) IN GENERAL.—If the District allocates amounts from the emergency reserve fund during a fiscal year for cash flow management purposes pursuant to the authority of subsection (c) and at any time afterwards during the year makes a subsequent allocation from the fund for purposes of this subsection, and if as a result of the subsequent allocation the balance of the fund is reduced to an amount which is less than 50 percent of the balance of the fund as of the first day of the fiscal year, the District shall replenish the fund by such amount as may be required to restore the balance to an amount which is equal to 50 percent of the balance of the fund as of the first day of the fiscal year.

"(ii) DEADLINE.—The District shall carry out any replenishment required under clause (i) as a result of a subsequent allocation described in such clause not later than the expiration of the 60-day period which begins on the date of the subsequent allocation.".

(2) CONTINGENCY RESERVE FUND.—Section 450A(b)(6) of such Act (sec. 1–204.50A(b)(6), D.C. Official Code) is amended—

(A) by striking "(6) REPLENISHMENT.—" and inserting the following:

"(6) REPLENISHMENT.—

"(A) IN GENERAL.—The District of Columbia"; and

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

"(B) SPECIAL RULE FOR REPLENISHMENT AFTER ALLOCATION FOR CASH FLOW MANAGEMENT.—

"(i) IN GENERAL.—If the District allocates amounts from the contingency reserve fund during a fiscal year for cash flow management purposes pursuant to the authority of subsection (c) and at any time afterwards during the year makes a subsequent allocation from the fund for purposes of this subsection, and if as a result of the subsequent allocation the balance of the fund is reduced to an amount which is less than 50 percent of the balance of the fund as of the first day of the fiscal year, the District shall replenish the fund by such amount as may be required to restore the balance to an amount which is equal to 50 percent of the balance of the fund as of the first day of the fiscal year.

"(ii) DEADLINE.—The District shall carry out any replenishment required under clause (i) as a result of a subsequent allocation described in such clause not later than the expiration of the 60-day period which begins on the date of the subsequent allocation.".

**SEC. 103. PERMITTING GENERAL SERVICES ADMINISTRATION TO OBTAIN SPACE AND SERVICES ON BEHALF OF DISTRICT OF COLUMBIA PUBLIC DEFENDER SERVICE.**

(a) AUTHORITY TO OBTAIN SPACE AND SERVICES.—At the request of the Director of the District of Columbia Public Defender Service, the Administrator of General Services may furnish space and services on behalf of the Service (either directly by providing space and services in buildings owned or occupied by the Federal Government or indirectly by entering into leases with non-Federal entities) in the same manner, and under the same terms and conditions, as the Administrator may furnish space and services on behalf of an agency of the Federal Government.

(b) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2006 and each succeeding fiscal year.

**SEC. 104. AUTHORITY TO ENTER INTO INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.**

(a) IN GENERAL.—The District of Columbia is authorized to enter into an interstate compact to establish a joint state commission as an instrumentality of the District of Columbia for the purpose of establishing uniform insurance product regulations among the participating States.

(b) DELEGATION.—Any insurance product regulation compact that the Council of the District of Columbia authorizes the Mayor to execute on behalf of the District may contain provisions that delegate the requisite power and authority to the joint State commission to achieve the purposes for which the interstate compact is established.

**SEC. 105. METERED TAXICABS IN THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Except as provided in subsection (b) and not later than 1 year after the date of enactment of this Act, the District of Columbia shall require all taxicabs licensed in the District of Columbia to charge fares by a metered system. Deadline.

(b) DISTRICT OF COLUMBIA OPT OUT.—The Mayor of the District of Columbia may exempt the District of Columbia from the requirement under subsection (a) by issuing an executive order that specifically states that the District of Columbia opts out of the requirement to implement a metered fare system for taxicabs.

## Subtitle B—District of Columbia Courts

**SEC. 111. MODERNIZATION OF OFFICE OF REGISTER OF WILLS.**

(a) REVISION OF DUTIES.—Section 11–2104(b), District of Columbia Official Code, is amended to read as follows: Records.

"(b) In matters over which the Superior Court has probate jurisdiction or powers, the Register of Wills shall—

"(1) make full and fair entries, in separate records, of the proceedings of the court;

"(2) record in electronic or other format all wills proved before the Register of Wills or the court and other matters required by law to be recorded in the court;

"(3) lodge in places of safety designated by the court original papers filed with the Register of Wills;

"(4) make out and issue every summons, process, and order of the court;

Reports.

"(5) prepare and submit to the Executive Officer of the District of Columbia courts such reports as may be required; and

"(6) in every respect, act under the control and direction of the court.".

(b) REPEAL OF PENALTIES.—

(1) IN GENERAL.—Section 11–2104, District of Columbia Code, is amended—

(A) in the heading, by striking "**; penalties**"; and

(B) by striking subsections (d) and (e).

(2) CLERICAL AMENDMENT.—The item relating to section 11–2104 in the table of sections for chapter 21 of title 11, District of Columbia Official Code, is amended by striking "; penalties".

(c) RECORD OF CLAIMS AGAINST NONRESIDENT DECEDENTS.—Section 20–343(d), District of Columbia Official Code, is amended by striking the second sentence and inserting the following: "The Register shall record all such claims and releases.".

**SEC. 112. INCREASE IN CAP ON RATES OF PAY FOR NONJUDICIAL EMPLOYEES.**

(a) IN GENERAL.—The second sentence of section 11–1726(a), District of Columbia Official Code, is amended by striking "pay fixed by administrative action in section 5373" and inserting "maximum pay in section 5382(a)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

**SEC. 113. CLARIFICATION OF RATE FOR INDIVIDUALS PROVIDING SERVICES TO INDIGENT DEFENDANTS.**

(a) IN GENERAL.—Section 11–2605, District of Columbia Official Code, is amended—

(1) by striking subsection (b);

(2) in subsection (c), by inserting after "United States Code," the following: "(or, in the case of investigative services, a fixed rate of $25 per hour)";

(3) in subsection (d), by inserting after "United States Code," the following: "(or, in the case of investigative services, a fixed rate of $25 per hour)"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services provided on or after the date of the enactment of this Act.

**SEC. 114. AUTHORITY OF COURTS TO CONDUCT PROCEEDINGS OUTSIDE OF DISTRICT OF COLUMBIA DURING EMERGENCIES.**

(a) DISTRICT OF COLUMBIA COURT OF APPEALS.—

(1) IN GENERAL.—Subchapter I of chapter 7 of title 11, District of Columbia Official Code, is amended by adding at the end the following new section:

**"§ 11–710. Emergency authority to conduct proceedings outside District of Columbia**

"(a) IN GENERAL.—The court may hold special sessions at any place within the United States outside the District of Columbia as the nature of the business may require and upon such notice

as the court orders, upon a finding by either the chief judge of the court (or, if the chief judge is absent or disabled, the judge designated under section 11–706(a)) or the Joint Committee on Judicial Administration in the District of Columbia that, because of emergency conditions, no location within the District of Columbia is reasonably available where such special sessions could be held. The court may transact any business at a special session authorized pursuant to this section which it has the authority to transact at a regular session.

"(b) NOTICE REQUIREMENTS.—If the Court of Appeals issues an order exercising its authority under subsection (a), the court—

"(1) through the Joint Committee on Judicial Administration in the District of Columbia, shall send notice of such order, including the reasons for the issuance of such order, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives; and

"(2) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.".

(2) CLERICAL AMENDMENT.—The table of contents of chapter 7 of title 11, District of Columbia Official Code, is amended by adding at the end of the items relating to subchapter I the following:

"11–710. Emergency authority to conduct proceedings outside District of Columbia.".

(b) SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—Subchapter I of chapter 9 of title 11, District of Columbia Official Code, is amended by adding at the end the following new section:

**"§ 11–911. Emergency authority to conduct proceedings outside District of Columbia**

"(a) IN GENERAL.—The Superior Court may hold special sessions at any place within the United States outside the District of Columbia as the nature of the business may require and upon such notice as the Superior Court orders, upon a finding by either the chief judge of the Superior Court (or, if the chief judge is absent or disabled, the judge designated under section 11–907(a)) or the Joint Committee on Judicial Administration in the District of Columbia that, because of emergency conditions, no location within the District of Columbia is reasonably available where such special sessions could be held.

"(b) BUSINESS TRANSACTED.—The Superior Court may transact any business at a special session outside the District of Columbia authorized pursuant to this section which it has the authority to transact at a regular session, except that a criminal trial may not be conducted at such a special session without the consent of the defendant.

"(c) SUMMONING OF JURORS.—Notwithstanding any other provision of law, in any case in which special sessions are conducted pursuant to this section, the Superior Court may summon jurors—

"(1) in civil proceedings, from any part of the District of Columbia or, if jurors are not readily available from the District of Columbia, the jurisdiction in which it is holding the special session; and

"(2) in criminal trials, from any part of the District of Columbia or, if jurors are not readily available from the District of Columbia and if the defendant so consents, the jurisdiction in which it is holding the special session.

"(d) NOTICE REQUIREMENTS.—If the Superior Court issues an order exercising its authority under subsection (a), the Court—

"(1) through the Joint Committee on Judicial Administration in the District of Columbia, shall send notice of such order, including the reasons for the issuance of such order, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives; and

"(2) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.".

(2) CLERICAL AMENDMENT.—The table of contents of chapter 9 of title 11, District of Columbia Official Code, is amended by adding at the end of the items relating to subchapter I the following:

"11–911. Emergency authority to conduct proceedings outside District of Columbia.".

**SEC. 115. AUTHORITY OF COURT SERVICES AND OFFENDER SUPERVISION AGENCY TO USE SERVICES OF VOLUNTEERS.**

Section 11233 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133, D.C. Official Code) is amended by adding at the end the following new subsection:

"(g) AUTHORITY TO USE SERVICES OF VOLUNTEERS.—

"(1) IN GENERAL.—The Agency (including any independent entity within the Agency) may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Agency except policy-making.

"(2) APPLICABILITY OF WORKER'S COMPENSATION RULES TO VOLUNTEERS.—Any volunteer whose services are accepted pursuant to this subsection shall be considered an employee of the United States Government in providing the services for purposes of chapter 81 of title 5, United States Code (relating to compensation for work injuries) and chapter 11 of title 18, United States Code, relating to corruption and conflicts of interest.".

**SEC. 116. TECHNICAL CORRECTIONS RELATING TO COURTS.**

(a) IN GENERAL.—Section 329 of the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1345), is amended to read as follows:

"SEC. 329. (a) APPROVAL OF BONDS BY JOINT COMMITTEE ON JUDICIAL ADMINISTRATION.—Section 11–1701(b), District of Columbia Official Code, is amended by striking paragraph (5).

"(b) EXECUTIVE OFFICER.—

"(1) IN GENERAL.—Section 11–1704, District of Columbia Official Code, is amended to read as follows:

'OATH OF EXECUTIVE OFFICER

'SEC. 11–1704.

'The Executive Officer shall take an oath or affirmation for the faithful and impartial discharge of the duties of that office.'.

"(2) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 11, District of Columbia Official Code, is

amended by amending the item relating to section 11–1704 to read as follows:

'11–1704. Oath of Executive Officer.'.

"(c) FISCAL OFFICER.—Section 11–1723, District of Columbia Official Code, is amended—

"(1) by striking '(a)(1)'and inserting '(a)';

"(2) by striking subsection (b); and

"(3) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c).

"(d) AUDITOR-MASTER.—Section 11–1724, District of Columbia Official Code, is amended by striking the second and third sentences.

"(e) REGISTER OF WILLS.—

"(1) IN GENERAL.—Section 11–2102, District of Columbia Official Code, is amended—

"(A) in the heading, by striking '**bond;**';

"(B) in subsection (a)(2), by striking 'give bond,' and all that follows through 'seasonably to record' and inserting 'seasonably record'; and

"(C) by striking the third sentence of subsection (a).

"(2) CLERICAL AMENDMENT.—The item relating to section 11–2102 in the table of sections for chapter 21 of title 11, District of Columbia Official Code, is amended by striking 'bond;'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 11, District of Columbia Official Code, is amended by amending the item relating to section 11–1728 to read as follows:

"11–1728. Recruitment and training of personnel; travel.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005.

**SEC. 117. INCLUSION OF COURT EMPLOYEES IN ENHANCED DENTAL AND VISION BENEFIT PROGRAM.**

(a) UNITED STATES CODE.—Title 5 of the United States Code is amended—

(1) in section 8951(1) by adding at the end the following: "and an employee of the District of Columbia courts";

(2) in section 8981(1) by adding at the end the following: "and an employee of the District of Columbia courts"; and

(3) in section 9001(1) is amended—

(A) in subparagraph (C), by striking "and";

(B) in subparagraph (D), by striking the period and inserting a semicolon and "and"; and

(C) by adding at the end the following: "(E) an employee of the District of Columbia courts.".

(b) D.C. CODE.—Section 11–1726, District of Columbia Code, is amended—

(1) in subsection (b)(1), by striking subparagraph (F) and inserting the following:

"(F) Chapter 89A (relating to enhanced dental benefits).

"(G) Chapter 89B (relating to enhanced vision benefits).

"(H) Chapter 90 (relating to long-term care insurance).."; and

(2) in subsection (c)(1), by striking subparagraph (D) and inserting the following:

"(D) Chapter 89A (relating to enhanced dental benefits).

"(E) Chapter 89B (relating to enhanced vision benefits).

"(F) Chapter 90 (relating to long-term care insurance).".

## Subtitle C—Other Miscellaneous Technical Corrections

**SEC. 121. 2004 DISTRICT OF COLUMBIA OMNIBUS AUTHORIZATION ACT.**

(a) IN GENERAL.—The first sentence of section 446(a) of the District of Columbia Home Rule Act (sec. 1–204.46(a), D.C. Official Code) is amended by striking "The Council," and all that follows through "from the Mayor," and inserting "The Council, within 56 calendar days after receipt of the budget proposal from the Mayor,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the 2004 District of Columbia Omnibus Authorization Act.

**SEC. 122. DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005.**

(a) IN GENERAL.—Section 450A of the District of Columbia Home Rule Act (sec. 1–204.50A, D.C. Official Code), as amended by section 332 of the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1346), is amended—

(1) in the heading of subsection (a)(2), by striking "IN GENERAL" and inserting "OPERATING EXPENDITURES DEFINED"; and

(2) in the heading of subsection (b)(2), by striking "IN GENERAL" and inserting "OPERATING EXPENDITURES DEFINED".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005.

**SEC. 123. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO BANKS OPERATING UNDER THE CODE OF LAW FOR THE DISTRICT OF COLUMBIA.**

(a) FEDERAL RESERVE ACT.—

(1) The second undesignated paragraph of the first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end the following: "For purposes of this Act, a State bank includes any bank which is operating under the Code of Law for the District of Columbia.".

(2) The first sentence of the first undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by striking "incorporated by special law of any State, or" and inserting "incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or".

(b) BANK CONSERVATION ACT.—Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by striking "means (1) any national" and inserting "means any national"; and

(2) by striking ", and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency".

(c) DEPOSITORY INSTITUTION DEREGULATION AND MONETARY CONTROL ACT OF 1980.—Part C of title VII of the Depository Institution Deregulation and Monetary Control Act of 1980 is amended—

(1) in paragraph (1) of section 731 (12 U.S.C. 216(1)) by striking "and closed banks in the District of Columbia"; and

(2) in paragraph (2) of section 732 (12 U.S.C. 216a(2)) by striking "or closed banks in the District of Columbia".

(d) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(a)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(2)(B)) is amended by striking "(except a national bank)".

(e) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—Section 7(1) of the National Bank Consolidation and Merger Act (12 U.S.C. 215b(1)) is amended by striking "(except a national banking association located in the District of Columbia)".

(f) AN ACT OF AUGUST 17, 1950.—Section 1(a) of the Act entitled "An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes" and approved August 17, 1950 (12 U.S.C. 214(a)) is amended by striking "(except a national banking association)".

(g) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(1) in subparagraph (A), by striking ", banks operating under the code of law for the District of Columbia,"; and

(2) in subparagraph (B), by striking "and banks operating under the code of law for the District of Columbia".

**SEC. 124. DISTRICT OF COLUMBIA SCHOOLS FISCAL YEAR.**

Section 441(b)(2) of the District of Columbia Home Rule Act (section 1–204.41, D.C. Official Code) is amended by striking "shall begin" and inserting "may begin".

**SEC. 125. GIFTS TO LIBRARIES.**

Section 115(c) of title III of division C of Public Law 108–7 in amended by inserting "and the District of Columbia Public Libraries" before the period.

# TITLE II—INDEPENDENCE OF THE CHIEF FINANCIAL OFFICER

**SEC. 201. PROMOTING INDEPENDENCE OF CHIEF FINANCIAL OFFICER.**

(a) IN GENERAL.—Section 424 of the District of Columbia Home Rule Act (sec. 1–204.24a et seq., D.C. Official Code) is amended to read as follows:

"CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

"SEC. 424. (a) IN GENERAL.—

"(1) ESTABLISHMENT.—There is hereby established within the executive branch of the government of the District of Columbia an Office of the Chief Financial Officer of the District of Columbia (hereafter referred to as the 'Office'), which shall be headed by the Chief Financial Officer of the District of Columbia (hereafter referred to as the 'Chief Financial Officer').

"(2) ORGANIZATIONAL ANALYSIS.—

"(A) OFFICE OF BUDGET AND PLANNING.—The name of the Office of Budget and Management, established by

Commissioner's Order 69–96, issued March 7, 1969, is changed to the Office of Budget and Planning.

"(B) OFFICE OF TAX AND REVENUE.—The name of the Department of Finance and Revenue, established by Commissioner's Order 69–96, issued March 7, 1969, is changed to the Office of Tax and Revenue.

"(C) OFFICE OF FINANCE AND TREASURY.—The name of the Office of Treasurer, established by Mayor's Order 89–244, dated October 23, 1989, is changed to the Office of Finance and Treasury.

"(D) OFFICE OF FINANCIAL OPERATIONS AND SYSTEMS.—The Office of the Controller, established by Mayor's Order 89–243, dated October 23, 1989, and the Office of Financial Information Services, established by Mayor's Order 89–244, dated October 23, 1989, are consolidated into the Office of Financial Operations and Systems.

"(3) TRANSFERS.—Effective with the appointment of the first Chief Financial Officer under subsection (b), the functions and personnel of the following offices are established as subordinate offices within the Office:

"(A) The Office of Budget and Planning, headed by the Deputy Chief Financial Officer for the Office of Budget and Planning.

"(B) The Office of Tax and Revenue, headed by the Deputy Chief Financial Officer for the Office of Tax and Revenue.

"(C) The Office of Research and Analysis, headed by the Deputy Chief Financial Officer for the Office of Research and Analysis.

"(D) The Office of Financial Operations and Systems, headed by the Deputy Chief Financial Officer for the Office of Financial Operations and Systems.

"(E) The Office of Finance and Treasury, headed by the District of Columbia Treasurer.

"(F) The Lottery and Charitable Games Control Board, established by the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Official Code § 3–1301 et seq.).

"(4) SUPERVISOR.—The heads of the offices listed in paragraph (3) of this section shall serve at the pleasure of the Chief Financial Officer.

"(5) APPOINTMENT AND REMOVAL OF OFFICE EMPLOYEES.—The Chief Financial Officer shall appoint the heads of the subordinate offices designated in paragraph (3), after consultation with the Mayor and the Council. The Chief Financial Officer may remove the heads of the offices designated in paragraph (3), after consultation with the Mayor and the Council.

"(6) ANNUAL BUDGET SUBMISSION.—The Chief Financial Officer shall prepare and annually submit to the Mayor of the District of Columbia, for inclusion in the annual budget of the District of Columbia government for a fiscal year, annual estimates of the expenditures and appropriations necessary for the year for the operation of the Office and all other District of Columbia accounting, budget, and financial management

personnel (including personnel of executive branch independent agencies) that report to the Office pursuant to this Act.

"(b) APPOINTMENT OF THE CHIEF FINANCIAL OFFICER.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The Chief Financial Officer shall be appointed by the Mayor with the advice and consent, by resolution, of the Council. Upon confirmation by the Council, the name of the Chief Financial Officer shall be submitted to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate for a 30-day period of review and comment before the appointment takes effect.

"(B) SPECIAL RULE FOR CONTROL YEARS.—During a control year, the Chief Financial Officer shall be appointed by the Mayor as follows:

"(i) Prior to the appointment, the Authority may submit recommendations for the appointment to the Mayor.

"(ii) In consultation with the Authority and the Council, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

"(iii) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under clause (ii), the Mayor shall notify the Authority of the nomination.

"(iv) The nomination shall be effective subject to approval by a majority vote of the Authority.

"(2) TERM.—

"(A) IN GENERAL.—All appointments made after June 30, 2007, shall be for a term of 5 years, except for appointments made for the remainder of unexpired terms. The appointments shall have an anniversary date of July 1.

"(B) TRANSITION.—For purposes of this section, the individual serving as Chief Financial Officer as of the date of enactment of the 2005 District of Columbia Omnibus Authorization Act shall be deemed to have been appointed under this subsection, except that such individual's initial term of office shall begin upon such date and shall end on June 30, 2007.

"(C) CONTINUANCE.—Any Chief Financial Officer may continue to serve beyond his term until a successor takes office.

"(D) VACANCIES.—Any vacancy in the Office of Chief Financial Officer shall be filled in the same manner as the original appointment under paragraph (1).

"(E) PAY.—The Chief Financial Officer shall be paid at an annual rate equal to the rate of basic pay payable for level I of the Executive Schedule.

"(c) REMOVAL OF THE CHIEF FINANCIAL OFFICER.—

"(1) IN GENERAL.—The Chief Financial Officer may only be removed for cause by the Mayor, subject to the approval of the Council by a resolution approved by not fewer than ⅔ of the members of the Council. After approval of the resolution by the Council, notice of the removal shall be submitted

to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate for a 30-day period of review and comment before the removal takes effect.

"(2) SPECIAL RULE FOR CONTROL YEARS.—During a control year, the Chief Financial Officer may be removed for cause by the Authority or by the Mayor with the approval of the Authority.

"(d) DUTIES OF THE CHIEF FINANCIAL OFFICER.—Notwithstanding any provisions of this Act which grant authority to other entities of the District government, the Chief Financial Officer shall have the following duties and shall take such steps as are necessary to perform these duties:

"(1) During a control year, preparing the financial plan and the budget for the use of the Mayor for purposes of subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

"(2) Preparing the budgets of the District of Columbia for the year for the use of the Mayor for purposes of part D and preparing the 5-year financial plan based upon the adopted budget for submission with the District of Columbia budget by the Mayor to Congress.

"(3) During a control year, assuring that all financial information presented by the Mayor is presented in a manner, and is otherwise consistent with, the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

"(4) Implementing appropriate procedures and instituting such programs, systems, and personnel policies within the Chief Financial Officer's authority, to ensure that budget, accounting, and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis and to ensure that appropriations are not exceeded.

Public information.

"(5) Preparing and submitting to the Mayor and the Council, with the approval of the Authority during a control year, and making public—

"(A) annual estimates of all revenues of the District of Columbia (without regard to the source of such revenues), including proposed revenues, which shall be binding on the Mayor and the Council for purposes of preparing and submitting the budget of the District government for the year under part D of this title, except that the Mayor and the Council may prepare the budget based on estimates of revenues which are lower than those prepared by the Chief Financial Officer; and

"(B) quarterly re-estimates of the revenues of the District of Columbia during the year.

"(6) Supervising and assuming responsibility for financial transactions to ensure adequate control of revenues and resources.

"(7) Maintaining systems of accounting and internal control designed to provide—

"(A) full disclosure of the financial impact of the activities of the District government;

"(B) adequate financial information needed by the District government for management purposes;

"(C) effective control over, and accountability for, all funds, property, and other assets of the District of Columbia; and

"(D) reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget.

"(8) Submitting to the Council a financial statement of the District government, containing such details and at such times as the Council may specify.

"(9) Supervising and assuming responsibility for the assessment of all property subject to assessment and special assessments within the corporate limits of the District of Columbia for taxation, preparing tax maps, and providing such notice of taxes and special assessments (as may be required by law).

"(10) Supervising and assuming responsibility for the levying and collection of all taxes, special assessments, licensing fees, and other revenues of the District of Columbia (as may be required by law), and receiving all amounts paid to the District of Columbia from any source (including the Authority).

"(11) Maintaining custody of all public funds belonging to or under the control of the District government (or any department or agency of the District government), and depositing all amounts paid in such depositories and under such terms and conditions as may be designated by the Council (or by the Authority during a control year).

"(12) Maintaining custody of all investment and invested funds of the District government or in possession of the District government in a fiduciary capacity, and maintaining the safekeeping of all bonds and notes of the District government and the receipt and delivery of District government bonds and notes for transfer, registration, or exchange.

"(13) Apportioning the total of all appropriations and funds made available during the year for obligation so as to prevent obligation or expenditure in a manner which would result in a deficiency or a need for supplemental appropriations during the year, and (with respect to appropriations and funds available for an indefinite period and all authorizations to create obligations by contract in advance of appropriations) apportioning the total of such appropriations, funds, or authorizations in the most effective and economical manner.

"(14) Certifying all contracts and leases (whether directly or through delegation) prior to execution as to the availability of funds to meet the obligations expected to be incurred by the District government under such contracts and leases during the year.

"(15) Prescribing the forms of receipts, vouchers, bills, and claims to be used by all agencies, offices, and instrumentalities of the District government.

"(16) Certifying and approving prior to payment of all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government, and determining the regularity, legality, and correctness of such bills, invoices, payrolls, claims, demands, or charges.

"(17) In coordination with the Inspector General of the District of Columbia, performing internal audits of accounts

and operations and records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the departments and agencies of the District government.

"(18) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer.

"(19) Supervising and administering all borrowing programs for the issuance of long-term and short-term indebtedness, as well as other financing-related programs of the District government.

"(20) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts.

"(21) Administering the centralized District government payroll and retirement systems (other than the retirement system for police officers, fire fighters, and teachers).

"(22) Governing the accounting policies and systems applicable to the District government.

"(23) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government.

Reports.

"(24) Not later than 120 days after the end of each fiscal year, preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4).

"(25) Preparing fiscal impact statements on regulations, multiyear contracts, contracts over $1,000,000 and on legislation, as required by section 4a of the General Legislative Procedures Act of 1975.

"(26) Preparing under the direction of the Mayor, who has the specific responsibility for formulating budget policy using Chief Financial Officer technical and human resources, the budget for submission by the Mayor to the Council and to the public and upon final adoption to Congress and to the public.

"(27) Certifying all collective bargaining agreements and nonunion pay proposals prior to submission to the Council for approval as to the availability of funds to meet the obligations expected to be incurred by the District government under such collective bargaining agreements and nonunion pay proposals during the year.

"(e) FUNCTIONS OF TREASURER.—At all times, the Treasurer shall have the following duties:

Reports.

"(1) Assisting the Chief Financial Officer in reporting revenues received by the District government, including submitting annual and quarterly reports concerning the cash position of the District government not later than 60 days after the last day of the quarter (or year) involved. Each such report shall include the following:

"(A) Comparative reports of revenue and other receipts by source, including tax, nontax, and Federal revenues, grants and reimbursements, capital program loans, and advances. Each source shall be broken down into specific components.

"(B) Statements of the cash flow of the District government for the preceding quarter or year, including receipts, disbursements, net changes in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment. Such statements shall reflect the actual, planned, better or worse dollar amounts and the percentage change with respect to the current quarter, year-to-date, and fiscal year.

"(C) Quarterly cash flow forecast for the quarter or year involved, reflecting receipts, disbursements, net change in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment with respect to the actual dollar amounts for the quarter or year, and projected dollar amounts for each of the 3 succeeding quarters.

"(D) Monthly reports reflecting a detailed summary analysis of all District of Columbia government investments, including—

"(i) the total of long-term and short-term investments;

"(ii) a detailed summary analysis of investments by type and amount, including purchases, sales (maturities), and interest;

"(iii) an analysis of investment portfolio mix by type and amount, including liquidity, quality/risk of each security, and similar information;

"(iv) an analysis of investment strategy, including near-term strategic plans and projects of investment activity, as well as forecasts of future investment strategies based on anticipated market conditions, and similar information; and

"(v) an analysis of cash utilization, including—

"(I) comparisons of budgeted percentages of total cash to be invested with actual percentages of cash invested and the dollar amounts;

"(II) comparisons of the next return on invested cash expressed in percentages (yield) with comparable market indicators and established District of Columbia government yield objectives; and

"(III) comparisons of estimated dollar return against actual dollar yield.

"(E) Monthly reports reflecting a detailed summary analysis of long-term and short-term borrowings inclusive of debt as authorized by section 603, in the current fiscal year and the amount of debt for each succeeding fiscal year not to exceed 5 years. All such reports shall reflect—

"(i) the amount of debt outstanding by type of instrument;

"(ii) the amount of authorized and unissued debt, including availability of short-term lines of credit, United States Treasury borrowings, and similar information;

"(iii) a maturity schedule of the debt;

"(iv) the rate of interest payable upon the debt; and

"(v) the amount of debt service requirements and related debt service reserves.

"(2) Such other functions assigned to the Chief Financial Officer under subsection (d) as the Chief Financial Officer may delegate.

"(f) DEFINITIONS.—For purposes of this section (and sections 424a and 424b)—

"(1) the term 'Authority' means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

"(2) the term 'control year' has the meaning given such term under section 305(4) of such Act; and

"(3) the term 'District government' has the meaning given such term under section 305(5) of such Act.".

(b) CLARIFICATION OF DUTIES OF CHIEF FINANCIAL OFFICER AND MAYOR.—

(1) RELATION TO FINANCIAL DUTIES OF MAYOR.—Section 448(a) of such Act (section 1–204.48(a), D.C. Official Code) is amended by striking "section 603," and inserting "section 603 and except to the extent provided under section 424(d),".

(2) RELATION TO MAYOR'S DUTIES REGARDING ACCOUNTING SUPERVISION AND CONTROL.—Section 449 of such Act (section 1–204.49, D.C. Official Code) is amended by striking "The Mayor" and inserting "Except to the extent provided under section 424(d), the Mayor".

**SEC. 202. PERSONNEL AUTHORITY.**

(a) PROVIDING INDEPENDENT PERSONNEL AUTHORITY.—

(1) IN GENERAL.—Part B of title IV of the District of Columbia Home Rule Act is amended by adding at the end the following new section:

"AUTHORITY OF CHIEF FINANCIAL OFFICER OVER PERSONNEL OF OFFICE AND OTHER FINANCIAL PERSONNEL

"SEC. 424. (a) IN GENERAL.—Notwithstanding any provision of law or regulation (including any law or regulation providing for collective bargaining or the enforcement of any collective bargaining agreement), employees of the Office of the Chief Financial Officer of the District of Columbia, including personnel described in subsection (b), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer of the District of Columbia, and shall be considered at-will employees not covered by the District of Columbia Merit Personnel Act of 1978, except that nothing in this section may be construed to prohibit the Chief Financial Officer from entering into a collective bargaining agreement governing such employees and personnel or to prohibit the enforcement of such an agreement as entered into by the Chief Financial Officer.

"(b) PERSONNEL.—The personnel described in this subsection are as follows:

"(1) The General Counsel to the Chief Financial Officer and all other attorneys in the Office of the General Counsel within the Office of the Chief Financial Officer of the District of Columbia, together with all other personnel of the Office.

"(2) All other individuals hired or retained as attorneys by the Chief Financial Officer or any office under the personnel authority of the Chief Financial Officer, each of whom shall

act under the direction and control of the General Counsel to the Chief Financial Officer.

"(3) The heads and all personnel of the subordinate offices of the Office (as described in section 424(a)(2) and established as subordinate offices in section 424(a)(3)) and the Chief Financial Officers, Agency Fiscal Officers, and Associate Chief Financial Officers of all District of Columbia executive branch subordinate and independent agencies (in accordance with subsection (c)), together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of executive branch independent agencies, but not including personnel of the legislative or judicial branches of the District government).

"(c) APPOINTMENT OF CERTAIN EXECUTIVE BRANCH AGENCY CHIEF FINANCIAL OFFICERS.—

"(1) IN GENERAL.—The Chief Financial Officers and Associate Chief Financial Officers of all District of Columbia executive branch subordinate and independent agencies (other than those of a subordinate office of the Office) shall be appointed by the Chief Financial Officer, in consultation with the agency head, where applicable. The appointment shall be made from a list of qualified candidates developed by the Chief Financial Officer.

"(2) TRANSITION.—Any executive branch agency Chief Financial Officer appointed prior to the date of enactment of the 2005 District of Columbia Omnibus Authorization Act may continue to serve in that capacity without reappointment.

"(d) INDEPENDENT AUTHORITY OVER LEGAL PERSONNEL.—Title VIII–B of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–608.51 et seq., D.C. Official Code) shall not apply to the Office of the Chief Financial Officer or to attorneys employed by the Office."

(2) CLERICAL AMENDMENT.—The table of contents of part B of title IV of the District of Columbia Home Rule Act is amended by adding at the end the following new item:

"Sec. 424a. Authority of Chief Financial Officer over personnel of Office and other financial personnel.".

(b) CONFORMING AMENDMENT.—Section 862 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–260; D.C. Official Code § 1–608.62) is amended by striking paragraph (2).

**SEC. 203. PROCUREMENT AUTHORITY.**

(a) PROVIDING INDEPENDENT AUTHORITY TO PROCURE GOODS AND SERVICES.—

(1) IN GENERAL.—Part B of title IV of the District of Columbia Home Rule Act, as amended by section 203(a)(1), is further amended by adding at the end the following new section:

"PROCUREMENT AUTHORITY OF THE CHIEF FINANCIAL OFFICER

"SEC. 424b. The Chief Financial Officer shall carry out procurement of goods and services for the Office of the Chief Financial Officer through a procurement office or division which shall operate independently of, and shall not be governed by, the Office of Contracting and Procurement established under the District of

Columbia Procurement Practices Act of 1986 or any successor office, except the provisions applicable under such Act to procurement carried out by the Chief Procurement Officer established by section 105 of such Act or any successor office shall apply with respect to the procurement carried out by the Chief Financial Officer's procurement office or division.".

(2) CLERICAL AMENDMENT.—The table of contents of part B of title IV of the District of Columbia Home Rule Act, as amended by section 203(a)(2), is further amended by adding at the end following new item:

"Sec. 424b. Procurement authority of the Chief Financial Officer.".

(b) CONFORMING AMENDMENTS.—

(1) PROCUREMENT PRACTICES ACT.—Section 104 of the District of Columbia Procurement Practices Act of 1985 (sec. 2–301.04, D.C. Official Code) is amended—

(A) in subsection (a), by striking ", and the District of Columbia Financial Responsibility and Management Assistance Authority" and inserting the following: "the District of Columbia Financial Responsibility and Management Assistance Authority, and (to the extent described in section 424b of the District of Columbia Home Rule Act) the Office of the Chief Financial Officer of the District of Columbia"; and

(B) in subsection (c), by striking the second and third sentences.

(2) OTHER CONFORMING AMENDMENT.—Section 132 of the District of Columbia Appropriations Act, 2006 (Public Law 109–115) is hereby repealed.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 6 months after the date of enactment of this Act.

**SEC. 204. FISCAL IMPACT STATEMENTS.**

The General Legislative Procedures Act of 1975 (sec. 1–301.45 et seq., D.C. Official Code) is amended by adding at the end the following new section:

"FISCAL IMPACT STATEMENTS

"SEC. 4. (a) BILLS AND RESOLUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other law, except as provided in subsection (c), all permanent bills and resolutions shall be accompanied by a fiscal impact statement before final adoption by the Council.

"(2) CONTENTS.—The fiscal impact statement shall include the estimate of the costs which will be incurred by the District as a result of the enactment of the measure in the current and each of the first four fiscal years for which the act or resolution is in effect, together with a statement of the basis for such estimate.

"(b) APPROPRIATIONS.—Permanent and emergency acts which are accompanied by fiscal impact statements which reflect unbudgeted costs, shall be subject to appropriations prior to becoming effective.

"(c) APPLICABILITY.—Subsection (a) shall not apply to emergency declaration, ceremonial, confirmation, and sense of the Council resolutions.".

# TITLE III—AUTHORIZATION OF CERTAIN GENERAL APPROPRIATIONS PROVISIONS

**SEC. 301. ACCEPTANCE OF GIFTS BY COURT SERVICES AND OFFENDER SUPERVISION AGENCY.**

(a) AUTHORITY TO ACCEPT GIFTS.—Section 11233(b) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b), D.C. Official Code) is amended by adding at the end the following new paragraphs:

"(3) ACCEPTANCE OF GIFTS.—

"(A) AUTHORITY TO ACCEPT GIFTS.—During fiscal years 2006 through 2008, the Director may accept and use gifts in the form of—

"(i) in-kind contributions of space and hospitality to support offender and defendant programs; and

"(ii) equipment and vocational training services to educate and train offenders and defendants.

"(B) RECORDS.—The Director shall keep accurate and detailed records of the acceptance and use of any gifts under subparagraph (A), and shall make such records available for audit and public inspection.

Public inspection.

"(4) REIMBURSEMENT FROM DISTRICT GOVERNMENT.—During fiscal years 2006 through 2008, the Director may accept and use reimbursement from the District government for space and services provided, on a cost reimbursable basis.".

(b) AUTHORITY OF PUBLIC DEFENDER SERVICE TO CHARGE FEES FOR EVENT MATERIALS.—Section 307 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (sec. 2–1607, D.C. Official Code) is amended by adding at the end the following new subsection:

"(d) During fiscal years 2006 through 2008, the Service may charge fees to cover the costs of materials distributed to attendees of educational events, including conferences, sponsored by the Service. Notwithstanding section 3302 of title 31, United States Code, any amounts received as fees under this subsection shall be credited to the Service and available for use without further appropriation.".

**SEC. 302. EVALUATION PROCESS FOR PUBLIC SCHOOL EMPLOYEES.**

Title XVII of the District of Columbia Merit Personnel Act of 1978 (sec. 1–617.01 et seq., D.C. Official Code) is amended by adding at the end the following new section:

**"SEC. 1718. EVALUATION PROCESS FOR PUBLIC SCHOOL EMPLOYEES.**

"Notwithstanding any other provision of law, rule, or regulation, during fiscal year 2006 and each succeeding fiscal year the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.".

**SEC. 303. CLARIFICATION OF APPLICATION OF PAY PROVISIONS OF MERIT PERSONNEL SYSTEM TO ALL DISTRICT EMPLOYEES.**

(a) DISTRICT OF COLUMBIA HOME RULE ACT.—The fourth sentence of section 422(3) of the District of Columbia Home Rule

Act (sec. 1–204.42(3), D.C. Official Code) is amended by striking "The system may provide" and inserting the following: "The system shall apply with respect to the compensation of employees of the District government during fiscal year 2006 and each succeeding fiscal year, except that the system may provide".

(b) TITLE 5, UNITED STATES CODE.—Section 5102 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Except as may be specifically provided, this chapter does not apply for pay purposes to any employee of the government of the District of Columbia during fiscal year 2006 or any succeeding fiscal year.".

**SEC. 304. CRITERIA FOR RENEWING OR EXTENDING SOLE SOURCE CONTRACTS.**

Section 305 of the District of Columbia Procurement Practices Act of 1985 (sec. 2–303.05, D.C. Official Code) is amended by adding at the end the following new subsection:

"(b) During fiscal years 2006 through 2008, a procurement contract awarded through noncompetitive negotiations in accordance with subsection (a) may be renewed or extended only if the Chief Financial Officer of the District of Columbia reviews the contract and certifies that the contract was renewed or extended in accordance with duly promulgated rules and procedures.".

**SEC. 305. ACCEPTANCE OF GRANT AMOUNTS NOT INCLUDED IN ANNUAL BUDGET.**

(a) AUTHORITY TO ACCEPT, OBLIGATE, AND EXPEND AMOUNTS.—Subpart 1 of part D of title IV of the District of Columbia Home Rule Act (sec. 1–204.41 et seq., D.C. Official Code), as amended by section 101(a), is amended by inserting after section 446A the following new section:

"ACCEPTANCE OF GRANT AMOUNTS NOT INCLUDED IN ANNUAL BUDGET

"SEC. 446B. (a) AUTHORITY TO ACCEPT, OBLIGATE, AND EXPEND AMOUNTS.—Notwithstanding the fourth sentence of section 446, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the budget approved by Act of Congress as provided in such section.

"(b) CONDITIONS.—

"(1) ROLE OF CHIEF FINANCIAL OFFICER; APPROVAL BY COUNCIL.—No Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

Reports.

"(A) the Chief Financial Officer submits to the Council a report setting forth detailed information regarding such grant; and

"(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

"(2) DEEMED APPROVAL BY COUNCIL.—For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

Deadline.

"(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the

receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

"(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A). Deadline.

"(c) NO OBLIGATION OR EXPENDITURE PERMITTED IN ANTICIPATION OF RECEIPT OR APPROVAL.—No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

"(d) ADJUSTMENTS TO ANNUAL BUDGET.—The Chief Financial Officer may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts provided in the budget approved by Act of Congress under section 446, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

"(e) REPORTS.—The Chief Financial Officer shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

"(f) EFFECTIVE DATE.—This section shall apply with respect to fiscal years 2006 through 2008.".

(b) CONFORMING AMENDMENT.—The fourth sentence of section 446 of such Act (sec. 1–204.46, D.C. Official Code), as amended by section 101(b), is amended by inserting "section 446B," after "section 446A,".

(c) CLERICAL AMENDMENT.—The table of contents of such Act, as amended by section 101(c), is amended by inserting after the item relating to section 446A the following new item:

"Sec. 446B. Acceptance of grant amounts not included in annual budget.".

**SEC. 306. STANDARDS FOR ANNUAL INDEPENDENT AUDIT.**

Section 448 of the District of Columbia Home Rule Act (sec. 1–204.48, D.C. Official Code) is amended—

(1) in subsection (a)(4), by striking the semicolon at the end and inserting the following: ", as audited by the Inspector General of the District of Columbia in accordance with subsection (c) in the case of fiscal years 2006 through 2008;"; and

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

"(c) The financial statement and report for a fiscal year prepared and submitted for purposes of subsection (a)(4) shall be audited by the Inspector General of the District of Columbia (in coordination with the Chief Financial Officer of the District of Columbia) pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985, and shall include as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using

the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.".

**SEC. 307. USE OF FINES IMPOSED FOR VIOLATION OF TRAFFIC ALCOHOL LAWS FOR ENFORCEMENT AND PROSECUTION OF LAWS.**

Section 10(b)(3) of the District of Columbia Traffic Act, 1925 (sec. 50–2201.05(b)(3), D.C. Official Code) is amended to read as follows:

"(3) Notwithstanding any other provision of law, all fines imposed and collected pursuant to this subsection during fiscal year 2006 and each succeeding fiscal year shall be transferred to the General Fund of the District of Columbia, shall be used by the District of Columbia exclusively for the enforcement and prosecution of the District traffic alcohol laws, and shall remain available until expended.".

**SEC. 308. CERTIFICATIONS FOR ATTORNEYS IN CASES BROUGHT UNDER INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

(a) RESPONSIBILITIES OF CHIEF FINANCIAL OFFICER.—Section 424(d) of the District of Columbia Home Rule Act (sec. 1–204.24(d), D.C. Official Code), as amended by section 201(a), is amended by adding at the end the following new paragraph:

"(28) With respect to attorneys in special education cases brought under the Individuals with Disabilities Education Act in the District of Columbia during fiscal year 2006 and each succeeding fiscal year—

"(A) requiring such attorneys to certify in writing that the attorney or representative of the attorney rendered any and all services for which the attorney received an award in such a case, including those received under a settlement agreement or as part of an administrative proceeding, from the District of Columbia;

"(B) requiring such attorneys, as part of the certification under subparagraph (A), to disclose any financial, corporate, legal, membership on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients in any such cases; and

Reports.

"(C) preparing and submitting quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to such attorneys.".

(b) INVESTIGATIONS BY INSPECTOR GENERAL.—Section 208(a)(3) of the District of Columbia Procurement Practices Act of 1985 (sec. 2–302.08(a)(3), D.C. Official Code) is amended by adding at the end the following new subparagraph:

"(J) During fiscal year 2006 and each succeeding fiscal year, conduct investigations to determine the accuracy of certifications made to the Chief Financial Officer of the District of Columbia under section 424(d)(28) of the District of Columbia Home Rule Act of attorneys in special education cases brought under the Individuals with Disabilities Education Act in the District of Columbia.".

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 3508:

HOUSE REPORTS: No. 109–267 (Comm. on Government Reform).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 14, considered and passed House.
Vol. 152 (2006): Aug. 3, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment.

# Public Law 109–357
# 109th Congress

## An Act

Oct. 16, 2006
[H.R. 4902]

To award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Byron Nelson Congressional Gold Medal Act. 31 USC 5111 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Byron Nelson Congressional Gold Medal Act".

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) Byron Nelson was a top player in the sport of golf during the World War II era and his accomplishments as a player, a teacher, and commentator are renowned.

(2) Byron Nelson won 54 career victories, including a record 11 in a row in 1945, during his short 13-year career.

(3) Byron Nelson won 5 majors, including 2 Masters (1937 and 1942), two Professional Golf Association (PGA) Championships (1940 and 1945) and the U.S. Open (1939).

(4) Sports journalist Bill Nichols recently ranked the greatest seasons on the PGA tour for The Dallas Morning News and picked Roanoke, Texas-resident Byron Nelson's 1945 tour as the greatest season of golf in American history.

(5) In 1945, Byron Nelson accumulated 18 total victories, 11 of which were consecutive, while averaging 68.33 strokes per round for 30 tournaments.

(6) At the Seattle Open in 1945, Byron Nelson shot a record 62 for 18 holes and the world record 259, 29 shots under par for 72 holes.

(7) Byron Nelson is one of only two golfers to be named "Male Athlete of the Year" twice by the Associated Press: in 1944, when he won 7 tournaments and averaged 69.67 strokes for 85 rounds, and again after his 1945 season.

(8) The World Golf Hall of Fame honored Byron Nelson in 2004 by featuring an exhibit entitled "Byron Nelson: A Champion . . . A Gentleman".

(9) Byron Nelson was selected for the Ryder Cup 4 times—in 1937, 1939, 1947 and 1965, and on that last occasion he led the United States Ryder Cup team as team captain to victory over Great Britain.

(10) Byron Nelson was also a pioneer in the golf business, helping to develop the golf shoes and umbrellas used today.

(11) In 1966, True Temper created the "Iron Byron" robot to replicate Byron Nelson's swing in order to test the company's

equipment, but the robot was eventually used for club and ball testing by the United States Golf Association (USGA) and many other manufacturing companies.

(12) Byron Nelson mentored many golf hopefuls, including 1964 Player of the Year Ken Venturi and 6-time PGA Player of the Year Tom Watson.

(13) Byron Nelson was one of the first golf analysts on network television where his understanding of the game in general, and the golf swing in particular, was demonstrably profound.

(14) Byron Nelson received the United States Golf Association's Bob Jones Award for distinguished sportsmanship in golf in 1974.

(15) In 1974, the Golf Writers Association of America presented Byron Nelson with the Richardson Award for consistently outstanding contributions to golf.

(16) Since 1983, the Byron and Louise Nelson Golf Endowment Fund has provided over $1,500,000 in endowment funds to Abilene Christian University in Abilene, Texas.

(17) Byron Nelson received the PGA Distinguished Service Award in 1993. This award is presented to an individual who has helped perpetuate the ideals and values of the PGA.

(18) Byron Nelson has served as an honorary chairperson for the Metroport Meals on Wheels since 1992.

(19) In 1994, the Golf Course Superintendents Association of America presented Byron Nelson with the Old Tom Morris Award for outstanding contributions to the game.

(20) Byron Nelson helped to develop the Tournament Players Course (TPC) Four Seasons at Los Colinas, Texas, site of the EDS Byron Nelson Championship and the Byron Nelson Golf School, into a world-class facility.

(21) The EDS Byron Nelson Championship is the only PGA tour event named in honor of a professional golfer and traditionally attracts the strongest players in the sport.

(22) Since its inception, the EDS Byron Nelson Championship has raised $88,000,000 for Salesmanship Club Youth and Family Centers, a nonprofit agency that provides education and mental health services for more than 2,700 children and their families in the greater Dallas area.

(23) In 2002, Byron Nelson received the prestigious Donald Ross Award from the American Society of Golf Course Architects (ASGCA) for his significant contribution to the game of golf and the profession of golf course architecture.

(24) The United States Golf Association presented Byron Nelson the Ike Grainger Award for volunteer service to the game of golf in 2002.

(25) In 2002, the National Golf Foundation presented Byron Nelson with the Graffis Award for outstanding lifelong contributions to the game of golf.

**SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

**SEC. 4. DUPLICATE MEDALS.**

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 5. STATUS OF MEDALS.**

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

**SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 4902 (S. 2491):

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 9, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–358
## 109th Congress

## An Act

To require the conveyance of Mattamuskeet Lodge and surrounding property, including the Mattamuskeet National Wildlife Refuge headquarters, to the State of North Carolina to permit the State to use the property as a public facility dedicated to the conservation of the natural and cultural resources of North Carolina.

Oct. 16, 2006
[H.R. 5094]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Lake Mattamuskeet Lodge Preservation Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lake Mattamuskeet Lodge Preservation Act".

**SEC. 2. CONVEYANCE OF MATTAMUSKEET LODGE, MATTAMUSKEET NATIONAL WILDLIFE REFUGE, NORTH CAROLINA.**

Deadline.

(a) CONVEYANCE REQUIRED.—Within six months after the date of the enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall convey to the State of North Carolina, without consideration, all right, title, and interest of the United States, except for certain utility and road easements, in and to a parcel of real property consisting of approximately 6.25 acres and containing Mattamuskeet Lodge and surrounding property, including the Mattamuskeet National Wildlife Refuge headquarters, as depicted on the map entitled "Lake Mattamuskeet Lodge/Pump Station" and dated January 10, 2006, for the purpose of permitting the State to use the property as a public facility dedicated to the conservation of the natural and cultural resources of North Carolina.

(b) RESTORATION AND MAINTENANCE OF LODGE.—The Mattamuskeet Lodge is listed on the National Register of Historic Places, and, as a condition of the conveyance of the lodge under subsection (a), the State shall agree to restore and maintain the lodge in accordance with—

(1) the Standard for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, as prescribed pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f), Part 800 of title 36, Code of Federal Regulations; and

(2) the General Statutes of North Carolina, Chapter 121, Article 1.

(c) AS IS CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the State accept the real property described in such subsection in its condition at the time of the conveyance, commonly known as conveyance "as is".

(d) ADMINISTRATIVE EXPENSES.—The State shall cover the costs of any survey and the cost of recordation of deeds in connection with the conveyance under this section. Except as provided in subsection (e), all other costs associated with the conveyance shall be paid by the Secretary.

(e) LIABILITY.—Notwithstanding any other provision of law, the Secretary shall not retain liability for any environmental remediation that may be required with regard to the real property conveyed under this section under any applicable environmental authorities for—

(1) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601, et seq.) at or related to the property; or

(2) costs, penalties, fines, or performance of actions related to noncompliance with applicable environmental authorities at or related to the property or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the property, including contamination resulting from migration.

(f) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under this section is not being used in accordance with the purpose of the conveyance specified in subsection (a) or the State is not complying with the condition of the conveyance under subsection (b), all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(g) MEMORANDUM OF AGREEMENT.—The Secretary shall cooperate with the State to develop a memorandum of agreement encompassing mutually beneficial opportunities to use the property to be conveyed under this section to provide visitor services, to construct and utilize facilities and utilities, and to implement wildlife conservation projects.

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 5094:

HOUSE REPORTS: No. 109–560 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 109–359
109th Congress

# An Act

To establish the Long Island Sound Stewardship Initiative.

Oct. 16, 2006
[H.R. 5160]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Long Island Sound Stewardship Act of 2006.
33 USC 1330 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Long Island Sound Stewardship Act of 2006".

33 USC 1330 note.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) Long Island Sound is a national treasure of great cultural, environmental, and ecological importance;

(2) 8,000,000 people live within the Long Island Sound watershed and 28,000,000 people (approximately 10 percent of the population of the United States) live within 50 miles of Long Island Sound;

(3) activities that depend on the environmental health of Long Island Sound contribute more than $5,000,000,000 each year to the regional economy;

(4) the portion of the shoreline of Long Island Sound that is accessible to the general public (estimated at less than 20 percent of the total shoreline) is not adequate to serve the needs of the people living in the area;

(5) existing shoreline facilities are in many cases overburdened and underfunded;

(6) large parcels of open space already in public ownership are strained by the effort to balance the demand for recreation with the needs of sensitive natural resources;

(7) approximately 1/3 of the tidal marshes of Long Island Sound have been filled, and much of the remaining marshes have been ditched, diked, or impounded, reducing the ecological value of the marshes; and

(8) much of the remaining exemplary natural landscape is vulnerable to further development.

(b) PURPOSE.—The purpose of this Act is to establish the Long Island Sound Stewardship Initiative to identify, protect, and enhance upland sites within the Long Island Sound ecosystem with significant ecological, educational, open space, public access, or recreational value through a bi-State network of sites best exemplifying these values.

**SEC. 3. DEFINITIONS.**

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Long Island Sound Stewardship Advisory Committee established by section 8.

(3) REGION.—The term "Region" means the Long Island Sound Stewardship Initiative Region established by section 4(a).

(4) STATE.—The term "State" means each of the States of Connecticut and New York.

(5) STEWARDSHIP.—The term "stewardship" means land acquisition, land conservation agreements, site planning, plan implementation, land and habitat management, public access improvements, site monitoring, and other activities designed to enhance and preserve natural resource-based recreation and ecological function of upland areas.

(6) STEWARDSHIP SITE.—The term "stewardship site" means any area of State, local, or tribal government, or privately owned land within the Region that is designated by the Administrator under section 5(a).

(7) SYSTEMATIC SITE SELECTION.—The term "systematic site selection" means a process of selecting stewardship sites that—

(A) has explicit goals, methods, and criteria;

(B) produces feasible, repeatable, and defensible results;

(C) provides for consideration of natural, physical, and biological patterns;

(D) addresses replication, connectivity, species viability, location, and public recreation values;

(E) uses geographic information systems technology and algorithms to integrate selection criteria; and

(F) will result in achieving the goals of stewardship site selection at the lowest cost.

(8) QUALIFIED APPLICANTS.—The term "qualified applicant" means a non-Federal person that owns title to property located within the borders of the Region.

(9) THREAT.—The term "threat" means a threat that is likely to destroy or seriously degrade a conservation target or a recreation area.

33 USC 1330 note.

**SEC. 4. LONG ISLAND SOUND STEWARDSHIP INITIATIVE REGION.**

(a) ESTABLISHMENT.—There is established in the States of Connecticut and New York the Long Island Sound Stewardship Initiative Region.

(b) BOUNDARIES.—The Region consists of the immediate coastal upland areas along—

(1) Long Island Sound between mean high water and the inland boundary, as described on the map entitled "Long Island Sound Stewardship Region" and dated April 21, 2004; and

(2) the Peconic Estuary as described on the map entitled "Peconic Estuary Program Study Area Boundaries" and included in the Comprehensive Conservation and Management Plan for the Peconic Estuary Program and dated November 15, 2001.

**SEC. 5. DESIGNATION OF STEWARDSHIP SITES.**

33 USC 1330 note.

(a) IN GENERAL.—The Administrator may designate a stewardship site in accordance with this Act any area that contributes to accomplishing the purpose of this Act.

(b) PUBLICATION OF LIST OF RECOMMENDED SITES.—The Administrator shall—

(1) publish in the Federal Register and make available in general circulation in the States of Connecticut and New York the list of sites recommended by the Advisory Committee; and

(2) provide a 90-day period for—

(A) the submission of public comment on the list; and

(B) an opportunity for owners of such sites to decline designation of such sites as stewardship sites.

(c) OPINION REGARDING OWNER'S RESPONSIBILITIES.—The Administrator may not designate an area as a stewardship site under this Act unless the Administrator provides to the owner of the area, and the owner acknowledges to the Administrator receipt of, a comprehensive opinion in plain English setting forth expressly the responsibility of the owner that arises from such designation.

(d) DESIGNATION OF STEWARDSHIP SITES.—Not later than 150 days after receiving from the Advisory Committee its list of recommended sites, the Administrator—

Deadline.

(1) shall review the recommendations of the Advisory Committee; and

(2) may designate as a stewardship site any site included in the list.

**SEC. 6. RECOMMENDATIONS BY ADVISORY COMMITTEE.**

33 USC 1330 note.

(a) IN GENERAL.—The Advisory Committee shall—

(1) in accordance with this section, evaluate applications—

(A) for designation of areas as stewardship sites;

(B) to develop management plans to address threats to stewardship sites; and

(C) to act on opportunities to protect and enhance stewardship sites;

(2) develop recommended guidelines, criteria, schedules, and due dates for the submission of applications and the evaluation by the Advisory Committee of information to recommend areas for designation as stewardship sites that fulfill terms of a multi-year management plan;

(3) recommend to the Administrator a list of sites for designation as stewardship sites that further the purpose of this Act;

(4) develop management plans to address threats to stewardship sites;

(5) raise awareness of the values of and threats to stewardship sites;

(6) recommend that the Administrator award grants to qualified applicants; and

(7) recommend to the Administrator ways to leverage additional resources for improved stewardship of the Region.

(b) IDENTIFICATION OF SITES.—

(1) IN GENERAL.—Any qualified applicant may submit an application to the Advisory Committee to have a site recommended to the Administrator for designation as a stewardship site.

(2) IDENTIFICATION.—The Advisory Committee shall review each application submitted under this subsection to determine whether the site exhibits values that promote the purpose of this Act.

(3) NATURAL RESOURCE-BASED RECREATION AREAS.—In reviewing an application for recommendation of a recreation area for designation as a stewardship site, the Advisory Committee may use a selection technique that includes consideration of—

(A) public access;

(B) community support;

(C) high population density;

(D) environmental justice (as defined in section 385.3 of title 33, Code of Federal Regulations (or successor regulations));

(E) open spaces; and

(F) cultural, historic, and scenic characteristics.

(4) NATURAL AREAS WITH ECOLOGICAL VALUE.—In reviewing an application for recommendation of a natural area with ecological value for designation as a stewardship site, the Advisory Committee may use a selection technique that includes consideration of—

(A) measurable conservation targets for the Region; and

(B) prioritizing new sites using systematic site selection, which shall include consideration of—

(i) ecological uniqueness;

(ii) species viability;

(iii) habitat heterogeneity;

(iv) size;

(v) quality;

(vi) open spaces;

(vii) land cover;

(viii) scientific, research, or educational value; and

(ix) threats.

(5) DEVIATION FROM PROCESS.—The Advisory Committee may accept an application to recommend a site other than as provided in this subsection, if the Advisory Committee—

(A) determines that the site makes significant ecological or recreational contributions to the Region; and

(B) provides to the Administrator the reasons for deviating from the process otherwise described in this subsection.

(c) SUBMISSION OF LIST OF RECOMMENDED SITES.—

(1) IN GENERAL.—After completion of the site identification process set forth in subsection (b), the Advisory Committee shall submit to the Administrator its list of sites recommended for designation as stewardship sites.

(2) LIMITATION.—The Advisory Committee shall not include a site in the list submitted under this subsection unless, prior to submission of the list, the owner of the site is—

(A) notified of the inclusion of the site in the list; and

(B) allowed to decline inclusion of the site in the list.

(3) PUBLIC COMMENT.—In identifying sites for inclusion in the list, the Advisory Committee shall provide an opportunity for submission of, and consider, public comments.

**SEC. 7. GRANTS AND ASSISTANCE.**

33 USC 1330 note.

(a) IN GENERAL.—The Administrator may provide grants, subject to the availability of appropriations, and other assistance for projects to fulfill the purpose of this Act.

(b) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using any assistance or grant under this Act shall not exceed 60 percent of the total cost of the activity.

**SEC. 8. LONG ISLAND SOUND STEWARDSHIP ADVISORY COMMITTEE.**

33 USC 1330 note.

(a) ESTABLISHMENT.—There is established a committee to be known as the "Long Island Sound Stewardship Advisory Committee".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Administrator may appoint the members of the Advisory Committee in accordance with this subsection and the guidance in section 320(c) of the Federal Water Pollution Control Act (33 U.S.C. 1330(c)), except that the Governor of each State may appoint 2 members of the Advisory Committee.

(2) ADDITIONAL MEMBERS.—In addition to the other members appointed under this subsection, the Advisory Committee may include—

(A) a representative of the Regional Plan Association;

(B) a representative of marine trade organizations; and

(C) a representative of private landowner interests.

(3) CONSIDERATION OF INTERESTS.—In appointing members of the Advisory Committee, the Administrator shall consider—

(A) Federal, State, and local government interests and tribal interests;

(B) the interests of nongovernmental organizations;

(C) academic interests;

(D) private interests including land, agriculture, and business interests; and

(E) recreational and commercial fishing interests.

(4) CHAIRPERSON.—In addition to the other members appointed under this subsection, the Administrator may appoint as a member of the Advisory Committee an individual to serve as the Chairperson, who may be the Director of the Long Island Sound Office of the Environmental Protection Agency.

(5) COMPLETION OF APPOINTMENTS.—The Administrator shall complete the appointment of all members of the Advisory Committee by not later than 180 days after the date of enactment of this Act.

Deadline.

(A) VACANCIES.—A vacancy on the Advisory Committee—

(i) shall be filled not later than 90 days after the vacancy occurs;

Deadline.

(ii) shall not affect the powers of the Advisory Committee; and

(iii) shall be filled in the same manner as the original appointment was made.

(c) TERM.—

(1) IN GENERAL.—A member of the Advisory Committee shall be appointed for a term of 4 years.

(2) MULTIPLE TERMS.—An individual may be appointed as a member of the Advisory Committee for more than 1 term.

(d) POWERS.—The Advisory Committee may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Advisory Committee considers advisable to carry out this Act.

(e) MEETINGS.—

(1) IN GENERAL.—The Advisory Committee shall meet at the call of the Chairperson, but no fewer than 4 times each year.

Deadline.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Advisory Committee have been appointed, the Chairperson shall call the initial meeting of the Advisory Committee.

(3) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(f) ADAPTIVE MANAGEMENT.—

(1) IN GENERAL.—The Advisory Committee shall use an adaptive management framework to identify the best policy initiatives and actions through—

(A) definition of strategic goals;

(B) definition of policy options for methods to achieve strategic goals;

(C) establishment of measures of success;

(D) identification of uncertainties;

(E) development of informative models of policy implementation;

(F) separation of the landscape into geographic units;

(G) monitoring key responses at different spatial and temporal scales; and

(H) evaluation of outcomes and incorporation into management strategies.

(2) APPLICATION OF ADAPTIVE MANAGEMENT FRAMEWORK.—The Advisory Committee shall apply the adaptive management framework to the process for making recommendations under subsections (b) through (f) of section 6 to the Administrator regarding sites that should be designated as stewardship sites.

(3) ADAPTIVE MANAGEMENT.—The adaptive management framework required by this subsection shall consist of a scientific process—

(A) for—

(i) developing predictive models;

(ii) making management policy decisions based upon the model outputs;

(iii) revising the management policies as data become available with which to evaluate the policies; and

(iv) acknowledging uncertainty, complexity, and variance in the spatial and temporal aspects of natural systems; and

(B) that requires that management be viewed as experimental.

(g) TERMINATION OF ADVISORY COMMITTEE.—The Advisory Committee shall terminate on December 31, 2011.

**SEC. 9. REPORTS.**

33 USC 1330 note. Public information. Deadline.

(a) ADMINISTRATOR.—The Administrator shall publish and make available to the public on the Internet and in paper form—

(1) not later than 1 year after the date of enactment of this Act, a report that—

(A) assesses the role of this Act in protecting the Long Island Sound;

(B) establishes in coordination with the Advisory Committee guidelines, criteria, schedules, and due dates for evaluating information to designate stewardship sites;

(C) includes information about any grants that are available for the purchase of land or property rights to protect stewardship sites; and

(D) accounts for funds received and expended during the previous fiscal year;

(2) an update of such report, at least every other year; and

(3) information on funding and any new stewardship sites more frequently than every other year.

(b) ADVISORY COMMITTEE.—

(1) REPORT.—For each of fiscal years 2007 through 2011, the Advisory Committee shall submit to the Administrator and the decisionmaking body of the Long Island Sound Study Management Conference established under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330), an annual report that contains—

(A) a detailed statement of the findings and conclusions of the Advisory Committee since the last report under this subsection;

(B) a description of all sites recommended by the Advisory Committee to the Administrator for designation as stewardship sites;

(C) the recommendations of the Advisory Committee for such legislation and administrative actions as the Advisory Committee considers appropriate; and

(D) in accordance with paragraph (2), the recommendations of the Advisory Committee for the awarding of grants.

(2) RECOMMENDATION FOR GRANTS.—

(A) IN GENERAL.—The Advisory Committee shall recommend that the Administrator award grants to qualified applicants to help to secure and improve the open space, public access, or ecological values of stewardship sites, through—

(i) purchase of the property of a stewardship site;

(ii) purchase of relevant property rights to a stewardship site; or

(iii) entering into any other binding legal arrangement that ensures that the values of a stewardship site are sustained, including entering into an arrangement with a land manager or property owner to develop or implement a management plan that is necessary for the conservation of natural resources.

(B) EQUITABLE DISTRIBUTION OF FUNDS.—The Advisory Committee shall exert due diligence to ensure that its recommendations result in an equitable distribution of funds between the States.

33 USC 1330 note.

**SEC. 10. PRIVATE PROPERTY PROTECTION; NO REGULATORY AUTHORITY.**

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act—

(1) requires any private property owner to allow public access (including Federal, State, or local government access) to the private property; or

(2) modifies the application of any provision of Federal, State, or local law with regard to public access to or use of private property, except as entered into by voluntary agreement of the owner or custodian of the property.

(b) LIABILITY.—Establishment of the Region does not create any liability, or have any effect on any liability under any other law, of any private property owner with respect to any person injured on the private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act modifies the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS NOT REQUIRED.—Nothing in this Act requires the owner of any private property located within the boundaries of the Region to participate in any land conservation, financial or technical assistance, or other programs established under this Act.

(e) PURCHASE OF LAND OR INTEREST IN LAND FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this Act may be used to purchase land or interests in land only from willing sellers.

(f) MANNER OF ACQUISITION.—All acquisitions of land under this Act shall be made in a voluntary manner and shall not be the result of forced takings.

(g) EFFECT OF ESTABLISHMENT.—

(1) IN GENERAL.—The boundaries of the Region represent the area within which Federal funds appropriated for the purpose of this Act may be expended.

(2) REGULATORY AUTHORITY.—The establishment of the Region and the boundaries of the Region do not provide any regulatory authority not in existence immediately before the enactment of this Act on land use in the Region by any management entity, except for such property rights as may be purchased from or donated by the owner of the property (including public lands donated by a State or local government).

33 USC 1330 note.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to the Administrator $25,000,000 for each of fiscal years 2007 through 2011 to carry out this Act, including for—

(1) acquisition of land and interests in land;

(2) development and implementation of site management plans;

(3) site enhancements to reduce threats or promote stewardship; and

(4) administrative expenses of the Advisory Committee and the Administrator.

(b) USE OF FUNDS.—Amounts made available to the Administrator under this section each fiscal year shall be used by the Administrator after reviewing the recommendations included in the annual reports of the Advisory Committee under section 9.

(c) AUTHORIZATION OF GIFTS, DEVISES, AND BEQUESTS FOR SYSTEM.—In furtherance of the purpose of this Act, the Administrator may accept and use any gift, devise, or bequest of real or personal property, proceeds therefrom, or interests therein, to carry out this Act. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are considered by the Administrator to be in accordance with law and compatible with the purpose for which acceptance is sought.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—Of the amount available each fiscal year to carry out this Act, not more than 8 percent may be used for administrative costs.

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 5160 (S. 158):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–360
# 109th Congress

## An Act

Oct. 16, 2006
[H.R. 5381]

To enhance an existing volunteer program of the United States Fish and Wildlife Service and promote community partnerships for the benefit of national fish hatcheries and fisheries program offices.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Fish Hatchery System Volunteer Act of 2006.
16 USC 760aa note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Fish Hatchery System Volunteer Act of 2006".

16 USC 760aa.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) The National Fish Hatchery System (in this Act referred to as the "System")—

(A) consists of more than 60 hatcheries, seven fish technology centers, 9 fish health centers, and other fisheries program offices;

(B) plays an integral role in the recovery of more than 50 threatened species and endangered species and the restoration of over 100 native species;

(C) provides healthy fish populations that support recreational fishing opportunities, many of which are related to Federal water control structures; and

(D) works with over 250 partners to help mitigate the impacts of aquatic habitat loss and invasive species.

(2) The System faces many challenges, including aging facilities, some of which date back to the late 1800s, and maintenance of intensive infrastructures such as wells, pumps, valves, pipes, filters, heaters, chillers, and treatment systems that must keep clean water moving 24 hours a day, 365 days a year.

(3) By encouraging volunteer programs and donations and fostering non-Federal partnerships with hatchery facilities, Federal funding for the hatcheries can be supplemented.

(4) By encouraging hatchery educational programs, public awareness of the resources of the System and public participation in the conservation of aquatic resources can be promoted.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To encourage the use of volunteers to assist the United States Fish and Wildlife Service in the management of hatcheries within the System.

(2) To facilitate partnerships between the System and non-Federal entities to promote public awareness of the resources

of the System and public participation in the conservation of those resources.

(3) To encourage donations and other contributions by individuals and organizations to the System.

**SEC. 3. GIFTS TO SYSTEM AND PARTICULAR NATIONAL FISH HATCHERIES.** 16 USC 760aa–1.

(a) AUTHORIZATION OF GIFTS, DEVISES, AND BEQUESTS FOR SYSTEM.—In furtherance of the purposes of this Act, the Secretary of the Interior may accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the National Fish Hatchery System. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

(b) USE OF GIFTS, DEVISES, AND BEQUESTS.—

(1) IN GENERAL.—Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and may be expended without further appropriation by the Secretary for the benefit of the System programs administered by the United States Fish and Wildlife Service.

(2) GIFTS, DEVISES, AND BEQUESTS FOR PARTICULAR FACILITIES.—

(A) DISBURSAL.—Any gift, devise, or bequest made for the benefit of a facility of the System shall be disbursed only for the benefit of that facility and without further appropriations.

(B) MATCHING.—Subject to the availability of appropriations and the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and other applicable law, the Secretary may provide funds to match gifts, devises, and bequests made for the benefit of a facility of the System. With respect to each gift, devise, or bequest, the amount of Federal funds may not exceed the amount (or, in the case of property or in-kind services, the fair market value) of the gift, devise, or bequest.

**SEC. 4. VOLUNTEER ENHANCEMENT PILOT PROJECTS.** 16 USC 760aa–2.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of the Interior shall carry out a pilot project at 1 or more facilities of the System. Each pilot project shall provide for a volunteer coordinator for the hatchery facility. The volunteer coordinator shall be responsible for recruiting, training, and supervising volunteers. The volunteer coordinator may be responsible for assisting partner organizations in developing projects and programs under cooperative agreements under section 7(d) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(d)) and coordinating volunteer activities with partner organizations to carry out the projects and programs.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate evaluating and making recommendations regarding the pilot projects.

16 USC 760aa–3.

**SEC. 5. COMMUNITY PARTNERSHIP ENHANCEMENT.**

(a) PROJECTS AND PROGRAMS.—Subject to the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and other applicable law, and such terms and conditions as the Secretary of the Interior determines to be appropriate, the Secretary may approve projects and programs for a facility of the System that—

(1) promote the stewardship of resources of the hatchery through habitat maintenance, restoration, and improvement, biological monitoring, or research;

(2) support the operation and maintenance of the hatchery through constructing, operating, maintaining, or improving the facilities and services of the hatchery;

(3) increase the awareness and understanding of the hatchery and the System, through the development, publication, or distribution of educational materials and products;

(4) advance education concerning the purposes of the hatchery and the mission of the System, through the use of the hatchery as an outdoor classroom and development of other educational programs; or

(5) contribute financial resources to the hatchery, under the terms that require that the net revenues be used exclusively for the benefit of the hatchery, through donation of net revenues from the sale of educational materials and products and through encouragement of gifts, devises, and bequests.

(b) TREASURY ACCOUNT.—Amounts received by the Secretary of the Interior as a result of projects and programs under subsection (a) shall be deposited in a separate account in the Treasury. Amounts in the account that are attributable to activities at a particular facility of the System shall be available to the Secretary of the Interior, without further appropriation, to pay the costs of incidental expenses related to volunteer activities, and to carry out cooperative agreements for the hatchery facility.

16 USC 760aa–4.

**SEC. 6. HATCHERY EDUCATION PROGRAM DEVELOPMENT.**

Deadline.

(a) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall develop guidance for the hatchery education programs to further the mission of the System and the purposes of individual hatcheries through—

(1) providing outdoor classroom opportunities for students on fish hatcheries that combine educational curricula with the personal experiences of students relating to fish, aquatic species, and their habitat, and to the cultural and historical resources of the hatcheries;

(2) promoting understanding and conservation of fish, aquatic species, and the cultural and historical resources of the hatcheries; and

(3) improving scientific literacy in conjunction with both formal and nonformal education programs.

(b) HATCHERY PROGRAMS.—Based on the guidance developed under subsection (a), the Secretary of the Interior may, with assistance from the Fish and Wildlife Management Assistance Program, develop or enhance hatchery educational programs as appropriate, based on the resources of individual hatcheries and the opportunities available for such programs in State, local, and private schools. In developing and implementing each program, the Secretary should cooperate with State and local education authorities, and may

cooperate with partner organizations in accordance with subsection (d).

Approved October 16, 2006.

LEGISLATIVE HISTORY—H.R. 5381:

HOUSE REPORTS: No. 109–638 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 12, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–361
# 109th Congress

## An Act

Oct. 16, 2006
[S. 2562]

To increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans' Compensation Cost-of-Living Adjustment Act of 2006.
38 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2006".

38 USC 1114 note.

**SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) RATE ADJUSTMENT.—Effective on December 1, 2006, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2006, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2006, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

**SEC. 3. PUBLICATION OF ADJUSTED RATES.**

Federal Register, publication. 38 USC 1114 note.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2007.

**SEC. 4. TECHNICAL AMENDMENT.**

Section 1311 of title 38, United States Code, is amended by redesignating the second subsection (e) (as added by section 301(a) of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3610)) as subsection (f).

Approved October 16, 2006.

LEGISLATIVE HISTORY—S. 2562 (H.R. 4843):

HOUSE REPORTS: No. 109–521 accompanying H.R. 4843 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 109–296 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 21, considered and passed Senate.
Sept. 29, considered and passed House.

# Public Law 109–362
# 109th Congress

## An Act

Oct. 17, 2006
[H.R. 233]

To designate certain National Forest System lands in the Mendocino and Six Rivers National Forests and certain Bureau of Land Management lands in Humboldt, Lake, Mendocino, and Napa Counties in the State of California as wilderness, to designate the Elkhorn Ridge Potential Wilderness Area, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Northern California Coastal Wild Heritage Wilderness Act. Conservation. 16 USC 460sss note.

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Northern California Coastal Wild Heritage Wilderness Act".

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

Sec. 1. Short title and table of contents.
Sec. 2. Definition of Secretary.
Sec. 3. Designation of wilderness areas.
Sec. 4. Administration of wilderness areas.
Sec. 5. Release of wilderness study areas.
Sec. 6. Elkhorn Ridge Potential Wilderness Area.
Sec. 7. Wild and scenic river designation.
Sec. 8. King Range National Conservation Area boundary adjustment.
Sec. 9. Cow Mountain Recreation Area, Lake and Mendocino Counties, California.
Sec. 10. Continuation of traditional commercial surf fishing, Redwood National and State Parks.

**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term "Secretary" means—

(1) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(2) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

16 USC 1132 note.

**SEC. 3. DESIGNATION OF WILDERNESS AREAS.**

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State of California are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) SNOW MOUNTAIN WILDERNESS ADDITION.—

(A) IN GENERAL.—Certain land in the Mendocino National Forest, comprising approximately 23,706 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall considered to be a part of the "Snow Mountain Wilderness", as designated by section 101(a)(31) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Skeleton Glade Unit, Snow Mountain Proposed Wilderness Addition, Mendocino National Forest" and dated April 21, 2005; and

(ii) the map entitled "Bear Creek/Deafy Glade Unit, Snow Mountain Wilderness Addition, Mendocino National Forest" and dated July 21, 2006.

(2) SANHEDRIN WILDERNESS.—Certain land in the Mendocino National Forest, comprising approximately 10,571 acres, as generally depicted on the map entitled "Sanhedrin Proposed Wilderness, Mendocino National Forest" and dated April 21, 2005, which shall be known as the "Sanhedrin Wilderness". 16 USC 1132 note.

(3) YUKI WILDERNESS.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Lake and Mendocino Counties, California, together comprising approximately 53,887 acres, as generally depicted on the map entitled "Yuki Proposed Wilderness" and dated May 23, 2005, which shall be known as the "Yuki Wilderness". 16 USC 1132 note.

(4) YOLLA BOLLY-MIDDLE EEL WILDERNESS ADDITION.—Certain land in the Mendocino National Forest and certain land administered by the Bureau of Land Management in Mendocino County, California, together comprising approximately 27,036 acres, as generally depicted on the map entitled "Middle Fork Eel, Smokehouse and Big Butte Units, Yolla Bolly-Middle Eel Proposed Wilderness Addition" and dated June 7, 2005, is incorporated in and shall considered to be a part of the Yolla Bolly-Middle Eel Wilderness, as designated by section 3 of the Wilderness Act (16 U.S.C. 1132). 16 USC 1132 note.

(5) SISKIYOU WILDERNESS ADDITION.— 16 USC 1132 note.

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 30,122 acres, as generally depicted on the maps described in subparagraph (B), is incorporated in and shall be considered to be a part of the Siskiyou Wilderness, as designated by section 101(a)(30) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "Bear Basin Butte Unit, Siskiyou Proposed Wilderness Additions, Six Rivers National Forest" and dated June 28, 2005; and

(ii) the map entitled "Blue Creek Unit, Siskiyou Proposed Wilderness Addition, Six Rivers National Forest" and dated July 21, 2006;

(6) MOUNT LASSIC WILDERNESS.—Certain land in the Six Rivers National Forest, comprising approximately 7,279 acres, as generally depicted on the map entitled "Mt. Lassic Proposed Wilderness" and dated June 7, 2005, which shall be known as the "Mount Lassic Wilderness". 16 USC 1132 note.

(7) TRINITY ALPS WILDERNESS ADDITION.— 16 USC 1132 note.

(A) IN GENERAL.—Certain land in the Six Rivers National Forest, comprising approximately 22,863 acres,

as generally depicted on the maps described in subparagraph (B) and which is incorporated in and shall be considered to be a part of the Trinity Alps Wilderness as designated by section 101(a)(34) of the California Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–425).

(B) DESCRIPTION OF MAPS.—The maps referred to in subparagraph (A) are—

(i) the map entitled "East Fork Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004;

(ii) the map entitled "Horse Linto Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated September 17, 2004; and

(iii) the map entitled "Red Cap Unit, Trinity Alps Proposed Wilderness Addition, Six Rivers National Forest" and dated June 7, 2005.

16 USC 1132 note.

(8) CACHE CREEK WILDERNESS.—Certain land administered by the Bureau of Land Management in Lake County, California, comprising approximately 27,245 acres, as generally depicted on the map entitled "Cache Creek Wilderness Area" and dated July 22, 2006, which shall be known as the "Cache Creek Wilderness".

16 USC 1132 note.

(9) CEDAR ROUGHS WILDERNESS.—Certain land administered by the Bureau of Land Management in Napa County, California, comprising approximately 6,350 acres, as generally depicted on the map entitled "Cedar Roughs Wilderness Area" and dated September 27, 2004, which shall be known as the "Cedar Roughs Wilderness".

16 USC 1132 note.

(10) SOUTH FORK EEL RIVER WILDERNESS.—Certain land administered by the Bureau of Land Management in Mendocino County, California, comprising approximately 12,915 acres, as generally depicted on the map entitled "South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness" and dated June 16, 2005, which shall be known as the "South Fork Eel River Wilderness".

16 USC 1132 note.

(11) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Certain land administered by the Bureau of Land Management in Humboldt and Mendocino Counties, California, comprising approximately 42,585 acres, as generally depicted on the map entitled "King Range Wilderness", and dated November 12, 2004, which shall be known as the "King Range Wilderness".

(B) APPLICABLE LAW.—With respect to the wilderness designated by subparagraph (A), in the case of a conflict between this Act and Public Law 91–476 (16 U.S.C. 460y et seq.), the more restrictive provision shall control.

(12) ROCKS AND ISLANDS.—

(A) IN GENERAL.—All Federally-owned rocks, islets, and islands (whether named or unnamed and surveyed or unsurveyed) that are located—

(i) not more than 3 geographic miles off the coast of the King Range National Conservation Area; and

(ii) above mean high tide.

(B) APPLICABLE LAW.—In the case of a conflict between this Act and Proclamation No. 7264 (65 Fed. Reg. 2821), the more restrictive provision shall control.

**SEC. 4. ADMINISTRATION OF WILDERNESS AREAS.**

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by section 3 shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

Effective date.

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the wilderness.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by section 3 with—

(A) the Committee on Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land within the boundary of a wilderness area designated by this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act, the Wilderness Act (16 U.S.C. 1131 et seq.), and any other applicable law.

(d) WITHDRAWAL.—Subject to valid rights in existence on the date of enactment of this Act, the Federal land designated as wilderness by this Act is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(e) FIRE, INSECT, AND DISEASE MANAGEMENT ACTIVITIES.—

(1) IN GENERAL.—The Secretary may take such measures in the wilderness areas designated by this Act as are necessary for the control and prevention of fire, insects, and diseases, in accordance with—

(A) section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)); and

(B) House Report No. 98–40 of the 98th Congress.

(2) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall review existing policies applicable to the wilderness areas designated by this Act to ensure that authorized approval procedures for any fire management measures allow a timely and efficient response to fire emergencies in the wilderness areas.

Deadline.

(f) ACCESS TO PRIVATE PROPERTY.—

(1) IN GENERAL.—The Secretary shall provide any owner of private property within the boundary of a wilderness area designated by this Act adequate access to such property to ensure the reasonable use and enjoyment of the property by the owner.

(2) KING RANGE WILDERNESS.—

(A) IN GENERAL.—Subject to subparagraph (B), within the wilderness designated by section 3(11), the access route depicted on the map for private landowners shall also be available for persons invited by the private landowners.

(B) LIMITATION.—Nothing in subparagraph (A) requires the Secretary to provide any access to the landowners or persons invited by the landowners beyond the access that would be available if the wilderness had not been designated.

(g) SNOW SENSORS AND STREAM GAUGES.—If the Secretary determines that hydrologic, meteorologic, or climatological instrumentation is appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this Act, nothing in this Act prevents the installation and maintenance of the instrumentation within the wilderness areas.

(h) MILITARY ACTIVITIES.—Nothing in this Act precludes low-level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(i) LIVESTOCK.—Grazing of livestock and the maintenance of existing facilities related to grazing in wilderness areas designated by this Act, where established before the date of enactment of this Act, shall be permitted to continue in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(j) FISH AND WILDLIFE MANAGEMENT.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats in wilderness areas designated by this Act if such activities are—

(A) consistent with applicable wilderness management plans; and

(B) carried out in accordance with applicable guidelines and policies.

(2) STATE JURISDICTION.—Nothing in this Act affects the jurisdiction of the State of California with respect to fish and wildlife on the public land located in the State.

(k) USE BY MEMBERS OF INDIAN TRIBES.—

(1) ACCESS.—In recognition of the past use of wilderness areas designated by this Act by members of Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure that Indian tribes have access to the wilderness areas for traditional cultural and religious purposes.

(2) TEMPORARY CLOSURES.—

(A) IN GENERAL.—In carrying out this section, the Secretary, on request of an Indian tribe, may temporarily close to the general public 1 or more specific portions of a wilderness area to protect the privacy of the members of the Indian tribe in the conduct of the traditional cultural and religious activities in the wilderness area.

(B) REQUIREMENT.—Any closure under subparagraph (A) shall be made in such a manner as to affect the smallest practicable area for the minimum period of time necessary for the activity to be carried out.

(3) APPLICABLE LAW.—Access to the wilderness areas under this subsection shall be in accordance with—

(A) Public Law 95–341 (commonly known as the "American Indian Religious Freedom Act") (42 U.S.C. 1996 et seq.); and

(B) the Wilderness Act (16 U.S.C. 1131 et seq.).

(l) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in section 3 creates protective perimeters or buffer zones around any wilderness area designated by section 3.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area designated by section 3 shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

(m) CHERRY-STEMMED ROADS.—

(1) DEFINITION.—In this subsection, the term "cherry-stemmed road" means a road that is excluded from the wilderness areas designated by section 3 by a non-wilderness corridor having designated wilderness on both sides, as generally depicted on the maps described in such section.

(2) CLOSURES AND RESTRICTIONS.—The Secretary shall not—

(A) close any cherry-stemmed road that is open to the public as of the date of the enactment of this Act;

(B) prohibit motorized access on a cherry-stemmed road that is open to the public for motorized access as of the date of the enactment of this Act; or

(C) prohibit mechanized access on a cherry-stemmed road that is open to the public for mechanized access as of the date of the enactment of this Act.

(3) EXCEPTIONS.—Nothing in this subsection shall be construed as precluding the Secretary from closing or restricting access to a cherry-stemmed road for purposes of significant resource protection or public safety.

**SEC. 5. RELEASE OF WILDERNESS STUDY AREAS.**

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by section 3 or any previous Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS.—The study areas referred to in subsection (a) are—

(1) the King Range Wilderness Study Area;

(2) the Chemise Mountain Instant Study Area;

(3) the Red Mountain Wilderness Study Area;

(4) the Cedar Roughs Wilderness Study Area; and

(5) those portions of the Rocky Creek/Cache Creek Wilderness Study Area in Lake County, California which are not in R. 5 W., T. 12 N., sec. 22, Mount Diablo Meridian.

(c) RELEASE.—Any portion of a wilderness study area described in subsection (b) that is not designated as wilderness by section 3 or any other Act enacted before the date of enactment of this Act shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

16 USC 1132 note.

**SEC. 6. ELKHORN RIDGE POTENTIAL WILDERNESS AREA.**

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain public land in the State administered by the Bureau of Land Management, compromising approximately 11,271 acres, as generally depicted on the map entitled "South Fork Eel River Wilderness Area and Elkhorn Ridge Potential Wilderness" and dated June 16, 2005, is designated as a potential wilderness area.

(b) MANAGEMENT.—Except as provided in subsection (c) and subject to valid existing rights, the Secretary shall manage the potential wilderness area as wilderness until the potential wilderness area is designated as wilderness under subsection (d).

(c) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—For purposes of ecological restoration (including the elimination of non-native species, removal of illegal, unused, or decommissioned roads, repair of skid tracks, and any other activities necessary to restore the natural ecosystems in the potential wilderness area), the Secretary may use motorized equipment and mechanized transport in the potential wilderness area until the potential wilderness area is designated as wilderness under subsection (d).

(2) LIMITATION.—To the maximum extent practicable, the Secretary shall use the minimum tool or administrative practice necessary to accomplish ecological restoration with the least amount of adverse impact on wilderness character and resources.

Effective date.

(d) EVENTUAL WILDERNESS DESIGNATION.—The potential wilderness area shall be designated as wilderness and as a component of the National Wilderness Preservation System on the earlier of—

Federal Register, publication.

(1) the date on which the Secretary publishes in the Federal Register notice that the conditions in the potential wilderness area that are incompatible with the Wilderness Act (16 U.S.C. 1131 et seq.) have been removed; or

(2) the date that is 5 years after the date of enactment of this Act.

(e) ADMINISTRATION AS WILDERNESS.—On its designation as wilderness under subsection (d), the potential wilderness area shall be—

(1) known as the "Elkhorn Ridge Wilderness"; and

(2) administered in accordance with section 4 and the Wilderness Act (16 U.S.C. 1131 et seq.).

**SEC. 7. WILD AND SCENIC RIVER DESIGNATION.**

(a) DESIGNATION OF BLACK BUTTE RIVER, CALIFORNIA.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(____) BLACK BUTTE RIVER, CALIFORNIA.—The following segments of the Black Butte River in the State of California, to be administered by the Secretary of Agriculture:

"(A) The 16 miles of Black Butte River, from the Mendocino County Line to its confluence with Jumpoff Creek, as a wild river.

"(B) The 3.5 miles of Black Butte River from its confluence with Jumpoff Creek to its confluence with Middle Eel River, as a scenic river.

"(C) The 1.5 miles of Cold Creek from the Mendocino County Line to its confluence with Black Butte River, as a wild river.".

(b) PLAN; REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress—

(A) a fire management plan for the Black Butte River segments designated by the amendment made by subsection (a); and

(B) a report on the cultural and historic resources within those segments.

(2) TRANSMITTAL TO COUNTY.—The Secretary of Agriculture shall transmit to the Board of Supervisors of Mendocino County, California, a copy of the plan and report submitted under paragraph (1).

**SEC. 8. KING RANGE NATIONAL CONSERVATION AREA BOUNDARY ADJUSTMENT.**

Section 9 of Public Law 91–476 (16 U.S.C. 460y–8) is amended by adding at the end the following:

"(d) In addition to the land described in subsections (a) and (c), the land identified as the King Range National Conservation Area Additions on the map entitled 'King Range Wilderness' and dated November 12, 2004, is included in the Area.".

**SEC. 9. COW MOUNTAIN RECREATION AREA, LAKE AND MENDOCINO COUNTIES, CALIFORNIA.** 16 USC 460sss.

(a) ESTABLISHMENT.—In order to enhance the recreational and scenic values of the Cow Mountain area in Lake and Mendocino Counties, California, while conserving the wildlife and other natural resource values of the area, there is hereby established the Cow Mountain Recreation Area (in this section referred to as the "recreation area") consisting of approximately 51,513 acres of land in such counties, as generally depicted on the map entitled "Cow Mountain Recreation Area" and dated July 22, 2006, including the following:

(1) The "South Cow Mountain OHV Management Area", as generally depicted on the map.

(2) The "North Cow Mountain Recreation Area", as generally depicted on the map.

(b) LEGAL DESCRIPTIONS; CORRECTION OF ERRORS.—

(1) PREPARATION AND SUBMISSION.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall prepare a map and legal descriptions of the boundaries of the recreation area. The Secretary shall submit the map and legal descriptions to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(2) LEGAL EFFECT.—The map and legal descriptions of the recreation area shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal descriptions. The map shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Interior shall administer the recreation area in accordance with this section and the laws and regulations generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(2) EXISTING RIGHTS.—The establishment of the recreation area shall be subject to all valid existing rights.

(d) RECREATIONAL ACTIVITIES.—

(1) IN GENERAL.—The Secretary of the Interior shall continue to authorize, maintain, and enhance the recreational use of the land included in the recreation area, including motorized recreation, hiking, camping, mountain biking, sightseeing, and horseback riding, as long as such recreational use is consistent with this section and other applicable law.

(2) OFF-ROAD AND MOTORIZED RECREATION.—Motorized recreation shall be a prescribed use within the South Cow Mountain OHV Management Area, occurring only on roads and trails designated by the Secretary for such use, except as needed for administrative purposes or to respond to an emergency. Nothing in this paragraph shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

(3) MOUNTAIN BIKING.—Mountain biking shall be a prescribed use within the recreation area, occurring only on roads and trails designated by the Secretary for such use. Nothing in this paragraph shall be construed as precluding the Secretary from closing any trail or route from use for purposes of resource protection or public safety.

(e) ACCESS TO PRIVATE PROPERTY.—The Secretary of the Interior shall provide any owner of private property within the boundaries of the recreation area adequate access to the property to ensure the reasonable use and enjoyment of the property by the owner.

(f) LAND ACQUISITION.—

(1) ACQUISITION FROM WILLING PERSONS ONLY.—The Secretary of the Interior may acquire lands or interests in lands in the recreation area only by—

(A) donation;

(B) exchange with a willing party, as expressed in a written agreement between the Secretary and the party; or

(C) purchase from a willing seller, as expressed in a written agreement between the Secretary and the seller.

(2) ADMINISTRATION OF ACQUIRED LANDS.—Lands or interests in lands within or adjacent to the boundaries of the recreation area that are acquired by the Bureau of Land Management, and title or possession of which is vested in the United States after the date of the enactment of this Act, shall be managed by the Secretary as part of the recreation area.

(g) ADJACENT MANAGEMENT.—Nothing in this section creates protective perimeters or buffer zones around the recreation area.

**SEC. 10. CONTINUATION OF TRADITIONAL COMMERCIAL SURF FISHING, REDWOOD NATIONAL AND STATE PARKS.**

(a) AVAILABILITY OF LIMITED NUMBER OF PERMITS.—For the sole purpose of continuing traditional commercial surf fishing, the Secretary of the Interior shall permit the right of entry for authorized vehicle access onto the wave slope area at that area known as Gold Bluffs Beach, Prairie Creek Redwoods State Park, and that portion of the beach north and south of Redwood Creek in Redwood National and State Parks. The number of permits issued under the authority of this section shall be limited to the number of valid permits that were held on the date of enactment of this Act. The permits so issued shall be perpetual and subject to the same conditions as the permits held on the date of the enactment of this Act.

(b) WAVE SLOPE AREA DEFINED.—In this section, the term "wave slope area" refers to the area that has been wet by the wave action of the previous high tide, but does not include any vegetated areas.

Approved October 17, 2006.

LEGISLATIVE HISTORY—H.R. 233 (S. 128):

SENATE REPORTS: No. 109–47 accompanying S. 128 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 24, considered and passed House.
Sept. 29, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 17, Presidential statement.

Public Law 109–363
109th Congress

An Act

Oct. 17, 2006
[H.R. 4957]

To direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tylersville Fish Hatchery Conveyance Act.

# TITLE I—TYLERSVILLE FISH HATCHERY CONVEYANCE

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Tylersville Fish Hatchery Conveyance Act".

**SEC. 102. CONVEYANCE OF TYLERSVILLE NATIONAL FISH HATCHERY TO THE STATE OF PENNSYLVANIA.**

Deadline.

(a) CONVEYANCE REQUIREMENT.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Pennsylvania without reimbursement all right, title, and interest of the United States in and to the property described in subsection (b) for use by the Pennsylvania Fish and Boat Commission as part of the State of Pennsylvania fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) consists of—

(1) the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center comprised of approximately 40 acres leased to the State of Pennsylvania Fish and Boat Commission, located on 43 Hatchery Lane in Loganton, Pennsylvania, as described in the 1984 Cooperative Agreement between the United States Fish and Wildlife Service and the State of Pennsylvania;

(2) all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, equipment, and all easements and leases relating to that property; and

(3) all water rights relating to that property.

(c) REVERSIONARY INTEREST.—If any of the property conveyed to the State of Pennsylvania under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States. The State of Pennsylvania shall ensure that all property reverting to the United States

under this subsection is in substantially the same or better condition as at the time of transfer to the State.

# TITLE II—NATIONAL FISH AND WILDLIFE FOUNDATION

National Fish and Wildlife Foundation Reauthorization Act of 2006. 16 USC 3701 note.

**SEC. 201. SHORT TITLE.**

This title may be cited as the "National Fish and Wildlife Foundation Reauthorization Act of 2006".

**SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

Section 10(a)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(1)) is amended by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2006 through 2010".

**SEC. 203. APPLICATION OF NOTICE REQUIREMENT LIMITED TO GRANTS MADE WITH FEDERAL FUNDS.**

Section 4(i) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(i)) is amended by striking "grant of funds" and inserting "grant of Federal funds in an amount greater than $10,000".

**SEC. 204. CLARIFICATION OF AUTHORITY TO USE FEDERAL FUNDS TO MATCH CONTRIBUTIONS MADE TO RECIPIENTS OF NATIONAL FISH AND WILDLIFE FOUNDATION GRANTS.**

Section 10(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(3)) is amended by inserting ", or to a recipient of a grant provided by the Foundation," after "made to the Foundation".

# TITLE III—NEOTROPICAL MIGRATORY BIRD CONSERVATION IMPROVEMENT

Neotropical Migratory Bird Conservation Improvement Act of 2006. 16 USC 6101 note.

**SEC. 301. SHORT TITLE.**

This title may be cited as the "Neotropical Migratory Bird Conservation Improvement Act of 2006".

**SEC. 302. AMENDMENTS TO NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.**

(a) FINDINGS.—Section 2(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101(1)) is amended by inserting "but breed in Canada and the United States" after "the Caribbean".

(b) PURPOSES.—Section 3(2) of such Act (16 U.S.C. 6102(2)) is amended by inserting "Canada," after "United States,".

(c) DEFINITION OF CARIBBEAN.—Section 4 of such Act (16 U.S.C. 6103) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (5), respectively;

(2) by inserting after paragraph (1) the following:

"(2) CARIBBEAN.—The term 'Caribbean' includes Puerto Rico and the United States Virgin Islands."; and

(3) by inserting after paragraph (3), as so redesignated, the following:

"(4) FUND.—The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).".

(d) AUTHORIZATION OF PROJECTS TO ENHANCE CONSERVATION IN CANADA.—Section 5(c)(2) of such Act (16 U.S.C. 6104(c)(2)) is amended by inserting "Canada," after "the United States,".

(e) COST SHARING.—Section 5(e)(2)(B) of such Act (16 U.S.C. 6104(e)(2)(B)) is amended to read as follows:

"(B) FORM OF PAYMENT.—

"(i) PROJECTS IN THE UNITED STATES AND CANADA.—The non-Federal share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

"(ii) PROJECTS IN LATIN AMERICA AND THE CARIBBEAN.—The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.".

(f) ADVISORY GROUP.—

(1) COMPOSITION.—Section 7(b)(1) of such Act (16 U.S.C. 6106(b)(1)) is amended by adding at the end the following: "The advisory group as a whole shall have expertise in the methods and procedures set forth in section 4(2) in each country and region of the Western Hemisphere".

16 USC 6106 note.

(2) ENCOURAGEMENT TO CONVENE.—The Secretary of the Interior is encouraged to convene an advisory group under section 7(b)(1) of such Act by not later than 6 months after the effective date of this Act. This paragraph shall not be considered to authorize delay of the schedule previously established by the United States Fish and Wildlife Service for the submission, judging, and awarding of grants.

(g) REPORT.—Section 8 of such Act (16 U.S.C. 6107) is amended by striking "October 1, 2002," and inserting "2 years after the date of the enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2006".

(h) NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.—

(1) IN GENERAL.—Section 9 of such Act (16 U.S.C. 6108) is amended by striking so much as precedes subsection (c) and inserting the following:

**"SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.**

"(a) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the 'Neotropical Migratory Bird Conservation Fund'. The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

"(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

"(1) all amounts received by the Secretary in the form of donations under subsection (d); and

"(2) other amounts appropriated to the Fund.".

(2) ADMINISTRATIVE EXPENSES.—Section 9(c)(2) of such Act (16 U.S.C. 6108(c)(2)) is amended by striking "$80,000" and inserting "$100,000".

(3) CONFORMING AMENDMENTS.—Such Act is amended further as follows:

(A) In section 4 (16 U.S.C. 6103), by striking paragraph (1) and inserting the following:

"(1) FUND.—The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).".

(B) In section 9(d) (16 U.S.C. 6108(d)), by striking "Account" and inserting "Fund".

(4) TRANSFER.—The Secretary of the Treasury may transfer to the Neotropical Migratory Bird Conservation Fund amounts that were in the Neotropical Migratory Bird Conservation Account immediately before the enactment of this Act.

16 USC 6108 note.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of such Act (16 U.S.C. 6109) is amended to read as follows:

(1) by inserting "(a) IN GENERAL.—" before the first sentence;

(2) by striking "$5,000,000 for each of fiscal years 2001 through 2005" and inserting "for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b)"; and

(3) by adding at the end the following:

"(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

"(1) $5,000,000 for each of fiscal years 2006 and 2007;

"(2) $5,500,000 for fiscal year 2008;

"(3) $6,000,000 for fiscal year 2009; and

"(4) $6,500,000 for fiscal year 2010.

"(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

"(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.".

# TITLE IV—ED FOUNTAIN PARK EXPANSION ACT

Ed Fountain Park Expansion Act.

**SEC. 401. SHORT TITLE.**

This title may be cited as the "Ed Fountain Park Expansion Act".

**SEC. 402. DEFINITIONS.**

In this title:

(1) ADMINISTRATIVE SITE.—The term "administrative site" means the parcel of real property identified as "Lands to be Conveyed to the City of Las Vegas; approximately, 7.89 acres" on the map entitled "Ed Fountain Park Expansion" and dated November 1, 2005.

(2) CITY.—The term "City" means the city of Las Vegas, Nevada.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

**SEC. 403. CONVEYANCE OF UNITED STATES FISH AND WILDLIFE SERVICE ADMINISTRATIVE SITE, LAS VEGAS, NEVADA.**

(a) IN GENERAL.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the administrative site for use by the City—

(1) as a park; or

(2) for any other recreation or nonprofit-related purpose.

(b) ADMINISTRATIVE EXPENSES.—As a condition of the conveyance under subsection (a), the Secretary shall require that the City pay the administrative costs of the conveyance, including survey costs and any other costs associated with the conveyance.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines that the City is not using the administrative site for a purpose described in paragraph (1) or (2) of subsection (a), all right, title, and interest of the City in and to the administrative site (including any improvements to the administrative site) shall revert, at the option of the Secretary, to the United States.

(2) HEARING.—Any determination of the Secretary with respect to a reversion under paragraph (1) shall be made—

(A) on the record; and

(B) after an opportunity for a hearing.

Cahaba River National Wildlife Refuge Expansion Act. 16 USC 668dd note.

# TITLE V—CAHABA RIVER NATIONAL WILDLIFE REFUGE EXPANSION

**SEC. 501. SHORT TITLE.**

This title may be cited as the "Cahaba River National Wildlife Refuge Expansion Act".

**SEC. 502. DEFINITIONS.**

In this title:

(1) REFUGE.—The term "Refuge" means the Cahaba River National Wildlife Refuge and the lands and waters in such refuge in Bibb County, Alabama, as established by the Cahaba River National Wildlife Refuge Establishment Act (Public Law 106–331).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 503. EXPANSION OF BOUNDARIES.**

(a) EXPANSION.—The boundaries of the Refuge are expanded to include land and water in Bibb County, Alabama, depicted as "Proposed National Wildlife Refuge Expansion Boundary" on the map entitled "Cahaba River NWR Expansion" and dated March 14, 2006.

(b) AVAILABILITY OF MAP.—The Secretary shall make the map referred to in subsection (a) available for inspection in appropriate offices of the United States Fish and Wildlife Service.

**SEC. 504. ACQUISITION OF LAND AND WATER IN EXPANDED BOUNDARIES.**

(a) IN GENERAL.—Subject to subsection (b), the Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the land and water, and interests in land and water (including conservation easements), within the boundaries of the Refuge as expanded by this title.

(b) MANNER OF ACQUISITION.—All acquisitions of land or waters under this section shall be made in a voluntary manner and shall not be the result of forced takings.

(c) INCLUSION IN REFUGE; ADMINISTRATION.—Any land, water, or interest acquired by the Secretary under this section—

(1) shall be part of the Refuge; and

(2) shall be administered by the Secretary in accordance with—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.);

(B) the Cahaba River National Wildlife Refuge Establishment Act; and

(C) this Act.

# TITLE VI—CHERRY VALLEY NATIONAL WILDLIFE REFUGE

Cherry Valley National Wildlife Refuge Study Act.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Cherry Valley National Wildlife Refuge Study Act".

**SEC. 602. FINDINGS.**

The Congress finds the following:

(1) The scenic Cherry Valley area of Northeastern Pennsylvania is blessed with more than 80 special-concern animal and plant species and natural habitats.

(2) In a preliminary assessment of Cherry Valley, United States Fish and Wildlife Service biologists ranked Cherry Valley very high as a potential national wildlife refuge.

(3) Six species that are listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) have been documented within or near Cherry Valley: The bog turtle (possibly the most significant population of the listed subspecies), the dwarf wedge mussel, the northeastern bulrush, the small whorled pogonia, the bald eagle, and the Indiana bat (a historic resident, with efforts under way to re-establish favorable conditions).

(4) Cherry Valley provides habitat for at least 79 species of national or regional concern, which either nest in Cherry Valley or migrate through the area during critical times in their life cycle, including—

(A) neo-tropical migratory birds such as the Cerulean Warbler, the Worm-eating Warbler, and the Wood Thrush, all of which nest in Cherry Valley;

(B) waterfowl such as the American Black Duck;

(C) several globally rare plants, such as the spreading globeflower; and

(D) anadromous fish species.

(5) The Cherry Valley watershed encompasses a large segment of the Kittatinny Ridge, an important migration route for birds of prey throughout the Northeastern United States. Every migratory raptor species in the Northeast is regularly observed along the Kittatinny Ridge during the autumnal migration, including the bald eagle, the golden eagle, and the broad-winged hawk.

(6) The Kittatinny Ridge also includes a long segment of the Appalachian Trail, a nationally significant natural-cultural-recreational feature.

(7) Many of the significant wildlife habitats found in the Cherry Valley, especially the rare calcareous wetlands, have disappeared from other localities in their range.

(8) Ongoing studies have documented the high water quality of Cherry Creek.

(9) Public meetings over several years have demonstrated strong, deep, and growing local support for a Cherry Valley National Wildlife Refuge, as demonstrated by the following:

(A) Area landowners, business and community leaders, media, and elected officials have consistently voiced their enthusiasm for a Cherry Valley National Wildlife Refuge.

(B) Numerous local communities and public and private conservation entities share complementary goals for protecting Cherry Valley and are energetically conserving wildlife habitat and farmland. Along with State land-management agencies and the National Park Service, these local entities represent potential strong partners for the United States Fish and Wildlife Service, and view a Cherry Valley National Wildlife Refuge as a complement to existing private, county, municipal, and State efforts.

(C) A number of local landowners have already put their land into conservation easements or other conservation arrangements.

(D) A voter-approved Monroe County Open Space Fund and a voter-approved Stroud Township municipal land conservation fund have contributed to many of these projects.

(10) Two federally owned parcels of land are contiguous to the area to be studied under this title as for acquisition and inclusion in a future Cherry Valley National Wildlife Refuge: The Delaware Water Gap National Recreation Area and a 700-acre segment of the Appalachian Trail owned by the National Park Service.

**SEC. 603. STUDY OF REFUGE POTENTIAL AND FUTURE REFUGE LAND ACQUISITION.**

Deadline.

(a) STUDY.—The Secretary shall initiate within 30 days after the date of the enactment of this Act a study to evaluate the fish and wildlife habitat and aquatic and terrestrial communities located in Northeastern Pennsylvania and identified on the map entitled, "Proposed Cherry Valley National Wildlife Refuge—Authorization Boundary", dated February 24, 2005, for their potential acquisition by the United States Fish and Wildlife Service through donation, exchange, or willing seller purchase and subsequent inclusion in a future Cherry Valley National Wildlife Refuge.

(b) CONSULTATION.—The Secretary, while conducting the study required under this section, shall consult appropriate State and local officials, private conservation organizations, major landowners and other interested persons, regarding the identification of eligible lands, waters, and interests therein that are appropriate for acquisition for a national wildlife refuge and the determination of boundaries within which such acquisitions should be made.

(c) COMPONENTS OF STUDY.—As part of the study under this section the Secretary shall do the following:

(1) Determine if the fish and wildlife habitat and aquatic and terrestrial communities to be evaluated are suitable for inclusion in the National Wildlife Refuge System and management under the policies of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(2) Assess the conservation benefits to be gained from the establishment of a Cherry Valley National Wildlife Refuge including—

(A) preservation and maintenance of diverse populations of fish, wildlife, and plants, including species listed as threatened species or endangered species;

(B) protection and enhancement of aquatic and wetland habitats;

(C) opportunities for compatible wildlife-dependent recreation, scientific research, and environmental education and interpretation; and

(D) fulfillment of international obligations of the United States with respect to fish, wildlife, and their habitats.

(3) Provide an opportunity for public participation and give special consideration to views expressed by local public and private entities regarding lands, waters, and interests therein for potential future acquisition for refuge purposes.

(4) The total area of lands, water, and interests therein that may be acquired shall not in the aggregate exceed 30,000 acres.

(d) REPORT.—The Secretary shall, within 12 months after date of the enactment of this Act, complete the study required by this section and submit a report containing the results thereof to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate. The report shall include—

(1) a map that identifies and prioritizes specific lands, waters, and interests therein for future acquisition, and that delineates an acquisition boundary, for a potential Cherry Valley National Wildlife Refuge;

(2) a cost estimate for the acquisition of all lands, waters, and interests therein that are appropriate for refuge status; and

(3) an estimate of potentially available acquisition and management funds from non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $200,000 to carry out the study.

**SEC. 604. DEFINITIONS.**

In this title the term "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

# TITLE VII—GREAT APE CONSERVATION

**SEC. 701. GREAT APE CONSERVATION ASSISTANCE.**

Section 4 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6303) is amended—

(1) in subsection (d)—

(A) in paragraph (4)(C), by striking "or" after the semicolon at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(6) address root causes of threats to great apes in range states, including illegal bushmeat trade, diseases, lack of regional or local capacity for conservation, and habitat loss due to natural disasters."; and

(2) in subsection (i)—

(A) by striking "Every" and inserting the following: "(1) IN GENERAL.—Every";

(B) in paragraph (1) (as designated by subparagraph (A)), by striking "shall" and inserting "may"; and

(C) by adding at the end the following:

"(2) APPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to a panel convened under paragraph (1).".

**SEC. 702. GREAT APE CONSERVATION FUND.**

Section 5(b)(2) of the Great Ape Conservation Act of 2000 (16 U.S.C. 6304(b)(2)) is amended—

(1) by striking "expand" and inserting "expend"; and

(2) by striking "$80,000" and inserting "$100,000".

**SEC. 703. AUTHORIZATION OF APPROPRIATIONS.**

Section 6 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6305) is amended by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2006 through 2010".

Approved October 17, 2006.

LEGISLATIVE HISTORY—H.R. 4957 (S. 3551):

HOUSE REPORTS: No. 109–612 (Comm. on Resources).
SENATE REPORTS: No. 109–339 accompanying S. 3551 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 20, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–364
# 109th Congress

## An Act

To authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Oct. 17, 2006
[H.R. 5122]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

John Warner National Defense Authorization Act for Fiscal Year 2007.

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "John Warner National Defense Authorization Act for Fiscal Year 2007".

(b) FINDINGS.—Congress makes the following findings:

(1) Senator John Warner of Virginia was elected a member of the United States Senate on November 7, 1978, for a full term beginning on January 3, 1979. He was subsequently appointed by the Governor of Virginia to fill a vacancy on January 2, 1979, and has served continuously since that date. He was appointed a member of the Committee on Armed Services in January 1979, and has served continuously on the Committee since that date, a period of nearly 28 years. Senator Warner's service on the Committee represents nearly half of its existence since it was established after World War II.

(2) Senator Warner came to the Senate and the Committee on Armed Services after a distinguished record of service to the Nation, including combat service in the Armed Forces and high civilian office.

(3) Senator Warner enlisted in the United States Navy upon graduation from high school in 1945, and served until the summer of 1946, when he was discharged as a Petty Officer 3rd Class. He then attended Washington and Lee University on the G.I. Bill. He graduated in 1949 and entered the University of Virginia Law School.

(4) Upon the outbreak of the Korean War in 1950, Senator Warner volunteered for active duty, interrupting his education to accept a commission in the United States Marine Corps. He served in combat in Korea as a ground officer in the First Marine Air Wing. Following his active service, he remained in the Marine Corps Reserve for several years, attaining the rank of captain.

(5) Senator Warner resumed his legal education upon returning from the Korean War and graduated from the University of Virginia Law School in 1953. He was selected by the late Chief Judge E. Barrett Prettyman of the United States Court of Appeals for the District of Columbia Circuit as his law clerk. After his service to Judge Prettyman, Senator Warner

became an Assistant United States Attorney in the District of Columbia, and later entered private law practice.

(6) In 1969, the Senate gave its advice and consent to the appointment of Senator Warner as Under Secretary of the Navy. He served in this position until 1972, when he was confirmed and appointed as the 61st Secretary of the Navy since the office was established in 1798. As Secretary, Senator Warner was the principal United States negotiator and signatory of the Incidents at Sea Executive Agreement with the Soviet Union, which was signed in 1972 and remains in effect today. It has served as the model for similar agreements between states covering the operation of naval ships and aircraft in international sea lanes throughout the world.

(7) Senator Warner left the Department of the Navy in 1974. His next public service was as Administrator of the American Revolution Bicentennial Commission. In this capacity, he coordinated the celebration of the Nation's founding, directing the Federal role in all 50 States and in over 20 foreign nations.

(8) Senator Warner has served as chairman of the Committee on Armed Services of the United States Senate from 1999 to 2001, and again since January 2003. He served as ranking minority member of the committee from 1987 to 1993, and again from 2001 to 2003. Senator Warner concludes his service as chairman at the end of the 109th Congress, but will remain a member of the committee.

(9) This Act is the twenty-eighth annual authorization Act for the Department of Defense for which Senator Warner has taken a major responsibility as a member of the Committee on Armed Services of the United States Senate, and the fourteenth for which he has exercised a leadership role as chairman or ranking minority member of the committee.

(10) Senator Warner, as seaman, Marine officer, Under Secretary and Secretary of the Navy, and member, ranking minority member, and chairman of the Committee on Armed Services of the United States Senate, has made unique and lasting contributions to the national security of the United States.

(11) It is altogether fitting and proper that this Act, the last annual authorization Act for the national defense managed by Senator Warner in and for the United States Senate as chairman of the Committee on Armed Services, be named in his honor, as provided in subsection (a).

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

Sec. 1. Short title; findings.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.

## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

## TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Sense of Congress on future multiyear procurement authority for Family of Medium Tactical Vehicles.
Sec. 112. Multiyear procurement authority for MH–60R helicopters and mission equipment.
Sec. 113. Funding profile for Modular Force Initiative of the Army.
Sec. 114. Bridge to Future Networks program.
Sec. 115. Comptroller General report on the contract for the Future Combat Systems program.
Sec. 116. Priority for allocation of replacement equipment to operational units based on combat mission deployment schedule.

Subtitle C—Navy Programs

Sec. 121. CVN–21 class aircraft carrier procurement.
Sec. 122. Adherence to Navy cost estimates for CVN–21 class of aircraft carriers.
Sec. 123. Modification of limitation on total cost of procurement of CVN–77 aircraft carrier.
Sec. 124. Construction of first two vessels under the DDG–1000 Next-Generation Destroyer program.
Sec. 125. Adherence to Navy cost estimates for LHA Replacement amphibious assault ship program.
Sec. 126. Cost limitation for San Antonio (LPD–17) class amphibious ship program.
Sec. 127. Multiyear procurement authority for V–22 tiltrotor aircraft program.
Sec. 128. Alternative technologies for future surface combatants.
Sec. 129. Sense of Congress regarding the size of the attack submarine force.
Sec. 130. Quality control in procurement of ship critical safety items and related services.

Subtitle D—Air Force Programs

Sec. 131. Bomber force structure.
Sec. 132. Strategic airlift force structure.
Sec. 133. Limitation on retirement of U–2 aircraft.
Sec. 134. Multiyear procurement authority for F–22A Raptor fighter aircraft.
Sec. 135. Limitation on retirement of KC–135E aircraft during fiscal year 2007.
Sec. 136. Limitation on retirement of F–117A aircraft during fiscal year 2007.
Sec. 137. Limitation on retirement of C–130E tactical airlift aircraft.
Sec. 138. Procurement of Joint Primary Aircraft Training System aircraft after fiscal year 2006.
Sec. 139. Minuteman III intercontinental ballistic missile modernization.

Subtitle E—Joint and Multiservice Matters

Sec. 141. Clarification of limitation on initiation of new unmanned aerial vehicle systems.

## TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Acquisition of, and independent cost analyses for, the Joint Strike Fighter propulsion system.
Sec. 212. Expansion and extension of authority to award prizes for advanced technology achievements.
Sec. 213. Defense Acquisition Challenge Program extension, enhancement, and modification to address critical cost growth threshold breaches in major defense acquisition programs.
Sec. 214. Future Combat Systems milestone review.
Sec. 215. Dedicated amounts for implementing or evaluating Navy shipbuilding technology proposals under Defense Acquisition Challenge Program.

Sec. 216. Independent estimate of costs of the Future Combat Systems.
Sec. 217. Funding of defense science and technology programs.
Sec. 218. Hypersonics development.
Sec. 219. Report on program for replacement of nuclear warheads on certain Trident sea-launched ballistic missiles with conventional warheads.

Subtitle C—Missile Defense Programs

Sec. 221. Fielding of ballistic missile defense capabilities.
Sec. 222. Limitation on use of funds for space-based interceptor.
Sec. 223. Policy of the United States on priorities in the development, testing, and fielding of missile defense capabilities.
Sec. 224. One-year extension of Comptroller General assessments of ballistic missile defense programs.
Sec. 225. Submittal of plans for test and evaluation of the operational capability of the Ballistic Missile Defense System.
Sec. 226. Annual reports on transition of ballistic missile defense programs to the military departments.

Subtitle D—Other Matters

Sec. 231. Policies and practices on test and evaluation to address emerging acquisition approaches.
Sec. 232. Extension of requirement for Global Research Watch Program.
Sec. 233. Sense of Congress on technology sharing of Joint Strike Fighter technology.
Sec. 234. Report on vehicle-based active protection systems for certain battlefield threats.

**TITLE III—OPERATION AND MAINTENANCE**

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

Sec. 311. Revision of requirement for unexploded ordnance program manager.
Sec. 312. Funding of cooperative agreements under environmental restoration program.
Sec. 313. Response plan for remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 314. Research on effects of ocean disposal of munitions.
Sec. 315. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.
Sec. 316. Transfer of Government-furnished uranium stored at Sequoyah Fuels Corporation, Gore, Oklahoma.
Sec. 317. Extension of authority to grant exemptions to certain requirements.
Sec. 318. National Academy of Sciences study on human exposure to contaminated drinking water at Camp Lejeune, North Carolina.

Subtitle C—Program Requirements, Restrictions, and Limitations

Sec. 321. Limitation on financial management improvement and audit initiatives within the Department of Defense.
Sec. 322. Funds for exhibits for the national museums of the Armed Forces.
Sec. 323. Prioritization of funds for equipment readiness and strategic capability.
Sec. 324. Limitation on deployment of Marine Corps Total Force System to Navy.

Subtitle D—Workplace and Depot Issues

Sec. 331. Permanent exclusion of certain contract expenditures from percentage limitation on the performance of depot-level maintenance.
Sec. 332. Minimum capital investment for certain depots.
Sec. 333. Extension of temporary authority for contractor performance of security guard functions.

Subtitle E—Reports

Sec. 341. Report on Navy Fleet Response Plan.
Sec. 342. Report on Navy surface ship rotational crew programs.
Sec. 343. Report on Army live-fire ranges in Hawaii.
Sec. 344. Comptroller General report on joint standards and protocols for access control systems at Department of Defense installations.

Sec. 345. Comptroller General report on readiness of Army and Marine Corps ground forces.
Sec. 346. Report on Air Force safety requirements for Air Force flight training operations at Pueblo Memorial Airport, Colorado.
Sec. 347. Annual report on Personnel Security Investigations for Industry and National Industrial Security Program.
Sec. 348. Five-year extension of annual report on training range sustainment plan and training range inventory.
Sec. 349. Reports on withdrawal or diversion of equipment from reserve units for support of reserve units being mobilized and other units.

Subtitle F—Other Matters

Sec. 351. Department of Defense strategic policy on prepositioning of materiel and equipment.
Sec. 352. Authority to make Department of Defense horses available for adoption.
Sec. 353. Sale and use of proceeds of recyclable munitions materials.
Sec. 354. Recovery and transfer to Corporation for the Promotion of Rifle Practice and Firearms Safety of certain firearms, ammunition, and parts granted to foreign countries.
Sec. 355. Extension of Department of Defense telecommunications benefit program.
Sec. 356. Extension of availability of funds for commemoration of success of the Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom.
Sec. 357. Capital security cost sharing.
Sec. 358. Utilization of fuel cells as back-up power systems in Department of Defense operations.
Sec. 359. Improving Department of Defense support for civil authorities.
Sec. 360. Energy efficiency in weapons platforms.
Sec. 361. Prioritization of funds within Navy mission operations, ship maintenance, combat support forces, and weapons system support.
Sec. 362. Provision of adequate storage space to secure personal property outside of assigned military family housing unit.
Sec. 363. Expansion of payment of replacement value of personal property damaged during transport at Government expense.

**TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS**

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2008 and 2009.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2007 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

**TITLE V—MILITARY PERSONNEL POLICY**

Subtitle A—Officer Personnel Policy

PART I—OFFICER PERSONNEL POLICY GENERALLY

Sec. 501. Military status of officers serving in certain intelligence community positions.
Sec. 502. Extension of age for mandatory retirement for active-duty general and flag officers.
Sec. 503. Increased mandatory retirement ages for reserve officers.
Sec. 504. Standardization of grade of senior dental officer of the Air Force with that of senior dental officer of the Army.
Sec. 505. Management of chief warrant officers.
Sec. 506. Extension of temporary reduction of time-in-grade requirement for eligibility for promotion for certain active-duty list officers in grades of first lieutenant and lieutenant (junior grade).

Sec. 507. Grade and exclusion from active-duty general and flag officer distribution and strength limitations of officer serving as Attending Physician to the Congress.
Sec. 508. Modification of qualifications for leadership of the Naval Postgraduate School.

PART II—OFFICER PROMOTION POLICY

Sec. 511. Revisions to authorities relating to authorized delays of officer promotions.
Sec. 512. Consideration of adverse information by selection boards in recommendations on officers to be promoted.
Sec. 513. Expanded authority for removal from reports of selection boards of officers recommended for promotion to grades below general and flag grades.
Sec. 514. Special selection board authorities.
Sec. 515. Removal from promotion list of officers not promoted within 18 months of approval of list by the President.

PART III—JOINT OFFICER MANAGEMENT REQUIREMENTS

Sec. 516. Modification and enhancement of general authorities on management of officers who are joint qualified.
Sec. 517. Modification of promotion policy objectives for joint officers.
Sec. 518. Applicability of joint duty assignment requirements limited to graduates of National Defense University schools.
Sec. 519. Modification of certain definitions relating to jointness.

Subtitle B—Reserve Component Matters

PART I—RESERVE COMPONENT MANAGEMENT

Sec. 521. Recognition of former Representative G. V. 'Sonny' Montgomery for his 30 years of service in the House of Representatives.
Sec. 522. Revisions to reserve call-up authority.
Sec. 523. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.

PART II—AUTHORITIES RELATING TO GUARD AND RESERVE DUTY

Sec. 524. Title 10 definition of Active Guard and Reserve duty.
Sec. 525. Authority for Active Guard and Reserve duties to include support of operational missions assigned to the reserve components and instruction and training of active-duty personnel.
Sec. 526. Governor's authority to order members to Active Guard and Reserve duty.
Sec. 527. Expansion of operations of civil support teams.
Sec. 528. Modification of authorities relating to the Commission on the National Guard and Reserves.
Sec. 529. Additional matters to be reviewed by Commission on the National Guard and Reserves.

Subtitle C—Education and Training

PART I—SERVICE ACADEMIES

Sec. 531. Expansion of service academy exchange programs with foreign military academies.
Sec. 532. Revision and clarification of requirements with respect to surveys and reports concerning sexual harassment and sexual violence at the service academies.
Sec. 533. Department of Defense policy on service academy and ROTC graduates seeking to participate in professional sports before completion of their active-duty service obligations.

PART II—SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAMS

Sec. 535. Authority to permit members who participate in the guaranteed reserve forces duty scholarship program to participate in the health professions scholarship program and serve on active duty.
Sec. 536. Detail of commissioned officers as students at medical schools.
Sec. 537. Increase in maximum amount of repayment under education loan repayment for officers in specified health professions.
Sec. 538. Health Professions Scholarship and Financial Assistance Program for Active Service.

PART III—JUNIOR ROTC PROGRAM

Sec. 539. Junior Reserve Officers' Training Corps instructor qualifications.

Sec. 540. Expansion of members eligible to be employed to provide Junior Reserve Officers' Training Corps instruction.
Sec. 541. Expansion of Junior Reserve Officers' Training Corps program.
Sec. 542. Review of legal status of Junior ROTC program.

PART IV—OTHER EDUCATION AND TRAINING PROGRAMS

Sec. 543. Expanded eligibility for enlisted members for instruction at Naval Postgraduate School.

Subtitle D—General Service Authorities

Sec. 546. Test of utility of test preparation guides and education programs in enhancing recruit candidate performance on the Armed Services Vocational Aptitude Battery (ASVAB) and Armed Forces Qualification Test (AFQT).
Sec. 547. Clarification of nondisclosure requirements applicable to certain selection board proceedings.
Sec. 548. Report on extent of provision of timely notice of long-term deployments.

Subtitle E—Military Justice Matters

Sec. 551. Applicability of Uniform Code of Military Justice to members of the Armed Forces ordered to duty overseas in inactive duty for training status.
Sec. 552. Clarification of application of Uniform Code of Military Justice during a time of war.

Subtitle F—Decorations and Awards

Sec. 555. Authority for presentation of Medal of Honor Flag to living Medal of Honor recipients and to living primary next-of-kin of deceased Medal of Honor recipients.
Sec. 556. Review of eligibility of prisoners of war for award of the Purple Heart.
Sec. 557. Report on Department of Defense process for awarding decorations.

Subtitle G—Matters Relating to Casualties

Sec. 561. Authority for retention after separation from service of assistive technology and devices provided while on active duty.
Sec. 562. Transportation of remains of casualties dying in a theater of combat operations.
Sec. 563. Annual budget display of funds for POW/MIA activities of Department of Defense.
Sec. 564. Military Severely Injured Center.
Sec. 565. Comprehensive review on procedures of the Department of Defense on mortuary affairs.
Sec. 566. Additional elements of policy on casualty assistance to survivors of military decedents.
Sec. 567. Requirement for deploying military medical personnel to be trained in preservation of remains under combat or combat-related conditions.

Subtitle H—Impact Aid and Defense Dependents Education System

Sec. 571. Enrollment in defense dependents' education system of dependents of foreign military members assigned to Supreme Headquarters Allied Powers, Europe.
Sec. 572. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 573. Impact aid for children with severe disabilities.
Sec. 574. Plan and authority to assist local educational agencies experiencing growth in enrollment due to force structure changes, relocation of military units, or base closures and realignments.
Sec. 575. Pilot program on parent education to promote early childhood education for dependent children affected by military deployment or relocation of military units.

Subtitle I—Armed Forces Retirement Home

Sec. 578. Report on leadership and management of the Armed Forces Retirement Home.
Sec. 579. Report on Local Boards of Trustees of the Armed Forces Retirement Home.

Subtitle J—Reports

Sec. 581. Report on personnel requirements for airborne assets identified as Low-Density, High-Demand Airborne Assets.

Sec. 582. Report on feasibility of establishment of Military Entrance Processing Command station on Guam.
Sec. 583. Inclusion in annual Department of Defense report on sexual assaults of information on results of disciplinary actions.
Sec. 584. Report on provision of electronic copy of military records on discharge or release of members from the Armed Forces.
Sec. 585. Report on omission of social security account numbers from military identification cards.
Sec. 586. Report on maintenance and protection of data held by the Secretary of Defense as part of the Department of Defense Joint Advertising, Market Research and Studies (JAMRS) program.
Sec. 587. Comptroller General report on military conscientious objectors.

Subtitle K—Other Matters

Sec. 591. Modification in Department of Defense contributions to Military Retirement Fund.
Sec. 592. Revision in Government contributions to Medicare-Eligible Retiree Health Care Fund.
Sec. 593. Dental Corps of the Navy Bureau of Medicine and Surgery.
Sec. 594. Permanent authority for presentation of recognition items for recruitment and retention purposes.
Sec. 595. Persons authorized to administer enlistment and appointment oaths.
Sec. 596. Military voting matters.
Sec. 597. Physical evaluation boards.
Sec. 598. Military ID cards for retiree dependents who are permanently disabled.
Sec. 599. United States Marine Band and United States Marine Drum and Bugle Corps.

**TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**

Subtitle A—Pay and Allowances

Sec. 601. Fiscal year 2007 increase in military basic pay and reform of basic pay rates.
Sec. 602. Increase in maximum rate of basic pay for general and flag officer grades to conform to increase in pay cap for Senior Executive Service personnel.
Sec. 603. One-year extension of prohibition against requiring certain injured members to pay for meals provided by military treatment facilities.
Sec. 604. Availability of second basic allowance for housing for certain reserve component or retired members serving in support of contingency operations.
Sec. 605. Extension of temporary continuation of housing allowance for dependents of members dying on active duty to spouses who are also members.
Sec. 606. Payment of full premium for coverage under Servicemembers' Group Life Insurance program during service in Operation Enduring Freedom or Operation Iraqi Freedom.
Sec. 607. Clarification of effective date of prohibition on compensation for correspondence courses.
Sec. 608. Extension of pilot program on contributions to Thrift Savings Plan for initial enlistees in the Army.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. Extension of authorities relating to payment of other bonuses and special pays.
Sec. 615. Expansion of eligibility of dental officers for additional special pay.
Sec. 616. Increase in maximum annual rate of special pay for Selected Reserve health care professionals in critically short wartime specialties.
Sec. 617. Expansion and enhancement of accession bonus authorities for certain officers in health care specialities.
Sec. 618. Authority to provide lump sum payment of nuclear officer incentive pay.
Sec. 619. Increase in maximum amount of nuclear career accession bonus.
Sec. 620. Increase in maximum amount of incentive bonus for transfer between Armed Forces.
Sec. 621. Additional authorities and incentives to encourage retired members and reserve component members to volunteer to serve on active duty in high-demand, low-density assignments.
Sec. 622. Accession bonus for members of the Armed Forces appointed as commissioned officers after completing officer candidate school.
Sec. 623. Modification of certain authorities applicable to the targeted shaping of the Armed Forces.

Sec. 624. Enhancement of bonus to encourage certain persons to refer other persons for enlistment in the Army.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Travel and transportation allowances for transportation of family members incident to illness or injury of members.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Retired pay of general and flag officers to be based on rates of basic pay provided by law.
Sec. 642. Inapplicability of retired pay multiplier maximum percentage to certain service of members of the Armed Forces in excess of 30 years.
Sec. 643. Military Survivor Benefit Plan beneficiaries under insurable interest coverage.
Sec. 644. Modification of eligibility for commencement of authority for optional annuities for dependents under the Survivor Benefit Plan.
Sec. 645. Study of training costs, manning, operations tempo, and other factors that affect retention of members of the Armed Forces with special operations designations.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 661. Treatment of price surcharges of certain merchandise sold at commissary stores.
Sec. 662. Limitations on lease of non-excess Department of Defense property for protection of morale, welfare, and recreation activities and revenue.
Sec. 663. Report on cost effectiveness of purchasing commercial insurance for commissary and exchange facilities and facilities of other morale, welfare, and recreation programs and nonappropriated fund instrumentalities.
Sec. 664. Study and report regarding access of disabled persons to morale, welfare, and recreation facilities and activities.

Subtitle F—Other Matters

Sec. 670. Limitations on terms of consumer credit extended to servicemembers and dependents.
Sec. 671. Enhancement of authority to waive claims for overpayment of pay and allowances and travel and transportation allowances.
Sec. 672. Exception for notice to consumer reporting agencies regarding debts or erroneous payments pending a decision to waive, remit, or cancel.
Sec. 673. Expansion and enhancement of authority to remit or cancel indebtedness of members and former members of the Armed Forces incurred on active duty.
Sec. 674. Phased recovery of overpayments of pay made to members of the uniformed services.
Sec. 675. Joint family support assistance program.
Sec. 676. Special working group on transition to civilian employment of National Guard and Reserve members returning from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.
Sec. 677. Audit of pay accounts of members of the Army evacuated from a combat zone for inpatient care.
Sec. 678. Report on eligibility and provision of assignment incentive pay.
Sec. 679. Sense of Congress calling for payment to World War II veterans who survived Bataan Death March.

**TITLE VII—HEALTH CARE PROVISIONS**

Subtitle A—TRICARE Program Improvements

Sec. 701. TRICARE coverage for forensic examination following sexual assault or domestic violence.
Sec. 702. Authorization of anesthesia and other costs for dental care for children and certain other patients.
Sec. 703. Improvements to descriptions of cancer screening for women.
Sec. 704. Prohibition on increases in certain health care costs for members of the uniformed services.
Sec. 705. Demonstration project on coverage of selected over-the-counter drugs under the pharmacy benefits program.
Sec. 706. Expanded eligibility of Selected Reserve members under TRICARE program.
Sec. 707. Relationship between the TRICARE program and employer-sponsored group health care plans.
Sec. 708. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.

Subtitle B—Studies and Reports

Sec. 711. Department of Defense task force on the future of military health care.
Sec. 712. Study relating to chiropractic health care services.
Sec. 713. Comptroller General audits of Department of Defense health care costs and cost-saving measures.
Sec. 714. Transfer of custody of the Air Force Health Study assets to Medical Follow-up Agency.
Sec. 715. Study on allowing dependents of activated members of reserve components to retain civilian health care coverage.
Sec. 716. Study of health effects of exposure to depleted uranium.
Sec. 717. Report and plan on services to military dependent children with autism.
Sec. 718. Comptroller General study on Department of Defense pharmacy benefits program.
Sec. 719. Review of Department of Defense medical quality improvement program.
Sec. 720. Report on distribution of hemostatic agents for use in the field.
Sec. 721. Longitudinal study on traumatic brain injury incurred by members of the Armed Forces in Operation Iraqi Freedom and Operation Enduring Freedom.

Subtitle C—Planning, Programming, and Management

Sec. 731. Standardization of claims processing under TRICARE program and Medicare program.
Sec. 732. Requirements for support of military treatment facilities by civilian contractors under TRICARE.
Sec. 733. Standards and tracking of access to health care services for wounded, injured, or ill servicemembers returning to the United States from a combat zone.
Sec. 734. Disease and chronic care management.
Sec. 735. Additional elements of assessment of Department of Defense task force on mental health relating to mental health of members who were deployed in Operation Iraqi Freedom and Operation Enduring Freedom.
Sec. 736. Additional authorized option periods for extension of current contracts under TRICARE.
Sec. 737. Military vaccination matters.
Sec. 738. Enhanced mental health screening and services for members of the Armed Forces.

Subtitle D—Other Matters

Sec. 741. Pilot projects on early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.
Sec. 742. Requirement to certify and report on conversion of military medical and dental positions to civilian medical and dental positions.
Sec. 743. Three-year extension of joint incentives program on sharing of health care resources by the Department of Defense and Department of Veterans Affairs.
Sec. 744. Training curricula for family caregivers on care and assistance for members and former members of the Armed Forces with traumatic brain injury.
Sec. 745. Recognition of Representative Lane Evans upon his retirement from the House of Representatives.

**TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS**

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

Sec. 801. Requirements management certification training program.
Sec. 802. Additional requirements relating to technical data rights.
Sec. 803. Study and report on revisions to Selected Acquisition Report requirements.
Sec. 804. Biannual updates on implementation of acquisition reform in the Department of Defense.
Sec. 805. Additional certification requirements for major defense acquisition programs before proceeding to Milestone B.
Sec. 806. Original baseline estimate for major defense acquisition programs.
Sec. 807. Lead system integrators.

Subtitle B—Acquisition Policy and Management

Sec. 811. Time-certain development for Department of Defense information technology business systems.
Sec. 812. Pilot program on time-certain development in acquisition of major weapon systems.

Sec. 813. Establishment of Panel on Contracting Integrity.
Sec. 814. Linking of award and incentive fees to acquisition outcomes.
Sec. 815. Report on defense instruction relating to contractor personnel authorized to accompany Armed Forces.
Sec. 816. Major automated information system programs.
Sec. 817. Internal controls for procurements on behalf of the Department of Defense by certain non-defense agencies.
Sec. 818. Determination of contract type for development programs.
Sec. 819. Three-year extension of requirement for reports on commercial price trend analyses of the Department of Defense.
Sec. 820. Government performance of critical acquisition functions.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 831. One-year extension of special temporary contract closeout authority.
Sec. 832. Limitation on contracts for the acquisition of certain services.
Sec. 833. Use of Federal supply schedules by State and local governments for goods and services for recovery from natural disasters, terrorism, or nuclear, biological, chemical, or radiological attack.
Sec. 834. Waivers to extend task order contracts for advisory and assistance services.

Subtitle D—United States Defense Industrial Base Provisions

Sec. 841. Assessment and annual report of United States defense industrial base capabilities and acquisitions of articles, materials, and supplies manufactured outside the United States.
Sec. 842. Protection of strategic materials critical to national security.
Sec. 843. Strategic Materials Protection Board.

Subtitle E—Other Matters

Sec. 851. Report on former Department of Defense officials employed by contractors of the Department of Defense.
Sec. 852. Report and regulations on excessive pass-through charges.
Sec. 853. Program manager empowerment and accountability.
Sec. 854. Joint policies on requirements definition, contingency program management, and contingency contracting.
Sec. 855. Clarification of authority to carry out certain prototype projects.
Sec. 856. Contracting with employers of persons with disabilities.
Sec. 857. Enhanced access for small business.
Sec. 858. Procurement goal for Hispanic-serving institutions.

**TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT**

Subtitle A—Department of Defense Management

Sec. 901. Increase in authorized number of Assistant Secretaries of Defense.
Sec. 902. Modifications to the Combatant Commander Initiative Fund.
Sec. 903. Addition to membership of specified council.
Sec. 904. Consolidation and standardization of authorities relating to Department of Defense Regional Centers for Security Studies.
Sec. 905. Oversight by Office of Under Secretary of Defense for Acquisition, Technology, and Logistics of exercise of acquisition authority by combatant commanders and heads of Defense Agencies.
Sec. 906. Standardization of statutory references to "national security system" within laws applicable to Department of Defense.
Sec. 907. Correction of reference to predecessor of Defense Information Systems Agency.

Subtitle B—Space Activities

Sec. 911. Designation of successor organizations for the disestablished Interagency Global Positioning Executive Board.
Sec. 912. Extension of authority for pilot program for provision of space surveillance network services to non-United States Government entities.
Sec. 913. Operationally responsive space.
Sec. 914. Independent review and assessment of Department of Defense organization and management for national security in space.

Subtitle C—Chemical Demilitarization Program

Sec. 921. Sense of Congress on completion of destruction of United States chemical weapons stockpile.

Sec. 922. Comptroller General review of cost-benefit analysis of off-site versus on-site treatment and disposal of hydrolysate derived from neutralization of VX nerve gas at Newport Chemical Depot, Indiana.
Sec. 923. Incentives clauses in chemical demilitarization contracts.
Sec. 924. Chemical demilitarization program contracting authority.

Subtitle D—Intelligence-Related Matters

Sec. 931. Four-year extension of authority of Secretary of Defense to engage in commercial activities as security for intelligence collection activities.
Sec. 932. Annual reports on intelligence oversight activities of the Department of Defense.
Sec. 933. Collection by National Security Agency of service charges for certification or validation of information assurance products.

Subtitle E—Other Matters

Sec. 941. Department of Defense policy on unmanned systems.
Sec. 942. Executive Schedule level IV for Deputy Under Secretary of Defense for Logistics and Materiel Readiness.
Sec. 943. Study and report on reform of Defense Travel System.
Sec. 944. Administration of pilot project on Civilian Linguist Reserve Corps.
Sec. 945. Improvement of authorities on the National Security Education Program.
Sec. 946. Report on the posture of United States Special Operations Command to conduct the global war on terrorism.

**TITLE X—GENERAL PROVISIONS**

Subtitle A—Financial Matters

Sec. 1001. General transfer authority.
Sec. 1002. Authorization of additional emergency supplemental appropriations for fiscal year 2006.
Sec. 1003. Reduction in certain authorizations due to savings relating to lower inflation.
Sec. 1004. Increase in fiscal year 2006 general transfer authority.
Sec. 1005. United States contribution to NATO common-funded budgets in fiscal year 2007.
Sec. 1006. Report on budgeting for fluctuations in fuel cost rates.
Sec. 1007. Modification of date of submittal of OMB/CBO report on scoring of outlays.
Sec. 1008. Budgeting for ongoing military operations in Afghanistan and Iraq.

Subtitle B—Policy Relating to Vessels and Shipyards

Sec. 1011. Aircraft carrier force structure.
Sec. 1012. Sense of Congress on naming the CVN–78 aircraft carrier as the U.S.S. Gerald R. Ford.
Sec. 1013. Transfer of naval vessels to foreign nations based upon vessel class.
Sec. 1014. Overhaul, repair, and maintenance of vessels in foreign shipyards.
Sec. 1015. Report on options for future lease arrangement for Guam Shipyard.
Sec. 1016. Assessments of naval vessel construction efficiencies and of effectiveness of special contractor incentives.
Sec. 1017. Obtaining carriage by vessel: criterion regarding overhaul, repair, and maintenance of vessels in the United States.
Sec. 1018. Riding gang member requirements.
Sec. 1019. Authority to transfer SS Arthur M. Huddell to the Government of Greece.

Subtitle C—Counter-Drug Activities

Sec. 1021. Extension of authority of Department of Defense to provide additional support for counterdrug activities of other governmental agencies.
Sec. 1022. Extension and expansion of Department of Defense authority to provide support for counter-drug activities of certain foreign governments.
Sec. 1023. Extension of authority to support unified counterdrug and counterterrorism campaign in Colombia.
Sec. 1024. Continuation of reporting requirement regarding Department of Defense expenditures to support foreign counterdrug activities.
Sec. 1025. Report on interagency counter-narcotics plan for Afghanistan and South and Central Asian regions.
Sec. 1026. Report on United States support for Operation Bahamas, Turks & Caicos.

Subtitle D—Force Structure and Defense Policy Matters

Sec. 1031. Improvements to Quadrennial Defense Review.

Sec. 1032. Quarterly reports on implementation of 2006 Quadrennial Defense Review Report.
Sec. 1033. Report on feasibility of establishing a regional combatant command for Africa.
Sec. 1034. Determination of Department of Defense intratheater and intertheater airlift requirements and sealift mobility requirements.
Sec. 1035. Presidential report on improving interagency support for United States 21st century national security missions and interagency operations in support of stability, security, transition, and reconstruction operations.

Subtitle E—Reports

Sec. 1041. Additional element in annual report on chemical and biological warfare defense.
Sec. 1042. Report on biodefense human capital requirements in support of biosafety laboratories.
Sec. 1043. Report on technologies for neutralizing or defeating threats to military rotary-wing aircraft from portable air defense systems and rocket-propelled grenades.
Sec. 1044. Reports on expanded use of unmanned aerial vehicles in the National Airspace System.
Sec. 1045. Report on incentives to encourage certain members and former members of the Armed Forces to serve in the Bureau of Customs and Border Protection.
Sec. 1046. Repeal of certain report requirements.
Sec. 1047. Requirement for identification of recently enacted recurring reporting requirements applicable to the Department of Defense.

Subtitle F—Miscellaneous Authorities and Limitations on Availability and Use of Funds

Sec. 1051. Acceptance and retention of reimbursement from non-Federal sources to defray Department of Defense costs of conferences.
Sec. 1052. Increased flexibility in use of funds for Joint Staff exercises.
Sec. 1053. Prohibition on parking of funds.
Sec. 1054. Modification of authorities relating to the Special Inspector General for Iraq Reconstruction.

Subtitle G—Matters Involving Detainees

Sec. 1061. Provision of information to Congress on certain criminal investigations and prosecutions involving detainees.

Subtitle H—Other Matters

Sec. 1071. Technical and clerical amendments.
Sec. 1072. Revision to authorities relating to Commission on the Implementation of the New Strategic Posture of the United States.
Sec. 1073. Revised deadline for submission of final report of EMP Commission.
Sec. 1074. Extension of returning worker exemption to H–2B numerical limitation.
Sec. 1075. Patent term extensions for the badges of the American Legion, the American Legion Women's Auxiliary, and the Sons of the American Legion.
Sec. 1076. Use of the Armed Forces in major public emergencies.
Sec. 1077. Increased hunting and fishing opportunities for members of the Armed Forces, retired members, and disabled veterans.

**TITLE XI—CIVILIAN PERSONNEL MATTERS**

Sec. 1101. Accrual of annual leave for members of the uniformed services performing dual employment.
Sec. 1102. Strategy for improving the senior management, functional, and technical workforce of the Department of Defense.
Sec. 1103. Three-year extension of authority for experimental personnel management program for scientific and technical personnel.
Sec. 1104. Reports on members of the Armed Forces and civilian employees of the Department of Defense serving in the legislative branch.
Sec. 1105. Extension of authority to waive annual limitation on total compensation paid to Federal civilian employees.

**TITLE XII—MATTERS RELATING TO FOREIGN NATIONS**

Subtitle A—Assistance and Training

Sec. 1201. Logistic support for allied forces participating in combined operations.
Sec. 1202. Temporary authority to use acquisition and cross-servicing agreements to lend certain military equipment to foreign forces in Iraq and Afghanistan for personnel protection and survivability.

Sec. 1203. Recodification and revision to law relating to Department of Defense humanitarian demining assistance.
Sec. 1204. Enhancements to Regional Defense Combating Terrorism Fellowship Program.
Sec. 1205. Participation of the Department of Defense in multinational military centers of excellence.
Sec. 1206. Modification and extension of authorities relating to program to build the capacity of foreign military forces.
Sec. 1207. Authority for distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability.

Subtitle B—Nonproliferation Matters and Countries of Concern

Sec. 1211. North Korea.
Sec. 1212. Report on participation of multinational partners in the United Nations Command in the Republic of Korea.
Sec. 1213. Intelligence on Iran.
Sec. 1214. Sense of Congress on United States policy on the nuclear programs of Iran.

Subtitle C—Other Matters

Sec. 1221. Exclusion of petroleum, oil, and lubricants from limitations on annual amount of liabilities the United States may accrue under acquisition and cross-servicing agreements.
Sec. 1222. Modification of limitations on assistance under the American Servicemembers' Protection Act of 2002.
Sec. 1223. Humanitarian support for Iraqi children in urgent need of medical care.
Sec. 1224. Sense of Congress opposing the granting of amnesty by the government of Iraq to persons known to have attacked, killed, or wounded members of the United States Armed Forces in Iraq.
Sec. 1225. Annual reports on United States contributions to the United Nations.
Sec. 1226. Comprehensive regional strategy and annual reports on Somalia.
Sec. 1227. Report on the implementation of the Darfur Peace Agreement.
Sec. 1228. Sense of Congress concerning cooperation with Russia on issues pertaining to missile defense.
Sec. 1229. Sense of Congress calling for convening of a summit for a comprehensive political agreement for Iraq.
Sec. 1230. Sense of Congress on the commendable actions of the Armed Forces in Iraq.
Sec. 1231. Annual report on foreign sales of significant military equipment manufactured in the United States.

**TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION**

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Extension of temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
Sec. 1304. National Academy of Sciences study of prevention of proliferation of biological weapons.

**TITLE XIV—MATTERS RELATED TO DEFENSE AGAINST TERRORISM AND RELATED SECURITY MATTERS**

Sec. 1401. Enhancement to authority to pay rewards for assistance in combating terrorism.
Sec. 1402. Quarterly reports on Department of Defense response to threat posed by improvised explosive devices.
Sec. 1403. Requirement that all military wheeled vehicles used in Iraq and Afghanistan outside of secure military operating bases be protected by Improvised Explosive Device (IED) jammers.
Sec. 1404. Report on assessment process of Chairman of the Joint Chiefs of Staff relating to Global War on Terrorism.
Sec. 1405. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel.
Sec. 1406. Database of emergency response capabilities.

**TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM**

Sec. 1501. Purpose.
Sec. 1502. Army procurement.

Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Air Force procurement.
Sec. 1505. Defense-wide activities procurement.
Sec. 1506. Research, development, test and evaluation.
Sec. 1507. Operation and maintenance.
Sec. 1508. Defense Health Program.
Sec. 1509. Classified programs.
Sec. 1510. Military personnel.
Sec. 1511. Treatment as additional authorizations.
Sec. 1512. Transfer authority.
Sec. 1513. Availability of funds.
Sec. 1514. Joint Improvised Explosive Device Defeat Fund.
Sec. 1515. Iraq Freedom Fund.
Sec. 1516. Iraq Security Forces Fund.
Sec. 1517. Afghanistan Security Forces Fund.
Sec. 1518. Submittal to Congress of Department of Defense supplemental and cost of war execution reports.
Sec. 1519. Limitation on availability of funds for certain purposes relating to Iraq.
Sec. 1520. Intelligence Community Management Account.

**DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**

Sec. 2001. Short title.
Sec. 2002. Recognition of Representative Joel Hefley upon his retirement from the House of Representatives.

**TITLE XXI—ARMY**

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.

**TITLE XXII—NAVY**

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2004, 2005, and 2006 projects.

**TITLE XXIII—AIR FORCE**

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Modification of authority to carry out certain fiscal year 2006 project.

**TITLE XXIV—DEFENSE AGENCIES**

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorized base closure and realignment activities funded through Department of Defense Base Closure Account 2005.
Sec. 2405. Authorization of appropriations, Defense Agencies.
Sec. 2406. Modification of authority to carry out certain fiscal year 2006 project.

**TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM**

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

**TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

**TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS**

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2004 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 2003 projects.

Sec. 2704. Effective date.

**TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS**

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Increase in maximum annual amount authorized to be obligated for emergency military construction.
Sec. 2802. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
Sec. 2803. Repeal of requirement to determine availability of suitable alternative housing for acquisition in lieu of construction of new family housing.
Sec. 2804. Authority to continue to occupy leased family housing for United States Southern Command personnel.
Sec. 2805. Consideration of alternative and more efficient uses for general officer and flag officer quarters in excess of 6,000 square feet.
Sec. 2806. Modification of notification requirements related to cost variation authority.
Sec. 2807. Consideration of local comparability of floor areas in construction, acquisition, and improvement of military unaccompanied housing.
Sec. 2808. Certification required for military construction projects for facilities designed to provide training in urban operations.
Sec. 2809. Authority to carry out military construction projects in connection with industrial facility investment program.
Sec. 2810. Repeal of special requirement for military construction contracts on Guam.
Sec. 2811. Temporary expansion of authority to convey property at military installations to support military construction.
Sec. 2812. Pilot projects for acquisition or construction of military unaccompanied housing.

Subtitle B—Real Property and Facilities Administration

Sec. 2821. Congressional notice requirements, in advance of acquisition of land by condemnation for military purposes.
Sec. 2822. Consolidation of Department of Defense authorities regarding granting of easements for rights-of-way.
Sec. 2823. Authority to grant restrictive easements for conservation purposes in connection with land conveyances.
Sec. 2824. Maximum term of leases for structures and real property relating to structures in foreign countries needed for purposes other than family housing.
Sec. 2825. Consolidation of laws relating to transfer of Department of Defense real property within the Department of Defense and to other Federal agencies.
Sec. 2826. Defense access road program.
Sec. 2827. Reports on Army operational ranges.

Subtitle C—Base Closure and Realignment

Sec. 2831. Modification of deposit requirements in connection with lease proceeds received at military installations approved for closure or realignment after January 1, 2005.
Sec. 2832. Report on Air Force and Air National Guard bases affected by 2005 round of defense base closure and realignment.

Subtitle D—Land Conveyances

Sec. 2841. Conveyance of easement, Pine Bluff Arsenal, Arkansas.
Sec. 2842. Modification of land transfer authority, Potomac Annex, District of Columbia.
Sec. 2843. Land conveyance, Naval Air Station, Barbers Point, Hawaii.
Sec. 2844. Land conveyances, Omaha, Nebraska.
Sec. 2845. Land conveyance, Hopkinton, New Hampshire.
Sec. 2846. Land conveyance, North Hills Army Reserve Center, Allison Park, Pennsylvania.
Sec. 2847. Transfer of jurisdiction, Fort Jackson, South Carolina.
Sec. 2848. Sense of Congress regarding land conveyance involving Army Reserve Center, Marshall, Texas.
Sec. 2849. Modifications to land conveyance authority, Engineering Proving Ground, Fort Belvoir, Virginia.
Sec. 2850. Land conveyance, Radford Army Ammunition Plant, New River Unit, Virginia.

Subtitle E—Energy Security

Sec. 2851. Consolidation and enhancement of laws to improve Department of Defense energy efficiency and conservation.

Sec. 2852. Department of Defense goal regarding use of renewable energy to meet electricity needs.
Sec. 2853. Congressional notification of cancellation ceiling for Department of Defense energy savings performance contracts.
Sec. 2854. Use of energy efficiency products in new construction.

Subtitle F—Other Matters

Sec. 2861. Availability of research and technical assistance under Defense Economic Adjustment Program.
Sec. 2862. Availability of community planning assistance relating to encroachment of civilian communities on military facilities used for training by the Armed Forces.
Sec. 2863. Prohibitions against making certain military airfields or facilities available for use by civil aircraft.
Sec. 2864. Modification of certain transportation projects.
Sec. 2865. Availability of funds for South County Commuter Rail project, Providence, Rhode Island.
Sec. 2866. Fox Point Hurricane Barrier, Providence, Rhode Island.
Sec. 2867. Federal funding for fixed guideway projects.
Sec. 2868. Feasibility study regarding use of General Services Administration property for Fort Belvoir, Virginia, realignment.

**DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Plan for transformation of National Nuclear Security Administration nuclear weapons complex.
Sec. 3112. Extension of Facilities and Infrastructure Recapitalization Program.
Sec. 3113. Utilization of contributions to Global Threat Reduction Initiative.
Sec. 3114. Utilization of contributions to Second Line of Defense program.
Sec. 3115. Two-year extension of authority for appointment of certain scientific, engineering, and technical personnel.
Sec. 3116. National Academy of Sciences study of quantification of margins and uncertainty methodology for assessing and certifying the safety and reliability of the nuclear stockpile.
Sec. 3117. Consolidation of counterintelligence programs of Department of Energy and National Nuclear Security Administration.
Sec. 3118. Notice-and-wait requirement applicable to certain third-party financing arrangements.
Sec. 3119. Extension of deadline for transfer of lands to Los Alamos County, New Mexico, and of lands in trust for the Pueblo of San Ildefonso.
Sec. 3120. Limitations on availability of funds for Waste Treatment and Immobilization Plant.
Sec. 3121. Report on Russian Surplus Fissile Materials Disposition Program.
Sec. 3122. Limitation on availability of funds for construction of MOX Fuel Fabrication Facility.
Sec. 3123. Education of future nuclear engineers.
Sec. 3124. Technical correction related to authorization of appropriations for fiscal year 2006.

**TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

**TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

**TITLE XXXIV—NAVAL PETROLEUM RESERVES**

Sec. 3401. Authorization of appropriations

**TITLE XXXV—MARITIME ADMINISTRATION**

Sec. 3501. Authorization of appropriations for fiscal year 2007.
Sec. 3502. Amendments relating to the Maritime Security Fleet program.
Sec. 3503. Applicability to certain Maritime Administration vessels of limitations on overhaul, repair, and maintenance of vessels in foreign shipyards.
Sec. 3504. Vessel transfer authority.
Sec. 3505. United States Merchant Marine Academy graduates: service requirements.
Sec. 3506. United States Merchant Marine Academy graduates: service obligation performance reporting requirement.
Sec. 3507. Temporary authority to transfer obsolete combatant vessels to Navy for disposal.
Sec. 3508. Qualifying Reserve duty for receipt of student incentive payments.
Sec. 3509. Large passenger ship crew requirements.
Sec. 3510. Miscellaneous Maritime Administration provisions.

10 USC 101 note.

**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

# DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

# TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

101. Army.
102. Navy and Marine Corps.
103. Air Force.
104. Defense-wide activities.

Subtitle B—Army Programs

111. Sense of Congress on future multiyear procurement authority for Family of Medium Tactical Vehicles.
112. Multiyear procurement authority for MH–60R helicopters and mission equipment.
113. Funding profile for Modular Force Initiative of the Army.
114. Bridge to Future Networks program.
115. Comptroller General report on the contract for the Future Combat Systems program.
116. Priority for allocation of replacement equipment to operational units based on combat mission deployment schedule.

Subtitle C—Navy Programs

121. CVN–21 class aircraft carrier procurement.
122. Adherence to Navy cost estimates for CVN–21 class of aircraft carriers.
123. Modification of limitation on total cost of procurement of CVN–77 aircraft carrier.
124. Construction of first two vessels under the DDG–1000 Next-Generation Destroyer program.
125. Adherence to Navy cost estimates for LHA Replacement amphibious assault ship program.
126. Cost limitation for San Antonio (LPD–17) class amphibious ship program.
127. Multiyear procurement authority for V–22 tiltrotor aircraft program.
128. Alternative technologies for future surface combatants.
129. Sense of Congress regarding the size of the attack submarine force.
130. Quality control in procurement of ship critical safety items and related services.

Subtitle D—Air Force Programs

131. Bomber force structure.
132. Strategic airlift force structure.
133. Limitation on retirement of U–2 aircraft.
134. Multiyear procurement authority for F–22A Raptor fighter aircraft.

135. Limitation on retirement of KC–135E aircraft during fiscal year 2007.
136. Limitation on retirement of F–117A aircraft during fiscal year 2007.
137. Limitation on retirement of C–130E tactical airlift aircraft.
138. Procurement of Joint Primary Aircraft Training System aircraft after fiscal year 2006.
139. Minuteman III intercontinental ballistic missile modernization.

Subtitle E—Joint and Multiservice Matters

141. Clarification of limitation on initiation of new unmanned aerial vehicle systems.

# Subtitle A—Authorization of Appropriations

**SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Army as follows:

(1) For aircraft, $3,451,429,000.

(2) For missiles, $1,328,859,000.

(3) For weapons and tracked combat vehicles, $2,278,604,000.

(4) For ammunition, $1,984,325,000.

(5) For other procurement, $7,687,502,000.

(6) For National Guard Equipment, $318,000,000.

**SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Navy as follows:

(1) For aircraft, $10,734,071,000.

(2) For weapons, including missiles and torpedoes, $2,549,020,000.

(3) For shipbuilding and conversion, $11,021,553,000.

(4) For other procurement, $4,995,033,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Marine Corps in the amount of $1,253,813,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement of ammunition for the Navy and the Marine Corps in the amount of $797,943,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Air Force as follows:

(1) For aircraft, $12,179,154,000.

(2) For ammunition, $1,072,749,000.

(3) For missiles, $4,171,886,000.

(4) For other procurement, $15,443,286,000.

**SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for Defense-wide procurement in the amount of $2,886,361,000.

## Subtitle B—Army Programs

**SEC. 111. SENSE OF CONGRESS ON FUTURE MULTIYEAR PROCUREMENT AUTHORITY FOR FAMILY OF MEDIUM TACTICAL VEHICLES.**

(a) FUTURE ACQUISITION STRATEGY.—It is the sense of Congress that, as part of the Army's planning, programming, and budgeting process for fiscal year 2008, the Secretary of the Army should request from Congress authority by law to enter into a multiyear procurement (MYP) contract for the Family of Medium Tactical Vehicles (FMTV) program and that, in support of such request, the Secretary should submit to Congress the necessary justification materials required by law to justify a multiyear procurement (MYP) contract, including the material required by section 2306b of title 10, United States Code.

(b) INCORPORATION OF PRODUCT IMPROVEMENTS.—It is the sense of Congress that any proposal by the Secretary of the Army for multiyear procurement authority for procurement of vehicles under the Family of Medium Tactical Vehicles program should provide for incorporation into the vehicles to be procured through such authority of improvements from—

(1) lessons learned from operations involving the Global War on Terrorism; and

(2) product improvement programs carried out for the Family of Medium Tactical Vehicles program in the areas of force protection, survivability, reliability, network communications, situational awareness, and safety.

**SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR MH–60R HELICOPTERS AND MISSION EQUIPMENT.**

(a) MH–60R HELICOPTER.—Subject to subsection (c), the Secretary of the Army, acting as executive agent for the Department of the Navy, may enter into a multiyear contract for the procurement of MH–60R helicopters.

(b) MH–60R HELICOPTER MISSION EQUIPMENT.—Subject to subsection (c), the Secretary of the Navy may enter into a multiyear contract for the procurement of MH–60R helicopter mission equipment for the helicopters covered by a multiyear contract under subsection (a).

(c) CONTRACT REQUIREMENTS.—Any multiyear contract under this section—

(1) shall be entered into in accordance with section 2306b of title 10, United States Code, and shall commence with the fiscal year 2007 program year; and

(2) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose.

**SEC. 113. FUNDING PROFILE FOR MODULAR FORCE INITIATIVE OF THE ARMY.**

The Secretary of the Army shall set forth in the budget presentation materials of the Army submitted to Congress in support of the President's budget for any fiscal year after fiscal year 2007, and in other relevant materials submitted to Congress with respect to the budget of the Army for any such fiscal year, all amounts for procurement for the M1A2 Abrams tank System Enhancement Program (SEP) and for the Bradley A3 fighting vehicle as elements

within the amounts requested for the Modular Force Initiative of the Army, in accordance with the report of the Army titled "The Army Modular Force Initiative", submitted to Congress in March 2006.

**SEC. 114. BRIDGE TO FUTURE NETWORKS PROGRAM.**

Reports.

(a) LIMITATION ON FISCAL YEAR 2007 AMOUNT.—Of the amount authorized to be appropriated for the Army for fiscal year 2007 for Other Procurement, Army, that is available for the program of the Army designated as the Bridge to Future Networks, not more than 75 percent shall be made available for obligation until the Secretary of the Army submits to the congressional defense committees a report on that program that includes the matters specified in subsection (b).

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An analysis of how the systems specified in subsection (c) will fit together, including, for each such system, an analysis of whether there are opportunities to leverage technologies and equipment from that system as part of the development of the other systems.

(2) A description of the extent to which components of the systems specified in subsection (c) could be used together as elements of a single tactical network.

(3) A description of the strategy of the Army for completing the systems engineering necessary to ensure the end-to-end interoperability of a single tactical network referred to in paragraph (2).

(4) An assessment of the costs of acquiring each of the systems specified in subsection (c).

(5) An assessment of the technical compatibility of the systems specified in subsection (c).

(6) A description of the plans of the Army for fielding the systems specified in subsection (c).

(7) A description of the plans of the Army for sustaining the Joint Network Node through fiscal year 2020 and an assessment of the need to upgrade its technologies and equipment.

(8) A description of the plans of the Army for the insertion of new technology into the Joint Network Node.

(c) SPECIFIED SYSTEMS.—The systems referred to in subsection (b) are as follows:

(1) The Joint Network Node (JNN) element of the Bridge to Future Networks program.

(2) The Warfighter Information Network-Tactical (WIN-T) program.

(3) The Mounted Battle Command On-the-Move (MBCOTM) system.

**SEC. 115. COMPTROLLER GENERAL REPORT ON THE CONTRACT FOR THE FUTURE COMBAT SYSTEMS PROGRAM.**

(a) REPORT REQUIRED.—Not later than March 15, 2007, the Comptroller General of the United States shall submit to the congressional defense committees a report on the participation and activities of the lead systems integrator in the Future Combat Systems (FCS) program under the contract of the Army for the Future Combat Systems.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the responsibilities of the lead systems integrator in managing the Future Combat Systems program under the contract for the Future Combat Systems, and an assessment of the manner in which such responsibilities differ from the typical responsibilities of a lead systems integrator under acquisition contracts of the Department of Defense.

(2) A description and assessment of the responsibilities of the Army in managing the Future Combat Systems program, including oversight of the activities of the lead systems integrator and the decisions made by the lead systems integrator.

(3) An assessment of the manner in which the Army—

(A) ensures that the lead systems integrator meets goals for the Future Combat Systems in a timely manner; and

(B) evaluates the extent to which such goals are met.

(4) An identification of the mechanisms in place to ensure the protection of the interests of the United States in the Future Combat Systems program.

(5) An identification of the mechanisms in place to mitigate organizational conflicts of interest with respect to competition on Future Combat Systems technologies and equipment under subcontracts under the Future Combat Systems program.

**SEC. 116. PRIORITY FOR ALLOCATION OF REPLACEMENT EQUIPMENT TO OPERATIONAL UNITS BASED ON COMBAT MISSION DEPLOYMENT SCHEDULE.**

The Secretary of Defense shall ensure that priority for the distribution of new and combat-serviceable replacement equipment acquired using funds authorized to be appropriated by this title (together with associated support and test equipment) is given to operational units (regardless of component) based on combat mission deployment schedule.

## Subtitle C—Navy Programs

**SEC. 121. CVN–21 CLASS AIRCRAFT CARRIER PROCUREMENT.**

(a) CONTRACT AUTHORITY FOR CONSTRUCTION.—In the fiscal year immediately following the last fiscal year of the contract for advance procurement for a CVN–21 class aircraft carrier designated CVN–78, CVN–79, or CVN–80, as applicable, the Secretary may enter into a contract for the construction of such aircraft carrier to be funded in the fiscal year of such contract for construction and the succeeding three fiscal years.

(b) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for any subsequent fiscal year is subject to the availability of appropriations for that purpose for such subsequent fiscal year.

(c) REPEAL OF SUPERCEDED PROVISION.—Section 128 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3159) is repealed.

**SEC. 122. ADHERENCE TO NAVY COST ESTIMATES FOR CVN–21 CLASS OF AIRCRAFT CARRIERS.**

(a) LIMITATION.—

(1) LEAD SHIP.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for the aircraft carrier designated as CVN–21 may not exceed $10,500,000,000 (as adjusted pursuant to subsection (b)).

(2) FOLLOW-ON SHIPS.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for the construction of any ship that is constructed in the CVN–21 class of aircraft carriers after the lead ship of that class may not exceed $8,100,000,000 (as adjusted pursuant to subsection (b)).

(b) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any ship constructed in the CVN–21 class of aircraft carriers by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2006.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2006.

(3) The amounts of outfitting costs and post-delivery costs incurred for that ship.

(4) The amounts of increases or decreases in costs of that ship that are attributable to insertion of new technology into that ship, as compared to the technology baseline as it was defined in the approved acquisition program baseline estimate of December 2005.

(5) The amounts of increases or decreases to nonrecurring design and engineering cost attributable to achieving compliance with the cost limitation.

(6) The amounts of increases or decreases to cost required to correct deficiencies that may affect the safety of the ship and personnel or otherwise preclude the ship from safe operations and crew certification.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for a ship referred to in that subsection with respect to insertion of new technology into that ship only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the ship; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) WRITTEN NOTICE OF CHANGE IN AMOUNT.—

(1) REQUIREMENT.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has

determined to be associated with a cost referred to in subsection (b).

(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the first ship referred to in subsection (a).

**SEC. 123. MODIFICATION OF LIMITATION ON TOTAL COST OF PROCUREMENT OF CVN–77 AIRCRAFT CARRIER.**

Section 122(f)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1650) is amended by striking "$4,600,000,000 (such amount being the estimated cost for the procurement of the CVN–77 aircraft carrier in the March 1997 procurement plan)" and inserting "$6,057,000,000".

**SEC. 124. CONSTRUCTION OF FIRST TWO VESSELS UNDER THE DDG–1000 NEXT-GENERATION DESTROYER PROGRAM.**

(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2007 for Shipbuilding and Conversion, Navy, $2,568,000,000 may be available for the construction of the first two vessels under the DDG–1000 Next-Generation Destroyer program.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Navy may enter into a contract beginning with the fiscal year 2007 program year for procurement of each of the first two vessels under the DDG–1000 Next-Generation Destroyer program.

(2) LIMITATION.—Not more than one contract described in paragraph (1) may be awarded under that paragraph to a single shipyard.

(3) SPLIT FUNDING AUTHORIZED.—Each contract under paragraph (1) shall contemplate funding for the procurement of a vessel under such contract using a combination of funds appropriated for fiscal year 2007 and funds appropriated for fiscal year 2008.

(4) CONDITION ON OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under such contract for any fiscal year after fiscal year 2007 is subject to the availability of appropriations for that purpose for such fiscal year.

(c) SENSE OF CONGRESS ON FUNDING FOR FOLLOW-ON SHIPS.—It is the sense of Congress that there is sufficient benefit to authorizing the one-time exception provided in this section to the full funding policy in order to support the competitive procurement of the follow-on ships of the DDG–1000 Next-Generation Destroyer program. However, it is the expectation of Congress that the Secretary of the Navy will structure the DDG–1000 program so that each ship, after the first two ships, is procured using the method of full funding in a single year.

**SEC. 125. ADHERENCE TO NAVY COST ESTIMATES FOR LHA REPLACEMENT AMPHIBIOUS ASSAULT SHIP PROGRAM.**

(a) LIMITATION.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for procurement of any ship that is constructed under the LHA Replacement (LHA(R)) amphibious assault ship program may not exceed $2,813,600,000 (as adjusted pursuant to subsection (b)).

(b) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any ship constructed under the LHA Replacement amphibious assault ship program by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2006.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2006.

(3) The amounts of outfitting costs and post-delivery costs incurred for that ship.

(4) The amounts of increases or decreases in costs of that ship that are attributable to insertion of new technology into that ship, as compared to the technology baseline as it was defined at the development stage referred to as Milestone B.

(5) The amounts of increases or decreases to nonrecurring design and engineering cost attributable to achieving compliance with the cost limitation.

(6) The amounts of increases or decreases to cost required to correct deficiencies that may affect the safety of the ship and personnel or otherwise preclude the ship from safe operations and crew certification.

(7) Contract cost adjustments directly attributed to the effect of Hurricane Katrina in August 2005 or other force majeure contract modifications.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for a ship referred to in that subsection with respect to insertion of new technology into that ship only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the ship; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) WRITTEN NOTICE OF CHANGE IN AMOUNT.—

(1) REQUIREMENT.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the first ship referred to in subsection (a).

**SEC. 126. COST LIMITATION FOR SAN ANTONIO (LPD–17) CLASS AMPHIBIOUS SHIP PROGRAM.**

(a) LIMITATION.—

(1) PROCUREMENT COST.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, for the San Antonio-

class amphibious ships designated as LPD–22, LPD–23, LPD–24, and LPD–25 may not exceed the amount for each such vessel specified in paragraph (2).

(2) SPECIFIED COST LIMIT BY VESSEL.—The limitation under this subsection for each vessel specified in paragraph (1) is the following:

(A) For the LPD–22 ship, $1,523,000,000 (as adjusted pursuant to subsection (b)).

(B) For the LPD–23 ship, $1,477,000,000 (as adjusted pursuant to subsection (b)).

(C) For the LPD–24 ship, $1,633,000,000 (as adjusted pursuant to subsection (b)).

(D) For the LPD–25 ship, $1,927,000,000 (as adjusted pursuant to subsection (b)).

(b) ADJUSTMENT OF LIMITATION AMOUNTS.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any ship specified in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2006.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2006.

(3) The amounts of outfitting costs and post-delivery costs incurred for that ship.

(4) The amounts of increases or decreases in costs of that ship that are attributable to insertion of new technology into that ship, as compared to the technology built into the U.S.S. San Antonio (LPD–17), the lead ship of the LPD–17 class.

(5) Contract cost adjustments directly attributed to the effect of Hurricane Katrina in August 2005 or other force majeure contract modifications.

(6) The amounts of closeout costs associated with completion of the LPD–17 class program.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for any LPD–17 class ship with respect to insertion of new technology into that ship only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the ship; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) WRITTEN NOTICE OF CHANGE IN AMOUNT.—

(1) REQUIREMENT.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the first ship referred to in subsection (a).

**SEC. 127. MULTIYEAR PROCUREMENT AUTHORITY FOR V–22 TILTROTOR AIRCRAFT PROGRAM.**

The Secretary of the Navy, in accordance with section 2306b of title 10, United States Code, and acting as executive agent for the Secretary of the Air Force and the commander of the United States Special Operations Command, may enter into a multiyear contract, beginning with the fiscal year 2008 program year, for procurement of V–22 tiltrotor aircraft.

**SEC. 128. ALTERNATIVE TECHNOLOGIES FOR FUTURE SURFACE COMBATANTS.**

10 USC 7291 note.

(a) FINDINGS.—Congress makes the following findings:

(1) Securing and maintaining access to affordable and plentiful sources of energy is a vital national security interest for the United States.

(2) The Nation's dependence upon foreign oil is a threat to national security due to the inherently volatile nature of the global oil market and the political instability of some of the world's largest oil producing states.

(3) Given the recent increase in the cost of crude oil, which cannot realistically be expected to improve over the long term, other energy sources must be seriously considered.

(4) Alternate propulsion sources such as nuclear power offer many advantages over conventional power for major surface combatant ships of the Navy, including—

(A) virtually unlimited high-speed endurance;

(B) elimination of vulnerable refueling; and

(C) reduction in the requirement for replenishment vessels and the need to protect those vessels.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Navy should make greater use of alternative technologies, including expanded application of integrated power systems, fuel cells, and nuclear power, for propulsion of future major surface combatant ships.

(c) REQUIREMENT.—The Secretary of the Navy shall include integrated power systems, fuel cells, and nuclear power as propulsion alternatives to be evaluated within the analysis of alternatives for future major surface combatant ships.

**SEC. 129. SENSE OF CONGRESS REGARDING THE SIZE OF THE ATTACK SUBMARINE FORCE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States Navy must be large enough, agile enough, and lethal enough to deter any threat and defeat any foe.

(2) The proliferation of modern nuclear and nonnuclear submarines in the navies of nations around the globe will make undersea superiority a more significant challenge in the future.

(3) The unique combination of firepower, stealth, sensors, and communications equipment contained in a modern attack submarine make the attack submarine a critical component of the Armed Forces of the United States.

(4) The report entitled "Report to Congress on Annual Long-Range Plan for Construction of Naval Vessels for fiscal year 2007", submitted to Congress by the Secretary of the Navy pursuant to section 231 of title 10, United States Code—

(A) identifies future naval force structure requirements indexed to Department of Defense fiscal year 2020 threat assessments and compliant with the Fiscal Year 2006 Quadrennial Defense Review and, with respect to the attack submarine force, identifies a need for the Navy to maintain a fleet of not less than 48 attack submarines; and

(B) projects that the attack submarine force will fall below 48 vessels between 2020 and 2032.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of the Navy should take all reasonable effort to accelerate the construction of Virginia Class submarines to maintain the attack submarine force structure at not less than 48 submarines and (if the number of attack submarines should fall below 48), to minimize the period the attack submarine force remains below 48 vessels.

10 USC 2302 note.

**SEC. 130. QUALITY CONTROL IN PROCUREMENT OF SHIP CRITICAL SAFETY ITEMS AND RELATED SERVICES.**

Regulations.

(a) QUALITY CONTROL POLICY.—The Secretary of Defense shall prescribe in regulations a quality control policy for the procurement of the following:

(1) Ship critical safety items.

(2) Modifications, repair, and overhaul of ship critical safety items.

(b) ELEMENTS.—The policy required under subsection (a) shall include requirements as follows:

(1) That the head of the design control activity for ship critical safety items establish processes to identify and manage the procurement, modification, repair, and overhaul of such items.

(2) That the head of the contracting activity for a ship critical safety item enter into a contract for the procurement, modification, repair, or overhaul of such item only with a source on a qualified manufacturers list or a source approved by the design control activity in accordance with section 2319 of title 10, United States Code (as amended by subsection (d)).

(3) That the ship critical safety items delivered, and the services performed with respect to such items, meet all technical and quality requirements specified by the design control activity.

(c) DEFINITIONS.—In this section, the terms "ship critical safety item" and "design control activity" have the meanings given such terms in subsection (g) of section 2319 of title 10, United States Code (as so amended).

(d) CONFORMING AMENDMENTS.—Section 2319 of title 10, United States Code, is amended—

(1) in subsection (c)(3), by inserting "or ship critical safety item" after "aviation critical safety item"; and

(2) in subsection (g)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'ship critical safety item' means any ship part, assembly, or support equipment containing a characteristic the failure, malfunction, or absence of which could cause a catastrophic or critical failure resulting in loss of or serious damage to the ship or unacceptable risk of personal injury or loss of life."; and

(C) in paragraph (3), as so redesignated—

(i) by inserting "or ship critical safety item" after "aviation critical safety item";

(ii) by inserting ", or the seaworthiness of a ship or ship equipment," after "equipment"; and

(iii) by striking "the item" and inserting "such item".

# Subtitle D—Air Force Programs

**SEC. 131. BOMBER FORCE STRUCTURE.**

(a) REQUIREMENT FOR B–52 FORCE STRUCTURE.—

(1) RETIREMENT LIMITATION.—During the B–52 retirement limitation period, the Secretary of the Air Force—

(A) may not retire more than 18 B–52 aircraft; and

(B) shall maintain not less than 44 such aircraft as combat-coded aircraft.

(2) B–52 RETIREMENT LIMITATION PERIOD.—For purposes of paragraph (1), the B–52 retirement limitation period is the period beginning on the date of the enactment of this Act and ending on the date that is the earlier of—

(A) January 1, 2018; and

(B) the date as of which a long-range strike replacement aircraft with equal or greater capability than the B–52H model aircraft has attained initial operational capability status.

(b) LIMITATION ON RETIREMENT PENDING REPORT ON BOMBER FORCE STRUCTURE.—

(1) LIMITATION.—No funds authorized to be appropriated for the Department of Defense may be obligated or expended for retiring any of the 93 B–52H bomber aircraft in service in the Air Force as of the date of the enactment of this Act until 45 days after the date on which the Secretary of the Air Force submits the report specified in paragraph (2).

(2) REPORT.—A report specified in this subsection is a report submitted by the Secretary of the Air Force to the Committees on Armed Services of the Senate and the House of Representatives on the amount and type of bomber force structure of the Air Force, including the matters specified in paragraph (4).

(3) AMOUNT AND TYPE OF BOMBER FORCE STRUCTURE DEFINED.—In this subsection, the term "amount and type of bomber force structure" means the number of each of the following types of aircraft that are required to carry out the national security strategy of the United States:

(A) B–2 bomber aircraft.

(B) B–52H bomber aircraft.

(C) B–1 bomber aircraft.

(4) MATTER TO BE INCLUDED.—A report under paragraph (2) shall include the following:

(A) The plan of the Secretary of the Air Force for the modernization of the B–52, B–1, and B–2 bomber aircraft fleets.

(B) The amount and type of bomber force structure for the conventional mission and strategic nuclear mission in executing two overlapping "swift defeat" campaigns.

(C) A justification of the cost and projected savings of any reductions to the B–52H bomber aircraft fleet as a result of the retirement of the B–52H bomber aircraft covered by the report.

(D) The life expectancy of each bomber aircraft to remain in the bomber force structure.

(E) The capabilities of the bomber force structure that would be replaced, augmented, or superseded by any new bomber aircraft.

(5) PREPARATION OF REPORT.—A report under paragraph (2) shall be prepared by the Institute for Defense Analyses and submitted to the Secretary of the Air Force for submittal by the Secretary in accordance with that paragraph.

**SEC. 132. STRATEGIC AIRLIFT FORCE STRUCTURE.**

Section 8062 of title 10, United States Code, is amended by adding at the end the following new subsection:

Effective date.

"(g)(1) Effective October 1, 2008, the Secretary of the Air Force shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 299 aircraft.

"(2) In this subsection:

"(A) The term 'strategic airlift aircraft' means an aircraft—

"(i) that has a cargo capacity of at least 150,000 pounds; and

"(ii) that is capable of transporting outsized cargo an unrefueled range of at least 2,400 nautical miles.

"(B) The term 'outsized cargo' means any single item of equipment that exceeds 1,090 inches in length, 117 inches in width, or 105 inches in height.".

**SEC. 133. LIMITATION ON RETIREMENT OF U–2 AIRCRAFT.**

(a) FISCAL YEAR 2007.—The Secretary of the Air Force may not retire any U–2 aircraft of the Air Force in fiscal year 2007.

(b) YEARS AFTER FISCAL YEAR 2007.—

(1) CERTIFICATION REQUIRED.—After fiscal year 2007, the Secretary of the Air Force may retire a U–2 aircraft only if the Secretary of Defense certifies to Congress that the intelligence, surveillance, and reconnaissance (ISR) capabilities provided by the U–2 aircraft no longer contribute to mitigating any gaps in intelligence, surveillance, and reconnaissance capabilities identified in the 2006 Quadrennial Defense Review.

(2) LIMITATIONS.—No action may be taken by the Department of Defense to retire (or to prepare to retire) any U–2 aircraft before a certification specified in paragraph (1) is submitted to Congress. If such a certification is submitted, no such action may be taken until after the end of the 60-day period beginning on the date on which the certification is submitted.

**SEC. 134. MULTIYEAR PROCUREMENT AUTHORITY FOR F–22A RAPTOR FIGHTER AIRCRAFT.**

(a) PROHIBITION ON USE OF INCREMENTAL FUNDING.—The Secretary of the Air Force may not use incremental funding for the procurement of F–22A aircraft.

(b) MULTIYEAR AUTHORITY.—The Secretary of the Air Force may enter into a multiyear contract for the procurement of up to 60 F–22A Raptor fighter aircraft beginning with the 2007 program year.

(c) COMPLIANCE WITH LAW APPLICABLE TO MULTIYEAR CONTRACTS.—A contract under subsection (b) for the procurement of F–22A aircraft shall be entered into in accordance with section 2306b of title 10, United States Code, except that, notwithstanding subsection (k) of that section, such a contract may not be for a period in excess of three program years.

(d) SECRETARY OF DEFENSE CERTIFICATION.—In the case of a contract under subsection (b) for the procurement of F–22A aircraft, a certification under subsection (i)(1)(A) of section 2306b of title 10, United States Code, with respect to that contract may only be submitted if the certification includes an additional certification by the Secretary that each of the conditions specified in subsection (a) of that section has been satisfied with respect to that contract, as follows:

(1) That the use of such contract will result in substantial savings of the total anticipated costs of carrying out the program through annual contracts.

(2) That the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities.

(3) That there is a reasonable expectation that throughout the contemplated contract period the Secretary of the Air Force will request funding for the contract at the level required to avoid contract cancellation.

(4) That there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive.

(5) That the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

(6) That the use of such contract will promote the national security of the United States.

In certifying that the cost savings are substantial, the Secretary shall duly consider the historical cost savings that led to a decision to proceed with a multiyear procurement contract under section 2306b of title 10, United States Code, in the case of previous aviation-related multiyear contracts authorized by law dating back to fiscal year 1982.

(e) FFRDC COST REPORT.—The Secretary of Defense shall provide for a federally funded research and development center (other than the Institute for Defense Analyses) to report on the cost estimates for a three year, 60-aircraft, F–22A multiyear procurement program, beginning in fiscal year 2007, compared to a corresponding annual procurement program.

(f) NOTICE-AND-WAIT REQUIREMENT.—Upon submission to Congress of a certification referred to in subsection (d) with respect to a proposed contract under subsection (b) for the procurement

of F–22A aircraft and the Secretary's submission to the congressional defense committees of the report referred to in subsection (e), the contract may then be entered into only after the end of the 30-day period beginning on the later of the date of the submission of the certification or the date of the submission of the report.

**SEC. 135. LIMITATION ON RETIREMENT OF KC–135E AIRCRAFT DURING FISCAL YEAR 2007.**

(a) LIMITATION.—The number of KC–135E aircraft retired by the Secretary of the Air Force during fiscal year 2007 may not exceed 29.

(b) TREATMENT OF RETIRED AIRCRAFT.—The Secretary of the Air Force shall maintain each KC–135E aircraft that is retired by the Secretary after September 30, 2006, in a condition that would allow recall of that aircraft to future service in the Air Force Reserve, Air National Guard, or active forces aerial refueling force structure.

**SEC. 136. LIMITATION ON RETIREMENT OF F–117A AIRCRAFT DURING FISCAL YEAR 2007.**

(a) LIMITATION.—The number of F–117A aircraft retired by the Secretary of the Air Force during fiscal year 2007 may not exceed 10.

(b) TREATMENT OF RETIRED AIRCRAFT.—The Secretary of the Air Force shall maintain each F–117A aircraft that is retired by the Secretary after September 30, 2006, in a condition that would allow recall of that aircraft to future service.

**SEC. 137. LIMITATION ON RETIREMENT OF C–130E TACTICAL AIRLIFT AIRCRAFT.**

(a) LIMITATION.—The number of C–130E tactical airlift aircraft retired by the Secretary of the Air Force during fiscal year 2007 may not exceed 51.

(b) TREATMENT OF RETIRED AIRCRAFT.—The Secretary of the Air Force shall maintain each C–130E tactical airlift aircraft that is retired by the Secretary after September 30, 2006, in a condition that would allow recall of that aircraft to future service.

**SEC. 138. PROCUREMENT OF JOINT PRIMARY AIRCRAFT TRAINING SYSTEM AIRCRAFT AFTER FISCAL YEAR 2006.**

Any Joint Primary Aircraft Training System (JPATS) aircraft procured after fiscal year 2006 shall be procured through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items (48 C.F.R. 12.000 et seq.).

**SEC. 139. MINUTEMAN III INTERCONTINENTAL BALLISTIC MISSILE MODERNIZATION.**

(a) MODERNIZATION OF INTERCONTINENTAL BALLISTIC MISSILES REQUIRED.—The Secretary of the Air Force shall modernize Minuteman III intercontinental ballistic missiles in the United States inventory as required to maintain a sufficient supply of launch test assets and spares to sustain the deployed force of such missiles through 2030.

(b) LIMITATION ON TERMINATION OF MODERNIZATION PROGRAMS PENDING REPORT.—

(1) LIMITATION.—No funds authorized to be appropriated for the Department of Defense may be obligated or expended for the termination of any ICBM modernization program with respect to the Minuteman III intercontinental ballistic missile system, or for the withdrawal of any Minuteman III intercontinental ballistic missile from the active force, until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees a report described in subsection (c).

(2) ICBM MODERNIZATION PROGRAM DEFINED.—In this subsection, the term "ICBM Modernization program" means each of the following:

(A) The Guidance Replacement Program (GRP).

(B) The Propulsion Replacement Program (PRP).

(C) The Propulsion System Rocket Engine (PSRE) program.

(D) The Safety Enhanced Reentry Vehicle (SERV) program.

(c) REPORT ELEMENTS.—A report under subsection (b)(1) is a report setting forth the following:

(1) A detailed strategic justification for the proposal to reduce the Minuteman III intercontinental ballistic missile force from 500 to 450 missiles, including an analysis of the effects of the reduction on the ability of the United States to assure allies and dissuade potential competitors.

(2) A detailed analysis of the strategic ramifications of continuing to equip a portion of the Minuteman III missile force with multiple independent warheads rather than single warheads.

(3) An assessment of the test assets and spares required to maintain a force of 500 deployed Minuteman III missiles through 2030.

(4) An assessment of the test assets and spares required to maintain a force of 450 deployed Minuteman III missiles through 2030.

(5) An inventory of currently available Minuteman III missile test assets and spares.

(6) A plan to sustain and complete the modernization of all deployed and spare Minuteman III missiles, a test plan, and an analysis of the funding required to carry out modernization of all deployed and spare Minuteman III missiles.

(7) An assessment of whether halting upgrades to the Minuteman III missiles withdrawn from the deployed force would compromise the ability of those missiles to serve as test assets.

(8) A description of the plan of the Department of Defense for extending the life of the Minuteman III missile force beyond fiscal year 2030.

## Subtitle E—Joint and Multiservice Matters

**SEC. 141. CLARIFICATION OF LIMITATION ON INITIATION OF NEW UNMANNED AERIAL VEHICLE SYSTEMS.**

(a) APPLICABILITY OF LIMITATION ONLY TO PROCUREMENT FUNDS.—Subsection (a) of section 142 of National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3164) is amended—

(1) by inserting "for procurement" after "the Department of Defense"; and

(2) by inserting before the period at the end the following: "(or by an official within the Office of the Under Secretary designated by the Under Secretary for that purpose)".

(b) APPLICABILITY ONLY TO NEW SYSTEMS.—Subsection (b) of that section is amended to read as follows:

"(b) EXCEPTION FOR EXISTING SYSTEMS.—The limitation in subsection (a) does not apply with respect to an unmanned aerial vehicle (UAV) system (or any component or other item of associated equipment of any such system described in subsection (a)) if as of January 6, 2006—

"(1) the system (or component or item of associated equipment) to be procured is otherwise under contract or has previously been procured by the Department; or

"(2) funds have been appropriated but not yet obligated for the system (or component or item of associated equipment).".

# TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Acquisition of, and independent cost analyses for, the Joint Strike Fighter propulsion system.
Sec. 212. Expansion and extension of authority to award prizes for advanced technology achievements.
Sec. 213. Defense Acquisition Challenge Program extension, enhancement, and modification to address critical cost growth threshold breaches in major defense acquisition programs.
Sec. 214. Future Combat Systems milestone review.
Sec. 215. Dedicated amounts for implementing or evaluating Navy shipbuilding technology proposals under Defense Acquisition Challenge Program.
Sec. 216. Independent estimate of costs of the Future Combat Systems.
Sec. 217. Funding of defense science and technology programs.
Sec. 218. Hypersonics development.
Sec. 219. Report on program for replacement of nuclear warheads on certain Trident sea-launched ballistic missiles with conventional warheads.

Subtitle C—Missile Defense Programs

Sec. 221. Fielding of ballistic missile defense capabilities.
Sec. 222. Limitation on use of funds for space-based interceptor.
Sec. 223. Policy of the United States on priorities in the development, testing, and fielding of missile defense capabilities.
Sec. 224. One-year extension of Comptroller General assessments of ballistic missile defense programs.
Sec. 225. Submittal of plans for test and evaluation of the operational capability of the Ballistic Missile Defense System.
Sec. 226. Annual reports on transition of ballistic missile defense programs to the military departments.

Subtitle D—Other Matters

Sec. 231. Policies and practices on test and evaluation to address emerging acquisition approaches.
Sec. 232. Extension of requirement for Global Research Watch Program.
Sec. 233. Sense of Congress on technology sharing of Joint Strike Fighter technology.
Sec. 234. Report on vehicle-based active protection systems for certain battlefield threats.

# Subtitle A—Authorization of Appropriations

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $10,876,609,000.

(2) For the Navy, $17,383,857,000.

(3) For the Air Force, $24,235,951,000.

(4) For Defense-wide activities, $21,111,559,000, of which $181,520,000 is authorized for the Director of Operational Test and Evaluation.

**SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.**

(a) FISCAL YEAR 2007.—Of the amounts authorized to be appropriated by section 201, $11,662,554,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense budget activity 1, 2, or 3.

# Subtitle B—Program Requirements, Restrictions, and Limitations

**SEC. 211. ACQUISITION OF, AND INDEPENDENT COST ANALYSES FOR, THE JOINT STRIKE FIGHTER PROPULSION SYSTEM.**

(a) ACQUISITION.—

(1) IN GENERAL.—The Secretary of Defense shall provide for the development and procurement of the propulsion system for the Joint Strike Fighter aircraft through the continued development and sustainment of two interchangeable propulsion systems for that aircraft by two separate contractors throughout the life cycle of the aircraft.

(2) MODIFICATIONS PROHIBITED.—Except as provided by paragraph (3), the Secretary may not carry out any modification to the acquisition program for the Joint Strike Fighter aircraft that would result in the development or procurement of the propulsion system for that aircraft in a manner other than that required by paragraph (1).

(3) MODIFICATIONS ALLOWED.—Notwithstanding paragraph (1), a modification described in paragraph (2) may be carried

out to the extent that each of the following requirements is met:

(A) The Secretary of Defense has notified the congressional defense committees of the modification.

(B) Each of the reports required by subsection (b) has been submitted.

(C) Funds are appropriated for that purpose pursuant to an authorization of appropriations.

(b) INDEPENDENT COST ANALYSES.—

(1) IN GENERAL.—A comprehensive and detailed cost analysis of the Joint Strike Fighter engine program shall be independently performed by each of the following:

(A) The Comptroller General.

(B) A federally funded research and development center selected by the Secretary of Defense.

(C) The Secretary of Defense, acting through the Cost Analysis Improvement Group of the Office of the Secretary of Defense.

(2) MATTERS COVERED.—Each such cost analysis shall cover—

(A) an alternative under which the Joint Strike Fighter aircraft is capable of using the F135 engine only;

(B) an alternative under which the program executes a one-time firm-fixed price contract for a selected propulsion system for the Joint Strike Fighter aircraft for the life cycle of the aircraft following the Initial Service Release of the propulsion system in fiscal year 2008;

(C) an alternative under which the Joint Strike Fighter aircraft is capable of using either the F135 engine or the F136 engine, and the engine selection is carried out on a competitive basis; and

(D) any other alternative, whether competitive or sole source, that would reduce total life-cycle cost, improve program schedule, or both.

(3) REPORTS.—Not later than March 15, 2007, the Secretary of Defense, the Comptroller General, and the chief executive officer of the federally funded research and development center selected under paragraph (1)(B) shall independently submit to the congressional defense committees a report on the cost analysis carried out under paragraph (1). Each such report shall include each of the following matters:

(A) The key assumptions used in carrying out the cost analysis.

(B) The methodology and techniques used in carrying out the cost analysis.

(C) For each alternative required by paragraph (2)—

(i) a comparison of the life-cycle costs, including costs in current and constant dollars and a net-present-value analysis;

(ii) estimates of—

(I) supply, maintenance, and other operations manpower required to support the alternative;

(II) the number of flight hours required to achieve engine maturity and the year in which that is expected to be achieved; and

(III) the total number of engines expected to be procured over the lifetime of the Joint Strike Fighter program; and

(iii) an evaluation of benefits, other than cost, provided by competition, to include an assessment of improved performance, operational readiness and warfighting capability, risk reduction, technology innovation, and contractor responsiveness.

(D) A description of the acquisition strategies (including development and production) that were used for, and experience with respect to cost, schedule, and performance under, past acquisition programs for engines for tactical fighter aircraft, including the F–15, F–16, F–18, and F–22 aircraft.

(E) A comparison of the experiences under past acquisition programs carried out on a sole-source basis with respect to performance, savings, maintainability, reliability, and technical innovation.

(F) The impact that canceling the F136 competitive engine would have on the high-performance military engine industrial base, and on the Department of Defense's ability to make competitive engine choices for future combat aircraft systems beyond the Joint Strike Fighter.

(G) Conclusions and recommendations.

(4) CERTIFICATIONS.—In submitting the report required by paragraph (3), the Comptroller General and the chief executive officer of the federally funded research and development center shall also submit a certification as to whether the Secretary of Defense provided access to sufficient information to enable the Comptroller General or the chief executive officer, as the case may be, to make informed judgments on the matters required to be included in the report.

(c) LIFE-CYCLE COSTS DEFINED.—In this section, the term "life-cycle costs" includes—

(1) those elements of cost that would be considered for a life-cycle cost analysis for a major defense acquisition program, including procurement of engines, procurement of spare engines, and procurement of engine components and parts; and

(2) good-faith estimates of routine engine costs (such as performance upgrades and component improvement) that historically have occurred in tactical fighter engine programs.

**SEC. 212. EXPANSION AND EXTENSION OF AUTHORITY TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.**

(a) EXPANSION.—

(1) IN GENERAL.—Subsection (a) of section 2374a of title 10, United States Code, is amended—

(A) by striking "Director of the Defense Advanced Research Projects Agency" and inserting "Director of Defense Research and Engineering and the service acquisition executive for each military department"; and

(B) by striking "a program" and inserting "programs".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b), by striking "The program" and inserting "Each program"; and

(B) in subsection (d)—

(i) by striking "The program" and inserting "A program"; and

(ii) by striking "the Director" and inserting "an official referred to in that subsection".

(b) EXTENSION.—Subsection (f) of such section is amended by striking "September 30, 2007" and inserting "September 30, 2010".

(c) MODIFICATION OF REPORTING REQUIREMENT.—Subsection (e) of such section is amended to read as follows:

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the activities carried out during the preceding fiscal year under the authority in subsection (a).

"(2) INFORMATION INCLUDED.—The report for a fiscal year under this subsection shall include, for each program under subsection (a), the following:

"(A) A description of the proposed goals of the competitions established under the program, including the areas of research, technology development, or prototype development to be promoted by such competitions and the relationship of such areas to the military missions of the Department of Defense.

"(B) An analysis of why the utilization of the authority in subsection (a) was the preferable method of achieving the goals described in subparagraph (A) as opposed to other authorities available to the Department, such as contracts, grants, and cooperative agreements.

"(C) The total amount of cash prizes awarded under the program, including a description of the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the Department for recording as obligations and expenditures.

"(D) The methods used for the solicitation and evaluation of submissions under the program, together with an assessment of the effectiveness of such methods.

"(E) A description of the resources, including personnel and funding, used in the execution of the program, together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the Department for recording as obligations and expenditures.

"(F) A description of any plans to transition the technologies or prototypes developed as a result of the program into an acquisition program of the Department.

"(3) SUSPENSION OF AUTHORITY FOR FAILURE TO INCLUDE INFORMATION.—For each program under subsection (a), the authority to obligate or expend funds under that program is suspended as of the date specified in paragraph (1) if the Secretary does not, by that date, submit a report that includes, for that program, all the information required by paragraph (2). As of the date on which the Secretary does submit a report that includes, for that program, all the information required by paragraph (2), the suspension is lifted.".

**SEC. 213. DEFENSE ACQUISITION CHALLENGE PROGRAM EXTENSION, ENHANCEMENT, AND MODIFICATION TO ADDRESS CRITICAL COST GROWTH THRESHOLD BREACHES IN MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) ASSESSMENT OF ADDITIONAL ISSUES REQUIRED IN THE EVENT OF CRITICAL COST GROWTH.—Section 2433(e)(2)(A) of title 10, United States Code, is amended—

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

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) any design, engineering, manufacturing, or technology integration issues that contributed significantly to the cost growth of the program;".

(b) REQUIREMENT FOR CHALLENGE PROGRAM TO ADDRESS CRITICAL COST GROWTH THRESHOLD BREACHES IN MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) SOLICITATION OF CHALLENGE PROPOSALS.—Section 2359b(c) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) The Under Secretary shall establish procedures for the prompt issuance of a solicitation for challenge proposals addressing— Procedures.

"(i) any acquisition program for which, since the last such announcement, the Secretary concerned has determined under section 2433(d) of this title that the program's acquisition unit cost or procurement unit cost has increased by a percentage equal to or greater than the critical cost growth threshold for the program (in this section referred to as a 'critical cost growth threshold breach'); and

"(ii) any design, engineering, manufacturing, or technology integration issues, in accordance with the assessment required by section 2433(e)(2)(A) of this title, that have contributed significantly to the cost growth of such program.

"(B) A solicitation under this paragraph may be included in a broad agency announcement issued pursuant to paragraph (3) as long as the broad agency announcement is released in an expeditious manner following the determination of the Secretary concerned that a critical cost growth threshold breach has occurred with respect to a major defense acquisition program.".

(2) REQUIREMENT FOR GUIDELINES FOR COVERING COSTS OF CHALLENGE PROPOSALS.—Section 2359b(e) of such title is amended by adding at the end the following new paragraph:

"(3) In the case of a challenge proposal submitted in response to a solicitation issued as a result of a critical cost growth threshold breach that is determined under full review and evaluation to satisfy each of the criteria specified in subsection (c)(5), the Under Secretary shall establish guidelines for covering the costs of the challenge proposal. If appropriate, such guidelines shall not be restricted to funding provided by the Defense Acquisition Challenge Program, but shall also consider alternative funding sources, such

as the acquisition program with respect to which the breach occurred.".

(3) ACTION UPON UNFAVORABLE FULL REVIEW AND EVALUATION.—Section 2359b of such title is amended—

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k) respectively; and

(B) by inserting after subsection (e) the following new subsection (f):

Procedures. Applicability.

"(f) ACTION UPON UNFAVORABLE FULL REVIEW AND EVALUATION.—Under procedures prescribed by the Under Secretary, if a challenge proposal is determined by a Panel to satisfy each of the criteria specified in subsection (c)(5), but is not determined under a full review and evaluation to satisfy such criteria, the following provisions apply:

"(1) The office carrying out the full review and evaluation shall provide to the Panel that conducted the preliminary evaluation a statement containing a summary of the rationale for the unfavorable evaluation.

"(2) If the Panel disagrees with the rationale provided under paragraph (1), the Panel may return the challenge proposal to the office for further consideration.".

(4) ADDITIONAL INFORMATION REQUIRED TO BE INCLUDED IN ANNUAL REPORT.—Section 2359b(j) of such title, as redesignated by paragraph (3), is amended by striking "No report is required for a fiscal year in which the Challenge Program is not carried out." and inserting "The report shall also include a list of each challenge proposal that was determined by a Panel to satisfy each of the criteria specified in subsection (c)(5), but was not determined under a full review and evaluation to satisfy such criteria, together with a detailed rationale for the Department's determination that such criteria were not satisfied.".

(c) EVALUATION AND REPORT REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the service acquisition executives, shall—

(1) evaluate the efficacy of the incentives provided to encourage the adoption of each challenge proposal receiving favorable full review and evaluation, as required by section 2359b(e)(2) of title 10, United States Code;

(2) identify additional incentives and authorities required, if any, to further facilitate the adoption of each challenge proposal receiving favorable full review and evaluation, particularly in the case of challenge proposals submitted in response to critical cost growth threshold breaches (as such term is used in section 2359b of such title); and

(3) not later than March 1, 2007, submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the results of such evaluation and identification.

(d) PRIORITY FOR PROPOSALS FROM CERTAIN BUSINESSES.—Paragraph (6) of section 2359b(c) of such title, as redesignated by paragraph (b)(1)(A), is amended to read as follows:

"(6) The Under Secretary—

"(A) may establish procedures to ensure that the Challenge Program does not become an avenue for the repetitive submission of proposals that have been previously reviewed and found not to have merit; and

"(B) may establish procedures to ensure that the Challenge Program establishes appropriate priorities for proposals from businesses that are not major contractors with the Department of Defense.".

(e) CONFIDENTIALITY.—Subsection (h) of section 2359b of such title, as redesignated by subsection (b)(3), is amended—

(1) by amending the heading to read as follows: "CONFLICTS OF INTEREST AND CONFIDENTIALITY"; and

(2) by striking the period at the end and inserting the following: "and that the identity of any person or activity submitting a challenge proposal is not disclosed outside the Federal Government, prior to contract award, without the consent of the person or activity. For purposes of the proceeding sentence, the term 'Federal Government' includes both employees of the Federal Government and employees of Federal Government contractors providing advisory and assistance services as described in part 37 of the Federal Acquisition Regulation.".

(f) EXTENSION.—Subsection (k) of section 2359b of title 10, United States Code, as redesignated by subsection (b)(3), is amended by striking "September 30, 2007" and inserting "September 30, 2012".

(g) ADDITIONAL CONFORMING AMENDMENTS.—Section 2359b of such title is further amended—

(1) in subsection (c)(7), as redesignated by subsection (b), by striking "paragraph (4)" and inserting "paragraph (5)";

(2) in subsection (d)(1), by striking "subsection (c)(6)" and inserting "subsection (c)(7)";

(3) in subsection (d)(2), by striking "subsection (c)(4)" and inserting "subsection (c)(5)"; and

(4) in subsection (e)(1), by striking "subsection (c)(4)" and inserting "subsection (c)(5)".

**SEC. 214. FUTURE COMBAT SYSTEMS MILESTONE REVIEW.**

(a) MILESTONE REVIEW REQUIRED.—Not later than 120 days after the preliminary design review of the Future Combat Systems program is completed, the Secretary of Defense shall carry out a Defense Acquisition Board milestone review of the Future Combat Systems program. The milestone review shall include an assessment as to each of the following: Deadline.

(1) Whether the warfighter's needs are valid and can be best met with the concept of the program.

(2) Whether the concept of the program can be developed and produced within existing resources.

(3) Whether the program should—

(A) continue as currently structured;

(B) continue in restructured form; or

(C) be terminated.

(b) DETERMINATIONS TO BE MADE IN ASSESSING WHETHER PROGRAM SHOULD CONTINUE.—In making the assessment required by subsection (a)(3), the Secretary shall make a determination with respect to each of the following:

(1) Whether each critical technology for the program is at least Technical Readiness Level 6.

(2) For each system and network component of the program, what the key design and technology risks are, based on System

Functional Reviews, Preliminary Design Reviews, and Technical Readiness Levels.

(3) Whether actual demonstrations, rather than simulations, have shown that the concept of the program will work.

(4) Whether actual demonstrations, rather than plans, have shown that the software for the program is functional.

(5) What the cost estimate for the program is.

(6) What the affordability assessment for the program is, based on that cost estimate.

(c) REPORT.—The Secretary shall submit to the congressional defense committees a report on the findings and conclusions of the milestone review required by subsection (a). The report shall include, and display, each of the assessments required by subsection (a) and each of the determinations required by subsection (b).

(d) RESTRICTION ON PROCUREMENT FUNDS EFFECTIVE FISCAL 2009.—

(1) IN GENERAL.—For fiscal years beginning with 2009, the Secretary may not obligate any funds for procurement for the Future Combat Systems program.

(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to—

(A) the obligation of funds for costs attributable to an insertion of new technology (to include spinout systems) into the current force, if the insertion is approved by the Under Secretary of Defense for Acquisition, Technology, and Logistics; or

(B) the obligation of funds for the non-line-of-sight cannon system.

(3) TERMINATION.—The requirement of paragraph (1) terminates after the report required by subsection (c) is submitted.

**SEC. 215. DEDICATED AMOUNTS FOR IMPLEMENTING OR EVALUATING NAVY SHIPBUILDING TECHNOLOGY PROPOSALS UNDER DEFENSE ACQUISITION CHALLENGE PROGRAM.**

(a) AMOUNTS REQUIRED.—Of the amounts appropriated pursuant to the authorization of appropriations in section 201(4) for research, development, test, and evaluation, Defense-wide, $4,000,000 may be available to implement or evaluate challenge proposals specified in subsection (b).

(b) CHALLENGE PROPOSALS COVERED.—A challenge proposal referred to in subsection (a) is a proposal under the Defense Acquisition Challenge Program established by section 2359b of title 10, United States Code, that relates to technology directly contributing to combat systems and open architecture design for Navy ship platforms.

**SEC. 216. INDEPENDENT ESTIMATE OF COSTS OF THE FUTURE COMBAT SYSTEMS.**

(a) INDEPENDENT ESTIMATE REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall provide for the preparation of an independent estimate of the anticipated costs of systems development and demonstration with respect to the Future Combat Systems.

(2) CONDUCT OF ESTIMATE.—The estimate required by this subsection shall be prepared by a federally funded research and development center selected by the Secretary for purposes of this subsection.

(3) MATTERS TO BE ADDRESSED.—The independent estimate prepared under this subsection shall address costs of research, development, test, and evaluation, and costs of procurement, for—

(A) the system development and demonstration phase of the core Future Combat Systems;

(B) the Future Combat Systems technologies to be incorporated into the equipment of the current force of the Army (often referred to as "spinouts");

(C) the installation kits for the incorporation of such technologies into such equipment;

(D) the systems treated as complementary systems for the Future Combat Systems;

(E) science and technology initiatives that support the Future Combat Systems program; and

(F) any pass-through charges anticipated to be assessed by the lead systems integrator of the Future Combat Systems and its major subcontractors.

(4) SUBMITTAL TO CONGRESS.—Upon completion of the independent estimate required by this subsection, the Secretary shall submit to the congressional defense committees a report on the estimate.

(5) DEADLINE FOR SUBMITTAL.—The report described in paragraph (4) shall be submitted not later than April 1, 2007.

(b) PASS-THROUGH CHARGE DEFINED.—In this section, the term "pass-through charge" has the meaning given that term in section 805(c)(5) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3373).

**SEC. 217. FUNDING OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAMS.**

(a) FAILURE TO COMPLY WITH FUNDING OBJECTIVE.—Section 212 of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 2501 note) is amended in subsection (a) by striking "especially the Air Force Science and Technology Program,".

(b) EXTENSION OF FUNDING OBJECTIVE.—Such section is amended in subsection (b) by striking "through 2009" and inserting "through 2012".

(c) ACTIONS FOLLOWING FAILURE TO COMPLY WITH OBJECTIVE.—Such section is further amended by adding at the end the following new subsection:

"(c) ACTIONS FOLLOWING FAILURE TO COMPLY WITH OBJECTIVE.—If the proposed budget for a fiscal year covered by subsection (b) fails to comply with the objective set forth in that subsection, the Secretary of Defense shall submit to the congressional defense committees, at the same time that the Department of Defense budget justification materials for the next fiscal year are submitted to Congress—

"(1) a detailed, prioritized list, including estimates of required funding, of highly-rated science and technology projects received by the Department through competitive solicitations and broad agency announcements which—

"(A) are not funded solely due to lack of resources, but

"(B) represent science and technology opportunities that support the research and development programs and

goals of the military departments and the Defense Agencies; and

Reports. Classified information.

"(2) a report, in both classified and unclassified form, containing an analysis and evaluation of international research and technology capabilities, including an identification of any technology areas in which the United States may not have global technical leadership within the next 10 years, in each of the technology areas described in the following plans:

"(A) The most current Joint Warfighting Science and Technology Plan required by section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

"(B) The Defense Technology Area Plan of the Department of Defense.

"(C) The Basic Research Plan of the Department of Defense.".

10 USC 2358 note.

**SEC. 218. HYPERSONICS DEVELOPMENT.**

(a) ESTABLISHMENT OF JOINT TECHNOLOGY OFFICE ON HYPERSONICS.—The Secretary of Defense shall establish within the Office of the Secretary of Defense a joint technology office on hypersonics. The office shall carry out the program required under subsection (b), and shall have such other responsibilities relating to hypersonics as the Secretary shall specify.

(b) PROGRAM ON HYPERSONICS.—The joint technology office established under subsection (a) shall carry out a program for the development of hypersonics for defense purposes.

(c) RESPONSIBILITIES.—In carrying out the program required by subsection (b), the joint technology office established under subsection (a) shall do the following:

(1) Coordinate and integrate current and future research, development, test, and evaluation programs and system demonstration programs of the Department of Defense on hypersonics.

(2) Undertake appropriate actions to ensure—

(A) close and continuous integration of the programs on hypersonics of the military departments with the programs on hypersonics of the Defense Agencies;

(B) coordination of the programs referred to in subparagraph (A) with the programs on hypersonics of the National Aeronautics and Space Administration; and

(C) that developmental testing resources are adequate and facilities are made available in a timely manner to support hypersonics research, demonstration programs, and system development.

(3) Approve demonstration programs on hypersonic systems.

(4) Ensure that any demonstration program on hypersonic systems that is carried out in any year after its approval under paragraph (3) is carried out only if certified under subsection (e) as being consistent with the roadmap under subsection (d).

(d) ROADMAP.—

(1) ROADMAP REQUIRED.—The joint technology office established under subsection (a) shall develop, and every two years revise, a roadmap for the hypersonics programs of the Department of Defense.

(2) COORDINATION.—The roadmap shall be developed and revised under paragraph (1) in coordination with the Joint Staff and in consultation with the National Aeronautics and Space Administration.

(3) ELEMENTS.—The roadmap shall include the following matters:

(A) Anticipated or potential mission requirements for hypersonics.

(B) Short-term, mid-term, and long-term goals for the Department of Defense on hypersonics, which shall be consistent with the missions and anticipated requirements of the Department over the applicable period.

(C) A schedule for meeting such goals, including—

(i) the activities and funding anticipated to be required for meeting such goals; and

(ii) the activities of the National Aeronautics and Space Administration to be leveraged by the Department to meet such goals.

(D) The test and evaluation facilities required to support the activities identified in subparagraph (C), along with the schedule and funding required to upgrade those facilities, as necessary.

(E) Acquisition transition plans for hypersonics.

(4) SUBMITTAL TO CONGRESS.—The Secretary shall submit to the congressional defense committees—

(A) at the same time as the submittal to Congress of the budget for fiscal year 2008 (as submitted pursuant to section 1105 of title 31, United States Code), the roadmap developed under paragraph (1); and

(B) at the same time as the submittal to Congress of the budget for each even-numbered fiscal year after 2008, the roadmap revised under paragraph (1).

(e) ANNUAL REVIEW AND CERTIFICATION OF FUNDING.—

(1) ANNUAL REVIEW.—The joint technology office established under subsection (a) shall conduct on an annual basis a review of—

(A) the funding available for research, development, test, and evaluation and demonstration programs within the Department of Defense for hypersonics, in order to determine whether or not such funding is consistent with the roadmap developed under subsection (d); and

(B) the hypersonics demonstration programs of the Department, in order to determine whether or not such programs avoid duplication of effort and support the goals of the Department in a manner consistent with the roadmap developed under subsection (d).

(2) CERTIFICATION.—The joint technology office shall, as a result of each review under paragraph (1), certify to the Secretary whether or not the funding and programs subject to such review are consistent with the roadmap developed under subsection (d).

(3) TERMINATION.—The requirements of this subsection shall terminate after the submittal to Congress of the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.

(f) REPORTS TO CONGRESS.—If, as a result of a review under subsection (e), funding or a program on hypersonics is certified

under that subsection not to be consistent with the roadmap developed under subsection (d), the Secretary shall submit to the congressional defense committees, at the same time as the submittal to Congress of the budget (as submitted pursuant to section 1105 of title 31, United States Code), a report on such funding or program, as the case may be, describing how such funding or program is not consistent with the roadmap, together with a statement of the actions to be taken by the Department.

**SEC. 219. REPORT ON PROGRAM FOR REPLACEMENT OF NUCLEAR WARHEADS ON CERTAIN TRIDENT SEA-LAUNCHED BALLISTIC MISSILES WITH CONVENTIONAL WARHEADS.**

(a) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a proposal to replace nuclear warheads on 24 Trident D–5 sea-launched ballistic missiles with conventional kinetic warheads for deployment on submarines that carry Trident sea-launched ballistic missiles. The report shall be prepared in consultation with the Secretary of State.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the types of scenarios, types of targets, and circumstances in which a conventional sea-launched ballistic missile might be used.

(2) A discussion of the weapon systems or weapons, whether current or planned, that could be used as an alternative for each of the scenarios, target types, and circumstances set forth under paragraph (1), and a statement of any reason why each such weapon system or weapon is not a suitable alternative to a conventional sea-launched ballistic missile.

(3) A description of the command and control arrangements for conventional sea-launched ballistic missiles, including launch authority and the use of Permissive Action Links (PALs).

(4) An assessment of the capabilities of other countries to detect and track the launch of a conventional or nuclear sea-launched ballistic missile.

(5) An assessment of the capabilities of other countries to discriminate between the launch of a nuclear sea-launched ballistic missile and a conventional sea-launched ballistic missile, other than in a testing scenario.

(6) An assessment of the notification and other protocols that would have to be in place before using any conventional sea-launched ballistic missile and a plan for entering into such protocols.

(7) An assessment of the adequacy of the intelligence that would be needed to support an attack involving conventional sea-launched ballistic missiles.

(8) A description of the total program cost, including the procurement costs of additional D–5 missiles, of the conventional Trident sea-launched ballistic missile program, by fiscal year.

(9) An analysis and assessment of the implications for ballistic missile proliferation if the United States decides to go forward with the conventional Trident sea-launched ballistic missile program or any other conventional long-range ballistic missile program.

(10) An analysis and assessment of the implications for the United States missile defense system if other countries use conventional long-range ballistic missiles.

(11) An analysis of any problems created by the ambiguity that results from the use of the same ballistic missile for both conventional and nuclear warheads.

(12) An analysis and assessment of the methods that other countries might use to resolve the ambiguities associated with a nuclear or conventional sea-launched ballistic missile.

(13) An analysis, by the Secretary of State, of the international, treaty, and other concerns that would be associated with the use of a conventional sea-launched ballistic missile and recommendations for measures to mitigate or eliminate such concerns.

(14) A joint statement by the Secretary of Defense and the Secretary of State on how to ensure that the use of a conventional sea-launched ballistic missile will not result in an intentional, inadvertent, mistaken, or accidental reciprocal or responsive launch of a nuclear strike by any other country.

## Subtitle C—Missile Defense Programs

### SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

Upon approval by the Secretary of Defense, funds authorized to be appropriated for fiscal years 2007 and 2008 for research, development, test, and evaluation for the Missile Defense Agency may be used for the development and fielding of ballistic missile defense capabilities.

### SEC. 222. LIMITATION ON USE OF FUNDS FOR SPACE-BASED INTERCEPTOR.

(a) LIMITATION.—No funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the testing or deployment of a space-based interceptor until 90 days after the date on which a report described in subsection (c) is submitted.

(b) SPACE-BASED INTERCEPTOR DEFINED.—For purposes of this section, the term "space-based interceptor" means a kinetic or directed energy weapon that is stationed on a satellite or orbiting platform and that is intended to destroy another satellite in orbit or a ballistic missile launched from earth.

(c) REPORT.—A report described in this subsection is a report prepared by the Director of the Missile Defense Agency and submitted to the congressional defense committees containing the following:

(1) A description of the essential components of a proposed space-based interceptor system, including a description of how the system proposed would enhance or complement other missile defense systems.

(2) An estimate of the acquisition and life-cycle cost of the system described under paragraph (1), including lift cost and periodic replacement cost due to depreciation and attrition.

(3) An analysis of the vulnerability of such a system to counter-measures, including direct ascent and co-orbital interceptors, and an analysis of the functionality of such a system in the aftermath of a nuclear detonation in space.

(4) A projection of the foreign policy and national security implications of a space-based interceptor program, including the probable response of United States adversaries and United States allies.

10 USC 2431 note.

**SEC. 223. POLICY OF THE UNITED STATES ON PRIORITIES IN THE DEVELOPMENT, TESTING, AND FIELDING OF MISSILE DEFENSE CAPABILITIES.**

(a) FINDINGS.—Congress makes the following findings:

(1) In response to the threat posed by ballistic missiles, President George W. Bush in December 2002 directed the Secretary of Defense to proceed with the fielding of an initial set of missile defense capabilities in 2004 and 2005.

(2) According to assessments by the intelligence community of the United States, North Korea tested in 2005 a new solid propellant short-range ballistic missile, conducted a launch of a Taepodong-2 ballistic missile/space launch vehicle in 2006, and is likely developing intermediate-range and intercontinental ballistic missile capabilities that could someday reach as far as the United States with a nuclear payload.

(3) According to assessments by the intelligence community of the United States, Iran continued in 2005 to test its medium-range ballistic missile, and the danger that Iran will acquire a nuclear weapon and integrate it with a ballistic missile Iran already possesses is a reason for immediate concern.

(b) POLICY.—It is the policy of the United States that the Department of Defense accord a priority within the missile defense program to the development, testing, fielding, and improvement of effective near-term missile defense capabilities, including the ground-based midcourse defense system, the Aegis ballistic missile defense system, the Patriot PAC–3 system, the Terminal High Altitude Area Defense system, and the sensors necessary to support such systems.

**SEC. 224. ONE-YEAR EXTENSION OF COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.**

Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amended—

(1) in paragraph (1), by striking "through 2007" and inserting "through 2008"; and

(2) in paragraph (2), by striking "through 2008" and inserting "through 2009".

**SEC. 225. SUBMITTAL OF PLANS FOR TEST AND EVALUATION OF THE OPERATIONAL CAPABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM.**

Section 234(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3174; 10 U.S.C. 2431 note) is amended by adding at the end the following new paragraph:

Deadline.

"(3) SUBMITTAL TO CONGRESS.—Each plan prepared under this subsection and approved by the Director of Operational Test and Evaluation shall be submitted to the congressional defense committees not later than 30 days after the date of the approval of such plan by the Director.".

**SEC. 226. ANNUAL REPORTS ON TRANSITION OF BALLISTIC MISSILE DEFENSE PROGRAMS TO THE MILITARY DEPARTMENTS.**

(a) REPORT REQUIRED.—Not later than March 1, 2007, and annually thereafter through 2013, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the plans of the Department of Defense for the transition of missile defense programs from the Missile Defense Agency to the military departments.

(b) SCOPE OF REPORTS.—Each report required by subsection (a) shall cover the period covered by the future-years defense program that is submitted under section 221 of title 10, United States Code, in the year in which such report is submitted.

(c) ELEMENTS.—Each report required by subsection (a) shall include the following:

(1) An identification of—

(A) the missile defense programs planned to be transitioned from the Missile Defense Agency to the military departments; and

(B) the missile defense programs, if any, not planned for transition to the military departments.

(2) The schedule for transition of each missile defense program planned to be transitioned to a military department, and an explanation of such schedule.

(3) A description of—

(A) the status of the plans of the Missile Defense Agency and the military departments for the transition of missile defense programs from that agency to the military departments; and

(B) the status of any agreement between the Missile Defense Agency and one or more of the military departments on the transition of any such program from that agency to the military departments, including any agreement on the operational test criteria that must be achieved before such transition.

(4) An identification of the entity of the Department of Defense (whether the Missile Defense Agency, a military department, or both) that will be responsible for funding each missile defense program to be transitioned to a military department, and at what date.

(5) A description of the type of funds that will be used (whether funds for research, development, test, and evaluation, procurement, military construction, or operation and maintenance) for each missile defense program to be transitioned to a military department.

(6) An explanation of the number of systems planned for procurement for each missile defense program to be transitioned to a military department, and the schedule for procurement of each such system.

# Subtitle D—Other Matters

**SEC. 231. POLICIES AND PRACTICES ON TEST AND EVALUATION TO ADDRESS EMERGING ACQUISITION APPROACHES.**

(a) REVISION TO REPORT REQUIREMENT.—Section 2399(b) of title 10, United States Code, is amended—

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

"(2) The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating—

"(A) the opinion of the Director as to—

"(i) whether the test and evaluation performed were adequate; and

"(ii) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat; and

"(B) additional information on the operational capabilities of the items or components that the Director considers appropriate based on the testing conducted.";

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

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

"(5) If, before a final decision described in paragraph (4) is made for a major defense acquisition program, a decision is made within the Department of Defense to proceed to operational use of that program or to make procurement funds available for that program, the Director shall submit to the Secretary of Defense and the congressional defense committees the report with respect to that program under paragraph (2) as soon as practicable after the decision described in this paragraph is made.".

10 USC 139 note.

(b) REVIEW AND REVISION OF POLICIES AND PRACTICES.—

(1) REVIEW.—During fiscal year 2007, the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of Operational Test and Evaluation shall review Department of Defense policies and practices on test and evaluation in order to—

(A) reaffirm the test and evaluation principles that should guide traditional acquisition programs; and

(B) determine how best to apply appropriate test and evaluation principles to emerging acquisition approaches.

(2) REVISED GUIDANCE.—If the Under Secretary determines as a result of the review under paragraph (1) that a revision of the policies and practices referred to in that paragraph is necessary, the Under Secretary and the Director shall jointly issue new or revised guidance for the Department of Defense on test and evaluation to address that determination.

(c) ISSUES TO BE ADDRESSED.—In carrying out subsection (b), the Under Secretary shall address policies and practices on test and evaluation in order to—

(1) ensure the performance of test and evaluation activities with regard to—

(A) items that are acquired pursuant to the authority for rapid acquisition and deployment of items in section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note);

(B) programs that are conducted pursuant to the authority for spiral development in section 803 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2603; 10 U.S.C. 2430 note), or other authority for the conduct of incremental acquisition programs;

(C) systems that are acquired pursuant to other emerging acquisition approaches, as approved by the Under Secretary; and

(D) equipment that is not subject to the operational test and evaluation requirements in sections 2366 and 2399 of title 10, United States Code, but that may require limited operational test and evaluation for the purpose of ensuring the safety and survivability of such equipment and personnel using such equipment; and

(2) ensure the appropriate use, if any, of operational test and evaluation resources to assess technology readiness levels for the purpose of section 2366a of title 10, United States Code, and other applicable technology readiness requirements.

(d) INCLUSION OF TESTING NEEDS IN STRATEGIC PLAN.—The Director, Test Resource Management Center, shall ensure that the strategic plan for Department of Defense test and evaluation resources developed pursuant to section 196 of title 10, United States Code—

(1) reflects any testing needs of the Department of Defense that are identified as a result of activities under subsection (b); and

(2) includes an assessment of the test and evaluation facilities, resources, and budgets that will be required to meet such needs.

(e) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act, the Under Secretary and the Director of Operational Test and Evaluation shall submit to the congressional defense committees a report on the review conducted under paragraph (1) of subsection (b), including any new or revised guidance issued pursuant to paragraph (2) of that subsection.

(f) CLARIFICATION OF DUTIES WITH RESPECT TO FORCE PROTECTION EQUIPMENT.—Section 139(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

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

"(3) provide guidance to and consult with the officials described in paragraph (2) with respect to operational test and evaluation or survivability testing (or both) within the Department of Defense of force protection equipment (including non-lethal weapons), which, in such a case—

"(A) shall be guidance and consultation for the purposes of—

"(i) expediting suitable operational test and evaluation;

"(ii) providing objective subject-matter expertise;

"(iii) encouraging data sharing between Department of Defense components; and

"(iv) where appropriate, facilitating the use of common test standards; and

"(B) does not authorize the Director—

"(i) to approve test and evaluation plans for such equipment; or

"(ii) to in any manner delay deployment of such equipment;".

**SEC. 232. EXTENSION OF REQUIREMENT FOR GLOBAL RESEARCH WATCH PROGRAM.**

Section 2365(f) of title 10, United States Code, is amended by striking "September 30, 2006" and inserting "September 30, 2011".

**SEC. 233. SENSE OF CONGRESS ON TECHNOLOGY SHARING OF JOINT STRIKE FIGHTER TECHNOLOGY.**

It is the sense of Congress that the Secretary of Defense should share technology with regard to the Joint Strike Fighter between the United States Government and the Government of the United Kingdom consistent with the national security interests of both nations.

**SEC. 234. REPORT ON VEHICLE-BASED ACTIVE PROTECTION SYSTEMS FOR CERTAIN BATTLEFIELD THREATS.**

Contracts.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Defense shall enter into a contract with an appropriate entity independent of the United States Government to conduct an assessment of various foreign and domestic technological approaches to vehicle-based active protection systems for defense against both chemical energy and kinetic energy top-attack and direct fire threats, including anti-tank missiles and rocket propelled grenades, mortars, and other similar battlefield threats.

(b) REPORT.—

(1) REPORT REQUIRED.—The contract required by subsection (a) shall require the entity entering into such contract to submit to the Secretary of Defense, and to the congressional defense committees, not later than 180 days after the date of the enactment of this Act, a report on the assessment required by that subsection.

(2) ELEMENTS.—The report required under paragraph (1) shall include—

(A) a detailed comparative analysis and assessment of the technical approaches covered by the assessment under subsection (a), including the feasibility, military utility, cost, and potential short-term and long-term development and deployment schedule of such approaches; and

(B) any other elements specified by the Secretary in the contract under subsection (a).

# TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

Sec. 311. Revision of requirement for unexploded ordnance program manager.
Sec. 312. Funding of cooperative agreements under environmental restoration program.
Sec. 313. Response plan for remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 314. Research on effects of ocean disposal of munitions.

Sec. 315. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.
Sec. 316. Transfer of Government-furnished uranium stored at Sequoyah Fuels Corporation, Gore, Oklahoma.
Sec. 317. Extension of authority to grant exemptions to certain requirements.
Sec. 318. National Academy of Sciences study on human exposure to contaminated drinking water at Camp Lejeune, North Carolina.

Subtitle C—Program Requirements, Restrictions, and Limitations

Sec. 321. Limitation on financial management improvement and audit initiatives within the Department of Defense.
Sec. 322. Funds for exhibits for the national museums of the Armed Forces.
Sec. 323. Prioritization of funds for equipment readiness and strategic capability.
Sec. 324. Limitation on deployment of Marine Corps Total Force System to Navy.

Subtitle D—Workplace and Depot Issues

Sec. 331. Permanent exclusion of certain contract expenditures from percentage limitation on the performance of depot-level maintenance.
Sec. 332. Minimum capital investment for certain depots.
Sec. 333. Extension of temporary authority for contractor performance of security guard functions.

Subtitle E—Reports

Sec. 341. Report on Navy Fleet Response Plan.
Sec. 342. Report on Navy surface ship rotational crew programs.
Sec. 343. Report on Army live-fire ranges in Hawaii.
Sec. 344. Comptroller General report on joint standards and protocols for access control systems at Department of Defense installations.
Sec. 345. Comptroller General report on readiness of Army and Marine Corps ground forces.
Sec. 346. Report on Air Force safety requirements for Air Force flight training operations at Pueblo Memorial Airport, Colorado.
Sec. 347. Annual report on Personnel Security Investigations for Industry and National Industrial Security Program.
Sec. 348. Five-year extension of annual report on training range sustainment plan and training range inventory.
Sec. 349. Reports on withdrawal or diversion of equipment from reserve units for support of reserve units being mobilized and other units.

Subtitle F—Other Matters

Sec. 351. Department of Defense strategic policy on prepositioning of materiel and equipment.
Sec. 352. Authority to make Department of Defense horses available for adoption.
Sec. 353. Sale and use of proceeds of recyclable munitions materials.
Sec. 354. Recovery and transfer to Corporation for the Promotion of Rifle Practice and Firearms Safety of certain firearms, ammunition, and parts granted to foreign countries.
Sec. 355. Extension of Department of Defense telecommunications benefit program.
Sec. 356. Extension of availability of funds for commemoration of success of the Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom.
Sec. 357. Capital security cost sharing.
Sec. 358. Utilization of fuel cells as back-up power systems in Department of Defense operations.
Sec. 359. Improving Department of Defense support for civil authorities.
Sec. 360. Energy efficiency in weapons platforms.
Sec. 361. Prioritization of funds within Navy mission operations, ship maintenance, combat support forces, and weapons system support.
Sec. 362. Provision of adequate storage space to secure personal property outside of assigned military family housing unit.
Sec. 363. Expansion of payment of replacement value of personal property damaged during transport at Government expense.

# Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces and other activities and

agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,416,352,000.

(2) For the Navy, $31,157,639,000.

(3) For the Marine Corps, $3,863,462,000.

(4) For the Air Force, $31,081,257,000.

(5) For Defense-wide activities, $20,093,876,000.

(6) For the Army Reserve, $2,260,802,000.

(7) For the Naval Reserve, $1,275,764,000.

(8) For the Marine Corps Reserve, $211,311,000.

(9) For the Air Force Reserve, $2,698,400,000.

(10) For the Army National Guard, $4,776,421,000.

(11) For the Air National Guard, $5,292,517,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,721,000.

(13) For Environmental Restoration, Army, $413,794,000.

(14) For Environmental Restoration, Navy, $304,409,000.

(15) For Environmental Restoration, Air Force, $423,871,000.

(16) For Environmental Restoration, Defense-wide, $18,431,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $282,790,000.

(18) For Former Soviet Union Threat Reduction programs, $372,128,000.

(19) For Overseas Humanitarian Disaster and Civic Aid, $63,204,000.

**SEC. 302. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $161,998,000.

(2) For the National Defense Sealift Fund, $1,071,932,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,184,000,000.

(4) For the Pentagon Reservation Maintenance Revolving Fund, $18,500,000.

**SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.**

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, for the Defense Health Program, $21,426,621,000, of which—

(1) $20,894,663,000 is for Operation and Maintenance;

(2) $135,603,000 is for Research, Development, Test, and Evaluation; and

(3) $396,355,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,277,304,000, of which—

(A) $1,046,290,000 is for Operation and Maintenance; and

(B) $231,014,000 is for Research, Development, Test, and Evaluation.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act for Fiscal Year 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $926,890,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $216,297,000, of which—

(1) $214,897,000 is for Operation and Maintenance; and

(2) $1,400,000 is for Procurement.

## Subtitle B—Environmental Provisions

### SEC. 311. REVISION OF REQUIREMENT FOR UNEXPLODED ORDNANCE PROGRAM MANAGER.

Section 2701(k) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "establish" and inserting "designate"; and

(B) by inserting "research," after "characterization,";

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The position of program manager shall be filled by—

"(A) an employee in a position that is equivalent to pay grade O–6 or above; or

"(B) a member of the armed forces who is serving in the grade of colonel or, in the case of the Navy, captain, or in a higher grade.

"(3) The program manager shall report to the Deputy Under Secretary of Defense for Installations and Environment.".

### SEC. 312. FUNDING OF COOPERATIVE AGREEMENTS UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentence: "This two-year limitation does not apply to an agreement funded using amounts in the Department of Defense Base Closure Account 1990 or the Department of Defense Base Closure Account 2005 established under sections 2906 and 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

Deadlines.
10 USC 2710 note.

**SEC. 313. RESPONSE PLAN FOR REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.**

(a) PERFORMANCE GOALS FOR REMEDIATION.—The Secretary of Defense shall set the following remediation goals with regard to unexploded ordnance, discarded military munitions, and munitions constituents:

(1) To complete, by not later than September 30, 2007, preliminary assessments of unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges).

(2) To complete, by not later than September 30, 2010, site inspections of unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges).

(3) To achieve, by not later than September 30, 2009, a remedy in place or response complete for unexploded ordnance, discarded military munitions, and munitions constituents at all military installations closed or realigned as part of a round of defense base closure and realignment occurring prior to the 2005 round.

(4) To achieve, by a date certain established by the Secretary of Defense, a remedy in place or response complete for unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges) and all military installations realigned or closed under the 2005 round of defense base closure and realignment.

(b) RESPONSE PLAN REQUIRED.—

(1) IN GENERAL.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a comprehensive plan for addressing the remediation of unexploded ordnance, discarded military munitions, and munitions constituents at current and former defense sites (other than operational ranges).

(2) CONTENT.—The plan required by paragraph (1) shall include—

(A) a schedule, including interim goals, for achieving the goals described in paragraphs (1) through (3) of subsection (a), based upon the Munitions Response Site Prioritization Protocol established by the Department of Defense;

(B) such interim goals as the Secretary determines feasible for efficiently achieving the goal required under paragraph (4) of such subsection; and

(C) an estimate of the funding required to achieve the goals established pursuant to such subsection and the interim goals established pursuant to subparagraphs (A) and (B).

(3) UPDATES.—Not later than March 15 of 2008, 2009, and 2010, the Secretary shall submit to the congressional defense committees an update of the plan required under paragraph (1). The Secretary may include the update in the report on environmental restoration activities that is submitted to Congress under section 2706(a) of title 10, United States Code, in the year in which that update is required and may include

in the update any adjustment to the remediation goals established under subsection (a) that the Secretary determines necessary to respond to unforeseen circumstances.

(c) REPORT ON REUSE STANDARDS AND PRINCIPLES.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the efforts of the Department of Defense to achieve agreement with relevant regulatory agencies on appropriate reuse standards or principles, including—

(1) a description of any standards or principles that have been agreed upon; and

(2) a discussion of any issues that remain in disagreement, including the impact that any such disagreement is likely to have on the ability of the Department of Defense to carry out the response plan required by subsection (b).

(d) DEFINITIONS.—In this section:

(1) The terms "unexploded ordnance" and "operational range" have the meanings given such terms in section 101(e) of title 10, United States Code.

(2) The terms "discarded military munitions", "munitions constituents", and "defense site" have the meanings given such terms in section 2710(e) of such title.

(e) CONFORMING REPEAL.—Section 313 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1051; 10 U.S.C. 2706 note) is repealed.

**SEC. 314. RESEARCH ON EFFECTS OF OCEAN DISPOSAL OF MUNITIONS.** 10 USC 2710 note.

(a) IDENTIFICATION OF DISPOSAL SITES.—

(1) HISTORICAL REVIEW.—The Secretary of Defense shall conduct a historical review of available records to determine the number, size, and probable locations of sites where the Armed Forces disposed of military munitions in coastal waters. The historical review shall, to the extent possible, identify the types of munitions at individual sites.

(2) COOPERATION.—The Secretary shall request the assistance of the Coast Guard, the National Oceanic and Atmospheric Administration, and other relevant Federal agencies in conducting the review required by this subsection.

(3) INTERIM REPORTS.—The Secretary shall periodically, but no less often than annually, release any new information obtained during the historical review conducted under paragraph (1). The Secretary may withhold from public release the exact nature and locations of munitions the potential unauthorized retrieval of which could pose a significant threat to the national defense or public safety.

(4) INCLUSION OF INFORMATION IN ANNUAL REPORT ON ENVIRONMENTAL RESTORATION ACTIVITIES.—The Secretary shall include the information obtained pursuant to the review conducted under paragraph (1) in the annual report on environmental restoration activities submitted to Congress under section 2706 of title 10, United States Code.

(5) FINAL REPORT.—The Secretary shall complete the historical review required under paragraph (1) and submit a final report on the findings of such review in the annual report on environmental restoration activities submitted to Congress for fiscal year 2009.

(b) IDENTIFICATION OF NAVIGATIONAL AND SAFETY HAZARDS.—

(1) IDENTIFICATION OF HAZARDS.—The Secretary of Defense shall provide available information to the Secretary of Commerce to assist the National Oceanic and Atmospheric Administration in preparing nautical charts and other navigational materials for coastal waters that identify known or potential hazards posed by disposed military munitions to private activities, including commercial shipping and fishing operations.

(2) CONTINUATION OF INFORMATION ACTIVITIES.—The Secretary of Defense shall continue activities to inform potentially affected users of the ocean environment, particularly fishing operations, of the possible hazards from contact with disposed military munitions and the proper methods to mitigate such hazards.

(c) RESEARCH.—

(1) IN GENERAL.—The Secretary of Defense shall continue to conduct research on the effects on the ocean environment and those who use it of military munitions disposed of in coastal waters.

(2) SCOPE.—Research under paragraph (1) shall include—

(A) the sampling and analysis of ocean waters and sea beds at or adjacent to military munitions disposal sites selected pursuant to paragraph (3) to determine whether the disposed military munitions have caused or are causing contamination of such waters or sea beds;

(B) investigation into the long-term effects of seawater exposure on disposed military munitions, particularly effects on chemical munitions;

(C) investigation into the impacts any such contamination may have on the ocean environment and those who use it, including public health risks;

(D) investigation into the feasibility of removing or otherwise remediating the military munitions; and

(E) the development of effective safety measures for dealing with such military munitions.

(3) RESEARCH CRITERIA.—In conducting the research required by this subsection, the Secretary shall ensure that the sampling, analysis, and investigations are conducted at representative sites, taking into account factors such as depth, water temperature, nature of the military munitions present, and relative proximity to onshore populations. In conducting such research, the Secretary shall select at least two representative sites each in the areas of the Atlantic coast, the Pacific coast (including Alaska), and the Hawaiian Islands.

(4) AUTHORITY TO MAKE GRANTS AND ENTER INTO COOPERATIVE AGREEMENTS.—In conducting research under this subsection, the Secretary may make grants to, and enter into cooperative agreements with, qualified research entities.

Reports.

(d) MONITORING.—If the historical review required by subsection (a) or the research required by subsection (c) indicates that contamination is being released into the ocean waters from disposed military munitions at a particular site or that the site poses a significant public health or safety risk, the Secretary of Defense shall institute appropriate monitoring mechanisms at that site and report to the congressional defense committees on any additional measures that may be necessary to address the release or risk, as applicable.

(e) DEFINITIONS.—In this section:

(1) The term "coastal waters" means that part of the ocean extending from the coast line of the United States to the outer boundary of the outer Continental Shelf.

(2) The term "coast line" has the meaning given that term in section 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

(3) The term "military munitions" has the meaning given that term in section 101(e) of title 10, United States Code.

(4) The term "outer Continental Shelf" has the meaning given that term in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

**SEC. 315. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH MOSES LAKE WELLFIELD SUPERFUND SITE, MOSES LAKE, WASHINGTON.**

(a) AUTHORITY TO REIMBURSE.—

(1) TRANSFER AMOUNT.—Using funds described in subsection (b), the Secretary of Defense may transfer not more than $111,114.03 to the Moses Lake Wellfield Superfund Site 10–6J Special Account.

(2) PURPOSE OF REIMBURSEMENT.—The payment under paragraph (1) is to reimburse the Environmental Protection Agency for its costs incurred in overseeing a remedial investigation/feasibility study performed by the Department of the Army under the Defense Environmental Restoration Program at the former Larson Air Force Base, Moses Lake Superfund Site, Moses Lake, Washington.

(3) INTERAGENCY AGREEMENT.—The reimbursement described in paragraph (2) is provided for in the interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Moses Lake Wellfield Superfund Site in March 1999.

(b) SOURCE OF FUNDS.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(17) for operation and maintenance for Environmental Restoration, Formerly Used Defense Sites.

(c) USE OF FUNDS.—The Environmental Protection Agency shall use the amount transferred under subsection (a) to pay costs incurred by the Agency at the Moses Lake Wellfield Superfund Site.

**SEC. 316. TRANSFER OF GOVERNMENT-FURNISHED URANIUM STORED AT SEQUOYAH FUELS CORPORATION, GORE, OKLAHOMA.**

(a) TRANSPORT AND DISPOSAL.—Subject to subsection (c), the Secretary of the Army shall transport to an authorized disposal facility for appropriate disposal all of the Government-furnished uranium in the chemical and physical form in which it is stored at the Sequoyah Fuels Corporation site in Gore, Oklahoma.

(b) SOURCE OF FUNDS.—Funds authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army may be used for the transport and disposal required under subsection (a).

(c) LIABILITY.—The Secretary may only transport uranium under subsection (a) after receiving from Sequoyah Fuels Corporation a written agreement satisfactory to the Secretary that provides that—

(1) the United States assumes no liability, legal or otherwise, of Sequoyah Fuels Corporation by transporting the uranium; and

(2) the Sequoyah Fuels Corporation waives any and all claims it may have against the United States related to the transported uranium.

Deadline.

(d) COMPLETION OF TRANSPORT.—The Secretary shall complete the transport of uranium under subsection (a) not later than March 31, 2007.

**SEC. 317. EXTENSION OF AUTHORITY TO GRANT EXEMPTIONS TO CERTAIN REQUIREMENTS.**

(a) AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.—Section 6(e)(3) of the Toxic Substances Control Act (15 U.S.C. 2605(e)(3)) is amended—

(1) in subparagraph (A), by striking "subparagraphs (B) and (C)" and inserting "subparagraphs (B), (C), and (D)";

(2) in subparagraph (B), by striking "but not more than one year from the date it is granted" and inserting "but not more than 1 year from the date it is granted, except as provided in subparagraph (D)"; and

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

"(D) The Administrator may extend an exemption granted pursuant to subparagraph (B) that has not yet expired for a period not to exceed 60 days for the purpose of authorizing the Secretary of Defense and the Secretaries of the military departments to provide for the transportation into the customs territory of the United States of polychlorinated biphenyls generated by or under the control of the Department of Defense for purposes of their disposal, treatment, or storage in the customs territory of the United States if those polychlorinated biphenyls are already in transit from their storage locations but the Administrator determines, in the sole discretion of the Administrator, they would not otherwise arrive in the customs territory of the United States within the period of the original exemption. The Administrator shall promptly publish notice of such extension in the Federal Register.".

Federal Register, publication.

15 USC 2605 note.

(b) SUNSET DATE.—The amendments made by subsection (a) shall cease to have effect on September 30, 2012. The termination of the authority to grant exemptions pursuant to such amendments shall not effect the validity of any exemption granted prior to such date.

(c) REPORT.—Not later than March 1, 2011, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Environment and Public Works of the Senate and the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives a report on the status of foreign-manufactured polychlorinated biphenyls under the control of the Department of Defense outside the United States. The report shall address, at a minimum—

(1) the remaining volume of such foreign-manufactured polychlorinated biphenyls that may require transportation into the customs territory of the United States for disposal, treatment, or storage; and

(2) the efforts that have been made by the Department of Defense and other Federal agencies to reduce such volume by—

(A) reducing the volume of foreign-manufactured polychlorinated biphenyls under the control of the Department of Defense outside the United States; or

(B) developing alternative options for the disposal, treatment, or storage of such foreign-manufactured polychlorinated biphenyls.

**SEC. 318. NATIONAL ACADEMY OF SCIENCES STUDY ON HUMAN EXPOSURE TO CONTAMINATED DRINKING WATER AT CAMP LEJEUNE, NORTH CAROLINA.**

(a) STUDY REQUIRED.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Navy shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive review and evaluation of the available scientific and medical evidence regarding associations between pre-natal, child, and adult exposure to drinking water contaminated with trichloroethylene (TCE) and tetrachloroethylene (PCE) at Camp Lejeune, North Carolina, as well as other pre-natal, child, and adult exposures to levels of trichloroethylene and tetrachloroethylene similar to those experienced at Camp Lejeune, and birth defects or diseases and any other adverse health effects. Deadline. Contracts.

(2) ELEMENTS.—In conducting the review and evaluation, the Academy shall review and summarize the scientific and medical evidence and assess the strength of that evidence in establishing a link or association between exposure to trichloroethylene and tetrachloroethylene and each birth defect or disease suspected to be associated with such exposure. For each birth defect or disease reviewed, the Academy shall determine, to the extent practicable with available scientific and medical data, whether—

(A) a statistical association with such contaminant exposures exists; and

(B) there exist plausible biological mechanisms or other evidence of a causal relationship between contaminant exposures and the birth defect or disease.

(3) SCOPE OF REVIEW.—In conducting the review and evaluation, the Academy shall include a review and evaluation of—

(A) the toxicologic and epidemiologic literature on adverse health effects of trichloroethylene and tetrachloroethylene, including epidemiologic and risk assessment reports from government agencies;

(B) recent literature reviews by the National Research Council, Institute of Medicine, and other groups;

(C) the completed and on-going Agency for Toxic Substances Disease Registry (ATSDR) studies on potential trichloroethylene and tetrachloroethylene exposure at Camp Lejeune; and

(D) published meta-analyses.

(4) PEER REVIEW.—The Academy shall obtain the peer review of the report prepared as a result of the review and evaluation under applicable Academy procedures.

(5) SUBMITTAL.—The Academy shall submit the report prepared as a result of the review and evaluation to the Secretary and Congress not later than 18 months after entering into Reports. Deadline.

the agreement for the review and evaluation under paragraph (1).

(b) NOTICE ON EXPOSURE.—

(1) NOTICE REQUIRED.—Upon completion of the current epidemiological study by the Agency for Toxic Substances Disease Registry, known as the Exposure to Volatile Organic Compounds in Drinking Water and Specific Birth Defects and Childhood Cancers, United States Marine Corps Base Camp Lejeune, North Carolina, the Commandant of the Marine Corps shall take appropriate actions, including the use of national media such as newspapers, television, and the Internet, to notify former Camp Lejeune residents and employees who may have been exposed to drinking water impacted by trichloroethylene and tetrachloroethylene of the results of the study.

(2) ELEMENTS.—The information provided by the Commandant of the Marine Corps under paragraph (1) shall be prepared in conjunction with the Agency for Toxic Substances Disease Registry and shall include a description of sources of additional information relating to such exposure, including, but not be limited to, the following:

(A) A description of the events resulting in exposure to contaminated drinking water at Camp Lejeune.

(B) A description of the duration and extent of the contamination of drinking water at Camp Lejeune.

(C) The known and suspected health effects of exposure to the drinking water impacted by trichloroethylene and tetrachloroethylene at Camp Lejeune.

# Subtitle C—Program Requirements, Restrictions, and Limitations

10 USC 2222 note.

**SEC. 321. LIMITATION ON FINANCIAL MANAGEMENT IMPROVEMENT AND AUDIT INITIATIVES WITHIN THE DEPARTMENT OF DEFENSE.**

(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of any financial management improvement activity relating to the preparation, processing, or auditing of financial statements until the Secretary submits to the congressional defense committees a written determination that each activity proposed to be funded is—

(1) consistent with the financial management improvement plan of the Department of Defense required by section 376(a)(1) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 190–163; 119 Stat. 3213); and

(2) likely to improve internal controls or otherwise result in sustained improvements in the ability of the Department to produce timely, reliable, and complete financial management information.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply to an activity directed exclusively at assessing the adequacy of internal controls and remediating any inadequacy identified pursuant to such assessment.

**SEC. 322. FUNDS FOR EXHIBITS FOR THE NATIONAL MUSEUMS OF THE ARMED FORCES.**

(a) NATIONAL MUSEUM OF THE UNITED STATES ARMY.—Of the amounts authorized to be appropriated by section 301(1) for operation and maintenance for the Army, not less than $3,000,000 may be available to the Secretary of the Army for the acquisition, installation, and maintenance of exhibits at the facility designated by the Secretary as the National Museum of the United States Army. The Secretary may enter into a contract with the Army Historical Foundation for the purpose of performing such acquisition, installation, and maintenance.

(b) NATIONAL MUSEUM OF THE UNITED STATES NAVY.—Of the amounts authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, not less than $3,000,000 may be available to the Secretary of the Navy for the acquisition, installation, and maintenance of exhibits at the facility designated by the Secretary as the National Museum of the United States Navy. The Secretary may enter into a contract with the Naval Historical Foundation for the purpose of performing such acquisition, installation, and maintenance.

(c) NATIONAL MUSEUM OF THE MARINE CORPS AND HERITAGE CENTER.—Of the amounts authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps, not less than $3,000,000 may be available to the Secretary of the Navy for the acquisition, installation, and maintenance of exhibits at the National Museum of the Marine Corps and Heritage Center. The Secretary may enter into a contract with the United States Marine Corps Heritage Foundation for the purpose of performing such acquisition, installation, and maintenance.

(d) NATIONAL MUSEUM OF THE UNITED STATES AIR FORCE.—Of the amounts authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force, not less than $3,000,000 may be available to the Secretary of the Air Force for the acquisition, installation, and maintenance of exhibits at the facility designated by the Secretary as the National Museum of the United States Air Force. The Secretary may enter into a contract with the Air Force Museum Foundation for the purpose of performing such acquisition, installation, and maintenance.

(e) REIMBURSEMENT.—

(1) AUTHORITY TO ACCEPT REIMBURSEMENT.—After September 30, 2006, the Secretary of a military department may accept funds from any non-profit entity authorized to support the national museum of the applicable Armed Force to reimburse the Secretary for amounts obligated and expended by the Secretary from amounts made available to the Secretary under this section.

(2) TREATMENT.—Amounts accepted as reimbursement under paragraph (1) shall be credited to the account that was used to cover the costs for which the reimbursement was provided. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

10 USC 229 note.

**SEC. 323. PRIORITIZATION OF FUNDS FOR EQUIPMENT READINESS AND STRATEGIC CAPABILITY.**

(a) PRIORITIZATION OF FUNDS.—The Secretary of Defense shall take such steps as may be necessary through the planning, programming, budgeting, and execution systems of the Department of Defense to ensure that financial resources are provided for each fiscal year as necessary to enable—

(1) the Secretary of each military department to meet the requirements of that military department for that fiscal year for the repair, recapitalization, and replacement of equipment used in the global war on terrorism; and

(2) the Secretary of the Army to meet the requirements of the Army for that fiscal year, in addition to the requirements under paragraph (1), for—

(A) the fulfillment of the equipment requirements of units transforming to modularity in accordance with the Modular Force Initiative report submitted to Congress in March 2006; and

(B) the reconstitution of equipment and materiel in prepositioned stocks in accordance with requirements under the Army Prepositioned Stocks Strategy 2012 or a subsequent strategy implemented under the guidelines in section 2229 of title 10, United States Code.

(b) SUBMISSION OF BUDGET INFORMATION.—

(1) SUBMISSION OF INFORMATION.—As part of the budget justification materials submitted to Congress in support of the President's budget for a fiscal year or a request for supplemental appropriations, the Secretary of Defense shall include the following:

(A) The information described in paragraph (2) for the fiscal year for which the budget justification materials are submitted, the fiscal year during which the materials are submitted, and the preceding fiscal year.

(B) The information described in paragraph (2) for each of the fiscal years covered by the future-years defense program for the fiscal year in which the report is submitted based on estimates of any amounts required to meet each of the requirements under subsection (a) that are not met for that fiscal year and are deferred to the future-years defense program.

(C) A consolidated budget justification summary of the information submitted under subparagraphs (A) and (B).

(2) INFORMATION DESCRIBED.—The information described in this paragraph is information that clearly and separately identifies, by appropriations account, budget activity, activity group, sub-activity group, and program element or line item, the amounts requested for the programs, projects, and activities of—

(A) each of the military departments for the repair, recapitalization, or replacement of equipment used in the global war on terrorism; and

(B) the Army for—

(i) the fulfillment of the equipment requirements of units transforming to modularity; and

(ii) the reconstitution of equipment and materiel in prepositioned stocks.

(3) ADDITIONAL INFORMATION IN FIRST REPORT.—As part of the budget justification materials submitted to Congress in support of the President's budget for fiscal year 2008, the Secretary of Defense shall also include the information described in paragraph (2) for fiscal years 2003, 2004, and 2005.

(c) ANNUAL REPORT ON ARMY PROGRESS.—On the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, the Secretary of the Army shall submit to the congressional defense committees a report setting forth the progress of the Army in meeting the requirements of subsection (a). Any information required to be included in the report concerning funding priorities under paragraph (1) or (2) of subsection (a) shall be itemized by active duty component and reserve component. Each such report shall include the following:

(1) A complete itemization of the requirements for the funding priorities in subsection (a), including an itemization for all types of modular brigades and an itemization for the replacement of equipment withdrawn or diverted from the reserve component for use in the global war on terrorism.

(2) A list of any shortfalls that exist between available funding, equipment, supplies, and industrial capacity and required funding, equipment, supplies, and industrial capacity in accordance with the funding priorities in subsection (a).

(3) A list of the requirements for the funding priorities in subsection (a) that the Army has included in the budget for that fiscal year, including a detailed listing of the type, quantity, and cost of the equipment the Army plans to repair, recapitalize, or procure, set forth by appropriations account and Army component.

(4) An assessment of the progress made during that fiscal year toward meeting the overall requirements of the funding priorities in subsection (a).

(5) A schedule for meeting the requirements of subsection (a).

(6) A description of how the Army defines costs associated with modularity versus the costs associated with modernizing equipment platforms and the reset (repair, recapitalization, or replacement) of equipment used during the global war on terrorism, including the funding expended on, and the future funding required for, such reset requirements.

(7) A complete itemization of the amount of funds expended to date on the modular brigades.

(8) The results of Army assessments of modular force capabilities, including lessons learned from existing modular units and any modifications that have been made to modularity.

(9) The comments of the Chief of the National Guard Bureau and the Chief of the Army Reserve on each of the items described in paragraphs (1) through (8).

(d) ANNUAL COMPTROLLER GENERAL REPORT ON ARMY PROGRESS.—Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, the Comptroller General shall submit to the congressional defense committees a report containing the assessment of the Comptroller General on the following:

(1) The progress of the Army in meeting the requirements of subsection (a), including progress in equipping and manning modular units in the regular components and reserve components of the Armed Forces.

(2) The use of funds by the Army for meeting the requirements of subsection (a).

(3) The progress of the Army in conducting further testing and evaluations of designs under the modularity initiative.

(e) TERMINATION OF REPORT REQUIREMENTS.—The requirement for the submission of a report under subsection (c) or (d) shall terminate on the date of the submission of the report required to be submitted under that subsection to accompany or follow the President's budget submission for fiscal year 2012.

**SEC. 324. LIMITATION ON DEPLOYMENT OF MARINE CORPS TOTAL FORCE SYSTEM TO NAVY.**

(a) LIMITATION.—The Secretary of the Navy may not deploy the Marine Corps Total Force System (MCTFS) (or any derivative system of the MCTFS) to the Navy until the date on which the congressional defense committees and the Secretary of the Navy receive the written determination of the Chairman of the Defense Business Systems Management Committee submitted under subsection (d) that the deployment of the MCTFS to the Navy is in the best interests of the Department of Defense.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees and the Comptroller General a report on the Marine Corps Total Force System (MCTFS). The report shall include the following:

(1) An analysis of alternatives to the MCTFS, including a detailed comparison between the cost of deploying and operating the MCTFS within the Navy and the cost of including the Navy in the Defense Integrated Military Human Resources System.

(2) A business case analysis, including an analysis of the costs and benefits to both the Department of the Navy and the Department of Defense of the alternatives to the MCTFS considered under the analysis required by paragraph (1).

(3) An analysis of the compatibility of the MCTFS with the enterprise architecture of the Department of Defense, including a detailed estimate of all interface costs with current or planned Department-wide military manpower, personnel, and pay information technology systems.

Deadline.

(c) COMPTROLLER GENERAL ASSESSMENT.—Not later than 90 days after the date on which the Comptroller General receives the report submitted under subsection (b), the Comptroller General shall submit to the congressional defense committees and to the Chairman of the Defense Business Systems Management Committee a written assessment of the report.

Deadline.

(d) DETERMINATION OF CHAIRMAN OF DEFENSE BUSINESS SYSTEMS MANAGEMENT COMMITTEE.—Not sooner than 120 days after the date on which the Comptroller General receives the report submitted under subsection (b), the Chairman of the Defense Business Systems Management Committee shall review the analysis included in the report, together with any other relevant information available to the Chairman, and submit to the congressional defense committees and the Secretary of the Navy the written determination

of the Chairman of whether the deployment of the MCTFS to the Navy is in the best interests of the Department of Defense.

## Subtitle D—Workplace and Depot Issues

**SEC. 331. PERMANENT EXCLUSION OF CERTAIN CONTRACT EXPENDITURES FROM PERCENTAGE LIMITATION ON THE PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.**

(a) PERMANENT EXCLUSION.—Section 2474(f) of title 10, United States Code, is amended—

(1) by striking "(1) Amounts" and inserting "Amounts";

(2) by striking "entered into during fiscal years 2003 through 2009"; and

(3) by striking paragraph (2).

(b) INCLUSION OF CERTAIN ITEMS IN ANNUAL REPORT.—

(1) INCLUSION OF CERTAIN ITEMS.—Paragraph (2) of section 2466(d) of such title is amended to read as follows:

"(2) Each report required under paragraph (1) shall include as a separate item any expenditure covered by section 2474(f) of this title that was made during the fiscal year covered by the report and shall specify the amount and nature of each such expenditure.".

(2) CONFORMING AMENDMENT.—The heading for subsection (d) of section 2466 of such title is amended to read as follows: "ANNUAL REPORT.—".

**SEC. 332. MINIMUM CAPITAL INVESTMENT FOR CERTAIN DEPOTS.**

(a) MINIMUM INVESTMENT LEVELS.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2476. Minimum capital investment for certain depots**

"(a) MINIMUM INVESTMENT.—Each fiscal year, the Secretary of a military department shall invest in the capital budgets of the covered depots of that military department a total amount equal to not less than six percent of the average total combined workload funded at all the depots of that military department for the preceding three fiscal years.

"(b) CAPITAL BUDGET.—For purposes of this section, the capital budget of a depot includes investment funds spent on depot infrastructure, equipment, and process improvement in direct support of depot operations.

"(c) WAIVER.—The Secretary of Defense may waive the requirement under subsection (a) with respect to a military department for a fiscal year if the Secretary determines that the waiver is necessary for reasons of national security. Whenever the Secretary makes such a waiver, the Secretary shall notify the congressional defense committees of the waiver and the reasons for the waiver. Notification.

"(d) ANNUAL REPORT.—(1) Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report containing budget justification documents summarizing the level of capital investment for each military department as of the end of the preceding fiscal year.

"(2) Each report submitted under paragraph (1) shall include the following:

"(A) A specification of any statutory, regulatory, or operational impediments to achieving the requirement under subsection (a) with respect to each military department.

"(B) A description of the benchmarks for capital investment established for each covered depot and military department and the relationship of the benchmarks to applicable performance measurement methods used in the private sector.

"(C) If the requirement under subsection (a) is not met for a military department for the fiscal year covered by the report, a statement of the reasons why the requirement was not met and a plan of actions for meeting the requirement for the fiscal year beginning in the year in which such report is submitted.

"(e) COVERED DEPOT.—In this section, the term 'covered depot' means any of the following:

"(1) With respect to the Department of the Army:

"(A) Anniston Army Depot, Alabama.

"(B) Letterkenny Army Depot, Pennsylvania.

"(C) Tobyhanna Army Depot, Pennsylvania.

"(D) Corpus Christi Army Depot, Texas.

"(E) Red River Army Depot, Texas.

"(2) With respect to the Department of the Navy:

"(A) Fleet Readiness Center East Site, Cherry Point, North Carolina.

"(B) Fleet Readiness Center Southwest Site, North Island, California.

"(C) Fleet Readiness Center Southeast Site, Jacksonville, Florida.

"(D) Portsmouth Naval Shipyard, Maine.

"(E) Pearl Harbor Naval Shipyard, Hawaii.

"(F) Puget Sound Naval Shipyard, Washington.

"(G) Norfolk Naval Shipyard, Virginia.

"(H) Marine Corps Logistics Base, Albany, Georgia.

"(I) Marine Corps Logistics Base, Barstow, California.

"(3) With respect to the Department of the Air Force:

"(A) Warner-Robins Air Logistics Center, Georgia.

"(B) Ogden Air Logistics Center, Utah.

"(C) Oklahoma City Air Logistics Center, Oklahoma.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2476. Minimum capital investment for certain depots.".

10 USC 2476 note.

(c) EFFECTIVE DATE.—Section 2476 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2006.

10 USC 2476 note.

(d) TWO YEAR PHASE-IN FOR DEPARTMENTS OF THE ARMY AND THE NAVY.—

Applicability.

(1) REDUCED PERCENTAGE OF REQUIRED INVESTMENT FOR FISCAL YEARS 2007 AND 2008.—The Secretary of the Army shall apply subsection (a) of section 2476 of title 10, United States Code, as added by subsection (a), to the covered depots of the Army, and the Secretary of the Navy shall apply such subsection to the covered depots of the Department of the Navy—

(A) for fiscal year 2007, by substituting "four percent" for "six percent"; and

(B) for fiscal year 2008, by substituting "five percent" for "six percent".

(2) COVERED DEPOTS.—In this subsection, the term "covered depot" has the meaning given that term in subsection (e) of section 2476 of title 10, United States Code, as added by subsection (a).

**SEC. 333. EXTENSION OF TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY GUARD FUNCTIONS.**

(a) EXTENSION AND LIMITATION ON TOTAL NUMBER OF CONTRACTORS.—Section 332(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended—

(1) by striking "September 30, 2007" both places it appears and inserting "September 30, 2009";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection (d):

"(d) LIMITATION.—The total number of personnel employed to perform security guard functions under all contracts entered into pursuant to this section shall not exceed—

"(1) for fiscal year 2007, the total number of such personnel employed under such contracts on October 1, 2006;

"(2) for fiscal year 2008, the number equal to 90 percent of the total number of such personnel employed under such contracts on October 1, 2006; and

"(3) for fiscal year 2009, the number equal to 80 percent of the total number of such personnel employed under such contracts on October 1, 2006.".

(b) REPORT ON CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.—Not later than February 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on contractor performance of security guard functions under section 332 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314). The report shall include the following:

(1) An explanation of progress made toward implementing each of the seven recommendations in the Comptroller General report entitled "Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach" (GAO–06–284).

(2) An assessment, taking into consideration the observations made by the Comptroller General on the report of the Department of Defense of November 2005 that is entitled "Department of Defense Installation Security Guard Requirement Assessment and Plan", of the following:

(A) The cost-effectiveness of using contractors rather than Department of Defense employees to perform security-guard functions.

(B) The performance of contractors employed as security guards compared with the performance of military personnel who have served as security guards.

(C) Specific results of on-site visits made by officials designated by the Secretary of Defense to military installations using contractors to perform security-guard functions.

(c) CONTRACT LIMITATION.—No contract may be entered into under section 332 of the Bob Stump National Defense Authorization

Act for Fiscal Year 2003 (Public Law 107–314) after September 30, 2007, until the report required under subsection (b) is submitted.

## Subtitle E—Reports

**SEC. 341. REPORT ON NAVY FLEET RESPONSE PLAN.**

(a) REPORT REQUIRED.—Not later than December 1, 2006, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the program of the Navy referred to as the Fleet Response Plan. The report shall include the following:

(1) A directive that provides guidance for the conduct of the Plan and standardizes terms and definitions.

(2) Performance measures for evaluation of the Plan.

(3) Costs and resources needed to achieve objectives of the Plan, including any incremental effect on the Navy Operation and Maintenance budget.

(4) Operational tests, exercises, war games, experiments, and deployments used to test performance.

(5) A collection and synthesis of lessons learned from the implementation of the Plan as of the date on which the report is submitted.

(6) Evaluation of each of the following with respect to each ship participating in the Plan:

(A) Combat readiness, including training requirements.

(B) Ship material condition, including trending data for mission degrading casualty reports rated as C3 or C4.

(C) Professional development training requirements accomplished during a deployment and at home station.

(D) Crew retention statistics.

(7) Any proposed changes to the Surface Force Training Manual.

(8) The amount of funding required to effectively implement the operation and maintenance requirements of the Plan by ship class.

(9) Any recommendations of the Secretary of the Navy with respect to expanding the Plan to include Expeditionary Strike Groups.

(b) COMPTROLLER GENERAL REPORT.—Not later than 120 days after the date on which the Secretary of the Navy submits the report required under subsection (a), the Comptroller General shall submit to the congressional defense committees a report containing a review of the report required under that subsection. The Comptroller General's report shall include the following:

(1) An examination of the management approaches of the Navy in implementing the Fleet Response Plan.

(2) An assessment of the adequacy of Navy directives and guidance with respect to maintenance and training requirements and procedures.

(3) An analysis and assessment of the adequacy of the Navy's evaluation criteria for the Plan.

(4) An evaluation of Navy data on aircraft carriers, destroyers, and cruisers that participated in the Plan with respect to readiness, response time, and availability for routine or unforeseen deployments.

(5) An assessment of the Navy's progress in identifying the amount of funding required to effectively implement the operations and maintenance requirements of the Plan and the effect of providing funding in an amount less than that amount.

(6) Any recommendations of the Comptroller General with respect to expanding the Plan to include Expeditionary Strike Groups.

(c) POSTPONEMENT OF EXPANSION.—The Secretary of the Navy may not expand the implementation of the Fleet Response Plan beyond the Carrier Strike Groups until the date that is six months after the date on which the Secretary of the Navy submits the report required under subsection (a).

**SEC. 342. REPORT ON NAVY SURFACE SHIP ROTATIONAL CREW PROGRAMS.**

(a) REPORT REQUIRED.—Not later than April 1, 2007, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the ship rotational crew experiment referred to in subsection (c)(1). The report shall include the following:

(1) A comparison between the three destroyers participating in that experiment and destroyers not participating in the experiment that takes into consideration each of the following:

(A) Cost-effectiveness, including a comparison of travel and per diem expenses, maintenance costs, and other costs.

(B) Maintenance procedures, impacts, and deficiencies, including the number and characterization of maintenance deficiencies, the extent of voyage repairs, post-deployment assessments of the material condition of the ships, and the extent to which work levels were maintained.

(C) Mission training requirements.

(D) Professional development requirements and opportunities.

(E) Liberty port of call opportunities.

(F) Movement and transportation of crew.

(G) Inventory and property accountability.

(H) Policies and procedures for assigning billets for rotating crews.

(I) Crew retention statistics.

(J) Readiness and mission capability data.

(2) Results from surveys administered or focus groups held to obtain representative views from commanding officers, officers, and enlisted members on the effects of rotational crew experiments on quality of life, training, professional development, maintenance, mission effectiveness, and other issues.

(3) The extent to which standard policies and procedures were developed and used for participating ships.

(4) Lessons learned from the experiment.

(5) An assessment from the combatant commanders on the crew mission performance when deployed.

(6) An assessment from the commander of the Fleet Forces Command on the material condition, maintenance, and crew training of each participating ship.

(7) Any recommendations of the Secretary of the Navy with respect to the extension of the ship rotational crew experiment or the implementation of the experiment for other surface vessels.

(b) POSTPONEMENT OF IMPLEMENTATION.—The Secretary of the Navy may not begin implementation of any new surface ship rotational crew experiment or program during the period beginning on the date of the enactment of this Act and ending on October 1, 2009.

(c) TREATMENT OF EXISTING EXPERIMENTS.—

Deadline.

(1) DESTROYER EXPERIMENT.—Not later than January 1, 2007, the Secretary of the Navy shall terminate the existing ship rotational crew experiment involving the U.S.S. Gonzalez (DDG–66), the U.S.S. Stout (DDG–55), and the U.S.S. Laboon (DDG–58) that is known as the "sea swap".

(2) PATROL COASTAL CLASS SHIP EXPERIMENT.—The Secretary of the Navy may continue the existing ship rotational crew program that is currently in use by overseas-based Patrol Coastal class ships.

(3) MINE COUNTERMEASURES SHIPS.—The Secretary of the Navy may continue the existing ship rotational crew program that is currently in use by MCM and MHC ships.

(4) LITTORAL COMBAT SHIPS.—The Secretary of the Navy may employ a two crew for one ship (commonly referred to as Blue-Gold) rotational crew program for the first two ships of each Littoral combat ship design (LCS 1–4).

(d) COMPTROLLER GENERAL REPORT.—Not later than July 15, 2007, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the ship rotational crew experiment referred to in subsection (c)(1). The report shall include the following:

(1) A review of the report submitted by the Secretary of the Navy under subsection (a) and an assessment of the extent to which the Secretary fully addressed costs, quality of life, training, maintenance, and mission effectiveness, and other relevant issues in that report.

(2) An assessment of the extent to which the Secretary established and applied a comprehensive framework for assessing the use of ship rotational crew experiments, including formal objectives, metrics, and methodology for assessing the cost-effectiveness of such experiments.

(3) An assessment of the extent to which the Secretary established effective guidance for the use of ship rotational crew experiments.

(4) Lessons learned from recent ship rotational crew experiments and an assessment of the extent to which the Navy systematically collects and shares lessons learned.

(e) CONGRESSIONAL BUDGET OFFICE REPORT.—Not later than July 15, 2007, the Director of the Congressional Budget Office shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the long-term implications of the use of crew rotation on Navy ships on the degree of forward presence provided by Navy ships. The report shall include the following:

(1) An analysis of different approaches to crew rotation and the degree of forward presence each approach would provide.

(2) A comparison of the degree of forward presence provided by the fleet under the long-term shipbuilding plan of the Navy with and without the widespread use of crew rotation.

(3) The long-term benefits and costs of using crew rotation on Navy ships.

**SEC. 343. REPORT ON ARMY LIVE-FIRE RANGES IN HAWAII.**

Not later than March 1, 2007, the Secretary of the Army shall submit to Congress a report on the adequacy of the live-fire ranges of the Army in the State of Hawaii with respect to current and future training requirements. The report shall include the following:

(1) An evaluation of the capacity of the existing live-fire ranges to meet the training requirements of the Army, including the training requirements of Stryker Brigade Combat Teams.

(2) A description of any existing plan to modify or expand any range in Hawaii for the purpose of meeting anticipated live-fire training requirements.

(3) A description of the current live-fire restrictions at the Makua Valley range and the effect of these restrictions on unit readiness.

(4) Cost and schedule estimates for the construction of new ranges or the modification of existing ranges that are necessary to support future training requirements if existing restrictions on training at the Makua Valley range remain in place.

**SEC. 344. COMPTROLLER GENERAL REPORT ON JOINT STANDARDS AND PROTOCOLS FOR ACCESS CONTROL SYSTEMS AT DEPARTMENT OF DEFENSE INSTALLATIONS.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the assessment of the Comptroller General of—

(1) the extent to which consistency exists in standards, protocols, and procedures for access control across installations of the Department of Defense; and

(2) whether the establishment of joint standards and protocols for access control at such installations would be likely to—

(A) address any need of the Department identified by the Comptroller General; or

(B) improve access control across such installations by providing greater consistency and improved force protection.

(b) ISSUES TO BE ASSESSED.—In conducting the assessment required by subsection (a), the Comptroller General shall assess the extent to which each installation of the Department of Defense has or would benefit from having an access control system with the ability to—

(1) electronically check any identification card issued by any Federal agency or any State or local government within the United States, including any identification card of a visitor

to the installation who is a citizen or legal resident of the United States;

(2) verify that an identification card used to obtain access to the installation was legitimately issued and has not been reported lost or stolen;

(3) check on a real-time basis all relevant watch lists maintained by the Government, including terrorist watch lists and lists of persons wanted by Federal, State, or local law enforcement authorities;

(4) maintain a log of individuals seeking access to the installation and of individuals who are denied access to the installation; and

(5) exchange information with any installation with a system that complies with the joint standards and protocols.

**SEC. 345. COMPTROLLER GENERAL REPORT ON READINESS OF ARMY AND MARINE CORPS GROUND FORCES.**

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than June 1, 2007, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the readiness of the active component and reserve component ground forces of the Army and the Marine Corps.

(2) ONE OR MORE REPORTS.—In complying with the requirements of this section, the Comptroller General may submit a single report addressing all the elements specified in subsection (b) or two or more reports addressing any combination of such elements. If the Comptroller General submits more than one report under this section, all such reports shall be submitted not later than the date specified in paragraph (1).

(b) ELEMENTS.—The elements specified in this subsection are the following:

(1) An analysis of the current readiness status of each of the active component and reserve component ground forces of the Army and the Marine Corps, including a description of any major deficiency identified, an analysis of the trends in readiness of such forces during not less than the ten-year period preceding the date on which the report is submitted, and a comparison of the current readiness indicators of such ground forces with historical patterns.

(2) An assessment of the ability of the Army and the Marine Corps to provide trained and ready forces for ongoing operations as well as other commitments assigned to the Army and the Marine Corps in defense planning documents.

(3) An analysis of the availability of equipment for training by units of the Army and the Marine Corps in the United States in configurations comparable to the equipment being used by units of the Army and the Marine Corps, as applicable, in ongoing operations.

(4) An analysis of the current and projected requirements for repair or replacement of equipment of the Army and the Marine Corps due to ongoing operations and the effect of such required repair or replacement of equipment on the availability of equipment for training.

(5) An assessment of the current personnel tempo of Army and Marine Corps forces, including—

(A) a comparison of such tempos to historical trends;

(B) an identification of particular occupational specialties that are experiencing unusually high or low deployment rates; and

(C) an analysis of retention rates in the occupational specialties identified under subparagraph (B).

(6) An assessment of the efforts of the Army and the Marine Corps to mitigate the impact of high operational tempos, including cross-leveling of personnel and equipment or cross training of personnel or units for new or additional mission requirements.

(7) A description of the current policy of the Army and the Marine Corps with respect to the mobilization of reserve component personnel, together with an analysis of the number of reserve component personnel in each of the Army and the Marine Corps that are projected to be available for deployment under such policy.

(c) FORM OF REPORT.—Any report submitted under subsection (a) shall be submitted in both classified and unclassified form.

**SEC. 346. REPORT ON AIR FORCE SAFETY REQUIREMENTS FOR AIR FORCE FLIGHT TRAINING OPERATIONS AT PUEBLO MEMORIAL AIRPORT, COLORADO.**

(a) REPORT REQUIRED.—Not later than February 15, 2007, the Secretary of the Air Force shall submit to the congressional defense committees a report on Air Force safety requirements for Air Force flight training operations at Pueblo Memorial Airport, Colorado.

(b) ELEMENTS.—The report required under subsection (a) shall include each of the following:

(1) A description of the Air Force flying operations at Pueblo Memorial Airport, including the Initial Flight Screening program.

(2) An assessment of the impact of Air Force operations at Pueblo Memorial Airport on non-Air Force activities at the airport.

(3) A description of the requirements necessary at Pueblo Memorial Airport to ensure safe Air Force flying operations, including the continuous availability of fire protection, crash rescue, and other emergency response capabilities.

(4) An assessment of the necessity of providing for a continuous fire-fighting capability at Pueblo Memorial Airport.

(5) A description and analysis of any alternatives for Air Force flying operations at Pueblo Memorial Airport, including the cost and availability of any such alternatives.

(6) A description of Air Force funding of fire-fighting and crash rescue support at Pueblo Memorial Airport through the services contract for the Initial Flight Screening program.

(7) An assessment of whether Air Force funding is required to assist the City of Pueblo, Colorado, in meeting Air Force requirements for safe Air Force flight operations at Pueblo Memorial Airport, and if such funding is required, the plan of the Secretary of the Air Force to provide such funding to the city.

**SEC. 347. ANNUAL REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM.**

10 USC 221 note.

(a) ANNUAL REPORT REQUIRED.—The Secretary of Defense shall include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for each fiscal year, a report on the future requirements of the Department of Defense with respect to the Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service.

(b) CONTENTS OF REPORT.—Each report required to be submitted under subsection (a) shall include the following:

(1) The funding requirements of the personnel security clearance investigation program and ability of the Secretary of Defense to fund the program.

(2) The size of the personnel security clearance investigation process backlog.

(3) The length of the average delay for an individual case pending in the personnel security clearance investigation process.

(4) Any progress made by the Secretary of Defense during the 12 months preceding the date on which the report is submitted toward implementing planned changes in the personnel security clearance investigation process.

Certification.

(5) A determination certified by the Secretary of Defense of whether the personnel security clearance investigation process has improved during the 12 months preceding the date on which the report is submitted.

(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the Secretary of Defense submits the first report required under subsection (a), the Comptroller General shall submit to Congress a report that contains a review of such report. The Comptroller General's report shall include the following:

(1) The number of personnel security clearance investigations conducted during the period beginning on October 1, 1999, and ending on September 30, 2006.

(2) The number of each type of security clearance granted during that period.

(3) The unit cost to the Department of Defense of each security clearance granted during that period.

(4) The amount of any fee or surcharge paid to the Office of Personnel Management as a result of conducting a personnel security clearance investigation.

(5) A description of the procedures used by the Secretary of Defense to estimate the number of personnel security clearance investigations to be conducted during a fiscal year.

(6) A description of any plan developed by the Secretary of Defense to reduce delays and backlogs in the personnel security clearance investigation process.

(7) A description of any plan developed by the Secretary of Defense to adequately fund the personnel security clearance investigation process.

(8) A description of any plan developed by the Secretary of Defense to establish a more stable and effective Personnel Security Investigations Program.

**SEC. 348. FIVE-YEAR EXTENSION OF ANNUAL REPORT ON TRAINING RANGE SUSTAINMENT PLAN AND TRAINING RANGE INVENTORY.**

Section 366 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2522; 10 U.S.C. 113 note) is amended—

(1) in subsections (a)(5) and (c)(2), by striking "fiscal years 2005 through 2008" and inserting "fiscal years 2005 through 2013"; and

(2) in subsection (d), by striking "within 60 days of receiving a report" and inserting "within 90 days of receiving a report".

**SEC. 349. REPORTS ON WITHDRAWAL OR DIVERSION OF EQUIPMENT FROM RESERVE UNITS FOR SUPPORT OF RESERVE UNITS BEING MOBILIZED AND OTHER UNITS.**

(a) REPORT REQUIRED ON WITHDRAWAL OR DIVERSION OF EQUIPMENT.—Not later than 90 days after the date on which the Secretary concerned (as that term is defined in section 101(a)(9) of title 10, United States Code) withdraws or diverts equipment from any reserve component unit for the purpose of transferring such equipment to a reserve component unit that is ordered to active duty under section 12301, 12302, or 12304 of title 10, United States Code, or to an active component unit for the purpose of discharging the mission of the unit to which the equipment is diverted, the Secretary concerned shall submit to the Secretary of Defense a status report on such withdrawal or diversion of equipment.

(b) ELEMENTS OF STATUS REPORT.—Each status report under subsection (a) shall include the following:

(1) A plan to repair, recapitalize, or replace the equipment withdrawn or diverted within the unit from which it is being withdrawn or diverted.

(2) In the case of equipment that is to remain in a theater of operations while the unit from which the equipment is withdrawn or diverted leaves the theater of operations, a plan to provide that unit with equipment appropriate to ensure the continuation of the readiness training of the unit.

(3) A signed memorandum of understanding between the active or reserve component to which the equipment is diverted and the reserve component from which the equipment is withdrawn or diverted that specifies—

(A) how the equipment will be accounted for; and

(B) when the equipment will be returned to the component from which it was withdrawn or diverted.

(c) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act and every 90 days thereafter, the Secretary of Defense shall submit to Congress all status reports submitted under subsection (a) during the 90-day period preceding the date on which the Secretary of Defense submits such reports.

(d) TERMINATION.—This section shall terminate on the date that is five years after the date of the enactment of this Act.

# Subtitle F—Other Matters

**SEC. 351. DEPARTMENT OF DEFENSE STRATEGIC POLICY ON PREPOSITIONING OF MATERIEL AND EQUIPMENT.**

(a) STRATEGIC POLICY REQUIRED.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2229. Strategic policy on prepositioning of materiel and equipment**

"(a) POLICY REQUIRED.—The Secretary of Defense shall maintain a strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment. Such policy shall take into account national security threats, strategic mobility, service requirements, and the requirements of the combatant commands.

"(b) LIMITATION OF DIVERSION OF PREPOSITIONED MATERIEL.—The Secretary of a military department may not divert materiel or equipment from prepositioned stocks except—

"(1) in accordance with a change made by the Secretary of Defense to the policy maintained under subsection (a); or

"(2) for the purpose of directly supporting a contingency operation or providing humanitarian assistance under chapter 20 of this title.

"(c) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense may not implement or change the policy required under subsection (a) until the Secretary submits to the congressional defense committees a report describing the policy or change to the policy.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2229. Strategic policy on prepositioning of materiel and equipment.".

10 USC 2229 note.

(c) DEADLINE FOR ESTABLISHMENT OF POLICY.—

(1) DEADLINE.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall establish the strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment required under section 2229 of title 10, United States Code, as added by subsection (a).

(2) LIMITATION ON DIVERSION OF PREPOSITIONED MATERIEL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Secretary of Defense submits the report required under section 2229(c) of title 10, United States Code, on the policy referred to in paragraph (1), the Secretary of a military department may not divert materiel or equipment from prepositioned stocks except for the purpose of directly supporting a contingency operation or providing humanitarian assistance under chapter 20 of that title.

**SEC. 352. AUTHORITY TO MAKE DEPARTMENT OF DEFENSE HORSES AVAILABLE FOR ADOPTION.**

(a) INCLUSION OF DEPARTMENT OF DEFENSE HORSES IN EXISTING AUTHORITY.—Section 2583 of title 10, United States Code, is amended—

(1) in the section heading, by striking "**working dogs**" and inserting "**animals**";

(2) by striking "working" each place it appears;

(3) by striking "dog" and "dogs" each place they appear and inserting "animal" and "animals", respectively;

(4) by striking "dog's" in paragraphs (1) and (2) of subsection (a) and inserting "animal's";

(5) by striking "a dog's adoptability" in subsection (b) and inserting "the adoptability of the animal"; and

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

"(g) MILITARY ANIMAL DEFINED.—In this section, the term 'military animal' means the following:

"(1) A military working dog.

"(2) A horse owned by the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

"2583. Military animals: transfer and adoption.".

**SEC. 353. SALE AND USE OF PROCEEDS OF RECYCLABLE MUNITIONS MATERIALS.**

(a) ESTABLISHMENT OF PROGRAM.—Chapter 443 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 4690. Recyclable munitions materials: sale; use of proceeds**

"(a) AUTHORITY FOR PROGRAM.—Notwithstanding section 2577 of this title, the Secretary of the Army may carry out a program to sell recyclable munitions materials resulting from the demilitarization of conventional military munitions without regard to chapter 5 of title 40 and use any proceeds in accordance with subsection (c).

"(b) METHOD OF SALE.—The Secretary shall use competitive procedures to sell recyclable munitions materials under this section in a manner consistent with Federal procurement laws and regulations.

"(c) PROCEEDS.—(1) Proceeds from the sale of recyclable munitions materials under this section shall be credited to an account that is specified as being for Army ammunition demilitarization from funds made available for the procurement of ammunition, to be available only for reclamation, recycling, and reuse of conventional military munitions (including research and development and equipment purchased for such purpose).

"(2) Amounts credited under this subsection shall be available for obligation for the fiscal year during which the funds are so credited and for three subsequent fiscal years.

"(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out the program established under this section. Such regulations shall be consistent and in compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the regulations implementing that Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4690. Recyclable munitions materials: sale; use of proceeds.".

**SEC. 354. RECOVERY AND TRANSFER TO CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY OF CERTAIN FIREARMS, AMMUNITION, AND PARTS GRANTED TO FOREIGN COUNTRIES.**

(a) AUTHORITY TO RECOVER; TRANSFER TO CORPORATION.—Subchapter II of chapter 407 of title 36, United States Code, is amended by inserting after section 40728 the following new section:

**"§ 40728A. Recovery of excess firearms, ammunition, and parts granted to foreign countries and transfer to corporation**

"(a) AUTHORITY TO RECOVER.—The Secretary of the Army may recover from any country to which rifles, ammunition, repair parts, or other supplies described in section 40731(a) of this title are furnished on a grant basis under the conditions imposed by section 505 of the Foreign Assistance Act of 1961 (22 U.S.C. 2314) any such rifles, ammunition, repair parts, or supplies that become excess to the needs of such country.

"(b) COST OF RECOVERY.—(1) Except as provided in paragraph (2), the cost of recovery of any rifles, ammunition, repair parts, or supplies under subsection (a) shall be treated as incremental direct costs incurred in providing logistical support to the corporation for which reimbursement shall be required as provided in section 40727(a) of this title.

"(2) The Secretary may require the corporation to pay costs of recovery described in paragraph (1) in advance of incurring such costs. Amounts so paid shall not be subject to the provisions of section 3302 of title 31, but shall be administered in accordance with the last sentence of section 40727(a) of this title.

"(c) AVAILABILITY FOR TRANSFER TO CORPORATION.—Any rifles, ammunition, repair parts, or supplies recovered under subsection (a) shall be available for transfer to the corporation in accordance with section 40728 of this title under such additional terms and conditions as the Secretary shall prescribe for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 40728 the following new item:

"40728A. Recovery of excess firearms, ammunition, and parts granted to foreign countries and transfer to corporation.".

**SEC. 355. EXTENSION OF DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT PROGRAM.**

10 USC note prec. 1031.

(a) TERMINATION AT END OF CONTINGENCY OPERATION.—Subsection (c) of section 344 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) is amended to read as follows:

"(c) TERMINATION OF BENEFIT.—The authority to provide a benefit under subsection (a)(1) to a member directly supporting a contingency operation shall terminate on the date that is 60 days after the date on which the Secretary determines that the contingency operation has ended.".

(b) APPLICATION TO OTHER CONTINGENCY OPERATIONS.—Such section is further amended—

(1) in subsection (a), by striking "Operation Iraqi Freedom and Operation Enduring Freedom" and inserting "a contingency operation"; and

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

"(g) CONTINGENCY OPERATION DEFINED.—In this section, the term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code. The term includes Operation Iraqi Freedom and Operation Enduring Freedom.".

(c) EXTENSION TO HOSPITALIZED MEMBERS.—Subsection (a) of such section is further amended—

(1) by striking "As soon as possible after the date of the enactment of this Act, the" and inserting "(1) The"; and

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

"(2) As soon as possible after the date of the enactment of the John Warner National Defense Authorization Act for Fiscal Year 2007, the Secretary shall provide, wherever practicable, prepaid phone cards, packet based telephony service, or an equivalent telecommunications benefit which includes access to telephone service to members of the Armed Forces who, although are no longer directly supporting a contingency operation, are hospitalized as a result of wounds or other injuries incurred while serving in direct support of a contingency operation.".

(d) REPORT ON IMPLEMENTATION OF MODIFIED BENEFITS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the status of the efforts of the Department of Defense to implement the modifications of the Department of Defense telecommunications benefit required by section 344 of the National Defense Authorization Act for Fiscal Year 2004 that result from the amendments made by this section.

**SEC. 356. EXTENSION OF AVAILABILITY OF FUNDS FOR COMMEMORATION OF SUCCESS OF THE ARMED FORCES IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.**

Section 378(b)(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3214) is amended by striking "fiscal year 2006" and inserting "fiscal years 2006 and 2007".

**SEC. 357. CAPITAL SECURITY COST SHARING.**

22 USC 4865 note.

(a) RECONCILIATION REQUIRED.—For each fiscal year, the Secretary of Defense shall reconcile (1) the estimate of overseas presence of the Secretary of Defense under subsection (b) for that fiscal year, with (2) the determination of the Secretary of State under section 604(e)(1) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865 note) of the total overseas presence of the Department of Defense for that fiscal year.

Deadline.

(b) ANNUAL ESTIMATE OF OVERSEAS PRESENCE.—Not later than February 1 of each year, the Secretary of Defense shall submit to the congressional defense committees an estimate of the total number of Department of Defense overseas personnel subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) during the fiscal year that begins on October 1 of that year.

10 USC 2911 note.

**SEC. 358. UTILIZATION OF FUEL CELLS AS BACK-UP POWER SYSTEMS IN DEPARTMENT OF DEFENSE OPERATIONS.**

The Secretary of Defense shall consider the utilization of fuel cells as replacements for current back-up power systems in a variety of Department of Defense operations and activities, including in telecommunications networks, perimeter security, individual equipment items, and remote facilities, in order to increase the operational longevity of back-up power systems and stand-by power systems in such operations and activities.

10 USC 2567 note.

**SEC. 359. IMPROVING DEPARTMENT OF DEFENSE SUPPORT FOR CIVIL AUTHORITIES.**

(a) CONSULTATION.—In the development of concept plans for the Department of Defense for providing support to civil authorities, the Secretary of Defense may consult with the Secretary of Homeland Security and State governments.

(b) PREPOSITIONING OF DEPARTMENT OF DEFENSE ASSETS.—The Secretary of Defense may provide for the prepositioning of prepackaged or preidentified basic response assets, such as medical supplies, food and water, and communications equipment, in order to improve the ability of the Department of Defense to rapidly provide support to civil authorities. The prepositioning of basic response assets shall be carried out in a manner consistent with Department of Defense concept plans for providing support to civil authorities and section 2229 of title 10, United States Code, as added by section 351.

(c) REIMBURSEMENT.—To the extent required by section 1535 of title 31, United States Code, or other applicable law, the Secretary of Defense shall require that the Department of Defense be reimbursed for costs incurred by the Department in the prepositioning of basic response assets under subsection (b).

(d) MILITARY READINESS.—The Secretary of Defense shall ensure that the prepositioning of basic response assets under subsection (b) does not adversely affect the military preparedness of the United States.

(e) PROCEDURES AND GUIDELINES.—The Secretary may develop procedures and guidelines applicable to the prepositioning of basic response assets under subsection (b).

**SEC. 360. ENERGY EFFICIENCY IN WEAPONS PLATFORMS.**

10 USC 2911 note.

(a) POLICY.—It shall be the policy of the Department of Defense to improve the fuel efficiency of weapons platforms, consistent with mission requirements, in order to—

(1) enhance platform performance;

(2) reduce the size of the fuel logistics systems;

(3) reduce the burden high fuel consumption places on agility;

(4) reduce operating costs; and

(5) dampen the financial impact of volatile oil prices.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the Department of Defense in implementing the policy established by subsection (a).

(2) ELEMENTS.—The report shall include the following:

(A) An assessment of the feasibility of designating a senior Department of Defense official to be responsible for implementing the policy established by subsection (a).

(B) A summary of the recommendations made as of the time of the report by—

(i) the Energy Security Integrated Product Team established by the Secretary of Defense in April 2006;

(ii) the Defense Science Board Task Force on Department of Defense Energy Strategy established by the Under Secretary of Defense for Acquisition, Technology and Logistics on May 2, 2006; and

(iii) the January 2001 Defense Science Board Task Force report on Improving Fuel Efficiency of Weapons Platforms.

(C) For each recommendation summarized under subparagraph (B)—

(i) the steps that the Department has taken to implement such recommendation;

(ii) any additional steps the Department plans to take to implement such recommendation; and

(iii) for any recommendation that the Department does not plan to implement, the reasons for the decision not to implement such recommendation.

(D) An assessment of the extent to which the research, development, acquisition, and logistics guidance and directives of the Department for weapons platforms are appropriately designed to address the policy established by subsection (a).

(E) An assessment of the extent to which such guidance and directives are being carried out in the research, development, acquisition, and logistics programs of the Department.

(F) A description of any additional actions that, in the view of the Secretary, may be needed to implement the policy established by subsection (a).

**SEC. 361. PRIORITIZATION OF FUNDS WITHIN NAVY MISSION OPERATIONS, SHIP MAINTENANCE, COMBAT SUPPORT FORCES, AND WEAPONS SYSTEM SUPPORT.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President's budget for fiscal year 2007 failed to fund the required number of ship steaming days per quarter for Navy ship operations as well as deferring projected depot maintenance for Navy ships and aircraft; and

(2) the Secretary of Defense should ensure that sufficient financial resources are provided for each fiscal year to support the critical training and depot maintenance accounts of the Navy in order to enable the Navy to maintain the current readiness levels required to support the national military strategy without putting future readiness at risk by underfunding investment in modernization, including ship construction programs.

(b) CERTIFICATION.—The Secretary of Defense shall submit to the congressional defense committees a written certification, at the same time the President submits the budget for each of fiscal years 2008, 2009, and 2010, that the Navy has budgeted and

programmed funding to fully meet the requirements for that fiscal year for each of the following:

(1) Ship steaming days per quarter for deployed and non-deployed ship operations.

(2) Projected depot maintenance requirements for ships and aircraft.

(c) LIMITATION.—Of the funds available for Operation and Maintenance, Defense-Wide, for the Office of the Secretary of Defense for each of fiscal years 2008, 2009, and 2010, no more than 80 percent may be obligated in that fiscal year until after the submission of the certification required by subsection (b) for the annual budget submitted in February of that year for the following fiscal year.

(d) ANNUAL REPORT.—Beginning with the fiscal year 2008 budget of the President, the Secretary of the Navy shall submit to the congressional defense committees an annual report (to be submitted when the budget is submitted) setting forth the progress toward funding the requirements of subsection (a). The annual reporting requirement shall terminate after the fiscal year 2010 budget submission. Each such report shall include the following:

(1) An assessment of the deployed and non-deployed quarterly ship steaming day requirements, itemized by active-duty component and reserve component.

(2) An assessment of the associated budget request for each of the following:

(A) Deployed and non-deployed ship steaming days per quarter.

(B) Chief of Naval Operations ship depot maintenance availabilities, shown by type of maintenance availability and by location.

(C) Air depot maintenance workload, shown by type of airframe and by location.

(e) REPORT ON RIVERINE SQUADRONS.—

(1) REPORT REQUIRED.—The Secretary of the Navy shall submit to the congressional defense committees a report on the Riverine Squadrons of the Navy. The report shall be submitted with the President's budget for fiscal year 2008 and shall include the following:

(A) The total amount funded for fiscal year 2006 and projected funding for fiscal year 2007 and fiscal year 2008 for those squadrons.

(B) The operational requirement of the commander of the United States Central Command for those squadrons and the corresponding Department of Navy concept of operations for deployments of those squadrons to support Operation Iraqi Freedom or Operation Enduring Freedom.

(C) The military table of organization and equipment for those squadrons.

(D) A summary of existing Department of Navy equipment that has been assigned in fiscal year 2006 or will be provided in fiscal year 2007 and fiscal year 2008 for those squadrons.

(E) The Department of Navy directive for the mission assigned to those squadrons.

(2) LIMITATION.—Of the amount made available for fiscal year 2007 to the Department of Navy for operation and maintenance for the Office of the Secretary of the Navy, not more

than 80 percent may be obligated before the date on which the report required under paragraph (1) is submitted.

**SEC. 362. PROVISION OF ADEQUATE STORAGE SPACE TO SECURE PERSONAL PROPERTY OUTSIDE OF ASSIGNED MILITARY FAMILY HOUSING UNIT.**

10 USC 2825 note.

The Secretary of a military department shall ensure that a member of the Armed Forces under the jurisdiction of the Secretary who occupies a unit of military family housing is provided with adequate storage space to secure personal property that the member is unable to secure within the unit whenever—

(1) the member is assigned to duty in an area for which special pay under section 310 of title 37, United States Code, is available and the assignment is pursuant to orders specifying an assignment of 180 days or more; and

(2) the dependents of the member who otherwise occupy the unit of military family housing are absent from the unit for more than 30 consecutive days during the period of the assignment of the member.

**SEC. 363. EXPANSION OF PAYMENT OF REPLACEMENT VALUE OF PERSONAL PROPERTY DAMAGED DURING TRANSPORT AT GOVERNMENT EXPENSE.**

(a) COVERAGE OF PROPERTY OF CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE.—Subsection (a) of section 2636a of title 10, United States Code, is amended by striking "of baggage and household effects for members of the armed forces at Government expense" and inserting "at Government expense of baggage and household effects for members of the armed forces or civilian employees of the Department of Defense (or both)".

(b) REQUIREMENT FOR PAYMENT AND DEDUCTION UPON FAILURE OF CARRIER TO SETTLE.—Effective March 1, 2008, such section is further amended—

Effective date.

(1) in subsection (a), by striking "may include" and inserting "shall include"; and

(2) in subsection (b), by striking "may be deducted" and inserting "shall be deducted".

(c) CERTIFICATION ON FAMILIES FIRST PROGRAM.—The Secretary of Defense shall submit to the congressional defense committees a report containing the certifications of the Secretary with respect to the program of the Department of Defense known as "Families First" on the following matters:

Reports.

(1) Whether there is an alternative to the system under the program that would provide equal or greater capability at a lower cost.

(2) Whether the estimates on costs, and the anticipated schedule and performance parameters, for the program and system are reasonable.

(3) Whether the management structure for the program is adequate to manage and control program costs.

(d) COMPTROLLER GENERAL REPORTS ON FAMILIES FIRST PROGRAM.—

(1) REVIEW AND ASSESSMENT REQUIRED.—The Comptroller General of the United States shall conduct a review and assessment of the progress of the Department of Defense in implementing the program of the Department of Defense known as "Families First".

(2) ELEMENTS OF REVIEW AND ASSESSMENT.—In conducting the review and assessment required by paragraph (1), the Comptroller General shall—

(A) assess the progress of the Department in achieving the goals of the Families First program, including progress in the development and deployment of the Defense Personal Property System;

(B) assess the organization, staffing, resources, and capabilities of the Defense Personal Property System Project Management Office established on April 7, 2006;

(C) evaluate the growth in cost of the program since the previous assessment of the program by the Comptroller General, and estimate the current annual cost of the Defense Personal Property System and each component of that system; and

(D) assess the feasibility of implementing processes and procedures, pending the satisfactory development of the Defense Personal Property System, which would achieve the goals of the program of providing improved personal property management services to members of the Armed Forces.

(3) REPORTS.—The Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives reports as follows:

(A) An interim report on the review and assessment required by paragraph (1) by not later than December 1, 2006.

(B) A final report on such review and assessment by not later than June 1, 2007.

# TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2008 and 2009.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2007 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

## Subtitle A—Active Forces

**SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

(a) IN GENERAL.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2007, as follows:

(1) The Army, 512,400.

(2) The Navy, 340,700.
(3) The Marine Corps, 180,000.
(4) The Air Force, 334,200.

(b) LIMITATION.—

(1) ARMY.—The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2007 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 482,400 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

(2) MARINE CORPS.—The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2007 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 175,000 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

**SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.**

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 502,400.
"(2) For the Navy, 340,700.
"(3) For the Marine Corps, 180,000.
"(4) For the Air Force, 334,200.".

**SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS FOR FISCAL YEARS 2008 AND 2009.**

Effective October 1, 2007, the text of section 403 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1863) is amended to read as follows:

Effective date.

10 USC 115 note.

"(a) AUTHORITY.—

"(1) ARMY.—For each of fiscal years 2008 and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2007 baseline plus 20,000.

"(2) MARINE CORPS.—For each of fiscal years 2008 and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2007 baseline plus 4,000.

"(3) PURPOSE OF INCREASES.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under paragraphs (1) and (2) are—

"(A) to support operational missions; and

"(B) to achieve transformational reorganization objectives, including objectives for increased numbers of combat

brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

"(4) FISCAL-YEAR 2007 BASELINE.—In this subsection, the term 'fiscal-year 2007 baseline', with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 401 of the John Warner National Defense Authorization Act for Fiscal Year 2007.

"(5) ACTIVE-DUTY END STRENGTH.—In this subsection, the term 'active-duty end strength' means the strength for active-duty personnel of one of the Armed Forces as of the last day of a fiscal year.

"(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

"(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

"(d) BUDGET TREATMENT.—

"(1) FISCAL YEAR 2008 BUDGET.—The budget for the Department of Defense for fiscal year 2008 as submitted to Congress shall comply, with respect to funding, with subsections (c) and (d) of section 691 of title 10, United States Code.

"(2) OTHER INCREASES.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a), then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2007 active duty end strength authorized for that service under section 401 of the John Warner National Defense Authorization Act for Fiscal Year 2007.".

## Subtitle B—Reserve Forces

**SEC. 411. END STRENGTHS FOR SELECTED RESERVE.**

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2007, as follows:

(1) The Army National Guard of the United States, 350,000.
(2) The Army Reserve, 200,000.
(3) The Navy Reserve, 71,300.
(4) The Marine Corps Reserve, 39,600.
(5) The Air National Guard of the United States, 107,000.
(6) The Air Force Reserve, 74,900.
(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

**SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2007, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 27,441.

(2) The Army Reserve, 15,416.

(3) The Navy Reserve, 12,564.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 13,291.

(6) The Air Force Reserve, 2,707.

**SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).**

The minimum number of military technicians (dual status) as of the last day of fiscal year 2007 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,912.

(2) For the Army National Guard of the United States, 26,050.

(3) For the Air Force Reserve, 10,124.

(4) For the Air National Guard of the United States, 23,255.

**SEC. 414. FISCAL YEAR 2007 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.**

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2007, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2007, may not exceed 595.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2007, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

**SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.**

During fiscal year 2007, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.
(2) The Army Reserve, 13,000.
(3) The Navy Reserve, 6,200.
(4) The Marine Corps Reserve, 3,000.
(5) The Air National Guard of the United States, 16,000.
(6) The Air Force Reserve, 14,000.

## Subtitle C—Authorization of Appropriations

**SEC. 421. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2007 a total of $110,098,628,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2007.

**SEC. 422. ARMED FORCES RETIREMENT HOME.**

There is hereby authorized to be appropriated for fiscal year 2007 from the Armed Forces Retirement Home Trust Fund the sum of $54,846,000 for the operation of the Armed Forces Retirement Home.

# TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

PART I—OFFICER PERSONNEL POLICY GENERALLY

Sec. 501. Military status of officers serving in certain intelligence community positions.
Sec. 502. Extension of age for mandatory retirement for active-duty general and flag officers.
Sec. 503. Increased mandatory retirement ages for reserve officers.
Sec. 504. Standardization of grade of senior dental officer of the Air Force with that of senior dental officer of the Army.
Sec. 505. Management of chief warrant officers.
Sec. 506. Extension of temporary reduction of time-in-grade requirement for eligibility for promotion for certain active-duty list officers in grades of first lieutenant and lieutenant (junior grade).
Sec. 507. Grade and exclusion from active-duty general and flag officer distribution and strength limitations of officer serving as Attending Physician to the Congress.
Sec. 508. Modification of qualifications for leadership of the Naval Postgraduate School.

PART II—OFFICER PROMOTION POLICY

Sec. 511. Revisions to authorities relating to authorized delays of officer promotions.

Sec. 512. Consideration of adverse information by selection boards in recommendations on officers to be promoted.
Sec. 513. Expanded authority for removal from reports of selection boards of officers recommended for promotion to grades below general and flag grades.
Sec. 514. Special selection board authorities.
Sec. 515. Removal from promotion list of officers not promoted within 18 months of approval of list by the President.

PART III—JOINT OFFICER MANAGEMENT REQUIREMENTS

Sec. 516. Modification and enhancement of general authorities on management of officers who are joint qualified.
Sec. 517. Modification of promotion policy objectives for joint officers.
Sec. 518. Applicability of joint duty assignment requirements limited to graduates of National Defense University schools.
Sec. 519. Modification of certain definitions relating to jointness.

Subtitle B—Reserve Component Matters

PART I—RESERVE COMPONENT MANAGEMENT

Sec. 521. Recognition of former Representative G. V. 'Sonny' Montgomery for his 30 years of service in the House of Representatives.
Sec. 522. Revisions to reserve call-up authority.
Sec. 523. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.

PART II—AUTHORITIES RELATING TO GUARD AND RESERVE DUTY

Sec. 524. Title 10 definition of Active Guard and Reserve duty.
Sec. 525. Authority for Active Guard and Reserve duties to include support of operational missions assigned to the reserve components and instruction and training of active-duty personnel.
Sec. 526. Governor's authority to order members to Active Guard and Reserve duty.
Sec. 527. Expansion of operations of civil support teams.
Sec. 528. Modification of authorities relating to the Commission on the National Guard and Reserves.
Sec. 529. Additional matters to be reviewed by Commission on the National Guard and Reserves.

Subtitle C—Education and Training

PART I—SERVICE ACADEMIES

Sec. 531. Expansion of service academy exchange programs with foreign military academies.
Sec. 532. Revision and clarification of requirements with respect to surveys and reports concerning sexual harassment and sexual violence at the service academies.
Sec. 533. Department of Defense policy on service academy and ROTC graduates seeking to participate in professional sports before completion of their active-duty service obligations.

PART II—SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAMS

Sec. 535. Authority to permit members who participate in the guaranteed reserve forces duty scholarship program to participate in the health professions scholarship program and serve on active duty.
Sec. 536. Detail of commissioned officers as students at medical schools.
Sec. 537. Increase in maximum amount of repayment under education loan repayment for officers in specified health professions.
Sec. 538. Health Professions Scholarship and Financial Assistance Program for Active Service.

PART III—JUNIOR ROTC PROGRAM

Sec. 539. Junior Reserve Officers' Training Corps instructor qualifications.
Sec. 540. Expansion of members eligible to be employed to provide Junior Reserve Officers' Training Corps instruction.
Sec. 541. Expansion of Junior Reserve Officers' Training Corps program.
Sec. 542. Review of legal status of Junior ROTC program.

PART IV—OTHER EDUCATION AND TRAINING PROGRAMS

Sec. 543. Expanded eligibility for enlisted members for instruction at Naval Postgraduate School.

Subtitle D—General Service Authorities

Sec. 546. Test of utility of test preparation guides and education programs in enhancing recruit candidate performance on the Armed Services Vocational Aptitude Battery (ASVAB) and Armed Forces Qualification Test (AFQT).
Sec. 547. Clarification of nondisclosure requirements applicable to certain selection board proceedings.
Sec. 548. Report on extent of provision of timely notice of long-term deployments.

Subtitle E—Military Justice Matters

Sec. 551. Applicability of Uniform Code of Military Justice to members of the Armed Forces ordered to duty overseas in inactive duty for training status.
Sec. 552. Clarification of application of Uniform Code of Military Justice during a time of war.

Subtitle F—Decorations and Awards

Sec. 555. Authority for presentation of Medal of Honor Flag to living Medal of Honor recipients and to living primary next-of-kin of deceased Medal of Honor recipients.
Sec. 556. Review of eligibility of prisoners of war for award of the Purple Heart.
Sec. 557. Report on Department of Defense process for awarding decorations.

Subtitle G—Matters Relating to Casualties

Sec. 561. Authority for retention after separation from service of assistive technology and devices provided while on active duty.
Sec. 562. Transportation of remains of casualties dying in a theater of combat operations.
Sec. 563. Annual budget display of funds for POW/MIA activities of Department of Defense.
Sec. 564. Military Severely Injured Center.
Sec. 565. Comprehensive review on procedures of the Department of Defense on mortuary affairs.
Sec. 566. Additional elements of policy on casualty assistance to survivors of military decedents.
Sec. 567. Requirement for deploying military medical personnel to be trained in preservation of remains under combat or combat-related conditions.

Subtitle H—Impact Aid and Defense Dependents Education System

Sec. 571. Enrollment in defense dependents' education system of dependents of foreign military members assigned to Supreme Headquarters Allied Powers, Europe.
Sec. 572. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 573. Impact aid for children with severe disabilities.
Sec. 574. Plan and authority to assist local educational agencies experiencing growth in enrollment due to force structure changes, relocation of military units, or base closures and realignments.
Sec. 575. Pilot program on parent education to promote early childhood education for dependent children affected by military deployment or relocation of military units.

Subtitle I—Armed Forces Retirement Home

Sec. 578. Report on leadership and management of the Armed Forces Retirement Home.
Sec. 579. Report on Local Boards of Trustees of the Armed Forces Retirement Home.

Subtitle J—Reports

Sec. 581. Report on personnel requirements for airborne assets identified as Low-Density, High-Demand Airborne Assets.
Sec. 582. Report on feasibility of establishment of Military Entrance Processing Command station on Guam.
Sec. 583. Inclusion in annual Department of Defense report on sexual assaults of information on results of disciplinary actions.
Sec. 584. Report on provision of electronic copy of military records on discharge or release of members from the Armed Forces.
Sec. 585. Report on omission of social security account numbers from military identification cards.

Sec. 586. Report on maintenance and protection of data held by the Secretary of Defense as part of the Department of Defense Joint Advertising, Market Research and Studies (JAMRS) program.
Sec. 587. Comptroller General report on military conscientious objectors.

Subtitle K—Other Matters

Sec. 591. Modification in Department of Defense contributions to Military Retirement Fund.
Sec. 592. Revision in Government contributions to Medicare-Eligible Retiree Health Care Fund.
Sec. 593. Dental Corps of the Navy Bureau of Medicine and Surgery.
Sec. 594. Permanent authority for presentation of recognition items for recruitment and retention purposes.
Sec. 595. Persons authorized to administer enlistment and appointment oaths.
Sec. 596. Military voting matters.
Sec. 597. Physical evaluation boards.
Sec. 598. Military ID cards for retiree dependents who are permanently disabled.
Sec. 599. United States Marine Band and United States Marine Drum and Bugle Corps.

# Subtitle A—Officer Personnel Policy

## PART I—OFFICER PERSONNEL POLICY GENERALLY

### SEC. 501. MILITARY STATUS OF OFFICERS SERVING IN CERTAIN INTELLIGENCE COMMUNITY POSITIONS.

(a) CLARIFICATION OF MILITARY STATUS.—Section 528 of title 10, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) MILITARY STATUS.—An officer of the armed forces, while serving in a position covered by this section—

"(1) shall not be subject to supervision or control by the Secretary of Defense or any other officer or employee of the Department of Defense, except as directed by the Secretary of Defense concerning reassignment from such position; and

"(2) may not exercise, by reason of the officer's status as an officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law.

"(b) DIRECTOR AND DEPUTY DIRECTOR OF CIA.—When the position of Director or Deputy Director of the Central Intelligence Agency is held by an officer of the armed forces, the officer serving in that position, while so serving, shall be excluded from the limitations in sections 525 and 526 of this title. However, if both such positions are held by an officer of the armed forces, only one such officer may be excluded from those limitation while so serving."; and

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

"(e) EFFECT OF APPOINTMENT.—Except as provided in subsection (a), the appointment or assignment of an officer of the armed forces to a position covered by this section shall not affect—

"(1) the status, position, rank, or grade of such officer in the armed forces; or

"(2) any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

"(f) MILITARY PAY AND ALLOWANCES.—(1) An officer of the armed forces on active duty who is appointed or assigned to a

position covered by this section shall, while serving in such position and while remaining on active duty, continue to receive military pay and allowances and shall not receive the pay prescribed for such position.

"(2) Funds from which pay and allowances under paragraph (1) are paid to an officer while so serving shall be reimbursed as follows:

"(A) For an officer serving in a position within the Central Intelligence Agency, such reimbursement shall be made from funds available to the Director of the Central Intelligence Agency.

"(B) For an officer serving in a position within the Office of the Director of National Intelligence, such reimbursement shall be made from funds available to the Director of National Intelligence.

"(g) COVERED POSITIONS.—The positions covered by this section are the positions specified in subsections (b) and (c) and the positions designated under subsection (d).".

(b) CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

**"§ 528. Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances".**

(2) The item relating to section 528 in the table of sections at the beginning of chapter 32 of such title is amended to read as follows:

"528. Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances.".

**SEC. 502. EXTENSION OF AGE FOR MANDATORY RETIREMENT FOR ACTIVE-DUTY GENERAL AND FLAG OFFICERS.**

(a) REVISED AGE LIMITS FOR GENERAL AND FLAG OFFICERS.—Chapter 63 of title 10, United States Code, is amended by inserting after section 1252 the following new section:

**"§ 1253. Age 64: regular commissioned officers in general and flag officer grades; exception**

"(a) GENERAL RULE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps serving in a general or flag officer grade shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

"(b) EXCEPTION FOR OFFICERS SERVING IN O–9 AND O–10 POSITIONS.—In the case of an officer serving in a position that carries a grade above major general or rear admiral, the retirement under subsection (a) of that officer may be deferred—

"(1) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

"(2) by the Secretary of Defense, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.".

(b) RESTATEMENT AND MODIFICATION OF CURRENT AGE LIMITS FOR OTHER OFFICERS.—Section 1251 of such title is amended to read as follows:

**"§ 1251. Age 62: regular commissioned officers in grades below general and flag officer grades; exceptions**

"(a) GENERAL RULE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps (other than an officer covered by section 1252 of this title or a commissioned warrant officer) serving in a grade below brigadier general or rear admiral (lower half), in the case of an officer in the Navy, shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

"(b) DEFERRED RETIREMENT OF HEALTH PROFESSIONS OFFICERS.—(1) The Secretary of the military department concerned may, subject to subsection (d), defer the retirement under subsection (a) of a health professions officer if during the period of the deferment the officer will be performing duties consisting primarily of providing patient care or performing other clinical duties.

"(2) For purposes of this subsection, a health professions officer is—

"(A) a medical officer;

"(B) a dental officer; or

"(C) an officer in the Army Nurse Corps, an officer in the Navy Nurse Corps, or an officer in the Air Force designated as a nurse.

"(c) DEFERRED RETIREMENT OF CHAPLAINS.—The Secretary of the military department concerned may, subject to subsection (d), defer the retirement under subsection (a) of an officer who is appointed or designated as a chaplain if the Secretary determines that such deferral is in the best interest of the military department concerned.

"(d) LIMITATION ON DEFERMENT OF RETIREMENTS.—(1) Except as provided in paragraph (2), a deferment under subsection (b) or (c) may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age.

"(2) The Secretary of the military department concerned may extend a deferment under subsection (b) or (c) beyond the day referred to in paragraph (1) if the Secretary determines that extension of the deferment is necessary for the needs of the military department concerned. Such an extension shall be made on a case-by-case basis and shall be for such period as the Secretary considers appropriate.".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 63 of such title is amended—

(1) by striking the item relating to section 1251 and inserting the following new item:

"1251. Age 62: regular commissioned officers in grades below general and flag officer grades; exceptions.";

and

(2) by inserting after the item relating to section 1252 the following new item:

"1253. Age 64: regular commissioned officers in general and flag officer grades; exception.".

(d) CONFORMING AMENDMENTS.—Chapter 71 of such title is amended—

(1) in the table in section 1401(a), by inserting at the bottom of the column under the heading "For sections", in the entry for Formula Number 5, the following: "1253"; and

(2) in the table in section 1406(b)(1), by inserting at the bottom of the first column the following: "1253".

**SEC. 503. INCREASED MANDATORY RETIREMENT AGES FOR RESERVE OFFICERS.**

(a) MAJOR GENERALS AND REAR ADMIRALS.—

(1) INCREASED AGE.—Section 14511 of title 10, United States Code, is amended by striking "62 years" and inserting "64 years".

(2) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 14511. Separation at age 64: major generals and rear admirals".**

(b) BRIGADIER GENERALS AND REAR ADMIRALS (LOWER HALF).—

(1) INCREASED AGE.—Section 14510 of such title is amended by striking "60 years" and inserting "62 years".

(2) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 14510. Separation at age 62: brigadier generals and rear admirals (lower half)".**

(c) Officers Below Brigadier General or Rear Admiral (Lower Half)—

(1) INCREASED AGE.—Section 14509 of such title is amended by striking "60 years" and inserting "62 years".

(2) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 14509. Separation at age 62: reserve officers in grades below brigadier general or rear admiral (lower half)".**

(d) CERTAIN OTHER OFFICERS.—

(1) INCREASED AGE.—Section 14512 of such title is amended by striking "64 years" both places it appears and inserting "66 years".

(2) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 14512. Separation at age 66: officers holding certain offices".**

(e) CONFORMING AMENDMENTS.—Section 14508 of such title is amended—

(1) in subsection (c), by striking "60 years" and inserting "62 years"; and

(2) in subsection (d), by striking "62 years" and inserting "64 years".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1407 of such title is amended by striking the items relating to sections 14509, 14510, 14511, and 14512 and inserting the following new items:

"14509. Separation at age 62: reserve officers in grades below brigadier general or rear admiral (lower half).

"14510. Separation at age 62: brigadier generals and rear admirals (lower half).

"14511. Separation at age 64: major generals and rear admirals.
"14512. Separation at age 66: officers holding certain offices.".

**SEC. 504. STANDARDIZATION OF GRADE OF SENIOR DENTAL OFFICER OF THE AIR FORCE WITH THAT OF SENIOR DENTAL OFFICER OF THE ARMY.**

(a) AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES.—Section 8081 of title 10, United States Code, is amended by striking "brigadier general" in the second sentence and inserting "major general".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the occurrence of the next vacancy in the position of Assistant Surgeon General for Dental Services in the Air Force that occurs after the date of the enactment of this Act or, if earlier, on the date of the appointment to the grade of major general of the officer who is the incumbent in that position on the date of the enactment of the Act.

10 USC 8081 note.

**SEC. 505. MANAGEMENT OF CHIEF WARRANT OFFICERS.**

(a) RETENTION OF CHIEF WARRANT OFFICERS, W–4, WHO HAVE TWICE FAILED OF SELECTION FOR PROMOTION.—Paragraph (1) of section 580(e) of title 10, United States Code, is amended by striking "continued on active duty if" and all that follows and inserting "continued on active duty if—

"(A) in the case of a warrant officer in the grade of chief warrant officer, W–2, or chief warrant officer, W–3, the warrant officer is selected for continuation on active duty by a selection board convened under section 573(c) of this title; and

"(B) in the case of a warrant officer in the grade of chief warrant officer, W–4, the warrant officer is selected for continuation on active duty by the Secretary concerned under such procedures as the Secretary may prescribe.".

(b) ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF WARRANT OFFICERS CONTINUED ON ACTIVE DUTY.—Paragraph (2) of such section is amended—

(1) by inserting "(A)" after "(2)"; and

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

"(B) A warrant officer in the grade of chief warrant officer, W–4, who is retained on active duty pursuant to procedures prescribed under paragraph (1)(B) is eligible for further consideration for promotion while remaining on active duty.".

(c) MANDATORY RETIREMENT FOR LENGTH OF SERVICE.—Section 1305(a) of such title is amended—

(1) by striking "(1) Except as" and all the follows through "W–5)" and inserting "A regular warrant officer";

(2) by inserting "as a warrant officer" after "years of active service";

(3) by inserting "the date on which" after "60 days after"; and

(4) by striking paragraph (2).

**SEC. 506. EXTENSION OF TEMPORARY REDUCTION OF TIME-IN-GRADE REQUIREMENT FOR ELIGIBILITY FOR PROMOTION FOR CERTAIN ACTIVE-DUTY LIST OFFICERS IN GRADES OF FIRST LIEUTENANT AND LIEUTENANT (JUNIOR GRADE).**

Section 619(a)(1)(B) of title 10, United States Code, is amended by striking "October 1, 2005" and inserting "October 1, 2008".

**SEC. 507. GRADE AND EXCLUSION FROM ACTIVE-DUTY GENERAL AND FLAG OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS OF OFFICER SERVING AS ATTENDING PHYSICIAN TO THE CONGRESS.**

(a) GRADE.—

(1) REGULAR OFFICER.—(A) Chapter 41 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 722. Attending Physician to the Congress: grade**

"A general officer serving as Attending Physician to the Congress, while so serving, holds the grade of major general. A flag officer serving as Attending Physician to the Congress, while so serving, holds the grade of rear admiral.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"722. Attending Physician to the Congress: grade.".

(2) RESERVE OFFICER.—(A) Section 12210 of such title is amended by striking "who holds" and all that follows and inserting "holds the reserve grade of major general or rear admiral, as appropriate.".

(B) The heading of such section is amended to read as follows:

**"§ 12210. Attending Physician to the Congress: reserve grade".**

(C) The table of sections at the beginning of chapter 1205 of such title is amended by striking the item relating to section 12210 and inserting the following new item:

"12210. Attending Physician to the Congress: reserve grade.".

(b) DISTRIBUTION LIMITATIONS.—Section 525 of such title is amended by adding at the end the following new subsection:

"(f) An officer while serving as Attending Physician to the Congress is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above brigadier general or rear admiral (lower half) under subsection (a).".

(c) ACTIVE-DUTY STRENGTH LIMITATIONS.—Section 526 of such title is amended by adding at the end the following new subsection:

"(f) EXCLUSION OF ATTENDING PHYSICIAN TO THE CONGRESS.—The limitations of this section do not apply to the general or flag officer who is serving as Attending Physician to the Congress.".

**SEC. 508. MODIFICATION OF QUALIFICATIONS FOR LEADERSHIP OF THE NAVAL POSTGRADUATE SCHOOL.**

Subsection (a) of section 7042 of title 10, United States Code, is amended to read as follows:

"(a)(1) The President of the Naval Postgraduate School shall be one of the following:

"(A) An active-duty officer of the Navy or Marine Corps in a grade not below the grade of captain, or colonel, respectively, who is assigned or detailed to such position.

"(B) A civilian individual, including an individual who was retired from the Navy or Marine Corps in a grade not below captain, or colonel, respectively, who has the qualifications

appropriate to the position of President and is selected by the Secretary of the Navy as the best qualified from among candidates for the position in accordance with—

"(i) the criteria specified in paragraph (4);

"(ii) a process determined by the Secretary; and

"(iii) other factors the Secretary considers essential.

"(2) Before making an assignment, detail, or selection of an individual for the position of President of the Naval Postgraduate School, the Secretary shall—

"(A) consult with the Board of Advisors for the Naval Postgraduate School;

"(B) consider any recommendation of the leadership and faculty of the Naval Postgraduate School regarding the assignment or selection to that position; and

"(C) consider the recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps.

"(3) An individual selected for the position of President of the Naval Postgraduate School under paragraph (1)(B) shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years.

"(4) The qualifications appropriate for selection of an individual for detail or assignment to the position of President of the Naval Postgraduate School include the following:

"(A) An academic degree that is either—

"(i) a doctorate degree in a field of study relevant to the mission and function of the Naval Postgraduate School; or

"(ii) a master's degree in a field of study relevant to the mission and function of the Naval Postgraduate School, but only if—

"(I) the individual is an active-duty or retired officer of the Navy or Marine Corps in a grade not below the grade of captain or colonel, respectively; and

"(II) at the time of the selection of that individual as President, the individual permanently appointed to the position of Provost and Academic Dean has a doctorate degree in such a field of study.

"(B) A comprehensive understanding of the Department of the Navy, the Department of Defense, and joint and combined operations.

"(C) Leadership experience at the senior level in a large and diverse organization.

"(D) Demonstrated ability to foster and encourage a program of research in order to sustain academic excellence.

"(E) Other qualifications, as determined by the Secretary of the Navy.".

## PART II—OFFICER PROMOTION POLICY

### SEC. 511. REVISIONS TO AUTHORITIES RELATING TO AUTHORIZED DELAYS OF OFFICER PROMOTIONS.

(a) OFFICERS ON ACTIVE-DUTY LIST.—

(1) SECRETARY OF DEFENSE REGULATIONS FOR DELAYS OF APPOINTMENT UPON PROMOTION.—Paragraphs (1) and (2) of subsection (d) of section 624 of title 10, United States Code, are

amended by striking "prescribed by the Secretary concerned" in and inserting "prescribed by the Secretary of Defense".

(2) ADDITIONAL BASIS FOR DELAY OF APPOINTMENT BY REASON OF INVESTIGATIONS AND PROCEEDINGS.—Subsection (d)(1) of such section is further amended—

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

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

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

"(E) substantiated adverse information about the officer that is material to the decision to appoint the officer is under review by the Secretary of Defense or the Secretary concerned."; and

(D) in the flush matter following subparagraph (E), as inserted by subparagraph (C) of this paragraph—

(i) by striking "or" after "chapter 60 of this title"; and

(ii) by inserting after "brought against him," the following: "or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion,".

(3) ADDITIONAL BASIS FOR DELAY IN APPOINTMENT FOR LACK OF QUALIFICATIONS.—Subsection (d)(2) of such section is further amended—

(A) in the first sentence, by inserting before "is mentally, physically," the following: "has not met the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, or"; and

(B) in the second sentence, by striking "If the Secretary concerned later determines that the officer is qualified for promotion to such grade" and inserting "If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to such grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to such grade".

(b) OFFICERS ON RESERVE ACTIVE-STATUS LIST.—

(1) SECRETARY OF DEFENSE REGULATIONS FOR DELAYS OF APPOINTMENT UPON PROMOTION.—Subsections (a)(1) and (b) of section 14311 of such title are amended by striking "Secretary of the military department concerned" and inserting "Secretary of Defense".

(2) ADDITIONAL BASIS FOR ORIGINAL DELAY OF APPOINTMENT BY REASON OF INVESTIGATIONS AND PROCEEDINGS.—Section 14311(a) of such title is further amended—

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

"(E) Substantiated adverse information about the officer that is material to the decision to appoint the officer is under

review by the Secretary of Defense or the Secretary concerned."; and

(B) in paragraph (2)—

(i) by striking "or" after "show cause for retention,"; and

(ii) by inserting after "of the charges," the following: "or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion,".

(3) ADDITIONAL BASIS FOR DELAY IN APPOINTMENT FOR LACK OF QUALIFICATIONS.—Section 14311(b) of such section is further amended—

(A) in the first sentence, by inserting before "is mentally, physically," the following: "has not met the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, or"; and

(B) in the second sentence, by striking "If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade" and inserting "If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to the higher grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to the higher grade".

(c) DEADLINE FOR UNIFORM REGULATIONS ON DELAY OF PROMOTIONS.— 10 USC 624 note.

(1) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 624(d) of title 10, United States Code (as amended by subsection (a)(1) of this section), and the regulations required by section 14311 of such title (as amended by subsection (b)(1) of this section) not later than March 1, 2008.

(2) SAVINGS CLAUSE FOR EXISTING REGULATIONS.—Until the Secretary of Defense prescribes regulations pursuant to paragraph (1), regulations prescribed by the Secretaries of the military departments under the sections referred to in paragraph (1) shall remain in effect.

(d) TECHNICAL AMENDMENTS TO CLARIFY DATE OF ESTABLISHMENT OF PROMOTION LISTS.—

(1) PROMOTION LISTS FOR ACTIVE-DUTY LIST OFFICERS.—Section 624(a)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.".

(2) PROMOTION LISTS FOR RESERVE ACTIVE-STATUS LIST OFFICERS.—Section 14308(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.".

10 USC 624 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to officers on promotion lists established on or after the date of the enactment of this Act.

**SEC. 512. CONSIDERATION OF ADVERSE INFORMATION BY SELECTION BOARDS IN RECOMMENDATIONS ON OFFICERS TO BE PROMOTED.**

(a) OFFICERS ON ACTIVE-DUTY LIST.—Section 616(c) of title 10, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end in paragraph (2) and inserting "; and"; and

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

"(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 615 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the armed force concerned consistent with the requirement of exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable.".

(b) OFFICERS ON RESERVE-ACTIVE STATUS LIST.—Section 14108(b) of such title is amended—

(1) in the heading, by striking "MAJORITY REQUIRED.—" and inserting "ACTIONS REQUIRED.—";

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end in paragraph (2) and inserting "; and"; and

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

"(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 14107 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the armed force concerned consistent with the requirement of exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable.".

10 USC 616 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to selection boards convened on or after that date.

**SEC. 513. EXPANDED AUTHORITY FOR REMOVAL FROM REPORTS OF SELECTION BOARDS OF OFFICERS RECOMMENDED FOR PROMOTION TO GRADES BELOW GENERAL AND FLAG GRADES.**

(a) OFFICERS ON ACTIVE-DUTY LIST.—Section 618(d) of title 10, United States Code, is amended—

(1) by striking "The name" and inserting "(1) Except as provided in paragraph (2), the name"; and

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

"(2) In the case of an officer recommended by a selection board for promotion to a grade below brigadier general or rear admiral (lower half), the name of the officer may also be removed from the report of the selection board by the Secretary of Defense or the Deputy Secretary of Defense.".

(b) OFFICERS ON RESERVE-ACTIVE STATUS LIST.—Section 14111(b) of such title is amended—

(1) by striking "The name" and inserting "(1) Except as provided in paragraph (2), the name"; and

(2) by adding at the end the following new paragraph: "(2) In the case of an officer recommended by a selection board for promotion to a grade below brigadier general or rear admiral (lower half), the name of the officer may also be removed from the report of the selection board by the Secretary of Defense or the Deputy Secretary of Defense.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to selection boards convened on or after the date of the enactment of this Act. 10 USC 618 note.

**SEC. 514. SPECIAL SELECTION BOARD AUTHORITIES.**

(a) OFFICERS ON ACTIVE-DUTY LIST.—

(1) BOARDS FOR ADMINISTRATIVE ERROR AVAILABLE ONLY TO OFFICERS IN OR ABOVE PROMOTION ZONE.—Subsection (a)(1) of section 628 of title 10, United States Code, is amended by inserting "from in or above the promotion zone" after "for selection for promotion".

(2) ACTIONS TREATABLE AS MATERIAL UNFAIRNESS.—Subsection (b)(1)(A) of such section is amended by inserting "in a matter material to the decision of the board" after "contrary to law".

(b) OFFICERS ON RESERVE ACTIVE-STATUS LIST.—Section 14502(b)(1)(A) of such title is amended by inserting "in a matter material to the decision of the board" after "contrary to law".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on March 1, 2007, and shall apply with respect to selection boards convened on or after that date. 10 USC 628 note.

**SEC. 515. REMOVAL FROM PROMOTION LIST OF OFFICERS NOT PROMOTED WITHIN 18 MONTHS OF APPROVAL OF LIST BY THE PRESIDENT.**

(a) OFFICERS ON ACTIVE-DUTY LISTS.—

(1) CLARIFICATION OF REMOVAL DUE TO SENATE NOT GIVING ADVICE AND CONSENT.—Subsection (b) of section 629 of title 10, United States Code, is amended—

(A) by inserting "REMOVAL DUE TO SENATE NOT GIVING ADVICE AND CONSENT.—" after "(b)" ; and

(B) by inserting "to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate" after "the President".

(2) REMOVAL AFTER 18 MONTHS.—Such section is further amended—

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

(B) by inserting after subsection (b) the following new subsection (c):

"(c) REMOVAL AFTER 18 MONTHS.—(1) If an officer whose name is on a list of officers approved for promotion under section 624(a) of this title to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name

shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

"(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

"(3) In this subsection, the term 'promotion eligibility period' means, with respect to an officer whose name is on a list of officers approved for promotion under section 624(a) of this title to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.".

(3) CROSS-REFERENCE AMENDMENT.—Paragraph (1) of subsection (d) of such section, as redesignated by paragraph (2)(A) of this subsection, is amended by striking "or (b)" and inserting "(b), or (c)".

(4) STYLISTIC AMENDMENTS.—Such section is further amended—

(A) in subsection (a), by inserting "REMOVAL BY PRESIDENT.—" after "(a)"; and

(B) in subsection (d) (as amended by paragraph (3)), by inserting "CONTINUED ELIGIBILITY FOR PROMOTION.—" before "(1)".

(b) OFFICERS ON RESERVE ACTIVE STATUS LIST.—

(1) REMOVAL FOLLOWING RETURN.—Section 14310 of such title is amended—

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

(B) by inserting after subsection (b) the following new subsection (c):

"(c) REMOVAL AFTER 18 MONTHS.—(1) If an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

"(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

"(3) In this subsection, the term 'promotion eligibility period' means, with respect to an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.".

(2) CROSS-REFERENCE AMENDMENT.—Paragraph (1) of subsection (d) of such section, as redesignated by paragraph (1)(A) of this subsection, is amended by striking "or (b)" and inserting "(b), or (c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any promotion list approved by the President after January 1, 2007.

## PART III—JOINT OFFICER MANAGEMENT REQUIREMENTS

**SEC. 516. MODIFICATION AND ENHANCEMENT OF GENERAL AUTHORITIES ON MANAGEMENT OF OFFICERS WHO ARE JOINT QUALIFIED.**

(a) REDESIGNATION OF APPLICABILITY OF POLICIES TOWARD JOINT QUALIFICATION.—Subsection (a) of section 661 of title 10, United States Code, is amended by striking the last sentence.

(b) REVISION TO GENERAL AUTHORITIES.—Subsections (b), (c), and (d) of such section are amended to read as follows:

"(b) LEVELS, DESIGNATION, AND NUMBERS.—(1)(A) The Secretary of Defense shall establish different levels of joint qualification, as well as the criteria for qualification at each level. Such levels of joint qualification shall be established by the Secretary with the advice of the Chairman of the Joint Chiefs of Staff. Each level shall, as a minimum, have both joint education criteria and joint experience criteria. The purpose of establishing such qualification levels is to ensure a systematic, progressive, career-long development of officers in joint matters and to ensure that officers serving as general and flag officers have the requisite experience and education to be highly proficient in joint matters.

"(B) The number of officers who are joint qualified shall be determined by the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff. Such number shall be large enough to meet the requirements of subsection (d).

"(2) Certain officers shall be designated as joint qualified by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff.

"(3) An officer may be designated as joint qualified under paragraph (2) only if the officer—

"(A) meets the education and experience criteria of subsection (c);

"(B) meets such additional criteria as prescribed by the Secretary of Defense; and

"(C) holds the grade of captain or, in the case of the Navy, lieutenant or a higher grade.

"(4) The authority of the Secretary of Defense under paragraph (2) to designate officers as joint qualified may be delegated only to the Deputy Secretary of Defense or an Under Secretary of Defense.

"(c) EDUCATION AND EXPERIENCE REQUIREMENTS.—(1) An officer may not be designated as joint qualified until the officer—

"(A) successfully completes an appropriate program of joint professional military education, as described in subsections (b) and (c) of section 2155 of this title, at a joint professional military education school; and

"(B) successfully completes—

"(i) a full tour of duty in a joint assignment, as described in section 664(f) of this title; or

"(ii) such other assignments and experiences in a manner that demonstrate the officer's mastery of knowledge, skills, and abilities in joint matters, as determined

under such regulations and policy as the Secretary of Defense may prescribe.

"(2) Subject to paragraphs (3) through (6), the Secretary of Defense may waive the requirement under paragraph (1)(A) that an officer has successfully completed a program of education, as described in subsections (b) and (c) of section 2155 of this title.

"(3) In the case of an officer in a grade below brigadier general or rear admiral (lower half), a waiver under paragraph (2) may be granted only if—

"(A) the officer has completed two full tours of duty in a joint duty assignment, as described in section 664(f) of this title, in such a manner as to demonstrate the officer's mastery of knowledge, skills, and abilities on joint matters; and

"(B) the Secretary of Defense determines that the types of joint duty experiences completed by the officer have been of sufficient breadth to prepare the officer adequately for service as a general or flag officer in a joint duty assignment position.

"(4) In the case of a general or flag officer, a waiver under paragraph (2) may be granted only—

"(A) under unusual circumstances justifying the variation from the education requirement under paragraph (1)(A); and

"(B) under circumstances in which the waiver is necessary to meet a critical need of the armed forces, as determined by the Chairman of the Joint Chiefs of Staff.

"(5) In the case of officers in grades below brigadier general or rear admiral (lower half), the total number of waivers granted under paragraph (2) for officers in the same pay grade during a fiscal year may not exceed 10 percent of the total number of officers in that pay grade designated as joint qualified during that fiscal year.

"(6) There may not be more than 32 general and flag officers on active duty at the same time who, while holding a general or flag officer position, were designated joint qualified (or were selected for the joint specialty before October 1, 2007) and for whom a waiver was granted under paragraph (2).

"(d) NUMBER OF JOINT DUTY ASSIGNMENTS.—(1) The Secretary of Defense shall ensure that approximately one-half of the joint duty assignment positions in grades above major or, in the case of the Navy, lieutenant commander are filled at any time by officers who have the appropriate level of joint qualification.

"(2) The Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall designate an appropriate number of joint duty assignment positions as critical joint duty assignment positions. A position may be designated as a critical joint duty assignment position only if the duties and responsibilities of the position make it important that the occupant be particularly trained in, and oriented toward, joint matters.

"(3)(A) Subject to subparagraph (B), a position designated under paragraph (2) may be held only by an officer who—

"(i) was designated as joint qualified in accordance with this chapter; or

"(ii) was selected for the joint specialty before October 1, 2007.

"(B) The Secretary of Defense may waive the requirement in subparagraph (A) with respect to the assignment of an officer to a position designated under paragraph (2). Any such waiver shall be granted on a case-by-case basis. The authority of the

Secretary to grant such a waiver may be delegated only to the Chairman of the Joint Chiefs of Staff.

"(4) The Secretary of Defense shall ensure that, of those joint duty assignment positions that are filled by general or flag officers, a substantial portion are among those positions that are designated under paragraph (2) as critical joint duty assignment positions.".

(c) CAREER GUIDELINES.—Subsection (e) of such section is amended by striking "officers with the joint specialty" and inserting "officers to achieve joint qualification and for officers who have been designated as joint qualified".

(d) TECHNICAL AMENDMENT REGARDING TREATMENT OF CERTAIN SERVICE.—Subsection (f) of such section is amended by striking "section 619(e)(1)" and inserting "section 619a".

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 661. Management policies for officers who are joint qualified".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 38 of such title is amended by striking the item relating to section 661 and inserting the following new item:

"661. Management policies for officers who are joint qualified.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007. 10 USC 661 note.

(g) TREATMENT OF CURRENT JOINT SPECIALTY OFFICERS.—For the purposes of chapter 38 of title 10, United States Code, and sections 154, 164, and 619a of such title, an officer who, as of September 30, 2007, has been selected for or has the joint specialty under section 661 of such title, as in effect on that date, shall be considered after that date to be an officer designated as joint qualified by the Secretary of Defense under section 661(b)(2) of such title, as amended by this section. 10 USC 661 note.

(h) IMPLEMENTATION PLAN.— 10 USC 661 note.

(1) PLAN REQUIRED.—Not later than March 31, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for the implementation of the joint officer management system, which will take effect on October 1, 2007, as provided in subsection (f), as a result of the amendments made by this section and other provisions of this Act to provisions of chapter 38 of title 10, United States Code. Deadline.

(2) ELEMENTS OF PLAN.—In developing the plan required by this subsection, the Secretary shall pay particular attention to matters related to the transition of officers from the joint specialty system in effect before October 1, 2007, to the joint officer management system in effect after that date. At a minimum, the plan shall include the following:

(A) The policies and criteria to be used for designating officers as joint qualified on the basis of service performed by such officers before that date, had the amendments made by this section and other provisions of this Act to provisions of chapter 38 of title 10, United States Code, taken effect before the date of the enactment of this Act.

(B) The policies and criteria prescribed by the Secretary of Defense to be used in making determinations under section 661(c)(1)(B)(ii) of such title, as amended by this section.

(C) The recommendations of the Secretary for any legislative changes that may be necessary to effectuate the joint officer management system.

**SEC. 517. MODIFICATION OF PROMOTION POLICY OBJECTIVES FOR JOINT OFFICERS.**

Section 662(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "and" after the semicolon; and

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph (2):

"(2) officers who are serving in or have served in joint duty assignments are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category.".

**SEC. 518. APPLICABILITY OF JOINT DUTY ASSIGNMENT REQUIREMENTS LIMITED TO GRADUATES OF NATIONAL DEFENSE UNIVERSITY SCHOOLS.**

(a) APPLICABILITY.—Section 663 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "a joint professional military education school" and inserting "a school within the National Defense University specified in subsection (c)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "a joint professional military education school" and inserting "a school within the National Defense University specified in subsection (c)"; and

(B) in paragraph (2), by striking "a joint professional military education school" and inserting "a school referred to in paragraph (1)".

(b) COVERED SCHOOLS WITHIN NDU.—Such section is further amended by adding at the end the following new subsection:

"(c) COVERED SCHOOLS WITHIN THE NATIONAL DEFENSE UNIVERSITY.—For purposes of this section, a school within the National Defense University specified in this subsection is one of the following:

"(1) The National War College.

"(2) The Industrial College of the Armed Forces.

"(3) The Joint Forces Staff College.".

**SEC. 519. MODIFICATION OF CERTAIN DEFINITIONS RELATING TO JOINTNESS.**

(a) DEFINITION OF JOINT MATTERS.—Subsection (a) of section 668 of title 10, United States Code, is amended to read as follows:

"(a) JOINT MATTERS.—(1) In this chapter, the term 'joint matters' means matters related to the achievement of unified action by multiple military forces in operations conducted across domains such as land, sea, or air, in space, or in the information environment, including matters relating to—

"(A) national military strategy;

"(B) strategic planning and contingency planning;

"(C) command and control of operations under unified command;

"(D) national security planning with other departments and agencies of the United States; and

"(E) combined operations with military forces of allied nations.

"(2) In the context of joint matters, the term 'multiple military forces' refers to forces that involve participants from the armed forces and one or more of the following:

"(A) Other departments and agencies of the United States.

"(B) The military forces or agencies of other countries.

"(C) Non-governmental persons or entities.".

(b) DEFINITION OF JOINT DUTY ASSIGNMENT.—Paragraph (1) of subsection (b) of such section is amended by striking "That definition shall" and all that follows and inserting the following: "That definition—

"(A) shall be limited to assignments in which the officer gains significant experience in joint matters; and

"(B) shall exclude assignments for joint training and education, except an assignment as an instructor responsible for preparing and presenting courses in areas of the curricula designated in section 2155(c) of this title as part of a program designated by the Secretary of Defense as joint professional military education Phase II.".

(c) DEFINITION OF CRITICAL OCCUPATIONAL SPECIALTY.—Such section is further amended by adding at the end the following new subsection:

"(d) CRITICAL OCCUPATIONAL SPECIALTY.—(1) In this chapter, the term 'critical occupational specialty' means a military occupational specialty involving combat operations within the combat arms, in the case of the Army, or the equivalent arms, in the case of the Navy, Air Force, and Marine Corps, that the Secretary of Defense designates as critical.

"(2) At a minimum, the Secretary of Defense shall designate as a critical occupational specialty under paragraph (1) any military occupational specialty within a combat arms (or the equivalent) that is experiencing a severe shortage of trained officers in that specialty, as determined by the Secretary.".

(d) CONFORMING AMENDMENTS.—

(1) INITIAL ASSIGNMENT OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTIES.—Section 664(c) of such title is amended—

(A) in the matter before paragraph (1) by striking "section 661(c)(2)" and inserting "section 661(c)(1)(B)";

(B) by striking paragraph (1);

(C) by redesignating paragraph (2) as paragraph (1) and, in such paragraph, by striking "section 661(c)(2)" and inserting "section 668(d)"; and

(D) by redesignating paragraph (3) as paragraph (2).

(2) ANNUAL REPORT ON NUMBER OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTIES.—Section 667(3) of such title is amended by striking "section 661(c)(2)" and inserting "section 668(d)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007. 10 USC 664 note.

# Subtitle B—Reserve Component Matters

## PART I—RESERVE COMPONENT MANAGEMENT

**SEC. 521. RECOGNITION OF FORMER REPRESENTATIVE G.V. 'SONNY' MONTGOMERY FOR HIS 30 YEARS OF SERVICE IN THE HOUSE OF REPRESENTATIVES.**

(a) FINDINGS.—Congress makes the following findings:

(1) G.V. "Sonny" Montgomery was elected to the House of Representatives in 1967 and served the people of east-central Mississippi for 30 years with distinction, dedication, and conviction.

(2) Sonny Montgomery had a distinguished military career both before and during his service in Congress, serving in World War II and the Korean War, and retired from the Mississippi National Guard with the rank of Major General.

(3) As a Member of the House of Representatives, Sonny Montgomery served on the Committee on Armed Services and served with great distinction as the Chairman of the Committee on Veterans' Affairs for 13 years from 1981 through 1994.

(4) Representative Montgomery's colleagues knew him as a statesman of the institution and as a tireless advocate for policies that would improve the lives of persons who serve the United States.

(5) Representative Montgomery was deeply committed to all members of the Armed Forces who served in combat and traveled to Korea and Southeast Asia to recover remains and help determine the fate of POW/MIAs from the Korean and Vietnam Wars.

(6) Through his years of service on the Committee on Armed Services, Representative Montgomery made great contributions to the capabilities of the National Guard and Reserves, by improving their training and equipment and by better integrating them with the active force.

(7) Under the revised GI Bill that bears his name and was signed into law in 1984, Representative Montgomery brought educational benefits to millions of veterans, including those members who had served in the National Guard and Reserves, and strengthened the all-volunteer force.

(8) Representative Montgomery had received many honors and commendations before his passing on May 12, 2006, including most recently and notably the Presidential Medal of Freedom, the highest civilian honor accorded by the United States.

(b) RECOGNITION.—Congress recognizes and commends former Representative G.V. "Sonny" Montgomery for his 30 years of service to benefit the people of Mississippi, members of the Armed Forces and their families, veterans, and the United States.

**SEC. 522. REVISIONS TO RESERVE CALL-UP AUTHORITY.**

(a) MAXIMUM NUMBER OF DAYS.—Subsection (a) of section 12304 of title 10, United States Code, is amended by striking "270 days" and inserting "365 days."

(b) FAIR TREATMENT.—Such section is further amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.—(1) In determining which members of the Selected Reserve and Individual Ready Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

"(A) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

"(B) the frequency of assignments during service career;

"(C) family responsibilities; and

"(D) employment necessary to maintain the national health, safety, or interest.

"(2) The Secretary of Defense shall prescribe such policies and procedures as the Secretary considers necessary to carry out this subsection.". Procedures.

**SEC. 523. MILITARY RETIREMENT CREDIT FOR CERTAIN SERVICE BY NATIONAL GUARD MEMBERS PERFORMED WHILE IN A STATE DUTY STATUS IMMEDIATELY AFTER THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.**

Subsection (c) of section 514 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3232) is amended by adding at the end the following new paragraph:

"(3) In the State of New Jersey: Bergen, Hudson, Union, and Middlesex.".

## PART II—AUTHORITIES RELATING TO GUARD AND RESERVE DUTY

**SEC. 524. TITLE 10 DEFINITION OF ACTIVE GUARD AND RESERVE DUTY.**

Section 101 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(16) The term 'Active Guard and Reserve' means a member of a reserve component who is on active duty pursuant to section 12301(d) of this title or, if a member of the Army National Guard or Air National Guard, is on full-time National Guard duty pursuant to section 502(f) of title 32, and who is performing Active Guard and Reserve duty."; and

(2) in paragraph (6)(A) of subsection (d)—

(A) by striking "or full-time National Guard duty" after "means active duty"; and

(B) by striking ", pursuant to an order to active duty or full-time National Guard duty" and inserting "pursuant to an order to full-time National Guard duty,".

**SEC. 525. AUTHORITY FOR ACTIVE GUARD AND RESERVE DUTIES TO INCLUDE SUPPORT OF OPERATIONAL MISSIONS ASSIGNED TO THE RESERVE COMPONENTS AND INSTRUCTION AND TRAINING OF ACTIVE-DUTY PERSONNEL.**

(a) AGR DUTY UNDER TITLE 10.—Subsections (a) and (b) of section 12310 of title 10, United States Code, are amended to read as follows:

"(a) AUTHORITY.—(1) The Secretary concerned may order a member of a reserve component under the Secretary's jurisdiction to active duty pursuant to section 12301(d) of this title to perform

Active Guard and Reserve duty organizing, administering, recruiting, instructing, or training the reserve components.

"(2) A Reserve ordered to active duty under paragraph (1) shall be ordered in the Reserve's reserve grade. While so serving, the Reserve continues to be eligible for promotion as a Reserve, if otherwise qualified.

"(b) DUTIES.—A Reserve on active duty under subsection (a) may perform the following additional duties to the extent that the performance of those duties does not interfere with the performance of the Reserve's primary Active Guard and Reserve duties described in subsection (a)(1):

"(1) Supporting operations or missions assigned in whole or in part to the reserve components.

"(2) Supporting operations or missions performed or to be performed by—

"(A) a unit composed of elements from more than one component of the same armed force; or

"(B) a joint forces unit that includes—

"(i) one or more reserve component units; or

"(ii) a member of a reserve component whose reserve component assignment is in a position in an element of the joint forces unit.

"(3) Advising the Secretary of Defense, the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of the combatant commands regarding reserve component matters.

"(4) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

"(A) active-duty members of the armed forces;

"(B) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(C) Department of Defense contractor personnel; or

"(D) Department of Defense civilian employees.".

(b) MILITARY TECHNICIANS UNDER TITLE 10.—Section 10216(a) of such title is amended—

(1) in paragraph (1)(C), by striking "administration and" and inserting "organizing, administering, instructing, or"; and

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

"(3) A military technician (dual status) who is employed under section 3101 of title 5 may perform the following additional duties to the extent that the performance of those duties does not interfere with the performance of the primary duties described in paragraph (1):

"(A) Supporting operations or missions assigned in whole or in part to the technician's unit.

"(B) Supporting operations or missions performed or to be performed by—

"(i) a unit composed of elements from more than one component of the technician's armed force; or

"(ii) a joint forces unit that includes—

"(I) one or more units of the technician's component; or

"(II) a member of the technician's component whose reserve component assignment is in a position in an element of the joint forces unit.

"(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

"(i) active-duty members of the armed forces;

"(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(iii) Department of Defense contractor personnel; or

"(iv) Department of Defense civilian employees.".

(c) NATIONAL GUARD TITLE 32 TRAINING DUTY.—Section 502(f) of title 32, United States Code, title is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "Under regulations"; and

(3) by striking the last sentence and inserting the following:

"(2) The training or duty ordered to be performed under paragraph (1) may include the following:

"(A) Support of operations or missions undertaken by the member's unit at the request of the President or Secretary of Defense.

"(B) Support of training operations and training missions assigned in whole or in part to the National Guard by the Secretary concerned, but only to the extent that such training missions and training operations—

"(i) are performed in the United States or the Commonwealth of Puerto Rico or possessions of the United States; and

"(ii) are only to instruct active duty military, foreign military (under the same authorities and restrictions applicable to active duty troops), Department of Defense contractor personnel, or Department of Defense civilian employees.

"(3) Duty without pay shall be considered for all purposes as if it were duty with pay.".

(d) NATIONAL GUARD TECHNICIANS UNDER TITLE 32.—Section 709(a) of title 32, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "administration and" and inserting "organizing, administering, instructing, or"; and

(B) by striking "and" at the end of such paragraph;

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

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

"(3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):

"(A) Support of operations or missions undertaken by the technician's unit at the request of the President or the Secretary of Defense.

"(B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.

"(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

"(i) active-duty members of the armed forces;

"(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(iii) Department of Defense contractor personnel; or

"(iv) Department of Defense civilian employees.".

**SEC. 526. GOVERNOR'S AUTHORITY TO ORDER MEMBERS TO ACTIVE GUARD AND RESERVE DUTY.**

(a) IN GENERAL.—Chapter 3 of title 32, United States Code, is amended by adding at the end the following new section:

**"§ 328. Active Guard and Reserve duty: Governor's authority**

"(a) AUTHORITY.—The Governor of a State or the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, with the consent of the Secretary concerned, may order a member of the National Guard to perform Active Guard and Reserve duty, as defined by section 101(d)(6) of title 10, pursuant to section 502(f) of this title.

"(b) DUTIES.—A member of the National Guard performing duty under subsection (a) may perform the additional duties specified in section 502(f)(2) of this title to the extent that the performance of those duties does not interfere with the performance of the member's primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"328. Active Guard and Reserve duty: Governor's authority.".

**SEC. 527. EXPANSION OF OPERATIONS OF CIVIL SUPPORT TEAMS.**

(a) IN GENERAL.—Section 12310(c) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "involving—" and inserting "involving any of the following:"; and

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

"(A) The use or threatened use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title) in the United States.

"(B) A terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.

"(C) The intentional or unintentional release of nuclear, biological, radiological, or toxic or poisonous chemical materials in the United States that results, or could result, in catastrophic loss of life or property.

"(D) A natural or manmade disaster in the United States that results in, or could result in, catastrophic loss of life or property.";

(2) by amending paragraph (3) to read as follows:

"(3) A Reserve may perform duty described in paragraph (1) only while assigned to a reserve component weapons of mass destruction civil support team."; and

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

"(7) In this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking the subsection heading and inserting "OPERATIONS RELATING TO DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION AND TERRORIST ATTACKS.—";

(2) in paragraph (5), by striking "rapid assessment element team" and inserting "weapons of mass destruction civil support team"; and

(3) in paragraph (6)—

(A) in the matter preceding subparagraph (A), by striking "paragraph (3)" and inserting "paragraphs (1) and (3)"; and

(B) in subparagraph (B), by striking "paragraph (3)(B)" and inserting "paragraph (3)".

**SEC. 528. MODIFICATION OF AUTHORITIES RELATING TO THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.**

(a) ANNUITIES AND PAY OF MEMBERS ON FEDERAL REEMPLOYMENT.—Subsection (e) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1882), as amended by section 516 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3237), is further amended by adding at the end the following new paragraph:

"(3) If warranted by circumstances described in subparagraph (A) or (B) of section 8344(i)(1) of title 5, United States Code, or by circumstances described in subparagraph (A) or (B) of section 8468(f)(1) of such title, as applicable, the chairman of the Commission may exercise, with respect to the members of the Commission, the same waiver authority as would be available to the Director of the Office of Personnel Management under such section.".

(b) FINAL REPORT.—Subsection (f)(2) of such section 513 (118 Stat. 1882) is amended by striking "Not later than one year after the first meeting of the Commission" and inserting "Not later than January 31, 2008".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. The amendment made by subsection (a) shall apply to members of the Commission on the National Guard and Reserves appointed on or after that date.

**SEC. 529. ADDITIONAL MATTERS TO BE REVIEWED BY COMMISSION ON THE NATIONAL GUARD AND RESERVES.**

(a) ADDITIONAL MATTERS TO BE REVIEWED BY COMMISSION.—The Commission on the National Guard and Reserves shall include among the matters it studies (in addition to the matters specified in subsection (c) of the commission charter) each of the following:

(1) NATIONAL GUARD BUREAU ENHANCEMENT PROPOSALS.—The advisability and feasibility of implementing the provisions of S. 2658 and H.R. 5200 of the 109th Congress, as introduced in the Senate and the House of Representatives, respectively, on April 26, 2006.

(2) CHIEF OF NATIONAL GUARD BUREAU.—As an alternative to implementation of the provisions of the bills specified in

paragraph (1) that provide for the Chief of the National Guard Bureau to be a member of the Joint Chiefs of Staff and to hold the grade of general, the advisability and feasibility of providing for the Chief of the National Guard Bureau to hold the grade of general in the performance of the current duties of that office.

(3) NATIONAL GUARD OFFICERS AUTHORITY TO COMMAND.—The advisability and feasibility of implementing the provisions of section 544 of H.R. 5122 of the 109th Congress, as passed by the House of Representatives on May 11, 2006.

(4) NATIONAL GUARD EQUIPMENT AND FUNDING REQUIREMENTS.—The adequacy of the Department of Defense processes for defining the equipment and funding necessary for the National Guard to conduct both its responsibilities under title 10, United States Code, and its responsibilities under title 32, United States Code, including homeland defense and related homeland missions, including as part of such study—

(A) consideration of the extent to which those processes should be developed taking into consideration the views of the Chief of the National Guard Bureau, as well as the views of the 54 Adjutant Generals and the views of the Chiefs of the Army National Guard and the Air Guard; and

(B) whether there should be an improved means by which National Guard equipment requirements are validated by the Joint Chiefs of Staff and are considered for funding by the Secretaries of the Army and Air Force.

(b) PRIORITY REVIEW AND REPORT.—

(1) PRIORITY REVIEW.—The Commission on the National Guard and Reserves shall carry out its study of the matters specified in paragraphs (1), (2), and (3) of subsection (a) on a priority basis, with a higher priority for matters under those paragraphs relating to the grade and functions of the Chief of the National Guard Bureau.

(2) REPORT.—In addition to the reports required under subsection (f) of the commission charter, the Commission shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an interim report, not later than March 1, 2007, specifically on the matters covered by paragraph (1). In such report, the Commission shall set forth its findings and any recommendations it considers appropriate with respect to those matters.

(c) COMMISSION CHARTER DEFINED.—For purposes of this section, the term "commission charter" means section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880).

# Subtitle C—Education and Training

## PART I—SERVICE ACADEMIES

### SEC. 531. EXPANSION OF SERVICE ACADEMY EXCHANGE PROGRAMS WITH FOREIGN MILITARY ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—

(1) NUMBER OF PARTICIPANTS IN EXCHANGE PROGRAM.—Subsection (b) of section 4345 of title 10, United States Code, is amended by striking "24" and inserting "100".

(2) COSTS AND EXPENSES.—Subsection (c) of such section is amended—

(A) by striking "for the Academy" in paragraph (3) and all that follows in that paragraph and inserting "for the Academy and such additional funds as may be available to the Academy from a source other than appropriated funds to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program."; and

(B) by adding at the end the following new paragraph: "(4) Expenditures in support of the exchange program from funds appropriated for the Academy may not exceed $1,000,000 during any fiscal year.".

(b) UNITED STATES NAVAL ACADEMY.—

(1) NUMBER OF PARTICIPANTS IN EXCHANGE PROGRAM.—Subsection (b) of section 6957a of title 10, United States Code, is amended by striking "24" and inserting "100".

(2) COSTS AND EXPENSES.—Subsection (c) of such section is amended—

(A) by striking "for the Academy" in paragraph (3) and all that follows in that paragraph and inserting "for the Academy and such additional funds as may be available to the Academy from a source other than appropriated funds to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program."; and

(B) by adding at the end the following new paragraph: "(4) Expenditures in support of the exchange program from funds appropriated for the Naval Academy may not exceed $1,000,000 during any fiscal year.".

(c) UNITED STATES AIR FORCE ACADEMY.—

(1) NUMBER OF PARTICIPANTS IN EXCHANGE PROGRAM.—Subsection (b) of section 9345 of title 10, United States Code, is amended by striking "24" and inserting "100".

(2) COSTS AND EXPENSES.—Subsection (c) of such section is amended—

(A) by striking "for the Academy" in paragraph (3) and all that follows in that paragraph and inserting "for the Academy and such additional funds as may be available to the Academy from a source other than appropriated funds to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program."; and

(B) by adding at the end the following new paragraph: "(4) Expenditures in support of the exchange program from funds appropriated for the Academy may not exceed $1,000,000 during any fiscal year.".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. The amendments made by subsections (b) and (c) shall take effect on October 1, 2008.

10 USC 4345 note.

**SEC. 532. REVISION AND CLARIFICATION OF REQUIREMENTS WITH RESPECT TO SURVEYS AND REPORTS CONCERNING SEXUAL HARASSMENT AND SEXUAL VIOLENCE AT THE SERVICE ACADEMIES.**

(a) CODIFICATION AND REVISION TO EXISTING REQUIREMENT FOR SERVICE ACADEMY POLICY ON SEXUAL HARASSMENT AND SEXUAL VIOLENCE.—

(1) UNITED STATES MILITARY ACADEMY.—Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 4361. Policy on sexual harassment and sexual violence**

"(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Army shall direct the Superintendent of the Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

"(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

"(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

"(2) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

"(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

"(B) a specification of any other person whom the victim should contact; and

"(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

"(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel.

"(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

"(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

"(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Army, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

Survey.

"(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Army shall conduct

a survey, to be administered by the Department of Defense, of Academy personnel—

"(A) to measure—

"(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

"(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

"(B) to assess the perceptions of Academy personnel of—

"(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

"(ii) the enforcement of such policies;

"(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

"(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

"(d) ANNUAL REPORT.—(1) The Secretary of the Army shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

"(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

"(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

"(B) The policies, procedures, and processes implemented by the Secretary of the Army and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

"(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

Survey.

"(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

"(4)(A) The Secretary of the Army shall transmit to the Secretary of Defense, and to the Board of Visitors of the Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

"(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.".

(2) UNITED STATES NAVAL ACADEMY.—Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 6980. Policy on sexual harassment and sexual violence**

"(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Navy shall direct the Superintendent of the Naval Academy to prescribe a policy on sexual harassment and sexual violence applicable to the midshipmen and other personnel of the Naval Academy.

"(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

"(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve midshipmen or other Academy personnel.

"(2) Procedures that a midshipman should follow in the case of an occurrence of sexual harassment or sexual violence, including—

"(A) if the midshipman chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

"(B) a specification of any other person whom the victim should contact; and

"(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

"(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a midshipman or other Academy personnel.

"(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a midshipman or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

"(5) Required training on the policy for all midshipmen and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

"(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Navy, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

Survey.

"(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Navy shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

"(A) to measure—

"(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

"(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

"(B) to assess the perceptions of Academy personnel of—

"(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

"(ii) the enforcement of such policies;

"(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

"(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

"(d) ANNUAL REPORT.—(1) The Secretary of the Navy shall direct the Superintendent of the Naval Academy to submit to the Secretary a report on sexual harassment and sexual violence involving midshipmen or other personnel at the Academy for each Academy program year.

"(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

"(A) The number of sexual assaults, rapes, and other sexual offenses involving midshipmen or other Academy personnel that have been reported to Naval Academy officials during the program year and, of those reported cases, the number that have been substantiated.

"(B) The policies, procedures, and processes implemented by the Secretary of the Navy and the leadership of the Naval Academy in response to sexual harassment and sexual violence involving midshipmen or other Academy personnel during the program year.

"(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving midshipmen or other Academy personnel.

Survey.

"(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

"(4)(A) The Secretary of the Navy shall transmit to the Secretary of Defense, and to the Board of Visitors of the Naval Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

"(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.".

(3) UNITED STATES AIR FORCE ACADEMY.—Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 9361. Policy on sexual harassment and sexual violence**

"(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Air Force shall direct the Superintendent of the Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

"(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

"(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

"(2) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

"(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

"(B) a specification of any other person whom the victim should contact; and

"(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

"(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel.

"(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

"(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

"(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Air Force, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

Survey.

"(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Air Force shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

"(A) to measure—

"(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

"(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

"(B) to assess the perceptions of Academy personnel of—

"(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

"(ii) the enforcement of such policies;

"(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

"(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

"(d) ANNUAL REPORT.—(1) The Secretary of the Air Force shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets

or other personnel at the Academy for each Academy program year.

"(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

"(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

"(B) The policies, procedures, and processes implemented by the Secretary of the Air Force and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

"(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

Survey.

"(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

"(4)(A) The Secretary of the Air Force shall transmit to the Secretary of Defense, and to the Board of Visitors of the Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

"(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.".

10 USC 4361 note.

(b) FURTHER INFORMATION FROM CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES ON SEXUAL ASSAULT AND SEXUAL HARASSMENT ISSUES.—

(1) USE OF FOCUS GROUPS FOR YEARS WHEN SURVEY NOT REQUIRED.—In any year in which the Secretary of a military department is not required by law to conduct a survey at the service academy under the Secretary's jurisdiction on matters relating to sexual assault and sexual harassment issues at that Academy, the Secretary shall provide for focus groups to be conducted at that Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at that Academy.

(2) INCLUSION IN REPORT.—Information ascertained from a focus group conducted pursuant to paragraph (1) shall be included in the Secretary's annual report to Congress on sexual harassment and sexual violence at the service academies.

(3) SERVICE ACADEMIES.—For purposes of this subsection, the term "service academy" means the following:

(A) The United States Military Academy.

(B) The United States Naval Academy.

(C) The United States Air Force Academy.

(c) REPEAL OF PRIOR LAW.—Section 527 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1469; 10 U.S.C. 4331 note) is repealed.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 403 of title 10, United States Code, is amended by adding at the end the following new item:

"4361. Policy on sexual harassment and sexual violence.".

(2) The table of sections at the beginning of chapter 603 of such title is amended by adding at the end the following new item:

"6980. Policy on sexual harassment and sexual violence.".

(3) The table of sections at the beginning of chapter 903 of such title is amended by adding at the end the following new item:

"9361. Policy on sexual harassment and sexual violence.".

10 USC 4348 note.

**SEC. 533. DEPARTMENT OF DEFENSE POLICY ON SERVICE ACADEMY AND ROTC GRADUATES SEEKING TO PARTICIPATE IN PROFESSIONAL SPORTS BEFORE COMPLETION OF THEIR ACTIVE-DUTY SERVICE OBLIGATIONS.**

(a) POLICY REQUIRED.—

Deadline.

(1) IN GENERAL.—Not later than July 1, 2007, the Secretary of Defense shall prescribe the policy of the Department of Defense on—

(A) whether to authorize graduates of the service academies and the Reserve Officers' Training Corps to participate in professional sports before the completion of their obligations for service on active duty as commissioned officers; and

(B) if so, the obligations for service on active duty as commissioned officers of such graduates who participate in professional sports before the satisfaction of the obligations referred to in subparagraph (A).

(2) REVIEW OF CURRENT POLICIES.—In prescribing the policy, the Secretary shall review current policies, practices, and regulations of the military departments on the obligations for service on active duty as commissioned officers of graduates of the service academies and the Reserve Officers' Training Corps, including policies on authorized leaves of absence and policies under excess leave programs.

(3) CONSIDERATIONS.—In prescribing the policy, the Secretary shall take into account the following:

(A) The compatibility of participation in professional sports (including training for professional sports) with service on active duty in the Armed Forces or as a member of a reserve component of the Armed Forces.

(B) The benefits for the Armed Forces of waiving obligations for service on active duty for cadets, midshipmen, and commissioned officers in order to permit such individuals to participate in professional sports.

(C) The manner in which the military departments have resolved issues relating to the participation of personnel in professional sports, including the extent of and any reasons for, differences in the resolution of such issues by such departments.

(D) The recoupment of the costs of education provided by the service academies or under the Reserve Officers'

Training Corps program if graduates of the service academies or the Reserve Officers' Training Corps, as the case may be, do not complete the period of obligated service to which they have agreed by reason of participation in professional sports.

(E) Any other matters that the Secretary considers appropriate.

(b) ELEMENTS OF POLICY.—The policy prescribed under subsection (a) shall address the following matters:

(1) The eligibility of graduates of the service academies and the Reserve Officers' Training Corps for a reduction in the obligated length of service on active duty as a commissioned officer otherwise required of such graduates on the basis of their participation in professional sports.

(2) Criteria for the treatment of an individual as a participant or potential participant in professional sports.

(3) The effect on obligations for service on active duty as a commissioned officer of any unsatisfied obligations under prior enlistment contracts or other forms of advanced education assistance.

(4) Any authorized variations in the policy that are warranted by the distinctive requirements of a particular Armed Force.

(5) The eligibility of individuals for medical discharge or disability benefits as a result of injuries incurred while participating in professional sports.

(6) A prospective effective date for the policy and for the application of the policy to individuals serving on such effective date as a commissioned officer, cadet, or midshipman.

(c) APPLICATION OF POLICY TO ARMED FORCES.—Not later than December 1, 2007, the Secretary of each military department shall prescribe regulations, or modify current regulations, in order to implement the policy prescribed by the Secretary of Defense under subsection (a) with respect to the Armed Forces under the jurisdiction of such Secretary.

Deadline. Regulations.

## PART II—SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAMS

### SEC. 535. AUTHORITY TO PERMIT MEMBERS WHO PARTICIPATE IN THE GUARANTEED RESERVE FORCES DUTY SCHOLARSHIP PROGRAM TO PARTICIPATE IN THE HEALTH PROFESSIONS SCHOLARSHIP PROGRAM AND SERVE ON ACTIVE DUTY.

Paragraph (3) of section 2107a(b) of title 10, United States Code, is amended—

(1) by inserting "or a cadet or former cadet under this section who signs an agreement under section 2122 of this title," after "military junior college,"; and

(2) by inserting ", or former cadet," after "consent of the cadet" and after "submitted by the cadet".

### SEC. 536. DETAIL OF COMMISSIONED OFFICERS AS STUDENTS AT MEDICAL SCHOOLS.

(a) IN GENERAL.—Chapter 101 of title 10, United States Code, is amended by inserting after section 2004 the following new section:

**"§ 2004a. Detail of commissioned officers as students at medical schools**

"(a) DETAIL AUTHORIZED.—The Secretary of each military department may detail commissioned officers of the armed forces as students at accredited medical schools or schools of osteopathy located in the United States for a period of training leading to the degree of doctor of medicine. No more than 25 officers from each military department may commence such training in any single fiscal year.

"(b) ELIGIBILITY FOR DETAIL.—To be eligible for detail under subsection (a), an officer must be a citizen of the United States and must—

"(1) have served on active duty for a period of not less than two years nor more than six years and be in the pay grade 0–3 or below as of the time the training is to begin; and

"(2) sign an agreement that unless sooner separated the officer will—

"(A) complete the educational course of medical training;

"(B) accept transfer or detail as a medical officer within the military department concerned when the officer's training is completed; and

"(C) agree to serve, following completion of the officer's training, on active duty (or on active duty and in the Selected Reserve) for a period as specified pursuant to subsection (c).

"(c) SERVICE OBLIGATION.—An agreement under subsection (c) shall provide that the officer shall serve on active duty for two years for each year or part thereof of the officer's medical training under subsection (a), except that the agreement may authorize the officer to serve a portion of the officer's service obligation on active duty and to complete the service obligation that remains upon separation from active duty in the Selected Reserve, in which case the officer shall serve three years in the Selected Reserve for each year or part thereof of the officer's medical training under subsection (a) for any service obligation that was not completed before separation from active duty.

"(d) SELECTION OF OFFICERS FOR DETAIL.—Officers detailed for medical training under subsection (a) shall be selected on a competitive basis by the Secretary of the military department concerned.

"(e) RELATION OF SERVICE OBLIGATIONS TO OTHER SERVICE OBLIGATIONS.—Any service obligation incurred by an officer under an agreement entered into under subsection (b) shall be in addition to any service obligation incurred by the officer under any other provision of law or agreement.

"(f) EXPENSES.—Expenses incident to the detail of officers under this section shall be paid from any funds appropriated for the military department concerned.

"(g) FAILURE TO COMPLETE PROGRAM.—(1) An officer who is dropped from a program of medical training to which detailed under subsection (a) for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed on the officer under regulations issued by the Secretary of Defense for purposes of this section.

"(2) In no case shall an officer be required to serve on active duty under paragraph (1) for any period in excess of one year for each year or part thereof the officer participated in the program.

"(h) LIMITATION ON DETAILS.—No agreement detailing an officer of the armed forces to an accredited medical school or school of osteopathy may be entered into during any period in which the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2004 the following new item:

"2004a. Detail of commissioned officers as students at medical schools.".

**SEC. 537. INCREASE IN MAXIMUM AMOUNT OF REPAYMENT UNDER EDUCATION LOAN REPAYMENT FOR OFFICERS IN SPECIFIED HEALTH PROFESSIONS.**

(a) INCREASE IN MAXIMUM AMOUNT.—Section 2173(e)(2) of title 10, United States Code, is amended by striking "$22,000" and inserting "$60,000".

(b) EFFECTIVE DATE.— 10 USC 2173 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 2173 of title 10, United States Code, on or after that date.

(2) PROHIBITION ON ADJUSTMENT.—The adjustment required by the second sentence of section 2173(e)(2) of title 10, United States Code, to be made on October 1, 2006, shall not be made.

**SEC. 538. HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE.**

(a) MAXIMUM STIPEND AMOUNT.—Section 2121(d) of title 10, United States Code, is amended—

(1) by striking "at the rate of $579 per month" and inserting "at a monthly rate established by the Secretary of Defense, but not to exceed a total of $30,000 per year"; and

(2) by striking "That rate" and inserting "The maximum annual amount of the stipend".

(b) MAXIMUM ANNUAL GRANT.—Section 2127(e) of such title is amended—

(1) by striking "$15,000" and inserting "in an amount not to exceed $45,000"; and

(2) by striking "The amount" and inserting "The maximum amount".

(c) REPORT ON PROGRAM.—Not later than March 1, 2007, the Secretary of Defense shall submit to the Congress a report on the Health Professions Scholarship and Financial Assistance Program for Active Service under subchapter I of chapter 105 of title 10, United States Code. The report shall include the following:

(1) An assessment of the success of each military department in achieving its recruiting goals under the program during each of fiscal years 2000 through 2006.

(2) If any military department failed to achieve its recruiting goals under the program during any fiscal year covered by paragraph (1), an explanation of the failure of the

military department to achieve such goal during such fiscal year.

(3) An assessment of the adequacy of the stipend authorized by section 2121(d) of title 10, United States Code, in meeting the objectives of the program.

(4) Such recommendations for legislative or administrative action as the Secretary considers appropriate to enhance the effectiveness of the program in meeting the annual recruiting goals of the military departments for medical personnel covered by the program.

10 USC 2121 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 2006.

(2) PROHIBITION ON ADJUSTMENTS.—The adjustments required by the second sentence of subsection (d) of section 2121 of title 10, United States Code, and the second sentence of subsection (e) of section 2127 of such title to be made in 2007 shall not be made.

## PART III—JUNIOR ROTC PROGRAM

### SEC. 539. JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTOR QUALIFICATIONS.

(a) IN GENERAL.—Chapter 102 of title 10, United States Code, is amended by adding at the end the following new section:

### "§ 2033. Instructor qualifications

"(a) IN GENERAL.—In order for a retired officer or noncommissioned officer to be employed as an instructor in the program, the officer must be certified by the Secretary of the military department concerned as a qualified instructor in leadership, wellness and fitness, civics, and other courses related to the content of the program, according to the qualifications set forth in subsection (b)(2) or (c)(2), as appropriate.

"(b) SENIOR MILITARY INSTRUCTORS.—

"(1) ROLE.—Senior military instructors shall be retired officers of the armed forces and shall serve as instructional leaders who oversee the program.

"(2) QUALIFICATIONS.—A senior military instructor shall have the following qualifications:

"(A) Professional military qualification, as determined by the Secretary of the military department concerned.

"(B) Award of a baccalaureate degree from an institution of higher learning.

"(C) Completion of secondary education teaching certification requirements for the program as established by the Secretary of the military department concerned.

"(D) Award of an advanced certification by the Secretary of the military department concerned in core content areas based on—

"(i) accumulated points for professional activities, services to the profession, awards, and recognitions;

"(ii) professional development to meet content knowledge and instructional skills; and

"(iii) performance evaluation of competencies and standards within the program through site visits and inspections.

"(c) NON-SENIOR MILITARY INSTRUCTORS.—

"(1) ROLE.—Non-senior military instructors shall be retired noncommissioned officers of the armed forces and shall serve as instructional leaders and teach independently of, but share program responsibilities with, senior military instructors.

"(2) QUALIFICATIONS.—A non-senior military instructor shall demonstrate a depth of experience, proficiency, and expertise in coaching, mentoring, and practical arts in executing the program, and shall have the following qualifications:

"(A) Professional military qualification, as determined by the Secretary of the military department concerned.

"(B) Award of an associates degree from an institution of higher learning within five years of employment.

"(C) Completion of secondary education teaching certification requirements for the program as established by the Secretary of the military department concerned.

"(D) Award of an advanced certification by the Secretary of the military department concerned in core content areas based on—

"(i) accumulated points for professional activities, services to the profession, awards, and recognitions;

"(ii) professional development to meet content knowledge and instructional skills; and

"(iii) performance evaluation of competencies and standards within the program through site visits and inspections.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2033. Instructor qualifications.".

**SEC. 540. EXPANSION OF MEMBERS ELIGIBLE TO BE EMPLOYED TO PROVIDE JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTION.**

(a) ELIGIBILITY OF "GRAY-AREA" GUARD AND RESERVE MEMBERS.—Section 2031 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) Instead of, or in addition to, detailing officers and noncommissioned officers on active duty under subsection (c)(1) and authorizing the employment of retired officers and noncommissioned officers who are in receipt of retired pay and members of the Fleet Reserve and Fleet Marine Corps Reserve under subsection (d), the Secretary of the military department concerned may authorize qualified institutions to employ as administrators and instructors in the program officers and noncommissioned officers who are under 60 years of age and who, but for age, would be eligible for retired pay for non-regular service under section 12731 of this title and whose qualifications are approved by the Secretary and the institution concerned and who request such employment, subject to the following:

"(1) The Secretary concerned shall pay to the institution an amount equal to one-half of the amount paid to the member by the institution for any period, up to a maximum of one-half of the difference between—

"(A) the retired or retainer pay for an active duty officer or noncommissioned officer of the same grade and years of service for such period; and

"(B) the active duty pay and allowances which the member would have received for that period if on active duty.

"(2) Notwithstanding the limitation in paragraph (1), the Secretary concerned may pay to the institution more than one-half of the amount paid to the member by the institution if (as determined by the Secretary)—

"(A) the institution is in an educationally and economically deprived area; and

"(B) the Secretary determines that such action is in the national interest.

"(3) Payments by the Secretary concerned under this subsection shall be made from funds appropriated for that purpose.

"(4) Amounts may be paid under this subsection with respect to a member after the member reaches the age of 60.

"(5) Notwithstanding any other provision of law, a member employed by a qualified institution pursuant to an authorization under this subsection is not, while so employed, considered to be on active duty or inactive duty training for any purpose.".

(b) CLARIFICATION OF STATUS OF RETIRED MEMBERS PROVIDING INSTRUCTION.—Subsection (d) of such section is amended in the matter preceding paragraph (1) by inserting "who are in receipt of retired pay" after "retired officers and noncommissioned officers".

10 USC 2031 note.

**SEC. 541. EXPANSION OF JUNIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.**

(a) IN GENERAL.—The Secretaries of the military departments shall take appropriate actions to increase the number of secondary educational institutions at which a unit of the Junior Reserve Officers' Training Corps is organized under chapter 102 of title 10, United States Code.

(b) EXPANSION TARGETS.—In increasing under subsection (a) the number of secondary educational institutions at which a unit of the Junior Reserve Officers' Training Corps is organized, the Secretaries of the military departments shall seek to organize units at an additional number of institutions as follows:

(1) In the case of Army units, 15 institutions.

(2) In the case of Navy units, 10 institutions.

(3) In the case of Marine Corps units, 15 institutions.

(4) In the case of Air Force units, 10 institutions.

**SEC. 542. REVIEW OF LEGAL STATUS OF JUNIOR ROTC PROGRAM.**

(a) REVIEW.—The Secretary of Defense shall conduct a review of the 1976 legal opinion issued by the General Counsel of the Department of Defense regarding instruction of non-host unit students participating in Junior Reserve Officers' Training Corps programs. The review shall consider whether changes to law after the issuance of that opinion allow in certain circumstances for the arrangement for assignment of instructors that provides for the travel of an instructor from one educational institution to another once during the regular school day for the purposes of the Junior Reserve Officers' Training Corps program as an authorized arrangement that enhances administrative efficiency in the management of the program. If the Secretary, as a result of the

review, determines that such authority is not available, the Secretary should also consider whether such authority should be available and whether there should be authority to waive the restrictions under certain circumstances.

(b) REPORT.—The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the review not later than 180 days after the date of the enactment of this Act.

(c) INTERIM AUTHORITY.—A current institution that has more than 70 students and is providing support to another educational institutional with more than 70 students and has been providing for the assignment of instructors from one school to the other may continue to provide such support until 180 days following receipt of the report under subsection (b).

## PART IV—OTHER EDUCATION AND TRAINING PROGRAMS

### SEC. 543. EXPANDED ELIGIBILITY FOR ENLISTED MEMBERS FOR INSTRUCTION AT NAVAL POSTGRADUATE SCHOOL.

(a) CERTIFICATE PROGRAMS AND COURSES.—Subparagraph (C) of subsection (a)(2) of section 7045 of title 10, United States Code, is amended by striking "Navy or Marine Corps" and inserting "armed forces".

(b) GRADUATE-LEVEL INSTRUCTION.—Such subsection is further amended—

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

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

"(D)(i) The Secretary may permit an eligible enlisted member of the armed forces to receive graduate-level instruction at the Naval Postgraduate School in a program leading to a master's degree in a technical, analytical, or engineering curriculum.

"(ii) To be eligible to be provided instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.

"(iii) Instruction under this subparagraph may be provided only on a space-available basis.

"(iv) An enlisted member who successfully completes a course of instruction under this subparagraph may be awarded a master's degree under section 7048 of this title.

"(v) Instruction under this subparagraph shall be provided pursuant to regulations prescribed by the Secretary. Such regulations may include criteria for eligibility of enlisted members for instruction under this subparagraph and specification of obligations for further service in the armed forces relating to receipt of such instruction.". Regulations.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subparagraph (E) of subsection (a)(2), as redesignated by subsection (b)(1), by striking "and (C)" and inserting "(C), and (D)"; and

(2) in subsection (b)(2), by striking "(a)(2)(D)" and inserting "(a)(2)(E)".

(d) DEADLINE FOR SUBMISSION OF PREVIOUSLY REQUIRED REPORT.—The report required by subsection (c) of section 526 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3246), relating to the rationale and plans of the Navy to provide enlisted members an opportunity to obtain graduate degrees, shall be submitted, in accordance with that subsection, not later than March 30, 2007.

(e) REPEAL OF REQUIREMENT FOR REPORT ON PILOT PROGRAM.—

(1) REPEAL.—Subsection (d) of section 526 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3246) is repealed.

(2) CONFORMING AMENDMENT.—Subsection (c)(2) of such section is amended by striking ", particularly in the career fields under consideration for the pilot program referred to in subsection (d)".

(f) REPORT ON USE OF NPS AND AFIT.—Not later than March 30, 2007, the Secretary of the Navy and the Secretary of the Air Force shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a joint report on the manner by which each Secretary intends to use the Naval Postgraduate School and the Air Force Institute of Technology during fiscal years 2008 through 2013 to meet the overall requirements of the Navy and Marine Corps and of the Air Force for enlisted members with graduate degrees. The report shall include the following:

(1) The numbers and occupational specialities of enlisted members that each Secretary plans to enroll as candidates for graduate degrees each year in each of the two schools.

(2) A description of the graduate degrees that those enlisted members will pursue at those schools.

(3) Other matters that the two Secretaries jointly consider to be useful for the committees to better understand the future role that the two schools will each have in meeting service requirements for enlisted members with graduate degrees.

## Subtitle D—General Service Authorities

### SEC. 546. TEST OF UTILITY OF TEST PREPARATION GUIDES AND EDUCATION PROGRAMS IN ENHANCING RECRUIT CANDIDATE PERFORMANCE ON THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY (ASVAB) AND ARMED FORCES QUALIFICATION TEST (AFQT).

(a) REQUIREMENT FOR TEST.—The Secretary of Defense shall conduct a test of the utility of commercially available test preparation guides and education programs designed to assist recruit candidates achieve scores on military recruit qualification testing that better reflect the full potential of those recruit candidates in terms of aptitude and mental category. The test shall be conducted through the Secretaries of the Army, Navy, and Air Force.

(b) ASSESSMENT OF COMMERCIALLY AVAILABLE GUIDES AND PROGRAMS.—The test shall assess commercially available test preparation guides and education programs designed to enhance test performance. The test preparation guides assessed shall test both written formats and self-paced computer-assisted programs. Education programs assessed may test both self-study textbook and computer-assisted courses and instructor-led courses.

(c) OBJECTIVES.—The objectives of the test are to determine the following:

(1) The degree to which test preparation assistance degrades test reliability and accuracy.

(2) The degree to which test preparation assistance allows more accurate testing of skill aptitudes and mental capability.

(3) The degree to which test preparation assistance allows individuals to achieve higher scores without sacrificing reliability and accuracy.

(4) What role is recommended for test preparation assistance in military recruiting.

(d) CONTROL GROUP.—As part of the test, the Secretary shall identify a population of recruit candidates who will not receive test preparation assistance and will serve as a control group for the test. Data from recruit candidates participating in the test and data from recruit candidates in the control group shall be compared in terms of both (1) test performance, and (2) subsequent duty performance in training and unit settings following entry on active duty.

(e) NUMBER OF PARTICIPANTS.—The Secretary shall provide test preparation assistance to a minimum of 2,000 recruit candidates and shall identify an equal number to be established as the control group population.

(f) DURATION OF TEST.—The Secretary shall begin the test not later than nine months after the date of the enactment of this Act. The test shall identify participants over a one-year period from the start of the test and shall assess duty performance for each participant for 18 months following entry on active duty. The last participant shall be identified, but other participants may not be identified. Deadline.

(g) REPORT ON FINDINGS.—Not later than six months after completion of the duty performance assessment of the last identified participant in the test, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report providing the findings of the Secretary with respect to each of the objectives specified in subsection (c) and the Secretary's recommendations.

**SEC. 547. CLARIFICATION OF NONDISCLOSURE REQUIREMENTS APPLICABLE TO CERTAIN SELECTION BOARD PROCEEDINGS.**

(a) ACTIVE-DUTY SELECTION BOARD PROCEEDINGS.—

(1) EXTENSION TO ALL ACTIVE-DUTY BOARDS.—Chapter 36 of title 10, United States Code, is amended by inserting after section 613 the following new section:

**"§ 613a. Nondisclosure of board proceedings**

"(a) NONDISCLOSURE.—The proceedings of a selection board convened under section 611 this title may not be disclosed to any person not a member of the board.

"(b) PROHIBITED USES OF BOARD DISCUSSIONS, DELIBERATIONS, AND RECORDS.—The discussions and deliberations of a selection board described in subsection (a) and any written or documentary record of such discussions and deliberations—

"(1) are immune from legal process;

"(2) may not be admitted as evidence; and

"(3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.".

(2) CONFORMING AMENDMENT.—Section 618 of such title is amended by striking subsection (f).

(b) RESERVE SELECTION BOARD PROCEEDINGS.—Section 14104 of such title is amended to read as follows:

**"§ 14104. Nondisclosure of board proceedings**

"(a) NONDISCLOSURE.—The proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.

"(b) PROHIBITED USES OF BOARD DISCUSSIONS, DELIBERATIONS, AND RECORDS.—The discussions and deliberations of a selection board described in subsection (a) and any written or documentary record of such discussions and deliberations—

"(1) are immune from legal process;

"(2) may not be admitted as evidence; and

"(3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.".

(c) APPLICABILITY.—Section 613a of title 10, United States Code, as added by subsection (a), shall apply with respect to the proceedings of all selection boards convened under section 611 of that title, including selection boards convened before the date of the enactment of this Act. Section 14104 of such title, as amended by subsection (b), shall apply with respect to the proceedings of all selection boards convened under section 14101 of that title, including selection boards convened before the date of the enactment of this Act.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of subchapter I of chapter 36 of title 10, United States Code, is amended by inserting after the item relating to section 613 the following new item:

"613a. Nondisclosure of board proceedings.".

(2) The item relating to section 14104 in the table of sections at the beginning of chapter 1403 of such title is amended to read as follows:

"14104. Nondisclosure of board proceedings.".

**SEC. 548. REPORT ON EXTENT OF PROVISION OF TIMELY NOTICE OF LONG-TERM DEPLOYMENTS.**

Not later than March 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the number of members of the Armed Forces (shown by service and within each service by reserve component and active component) who, during the period beginning on January 1, 2005, and ending on the date of the enactment of this Act, have not received at least 30 days notice (in the form of an official order) before a deployment that will last 180 days or more. With respect to members of the reserve components, the report shall describe the degree of compliance (or noncompliance) with Department of Defense policy concerning the amount of notice to be provided before long-term mobilizations or deployments.

# Subtitle E—Military Justice Matters

**SEC. 551. APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO MEMBERS OF THE ARMED FORCES ORDERED TO DUTY OVERSEAS IN INACTIVE DUTY FOR TRAINING STATUS.**

10 USC 802 note.

Not later than March 1, 2007, the Secretaries of the military departments shall prescribe regulations, or amend current regulations, in order to provide that members of the Armed Forces who are ordered to duty at locations overseas in an inactive duty for training status are subject to the jurisdiction of the Uniform Code of Military Justice, pursuant to the provisions of section 802(a)(3) of title 10, United States Code (article 2(a)(3) of the Uniform Code of Military Justice), continuously from the commencement of execution of such orders to the conclusion of such orders.

Regulations. Deadline.

**SEC. 552. CLARIFICATION OF APPLICATION OF UNIFORM CODE OF MILITARY JUSTICE DURING A TIME OF WAR.**

Paragraph (10) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended by striking "war" and inserting "declared war or a contingency operation".

# Subtitle F—Decorations and Awards

**SEC. 555. AUTHORITY FOR PRESENTATION OF MEDAL OF HONOR FLAG TO LIVING MEDAL OF HONOR RECIPIENTS AND TO LIVING PRIMARY NEXT-OF-KIN OF DECEASED MEDAL OF HONOR RECIPIENTS.**

(a) FUTURE PRESENTATIONS.—Sections 3755, 6257, and 8755 of title 10, United States Code, and section 505 of title 14, United States Code, are each amended—

(1) by striking "after October 23, 2002"; and

(2) by adding at the end the following new sentence: "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.".

(b) PRESENTATION OF FLAG FOR PRIOR RECIPIENTS OF MEDAL OF HONOR.—

President. 10 USC 3755 note.

(1) LIVING RECIPIENTS.—The President shall provide for the presentation of the Medal of Honor Flag as expeditiously as possible after the date of the enactment of this Act to each living recipient of the Medal of Honor who has not already received a Medal of Honor Flag.

(2) SURVIVORS OF DECEASED RECIPIENTS.—In the case of presentation of the Medal of Honor Flag for a recipient of the Medal of Honor who was awarded the Medal of Honor before the date of the enactment of this Act and who is deceased as of such date (or who dies after such date and before the presentation required by paragraph (1)), the President shall provide for posthumous presentation of the Medal of Honor Flag, upon written application therefor, to the primary living next of kin, as determined under regulations or procedures prescribed by the Secretary of Defense for the purposes of this paragraph (and notwithstanding the amendments made by paragraph (2) of subsection (a)).

(3) MEDAL OF HONOR FLAG.—In this subsection, the term "Medal of Honor Flag" means the flag designated under section 903 of title 36, United States Code.

**SEC. 556. REVIEW OF ELIGIBILITY OF PRISONERS OF WAR FOR AWARD OF THE PURPLE HEART.**

(a) REPORT.—Not later than March 1, 2007, the President shall transmit to the Committees on Armed Services of the Senate and House of Representatives a report on the advisability of modifying the criteria for the award of the Purple Heart to authorize the award of the Purple Heart—

(1) to a member of the Armed Forces who dies in captivity as a prisoner of war under unknown circumstances or as a result of conditions and treatment that, under criteria for eligibility for the Purple Heart as in effect on the date of the enactment of this Act, do not qualify the decedent for award of the Purple Heart; and

(2) to an individual who while a member of the Armed Forces survives captivity as a prisoner of war, but who dies thereafter as a result of disease or disability, or a result of disease and condition and treatment, incurred during such captivity.

(b) DETERMINATION.—As part of the review undertaken in order to prepare the report required by subsection (a), the President shall make a determination on the advisability of expanding eligibility for the award of the Purple Heart to deceased servicemembers held as a prisoner of war after December 7, 1941, who meet the criteria for eligibility for the prisoner-of-war medal under section 1128 of title 10, United States Code (including the criterion under subsection (e) of that section with respect to honorable conduct), but who do not meet the criteria for eligibility for the Purple Heart.

President.

(c) REQUIREMENTS.—In making the determination required by subsection (b), the President shall take into consideration the following:

(1) The brutal treatment endured by thousands of prisoners of war incarcerated by enemy forces.

(2) The circumstance that many servicemembers held as prisoners of war died during captivity due to causes that do not meet the criteria for eligibility for award of the Purple Heart, including starvation, abuse, the deliberate withholding of medical treatment for injury or disease, or other causes.

(3) The circumstance that some members of the Armed Forces died in captivity under circumstances establishing eligibility for the prisoner-of-war medal but under circumstances not otherwise establishing eligibility for the Purple Heart.

(4) The circumstance that some members and former members of the Armed Forces who were held as prisoners of war and following captivity were issued the prisoner-of-war medal subsequently died due to a disease or disability that was incurred during that captivity, without otherwise having been awarded the Purple Heart due to the injury or conditions resulting in that disease or disability or otherwise having been awarded the Purple Heart for injury incurring during captivity.

(5) The views of veterans service organizations, including the Military Order of the Purple Heart.

(6) The importance that has been assigned to determining all available facts before a decision is made to award the Purple Heart.

(7) The views of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.

**SEC. 557. REPORT ON DEPARTMENT OF DEFENSE PROCESS FOR AWARDING DECORATIONS.**

10 USC note prec. 1211.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the policy, procedures, and processes of the military departments for awarding decorations to members of the Armed Forces.

(b) TIME PERIODS.—As part of the review under subsection (a), the Secretary shall compare the time frames of the awards process between active duty and reserve components—

(1) from the time a recommendation for the award of a decoration is submitted until the time the award of the decoration is approved; and

(2) from the time the award of a decoration is approved until the time when the decoration is presented to the recipient.

(c) RESERVE COMPONENTS.—If the Secretary, in conducting the review under subsection (a), finds that the timeliness of the awards process for members of the reserve components is not the same as, or similar to, that for members of the active components, the Secretary shall take appropriate steps to address the discrepancy.

(d) REPORT.—Not later than August 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the Secretary's findings as a result of the review under subsection (a), together with a plan for implementing whatever changes are determined to be appropriate to the process for awarding decorations in order to ensure that decorations are awarded in a timely manner, to the extent practicable.

# Subtitle G—Matters Relating to Casualties

**SEC. 561. AUTHORITY FOR RETENTION AFTER SEPARATION FROM SERVICE OF ASSISTIVE TECHNOLOGY AND DEVICES PROVIDED WHILE ON ACTIVE DUTY.**

(a) IN GENERAL.—Chapter 58 of title 10, United States Code, is amended by inserting after section 1150 the following new section:

**"§ 1151. Retention of assistive technology and services provided before separation**

Regulations.

"(a) AUTHORITY.—A member of the armed forces who is provided an assistive technology or assistive technology device for a severe or debilitating illness or injury incurred or aggravated by such member while on active duty may, under regulations prescribed by the Secretary of Defense, be authorized to retain such assistive technology or assistive technology device upon the separation of the member from active service.

"(b) DEFINITIONS.—In this section, the terms 'assistive technology' and 'assistive technology device' have the meaning given those terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1150 the following new item:

"1151. Retention of assistive technology and services provided before separation.".

10 USC 1482 note.

**SEC. 562. TRANSPORTATION OF REMAINS OF CASUALTIES DYING IN A THEATER OF COMBAT OPERATIONS.**

Regulations.

(a) REQUIRED TRANSPORTATION.—In the case of a member of the Armed Forces who dies in a combat theater of operations and whose remains are returned to the United States through the mortuary facility at Dover Air Force Base, Delaware, the Secretary concerned, under regulations prescribed by the Secretary of Defense, shall provide transportation of the remains of that member from Dover Air Force Base to the applicable escorted remains destination in accordance with section 1482(a)(8) of title 10, United States Code, and this section.

(b) ESCORTED REMAINS DESTINATION.—In this section, the term "escorted remains destination" means the place to which remains are authorized to be transported under section 1482(a)(8) of title 10, United States Code.

(c) AIR TRANSPORTATION FROM DOVER AFB.—

(1) MILITARY TRANSPORTATION.—If transportation of remains under subsection (a) includes transportation by air, such transportation (except as provided under paragraph (2)) shall be made by military aircraft or military-contracted aircraft.

(2) ALTERNATIVE TRANSPORTATION BY AIRCRAFT.—The provisions of paragraph (1) shall not be applicable to the transportation of remains by air to the extent that the person designated to direct disposition of the remains directs otherwise.

(3) PRIMARY MISSION.—When remains are transported by military aircraft or military-contracted aircraft under this section, the primary mission of the aircraft providing that transportation shall be the transportation of such remains. However, more than one set of remains may be transported on the same flight.

(d) ESCORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary concerned shall ensure that remains transported under this section are continuously escorted from Dover Air Force Base to the applicable escorted remains destination by a member of the Armed Forces in an appropriate grade, as determined by the Secretary.

(2) OTHER ESCORT.—If a specific military escort is requested by the person designated to direct disposition of such remains and the Secretary approves that request, then the Secretary is not required to provide an additional military escort under paragraph (1).

(e) HONOR GUARD DETAIL.—

(1) PROVISION OF DETAIL.—Except in a case in which the person designated to direct disposition of remains requests that no military honor guard be present, the Secretary concerned shall ensure that an honor guard detail is provided in each case of the transportation of remains under this section. The honor guard detail shall be in addition to the escort provided for the transportation of remains under section (d).

(2) COMPOSITION.—An honor guard detail provided under this section shall consist of sufficient members of the Armed Forces to perform the duties specified in paragraph (3). The members of the honor guard detail shall be in uniform.

(3) DUTIES.—Except to the extent that the person designated to direct disposition of remains requests that any of the following functions not be performed, an honor guard detail under this section—

(A) shall—

(i) travel with the remains during transportation; or

(ii) meet the remains at the place to which transportation by air (or by rail or motor vehicle, if applicable) is made for the transfer of the remains;

(B) shall provide appropriate honors at the arrival of the remains referred to in subparagraph (A)(ii) (unless airline or other security requirements do not permit such honors to be provided); and

(C) shall participate in the transfer of the remains from an aircraft, when airport and airline security requirements permit, by carrying out the remains with a flag draped over the casket to a hearse or other form of ground transportation for travel to a funeral home or other place designated by the person designated to direct disposition of such remains.

(f) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" has the meaning given that term in section 101(a)(9) of title 10, United States Code.

(g) EFFECTIVE DATE.—This section shall take effect at such time as may be prescribed by the Secretary of Defense, but not later than January 1, 2007.

**SEC. 563. ANNUAL BUDGET DISPLAY OF FUNDS FOR POW/MIA ACTIVITIES OF DEPARTMENT OF DEFENSE.**

(a) CONSOLIDATED BUDGET JUSTIFICATION.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 234. POW/MIA activities: display of budget information**

"(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

"(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for each such organization the following:

"(1) A statement of what percentage of the requirements originally requested by the organization in the budget review process that the budget requests funds for.

"(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

"(3) The amount in the budget for that organization.

"(4) A detailed explanation of the shortfalls, if any, in the funding of any requirement shown pursuant to paragraph

(1), when compared to the amount shown pursuant to paragraph (3).

"(5) The budget estimate for that organization for the five fiscal years after the fiscal year for which the budget is submitted.

"(c) DEPARTMENT OF DEFENSE POW/MIA ACCOUNTING AND RECOVERY ORGANIZATIONS.—In this section, the term 'Department of Defense POW/MIA accounting and recovery organization' means any of the following (and any successor organization):

"(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

"(2) The Joint POW/MIA Accounting Command (JPAC).

"(3) The Armed Forces DNA Identification Laboratory (AFDIL).

"(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

"(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.

"(d) OTHER DEFINITIONS.—In this section:

"(1) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

"(2) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"234. POW/MIA activities: display of budget information.".

10 USC 113 note.

**SEC. 564. MILITARY SEVERELY INJURED CENTER.**

(a) CENTER REQUIRED.—In support of the comprehensive policy on the provision of assistance to severely wounded or injured servicemembers required by section 563 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3269; 10 U.S.C. 113 note), the Secretary of Defense shall establish within the Department of Defense a center to augment and support the programs and activities of the military departments for the provision of such assistance, including the programs of the military departments referred to in subsection (c).

(b) DESIGNATION.—The center established under subsection (a) shall be known as the "Military Severely Injured Center" (in this section referred to as the "Center").

(c) PROGRAMS OF THE MILITARY DEPARTMENTS.—The programs of the military departments referred to in this subsection are the following:

(1) The Army Wounded Warrior Support Program.

(2) The Navy Safe Harbor Program.

(3) The Palace HART Program of the Air Force.

(4) The Marine for Life Injured Support Program of the Marine Corps.

(d) ACTIVITIES OF CENTER.—

(1) IN GENERAL.—The Center shall carry out such programs and activities to augment and support the programs and activities of the military departments for the provision of assistance to severely wounded or injured servicemembers and their families as the Secretary of Defense, in consultation with the Secretaries of the military departments and the heads of other appropriate departments and agencies of the Federal Government (including the Secretary of Labor and the Secretary of Veterans Affairs), determines appropriate.

(2) DATABASE.—The activities of the Center under this subsection shall include the establishment and maintenance of a central database. The database shall be transparent and shall be accessible for use by all of the programs of the military departments referred to in subsection (c).

(e) RESOURCES.—The Secretary of Defense shall allocate to the Center such personnel and other resources as the Secretary of Defense, in consultation with the Secretaries of the military departments, considers appropriate in order to permit the Center to carry out effectively the programs and activities assigned to the Center under subsection (d).

**SEC. 565. COMPREHENSIVE REVIEW ON PROCEDURES OF THE DEPARTMENT OF DEFENSE ON MORTUARY AFFAIRS.**

(a) REPORT.—As soon as practicable after the completion of a comprehensive review of the procedures of the Department of Defense on mortuary affairs, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the review.

(b) ADDITIONAL ELEMENTS.—In conducting the comprehensive review described in subsection (a), the Secretary shall address, in addition to any other matter covered by the review, the following:

(1) The use of additional or increased refrigeration (including icing) in combat theaters in order to enhance preservation of remains.

(2) The location of refrigeration assets further forward in the field.

(3) Specific time standards for the movement of remains from combat units.

(4) The forward location of autopsy and embalming operations.

(5) Any other matter that the Secretary considers appropriate in order to expedite the return of remains to the United States in a nondecomposed state.

**SEC. 566. ADDITIONAL ELEMENTS OF POLICY ON CASUALTY ASSISTANCE TO SURVIVORS OF MILITARY DECEDENTS.**

Section 562(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3267; 10 U.S.C. 1475 note) is amended by adding at the end the following new paragraph:

"(12) The process by which the Department of Defense, upon request, provides information (in person and otherwise) to survivors of a military decedent on the cause of, and any investigation into, the death of such military decedent and on the disposition and transportation of the remains of such decedent, which process shall—

"(A) provide for the provision of such information (in person and otherwise) by qualified Department of Defense personnel;

"(B) ensure that information is provided as soon as possible after death and that, when requested, updates are provided, in accordance with the procedures established under this paragraph, in a timely manner when new information becomes available;

"(C) ensure that—

"(i) the initial provision of such information, and each such update, relates the most complete and accurate information available at the time, subject to limitations applicable to classified information; and

"(ii) incomplete or unverified information is identified as such during the course of the provision of such information or update; and

"(D) include procedures by which such survivors shall, upon request, receive updates or supplemental information from qualified Department of Defense personnel.".

10 USC 1481 note.

**SEC. 567. REQUIREMENT FOR DEPLOYING MILITARY MEDICAL PERSONNEL TO BE TRAINED IN PRESERVATION OF REMAINS UNDER COMBAT OR COMBAT-RELATED CONDITIONS.**

(a) REQUIREMENT.—The Secretary of each military department shall ensure that each military health care professional under that Secretary's jurisdiction who is deployed to a theater of combat operations is trained, before such deployment, in the preservation of remains under combat or combat-related conditions.

(b) MATTERS COVERED BY TRAINING.—The training under subsection (a) shall include, at a minimum, the following:

(1) Best practices and procedures for the preservation of the remains of a member of the Armed Forces after death, taking into account the conditions likely to be encountered and the objective of returning the remains to the member's family in the best possible condition.

(2) Practical case studies based on experience of the Armed Forces in a variety of climactic conditions.

(c) COVERED MILITARY HEALTH CARE PROFESSIONALS.—In this section, the term "military health care professional" means—

(1) a physician, nurse, nurse practitioner, physician assistant, or combat medic; and

(2) any other medical personnel with medical specialties who may provide direct patient care and who are designated by the Secretary of the military department concerned.

(d) EFFECTIVE DATE.—Subsection (a) shall apply with respect to any military health care professional who is deployed to a theater of combat operations after the end of the 90-day period beginning on the date of the enactment of this Act.

# Subtitle H—Impact Aid and Defense Dependents Education System

**SEC. 571. ENROLLMENT IN DEFENSE DEPENDENTS' EDUCATION SYSTEM OF DEPENDENTS OF FOREIGN MILITARY MEMBERS ASSIGNED TO SUPREME HEADQUARTERS ALLIED POWERS, EUROPE.**

(a) TEMPORARY ENROLLMENT AUTHORITY.—Section 1404A of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923a) is amended—

(1) in subsection (a)—

(A) by striking "of the children" and inserting "of—"(1) the children";

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

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

"(2) the children of a foreign military member assigned to the Supreme Headquarters Allied Powers, Europe, but only in a school of the defense dependents' education system in Mons, Belgium, and only through the 2010–2011 school year."; and

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

"(c) SPECIAL RULES REGARDING ENROLLMENT OF DEPENDENTS OF FOREIGN MILITARY MEMBERS ASSIGNED TO SUPREME HEADQUARTERS ALLIED POWERS, EUROPE.—(1) In the regulations required by subsection (a), the Secretary shall prescribe a methodology based on the estimated total number of dependents of sponsors under section 1414(2) enrolled in schools of the defense dependents' education system in Mons, Belgium, to determine the number of children described in paragraph (2) of subsection (a) who will be authorized to enroll under such subsection.

"(2) If the number of children described in paragraph (2) of subsection (a) who seek enrollment in schools of the defense dependents' education system in Mons, Belgium, exceeds the number authorized by the Secretary under paragraph (1), the Secretary may enroll the additional children on a space-available, tuition-free basis notwithstanding section 1404(d)(2).".

(b) REPORT ON LONG-TERM PLAN FOR EDUCATION OF DEPENDENTS OF MILITARY PERSONNEL ASSIGNED TO SHAPE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report evaluating alternatives for the education of dependents of United States military personnel and dependents of foreign military personnel assigned to Supreme Headquarters Allied Powers, Europe, including—

(1) an evaluation of the feasibility of establishing an international school at Supreme Headquarters Allied Powers, Europe; and

(2) an estimate of the timeframe necessary for transition to any new model for educating such dependents.

**SEC. 572. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to

be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $35,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of such section 572.

(c) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

**SEC. 573. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.**

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

20 USC 7703b note.

**SEC. 574. PLAN AND AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES EXPERIENCING GROWTH IN ENROLLMENT DUE TO FORCE STRUCTURE CHANGES, RELOCATION OF MILITARY UNITS, OR BASE CLOSURES AND REALIGNMENTS.**

Deadline.

(a) PLAN REQUIRED.—Not later than January 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a plan to provide assistance to local educational agencies that experience growth in the enrollment of military dependent students as a result of any of the following events:

(1) Force structure changes.

(2) The relocation of a military unit.

(3) The closure or realignment of military installations pursuant to defense base closure and realignment under the base closure laws.

(b) ELEMENTS.—The report required by subsection (a), and each updated report required by subsection (c), shall include the following:

(1) An identification, current as of the date of the report, of the total number of military dependent students who are anticipated to be arriving at or departing from military installations as a result of any event described in subsection (a), including—

(A) an identification of the military installations affected by such arrivals and departures;

(B) an estimate of the number of such students arriving at or departing from each such installation; and

(C) the anticipated schedule of such arrivals and departures.

(2) Such recommendations as the Office of Economic Adjustment of the Department of Defense considers appropriate for means of assisting affected local educational agencies in

accommodating increases in enrollment of military dependent students as a result of any such event.

(3) A plan for outreach to be conducted to affected local educational agencies, commanders of military installations, and members of the Armed Forces and civilian personnel of the Department of Defense regarding information on the assistance to be provided under the plan under subsection (a).

(c) UPDATED REPORTS.—Not later than March 1, 2008, and annually thereafter to coincide with the submission of the budget of the President for a fiscal year under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees an update of the report required by subsection (a).

(d) TRANSITION OF MILITARY DEPENDENTS FROM DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS TO OTHER SCHOOLS.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2011, the Secretary of Defense shall work collaboratively with the Secretary of Education in any efforts to ease the transition of military dependent students from attendance in Department of Defense dependent schools to attendance in schools of local educational agencies. The Secretary of Defense may use funds of the Department of Defense Education Activity to share expertise and experience of the Activity with local educational agencies as military dependent students make such transition, including such a transition resulting from the closure or realignment of military installations under a base closure law, global rebasing, and force restructuring. Deadline.

(e) DEFINITIONS.—In this section:

(1) The term "base closure law" has the meaning given that term in section 101 of title 10, United States Code.

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "military dependent students" refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

**SEC. 575. PILOT PROGRAM ON PARENT EDUCATION TO PROMOTE EARLY CHILDHOOD EDUCATION FOR DEPENDENT CHILDREN AFFECTED BY MILITARY DEPLOYMENT OR RELOCATION OF MILITARY UNITS.** 10 USC 1788 note.

(a) PILOT PROGRAM AUTHORIZED.—Using such funds as may be appropriated for this purpose, the Secretary of Defense may carry out a pilot program on the provision of educational and support tools to the parents of preschool-age children—

(1) whose parent or parents serve as members of the Armed Forces on active duty (including members of the Selected Reserve on active duty pursuant to a call or order to active duty of 180 days or more); and

(2) who are affected by the deployment of their parent or parents or the relocation of the military unit of which their parent or parents are a member.

(b) PURPOSE.—The purpose of the pilot program is to develop models for improving the capability of military child and youth

programs on or near military installations to provide assistance to military parents with young children through a program of activities focusing on the unique needs of children described in subsection (a).

(c) LIMITS ON COMMENCEMENT AND DURATION OF PROGRAM.—The Secretary of Defense may not commence the pilot program before October 1, 2007, and shall conclude the pilot program not later than the end of the three-year period beginning on the date on which the Secretary commences the program.

(d) SCOPE OF PROGRAM.—Under the pilot program, the Secretary of Defense shall utilize one or more models, demonstrated through research, of universal access of parents of children described in subsection (a) to assistance under the pilot program to achieve the following goals:

(1) The identification and mitigation of specific risk factors for such children related to military life.

(2) The maximization of the educational readiness of such children.

(e) LOCATIONS AND GOALS.—

(1) SELECTION OF PARTICIPATING INSTALLATIONS.—In selecting military installations to participate in the pilot program, the Secretary of Defense shall limit selection to those military installations whose military personnel are experiencing significant transition or deployment or which are undergoing transition as a result of the relocation or activation of military units or activities relating to defense base closure and realignment.

(2) SELECTION OF CERTAIN INSTALLATIONS.—At least one of the installations selected under paragraph (1) shall be a military installation that will permit, under the pilot program, the meaningful evaluation of a model under subsection (d) that provides outreach to parents in families with a parent who is a member of the National Guard or Reserve, which families live more than 40 miles from the installation.

(3) GOALS OF PARTICIPATING INSTALLATIONS.—If a military installation is selected under paragraph (1), the Secretary shall require appropriate personnel at the military installation to develop goals, and specific outcome measures with respect to such goals, for the conduct of the pilot program at the installation.

(4) EVALUATION REQUIRED.—Upon completion of the pilot program at a military installation, the personnel referred to in paragraph (3) at the installation shall be required to conduct an evaluation and assessment of the success of the pilot program at the installation in meeting the goals developed for that installation.

(f) GUIDELINES.—As part of conducting the pilot program, the Secretary of Defense shall issue guidelines regarding—

(1) the goals to be developed under subsection (e)(3);

(2) specific outcome measures; and

(3) the selection of curriculum and the conduct of developmental screening under the pilot program.

(g) REPORT.—Upon completion of the pilot program, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on all of the evaluations prepared under subsection (e)(4) for the military installations participating in the

pilot program. The report shall describe the results of the evaluations, and may include such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the evaluations, including recommendations for the continuation of the pilot program.

# Subtitle I—Armed Forces Retirement Home

### SEC. 578. REPORT ON LEADERSHIP AND MANAGEMENT OF THE ARMED FORCES RETIREMENT HOME.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report evaluating the following:

(1) The effect of changing the title of the Chief Operating Officer of the Armed Forces Retirement Home to a chief executive officer who will be responsible to the Secretary of Defense for the overall direction, operation, and management of the Retirement Home.

(2) The effect of no longer permitting a civilian with experience as a continuing care retirement community professional to serve as the Director for a facility of the Armed Forces Retirement Home, but to instead limit eligibility for such positions to members of the Armed Forces serving on active duty in a grade below brigadier general or, in the case of the Navy, rear admiral (lower half).

(3) The management of the Armed Forces Retirement Home and whether or not there is a need for a greater role by members of the Armed Forces serving on active duty in the overall direction, operation, and management of the Retirement Home.

### SEC. 579. REPORT ON LOCAL BOARDS OF TRUSTEES OF THE ARMED FORCES RETIREMENT HOME.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing the following:

(1) The current composition and activities of the Local Board of Trustees of the Armed Forces Retirement Home—Washington under section 1516 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 416).

(2) The current composition and activities of the Local Board of Trustees of the Armed Forces Retirement Home—Gulfport under such section.

(3) The feasibility and effect of including as a member of each Local Board of Trustees of the Armed Forces Retirement Home a member of the Armed Forces who is serving on active duty in the grade of brigadier general, or in the case of the Navy, rear admiral (lower half).

# Subtitle J—Reports

**SEC. 581. REPORT ON PERSONNEL REQUIREMENTS FOR AIRBORNE ASSETS IDENTIFIED AS LOW-DENSITY, HIGH-DEMAND AIRBORNE ASSETS.**

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on personnel requirements for airborne assets identified as Low-Density, High-Demand Airborne Assets based on combatant commander requirements to conduct and sustain operations for the global war on terrorism.

(b) MATTER TO BE INCLUDED.—The report shall include the following for each airborne asset identified as a Low-Density, High-Demand Airborne Asset:

(1) The numbers of operations and maintenance crews to meet tasking contemplated to conduct operations for the global war on terrorism.

(2) The current numbers of operations and maintenance crews.

(3) If applicable, shortages of operations and maintenance crews.

(4) Whether such shortages are addressed in the future-years defense program.

(5) Whether end-strength increases are required to meet any such shortages.

(6) Estimated manpower costs of personnel needed to address shortfalls.

(7) If applicable, the number and types of equipment needed to address training shortfalls.

**SEC. 582. REPORT ON FEASIBILITY OF ESTABLISHMENT OF MILITARY ENTRANCE PROCESSING COMMAND STATION ON GUAM.**

(a) REVIEW.—The Secretary of Defense shall review the feasibility and cost effectiveness of establishing on Guam a station of the Military Entrance Processing Command to process new recruits for the Armed Forces who are drawn from the western Pacific region. For the purposes of the review, the cost effectiveness of establishing such a facility on Guam shall be measured, in part, against the system in effect in early 2006 of using Hawaii and other locations for the processing of new recruits from Guam and other locations in the western Pacific region.

(b) REPORT.—Not later than June 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report providing the results of the study under subsection (a).

10 USC 113 note.

**SEC. 583. INCLUSION IN ANNUAL DEPARTMENT OF DEFENSE REPORT ON SEXUAL ASSAULTS OF INFORMATION ON RESULTS OF DISCIPLINARY ACTIONS.**

Section 577(f)(2)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1927) is amended to read as follows:

"(B) A synopsis of each such substantiated case and, for each such case, the disciplinary action taken in the case,

including the type of disciplinary or administrative sanction imposed, if any.”.

**SEC. 584. REPORT ON PROVISION OF ELECTRONIC COPY OF MILITARY RECORDS ON DISCHARGE OR RELEASE OF MEMBERS FROM THE ARMED FORCES.**

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of providing an electronic copy of military records (including all military service, medical, and other military records) to members of the Armed Forces on their discharge or release from the Armed Forces.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An estimate of the costs of the provision of military records as described in subsection (a).

(2) An assessment of providing military records as described in that subsection through the distribution of a portable, readily accessible medium (such as a computer disk or other similar medium) containing such records.

(3) A description and assessment of the mechanisms required to ensure the privacy of members of the Armed Forces in providing military records as described in that subsection.

(4) An assessment of the benefits to the members of the Armed Forces of receiving their military records as described in that subsection.

(5) If the Secretary determines that providing military records to members of the Armed Forces as described in that subsection is feasible and advisable, a plan (including a schedule) for providing such records to members of the Armed Forces as so described in order to ensure that each member of the Armed Forces is provided such records upon discharge or release from the Armed Forces.

(6) Any other matter relating to the provision of military records as described in that subsection that the Secretary considers appropriate.

**SEC. 585. REPORT ON OMISSION OF SOCIAL SECURITY ACCOUNT NUMBERS FROM MILITARY IDENTIFICATION CARDS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth the assessment of the Secretary of the feasibility of utilizing military identification cards that do not contain, display, or exhibit the social security account number of the individual identified by a military identification card.

(b) MILITARY IDENTIFICATION CARD DEFINED.—In this section, the term “military identification card” means a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.

**SEC. 586. REPORT ON MAINTENANCE AND PROTECTION OF DATA HELD BY THE SECRETARY OF DEFENSE AS PART OF THE DEPARTMENT OF DEFENSE JOINT ADVERTISING, MARKET RESEARCH AND STUDIES (JAMRS) PROGRAM.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives

a report on how the data, including social security account numbers, held by the Secretary as part of the Joint Advertising, Market Research and Studies (JAMRS) program of the Department of Defense are maintained and protected, including a description of the security measures in place to prevent unauthorized access or inadvertent disclosure of such data that could lead to identity theft.

**SEC. 587. COMPTROLLER GENERAL REPORT ON MILITARY CONSCIENTIOUS OBJECTORS.**

(a) REPORT REQUIRED.—Not later than September 1, 2007, the Comptroller General shall submit to Congress a report concerning members of the Armed Forces who claimed status as a military conscientious objector between September 11, 2001, and December 31, 2006.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall specifically address the following:

(1) The number of all applications for status as a military conscientious objector, broken down by Armed Force, including the Coast Guard, and regular and reserve components.

(2) Number of discharges or reassignments given.

(3) The process generally used to consider applications, including average processing times and any provision for assignment or reassignment of members while their application is pending.

(4) Reasons for approval or disapproval of applications.

(5) Any difference in benefits upon discharge as a military conscientious objector compared to other discharges.

(6) Pre-war statistical comparisons.

# Subtitle K—Other Matters

**SEC. 591. MODIFICATION IN DEPARTMENT OF DEFENSE CONTRIBUTIONS TO MILITARY RETIREMENT FUND.**

(a) DETERMINATION OF CONTRIBUTIONS TO THE FUND.—

(1) CALCULATION OF ANNUAL DEPARTMENT OF DEFENSE CONTRIBUTION.—Subsection (b)(1) of section 1465 of title 10, United States Code, is amended—

(A) in subparagraph (A)(ii), by striking "to members of" and all that follows and inserting "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title."; and

(B) in subparagraph (B)(ii)—

(i) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(ii) by striking "Coast Guard and other than members on full-time National Guard duty other than for training) who are" and inserting "Coast Guard) for service".

(2) QUADRENNIAL ACTUARIAL VALUATION.—Subsection (c)(1) of such section is amended—

(A) in subparagraph (A), by striking "for members of the armed forces" and all that follows through "for training

only)" and inserting "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title"; and

(B) in subparagraph (B)—

(i) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(ii) by striking "Coast Guard and other than members on full-time National Guard duty other than for training) who are" and inserting "Coast Guard) for service".

(b) PAYMENTS INTO THE FUND.—Section 1466(a) of such title is amended—

(1) in paragraph (1)(B), by striking "by members" and all that follows and inserting "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding the amount expected to be paid for any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title"; and

(2) in paragraph (2)(B)—

(A) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(B) by striking "Coast Guard and other than members on full-time National Guard duty other than for training) who are" and inserting "Coast Guard) for service".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007. 10 USC 1465 note.

**SEC. 592. REVISION IN GOVERNMENT CONTRIBUTIONS TO MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.**

(a) MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.—Section 1111 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "of the Department of Defense" and inserting "of the uniformed services"; and

(2) in subsection (b), by adding at the end the following new paragraph:

"(5) The term 'members of the uniformed services on active duty' does not include a cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy or a midshipman at the United States Naval Academy.".

(b) DETERMINATION OF CONTRIBUTIONS TO THE FUND.—Section 1115 of such title is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by striking "on active duty" and all that follows through "training only)" and inserting the following: "on active duty and full-time National Guard duty, but excluding any member who would be excluded for active-duty end strength purposes by section 115(i) of this title"; and

(B) in paragraph (2)(B)—

(i) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(ii) by striking "(other than members on full-time National Guard duty other than for training)"; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "on active duty" and all that follows through "training only)" and inserting the following: "on active duty and full-time National Guard duty, but excluding any member who would be excluded for active-duty end strength purposes by section 115(i) of this title"; and

(B) in paragraph (1)(B)—

(i) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(ii) by striking "(other than members on full-time National Guard duty other than for training)".

10 USC 1111 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to payments under chapter 56 of title 10, United States Code, beginning with fiscal year 2008.

**SEC. 593. DENTAL CORPS OF THE NAVY BUREAU OF MEDICINE AND SURGERY.**

(a) DELETION OF REFERENCES TO DENTAL DIVISION.—Section 5138 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the first sentence; and

(B) by striking "the Dental Division" and inserting "the Dental Corps";

(2) in subsection (b), by striking "Dental Division" and inserting "Dental Corps"; and

(3) in subsection (c)—

(A) by striking "Dental Division" at the end of the first sentence and inserting "Dental Corps"; and

(B) by striking "that Division" at the end of the second sentence and inserting "the Chief of the Dental Corps".

(b) FUNCTIONS OF CHIEF OF DENTAL CORPS.—Subsection (d) of such section is amended to read as follows:

"(d) The Chief of the Dental Corps shall—

"(1) establish professional standards and policies for dental practice;

"(2) initiate and recommend action pertaining to complements, strength, appointments, advancement, training assignment, and transfer of dental personnel; and

"(3) serve as the advisor for the Bureau on all matters relating directly to dentistry.".

(c) FURTHER CLARIFYING AMENDMENTS.—Subsection (c) of such section is further amended—

(1) by striking "so" after "shall be"; and

(2) by striking "that all such functions will be" and inserting "so that all such functions are".

(d) CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

**"§ 5138. Bureau of Medicine and Surgery: Dental Corps; Chief; functions".**

(2) The item relating to such section in the table of sections at the beginning of chapter 513 of such title is amended to read as follows:

"5138. Bureau of Medicine and Surgery: Dental Corps; Chief; functions.".

**SEC. 594. PERMANENT AUTHORITY FOR PRESENTATION OF RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION PURPOSES.**

Section 2261 of title 10, United States Code, is amended by striking subsection (d).

**SEC. 595. PERSONS AUTHORIZED TO ADMINISTER ENLISTMENT AND APPOINTMENT OATHS.**

(a) ENLISTMENT OATH.—Section 502 of title 10, United States Code, is amended—

(1) by inserting "(a) ENLISTMENT OATH.—" before "Each person enlisting";

(2) by striking the last sentence; and

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

"(b) WHO MAY ADMINISTER.—The oath may be taken before the President, the Vice-President, the Secretary of Defense, any commissioned officer, or any other person designated under regulations prescribed by the Secretary of Defense.". Regulations.

(b) OATHS GENERALLY.—Section 1031 of such title is amended by striking "Any commissioned officer of any component of an armed force, whether or not on active duty, may administer any oath" and inserting "The President, the Vice-President, the Secretary of Defense, any commissioned officer, and any other person designated under regulations prescribed by the Secretary of Defense may administer any oath". Regulations.

**SEC. 596. MILITARY VOTING MATTERS.**

(a) REPEAL OF REQUIREMENT FOR PERIODIC INSPECTOR GENERAL INSTALLATION VISITS FOR ASSESSMENT OF VOTING ASSISTANCE PROGRAM COMPLIANCE.—Section 1566 of title 10, United States Code, is amended by striking subsection (d).

(b) USE OF ELECTRONIC VOTING TECHNOLOGY.—

(1) CONTINUATION OF INTERIM VOTING ASSISTANCE SYSTEM.—The Secretary of Defense shall continue the Interim Voting Assistance System (IVAS) ballot request program with respect to all absent uniformed services voters (as defined under section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6(1))) and overseas employees of the Department of Defense for the general election and all elections through December 31, 2006.

(2) REPORTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the regularly scheduled general election for Federal office for November 2006, the Secretary of Defense shall submit to the Congress a report setting forth—

(i) an assessment of the success of the implementation of the Interim Voting Assistance System ballot request program carried out under paragraph (1);

(ii) recommendations for continuation of the Interim Voting Assistance System and for improvements to that system; and

(iii) an assessment of available technologies and other means of achieving enhanced use of electronic and Internet-based capabilities under the Interim Voting Assistance System.

(B) FUTURE ELECTIONS.—Not later than May 15, 2007, the Secretary of Defense shall submit to the Congress a report setting forth in detail plans for expanding the use of electronic voting technology for individuals covered under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) for elections through November 30, 2010.

(c) COMPTROLLER GENERAL REPORT.—Not later than March 1, 2007, the Comptroller General of the United States shall submit to Congress a report containing the assessment of the Comptroller General with respect to the following:

(1) The programs and activities undertaken by the Department of Defense to facilitate voter registration, transmittal of ballots to absentee voters, and voting utilizing electronic means of communication (such as electronic mail and fax transmission) for military and civilian personnel covered by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(2) The progress of the Department of Defense and the Election Assistance Commission in developing a secure, deployable system for Internet-based electronic voting pursuant to the amendment made by section 567 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1919).

(d) REPEAL OF EXPIRED PROVISION.—Section 1566(g)(2) of title 10, United States Code, is amended by striking the last sentence.

**SEC. 597. PHYSICAL EVALUATION BOARDS.**

(a) IN GENERAL.—

(1) PROCEDURAL REQUIREMENTS.—Chapter 61 of title 10, United States Code, is amended by adding at the end the following new section:

### "§ 1222. Physical evaluation boards

"(a) RESPONSE TO APPLICATIONS AND APPEALS.—The Secretary of each military department shall ensure, in the case of any member of the armed forces appearing before a physical evaluation board under that Secretary's supervision, that documents announcing a decision of the board in the case convey the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the member in regard to that member's case. The requirement under the preceding sentence applies to a case both during initial consideration and upon subsequent consideration due to appeal by the member or other circumstance.

Applicability.

Regulations.

"(b) LIAISON OFFICER (PEBLO) REQUIREMENTS AND TRAINING.—(1) The Secretary of Defense shall prescribe regulations establishing—

"(A) a requirement for the Secretary of each military department to make available to members of the armed forces

appearing before physical evaluation boards operated by that Secretary employees, designated as physical evaluation board liaison officers, to provide advice, counsel, and general information to such members on the operation of physical evaluation boards operated by that Secretary; and

"(B) standards and guidelines concerning the training of such physical evaluation board liaison officers.

"(2) The Secretary shall ensure compliance by the Secretary of each military department with physical evaluation board liaison officer requirements and training standards and guidelines at least once every three years.

"(c) STANDARDIZED STAFF TRAINING AND OPERATIONS.—(1) The Secretary of Defense shall prescribe regulations on standards and guidelines concerning the physical evaluation board operated by each of the Secretaries of the military departments with regard to— Regulations.

"(A) assignment and training of staff;

"(B) operating procedures; and

"(C) timeliness of board decisions.

"(2) The Secretary shall ensure compliance with standards and guidelines prescribed under paragraph (1) by each physical evaluation board at least once every three years.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1222. Physical evaluation boards.".

(b) EFFECTIVE DATE.—Section 1222 of title 10, United States Code, as added by subsection (a), shall apply with respect to decisions rendered on cases commenced more than 120 days after the date of the enactment of this Act. 10 USC 1222 note.

**SEC. 598. MILITARY ID CARDS FOR RETIREE DEPENDENTS WHO ARE PERMANENTLY DISABLED.**

(a) IN GENERAL.—Subsection (a) of section 1060b of title 10, United States Code, is amended to read as follows:

"(a) ISSUANCE OF PERMANENT ID CARD.—(1) In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent as follows:

"(A) A retiree dependent who has attained 75 years of age.

"(B) A retiree dependent who is permanently disabled.

"(2) A permanent ID card shall be issued to a retiree dependent under paragraph (1)(A) upon the expiration, after the retiree dependent attains 75 years of age, of any earlier, renewable military card or, if earlier, upon the request of the retiree dependent after attaining age 75.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

**"§ 1060b. Military ID cards: dependents and survivors of retirees".**

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by striking

the item relating to section 1060b and inserting the following new item:

"1060b. Military ID cards: dependents and survivors of retirees.".

**SEC. 599. UNITED STATES MARINE BAND AND UNITED STATES MARINE DRUM AND BUGLE CORPS.**

(a) IN GENERAL.—Section 6222 of title 10, United States Code, is amended to read as follows:

**"§ 6222. United States Marine Band; United States Marine Drum and Bugle Corps: composition; appointment and promotion of members**

"(a) UNITED STATES MARINE BAND.—The band of the Marine Corps shall be composed of one director, two assistant directors, and other personnel in such numbers and grades as the Secretary of the Navy determines to be necessary.

"(b) UNITED STATES MARINE DRUM AND BUGLE CORPS.—The drum and bugle corps of the Marine Corps shall be composed of one commanding officer and other personnel in such numbers and grades as the Secretary of the Navy determines to be necessary.

Regulations.

"(c) APPOINTMENT AND PROMOTION.—(1) The Secretary of the Navy shall prescribe regulations for the appointment and promotion of members of the Marine Band and members of the Marine Drum and Bugle Corps.

"(2) The President may from time to time appoint members of the Marine Band and members of the Marine Drum and Bugle Corps to grades not above the grade of captain. The authority of the President to make appointments under this paragraph may be delegated only to the Secretary of Defense.

"(3) The President, by and with the advice and consent of the Senate, may from time to time appoint any member of the Marine Band or of the Marine Drum and Bugle Corps to a grade above the grade of captain.

"(d) RETIREMENT.—Unless otherwise entitled to higher retired grade and retired pay, a member of the Marine Band or Marine Drum and Bugle Corps who holds, or has held, an appointment under this section is entitled, when retired, to be retired in, and with retired pay based on, the highest grade held under this section in which the Secretary of the Navy determines that such member served satisfactorily.

"(e) REVOCATION OF APPOINTMENT.—The Secretary of the Navy may revoke any appointment of a member of the Marine Band or Marine Drum and Bugle Corps. When a member's appointment to a commissioned grade terminates under this subsection, such member is entitled, at the option of such member—

"(1) to be discharged from the Marine Corps; or

"(2) to revert to the grade and status such member held at the time of appointment under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 565 of such title is amended by striking the item relating to section 6222 and inserting the following new item:

"6222. United States Marine Band; United States Marine Drum and Bugle Corps: composition; appointment and promotion of members.".

# TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Fiscal year 2007 increase in military basic pay and reform of basic pay rates.
Sec. 602. Increase in maximum rate of basic pay for general and flag officer grades to conform to increase in pay cap for Senior Executive Service personnel.
Sec. 603. One-year extension of prohibition against requiring certain injured members to pay for meals provided by military treatment facilities.
Sec. 604. Availability of second basic allowance for housing for certain reserve component or retired members serving in support of contingency operations.
Sec. 605. Extension of temporary continuation of housing allowance for dependents of members dying on active duty to spouses who are also members.
Sec. 606. Payment of full premium for coverage under Servicemembers' Group Life Insurance program during service in Operation Enduring Freedom or Operation Iraqi Freedom.
Sec. 607. Clarification of effective date of prohibition on compensation for correspondence courses.
Sec. 608. Extension of pilot program on contributions to Thrift Savings Plan for initial enlistees in the Army.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. Extension of authorities relating to payment of other bonuses and special pays.
Sec. 615. Expansion of eligibility of dental officers for additional special pay.
Sec. 616. Increase in maximum annual rate of special pay for Selected Reserve health care professionals in critically short wartime specialties.
Sec. 617. Expansion and enhancement of accession bonus authorities for certain officers in health care specialities.
Sec. 618. Authority to provide lump sum payment of nuclear officer incentive pay.
Sec. 619. Increase in maximum amount of nuclear career accession bonus.
Sec. 620. Increase in maximum amount of incentive bonus for transfer between Armed Forces.
Sec. 621. Additional authorities and incentives to encourage retired members and reserve component members to volunteer to serve on active duty in high-demand, low-density assignments.
Sec. 622. Accession bonus for members of the Armed Forces appointed as commissioned officers after completing officer candidate school.
Sec. 623. Modification of certain authorities applicable to the targeted shaping of the Armed Forces.
Sec. 624. Enhancement of bonus to encourage certain persons to refer other persons for enlistment in the Army.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Travel and transportation allowances for transportation of family members incident to illness or injury of members.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Retired pay of general and flag officers to be based on rates of basic pay provided by law.
Sec. 642. Inapplicability of retired pay multiplier maximum percentage to certain service of members of the Armed Forces in excess of 30 years.
Sec. 643. Military Survivor Benefit Plan beneficiaries under insurable interest coverage.
Sec. 644. Modification of eligibility for commencement of authority for optional annuities for dependents under the Survivor Benefit Plan.

Sec. 645. Study of training costs, manning, operations tempo, and other factors that affect retention of members of the Armed Forces with special operations designations.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 661. Treatment of price surcharges of certain merchandise sold at commissary stores.
Sec. 662. Limitations on lease of non-excess Department of Defense property for protection of morale, welfare, and recreation activities and revenue.
Sec. 663. Report on cost effectiveness of purchasing commercial insurance for commissary and exchange facilities and facilities of other morale, welfare, and recreation programs and nonappropriated fund instrumentalities.
Sec. 664. Study and report regarding access of disabled persons to morale, welfare, and recreation facilities and activities.

Subtitle F—Other Matters

Sec. 670. Limitations on terms of consumer credit extended to servicemembers and dependents.
Sec. 671. Enhancement of authority to waive claims for overpayment of pay and allowances and travel and transportation allowances.
Sec. 672. Exception for notice to consumer reporting agencies regarding debts or erroneous payments pending a decision to waive, remit, or cancel.
Sec. 673. Expansion and enhancement of authority to remit or cancel indebtedness of members and former members of the Armed Forces incurred on active duty.
Sec. 674. Phased recovery of overpayments of pay made to members of the uniformed services.
Sec. 675. Joint family support assistance program.
Sec. 676. Special working group on transition to civilian employment of National Guard and Reserve members returning from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.
Sec. 677. Audit of pay accounts of members of the Army evacuated from a combat zone for inpatient care.
Sec. 678. Report on eligibility and provision of assignment incentive pay.
Sec. 679. Sense of Congress calling for payment to World War II veterans who survived Bataan Death March.

# Subtitle A—Pay and Allowances

Effective dates. 37 USC 1009 note.

**SEC. 601. FISCAL YEAR 2007 INCREASE IN MILITARY BASIC PAY AND REFORM OF BASIC PAY RATES.**

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2007 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) JANUARY 1, 2007, INCREASE IN BASIC PAY.—Effective on January 1, 2007, the rates of monthly basic pay for members of the uniformed services are increased by 2.2 percent.

(c) REFORM OF BASIC PAY RATES.—Effective on April 1, 2007, the rates of monthly basic pay for members of the uniformed services within each pay grade (and with years of service computed under section 205 of title 37, United States Code) are as follows:

**COMMISSIONED OFFICERS**[1]

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| O–8 | 8,453.10 | 8,729.70 | 8,913.60 | 8,964.90 | 9,194.10 |
| O–7 | 7,023.90 | 7,350.00 | 7,501.20 | 7,621.20 | 7,838.40 |
| O–6 | 5,206.20 | 5,719.20 | 6,094.50 | 6,094.50 | 6,117.60 |
| O–5 | 4,339.80 | 4,888.80 | 5,227.50 | 5,291.10 | 5,502.00 |
| O–4 | 3,744.60 | 4,334.70 | 4,623.90 | 4,688.40 | 4,956.90 |
| O–3 [3] | 3,292.20 | 3,732.30 | 4,028.40 | 4,392.00 | 4,602.00 |

**COMMISSIONED OFFICERS**[1]—Continued

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| O–2 [3] | 2,844.30 | 3,239.70 | 3,731.40 | 3,857.40 | 3,936.60 |
| O–1 [3] | 2,469.30 | 2,569.80 | 3,106.50 | 3,106.50 | 3,106.50 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| O–8 | 9,577.20 | 9,666.30 | 10,030.20 | 10,134.30 | 10,447.80 |
| O–7 | 8,052.90 | 8,301.30 | 8,548.80 | 8,797.20 | 9,577.20 |
| O–6 | 6,380.10 | 6,414.60 | 6,414.60 | 6,779.10 | 7,423.80 |
| O–5 | 5,628.60 | 5,906.40 | 6,110.10 | 6,373.20 | 6,776.40 |
| O–4 | 5,244.60 | 5,602.80 | 5,882.40 | 6,076.20 | 6,187.50 |
| O–3 [3] | 4,833.00 | 4,982.70 | 5,228.40 | 5,355.90 | 5,355.90 |
| O–2 [3] | 3,936.60 | 3,936.60 | 3,936.60 | 3,936.60 | 3,936.60 |
| O–1 [3] | 3,106.50 | 3,106.50 | 3,106.50 | 3,106.50 | 3,106.50 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| O–10 [2] | $0.00 | $13,659.00 | $13,725.90 | $14,011.20 | $14,508.60 |
| O–9 | 0.00 | 11,946.60 | 12,118.50 | 12,367.20 | 12,801.30 |
| O–8 | 10,900.80 | 11,319.00 | 11,598.30 | 11,598.30 | 11,598.30 |
| O–7 | 10,236.00 | 10,236.00 | 10,236.00 | 10,236.00 | 10,287.90 |
| O–6 | 7,802.10 | 8,180.10 | 8,395.20 | 8,613.00 | 9,035.70 |
| O–5 | 6,968.10 | 7,158.00 | 7,373.10 | 7,373.10 | 7,373.10 |
| O–4 | 6,252.30 | 6,252.30 | 6,252.30 | 6,252.30 | 6,252.30 |
| O–3 [3] | 5,355.90 | 5,355.90 | 5,355.90 | 5,355.90 | 5,355.90 |
| O–2 [3] | 3,936.60 | 3,936.60 | 3,936.60 | 3,936.60 | 3,936.60 |
| O–1 [3] | 3,106.50 | 3,106.50 | 3,106.50 | 3,106.50 | 3,106.50 |
| | Over 28 | Over 30 | Over 32 | Over 34 | Over 36 |
| O–10 [2] | $14,508.60 | $15,234.00 | $15,234.00 | $15,995.70 | $15,995.70 |
| O–9 | 12,801.30 | 13,441.50 | 13,441.50 | 14,113.50 | 14,113.50 |
| O–8 | 11,598.30 | 11,888.40 | 11,888.40 | 12,185.70 | 12,185.70 |
| O–7 | 10,287.90 | 10,493.70 | 10,493.70 | 10,493.70 | 10,493.70 |
| O–6 | 9,035.70 | 9,216.30 | 9,216.30 | 9,216.30 | 9,216.30 |
| O–5 | 7,373.10 | 7,373.10 | 7,373.10 | 7,373.10 | 7,373.10 |
| O–4 | 6,252.30 | 6,252.30 | 6,252.30 | 6,252.30 | 6,252.30 |
| O–3 [3] | 5,355.90 | 5,355.90 | 5,355.90 | 5,355.90 | 5,355.90 |
| O–2 [3] | 3,936.60 | 3,936.60 | 3,936.60 | 3,936.60 | 3,936.60 |
| O–1 [3] | 3,106.50 | 3,106.50 | 3,106.50 | 3,106.50 | 3,106.50 |
| | Over 38 | Over 40 | | | |
| O–10 [2] | $16,795.50 | $16,795.50 | | | |
| O–9 | 14,819.10 | 14,819.10 | | | |
| O–8 | 12,185.70 | 12,185.70 | | | |
| O–7 | 10,493.70 | 10,493.70 | | | |
| O–6 | 9,216.30 | 9,216.30 | | | |
| O–5 | 7,373.10 | 7,373.10 | | | |
| O–4 | 6,252.30 | 6,252.30 | | | |
| O–3 [3] | 5,355.90 | 5,355.90 | | | |
| O–2 [3] | 3,936.60 | 3,936.60 | | | |
| O–1 [3] | 3,106.50 | 3,106.50 | | | |

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned oficers in pay grades 0–7 through 0–10 may not exceed the rate of pay for level II of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code), basic pay for this grade is $17,972.10, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

**COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER**

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| O–3E | $0.00 | $0.00 | $0.00 | $4,392.00 | $4,602.00 |
| O–2E | 0.00 | 0.00 | 0.00 | 3,857.40 | 3,936.60 |
| O–1E | 0.00 | 0.00 | 0.00 | 3,106.50 | 3,317.70 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| O–3E | $4,833.00 | $4,982.70 | $5,228.40 | $5,435.40 | $5,554.20 |
| O–2E | 4,062.00 | 4,273.50 | 4,437.00 | 4,558.80 | 4,558.80 |
| O–1E | 3,440.10 | 3,565.50 | 3,688.80 | 3,857.40 | 3,857.40 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| O–3E | $5,715.90 | $5,715.90 | $5,715.90 | $5,715.90 | $5,715.90 |
| O–2E | 4,558.80 | 4,558.80 | 4,558.80 | 4,558.80 | 4,558.80 |
| O–1E | 3,857.40 | 3,857.40 | 3,857.40 | 3,857.40 | 3,857.40 |
| | Over 28 | Over 30 | Over 32 | Over 34 | Over 36 |
| O–3E | $5,715.90 | $5,715.90 | $5,715.90 | $5,715.90 | $5,715.90 |
| O–2E | 4,558.80 | 4,558.80 | 4,558.80 | 4,558.80 | 4,558.80 |
| O–1E | 3,857.40 | 3,857.40 | 3,857.40 | 3,857.40 | 3,857.40 |
| | Over 38 | Over 40 | | | |
| O–3E | $5,715.90 | $5,715.90 | | | |
| O–2E | 4,558.80 | 4,558.80 | | | |
| O–1E | 3,857.40 | 3,857.40 | | | |

## WARRANT OFFICERS [1]

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| W–5 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| W–4 | 3,402.00 | 3,660.00 | 3,765.00 | 3,868.50 | 4,046.40 |
| W–3 | 3,106.80 | 3,236.40 | 3,369.00 | 3,412.80 | 3,552.00 |
| W–2 | 2,749.20 | 3,009.30 | 3,089.40 | 3,144.60 | 3,322.80 |
| W–1 | 2,413.20 | 2,672.40 | 2,742.90 | 2,890.50 | 3,065.10 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| W–5 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| W–4 | 4,222.20 | 4,400.70 | 4,669.20 | 4,904.40 | 5,128.20 |
| W–3 | 3,825.90 | 4,110.90 | 4,245.30 | 4,400.40 | 4,560.30 |
| W–2 | 3,600.00 | 3,737.10 | 3,872.40 | 4,037.70 | 4,166.70 |
| W–1 | 3,322.20 | 3,442.20 | 3,610.20 | 3,775.50 | 3,905.10 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| W–5 | $0.00 | $6,049.50 | $6,356.40 | $6,585.00 | $6,838.20 |
| W–4 | 5,310.90 | 5,489.70 | 5,752.20 | 5,967.60 | 6,213.60 |
| W–3 | 4,847.70 | 5,042.40 | 5,158.50 | 5,282.10 | 5,450.10 |
| W–2 | 4,284.00 | 4,423.80 | 4,515.90 | 4,589.40 | 4,589.40 |
| W–1 | 4,024.50 | 4,170.00 | 4,170.00 | 4,170.00 | 4,170.00 |
| | Over 28 | Over 30 | Over 32 | Over 34 | Over 36 |
| W–5 | $6,838.20 | $7,180.20 | $7,180.20 | $7,539.30 | $7,539.30 |
| W–4 | 6,213.60 | 6,337.80 | 6,337.80 | 6,337.80 | 6,337.80 |
| W–3 | 5,450.10 | 5,450.10 | 5,450.10 | 5,450.10 | 5,450.10 |
| W–2 | 4,589.40 | 4,589.40 | 4,589.40 | 4,589.40 | 4,589.40 |
| W–1 | 4,170.00 | 4,170.00 | 4,170.00 | 4,170.00 | 4,170.00 |
| | Over 38 | Over 40 | | | |
| W–5 | $7,916.40 | $7,916.40 | | | |
| W–4 | 6,337.80 | 6,337.80 | | | |
| W–3 | 5,450.10 | 5,450.10 | | | |
| W–2 | 4,589.40 | 4,589.40 | | | |
| W–1 | 4,170.00 | 4,170.00 | | | |

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

## ENLISTED MEMBERS [1]

| Pay Grade | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 |
|---|---|---|---|---|---|
| E–9 [2] | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| E–8 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| E–7 | 2,339.10 | 2,553.00 | 2,650.80 | 2,780.70 | 2,881.50 |
| E–6 | 2,023.20 | 2,226.00 | 2,324.40 | 2,419.80 | 2,519.40 |
| E–5 | 1,854.00 | 1,977.90 | 2,073.30 | 2,171.40 | 2,323.80 |
| E–4 | 1,699.50 | 1,786.50 | 1,883.10 | 1,978.50 | 2,062.80 |
| E–3 | 1,534.20 | 1,630.80 | 1,729.20 | 1,729.20 | 1,729.20 |
| E–2 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 |
| E–1 [3] | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| E–9 [2] | $0.00 | $4,110.60 | $4,203.90 | $4,321.20 | $4,459.50 |
| E–8 | 3,364.80 | 3,513.90 | 3,606.00 | 3,716.40 | 3,835.80 |
| E–7 | 3,055.20 | 3,152.70 | 3,326.70 | 3,471.00 | 3,569.70 |
| E–6 | 2,744.10 | 2,831.40 | 3,000.00 | 3,051.90 | 3,089.70 |
| E–5 | 2,483.70 | 2,613.90 | 2,630.10 | 2,630.10 | 2,630.10 |
| E–4 | 2,062.80 | 2,062.80 | 2,062.80 | 2,062.80 | 2,062.80 |
| E–3 | 1,729.20 | 1,729.20 | 1,729.20 | 1,729.20 | 1,729.20 |
| E–2 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 |
| E–1 [3] | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| E–9 [2] | $4,598.40 | $4,821.60 | $5,010.30 | $5,209.20 | $5,512.80 |
| E–8 | 4,051.80 | 4,161.30 | 4,347.30 | 4,450.50 | 4,704.90 |
| E–7 | 3,674.40 | 3,715.50 | 3,852.00 | 3,925.20 | 4,204.20 |
| E–6 | 3,133.50 | 3,133.50 | 3,133.50 | 3,133.50 | 3,133.50 |
| E–5 | 2,630.10 | 2,630.10 | 2,630.10 | 2,630.10 | 2,630.10 |
| E–4 | 2,062.80 | 2,062.80 | 2,062.80 | 2,062.80 | 2,062.80 |
| E–3 | 1,729.20 | 1,729.20 | 1,729.20 | 1,729.20 | 1,729.20 |
| E–2 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 |
| E–1 [3] | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 |
| | Over 28 | Over 30 | Over 32 | Over 34 | Over 36 |
| E–9 [2] | $5,512.80 | $5,788.50 | $5,788.50 | $6,078.00 | $6,078.00 |
| E–8 | 4,704.90 | 4,799.10 | 4,799.10 | 4,799.10 | 4,799.10 |
| E–7 | 4,204.20 | 4,204.20 | 4,204.20 | 4,204.20 | 4,204.20 |
| E–6 | 3,133.50 | 3,133.50 | 3,133.50 | 3,133.50 | 3,133.50 |
| E–5 | 2,630.10 | 2,630.10 | 2,630.10 | 2,630.10 | 2,630.10 |
| E–4 | 2,062.80 | 2,062.80 | 2,062.80 | 2,062.80 | 2,062.80 |
| E–3 | 1,729.20 | 1,729.20 | 1,729.20 | 1,729.20 | 1,729.20 |
| E–2 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 | 1,458.90 |
| E–1 | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 | 1,301.40 |
| | Over 38 | Over 40 | | | |
| E–9 [2] | $6,381.90 | $6,381.90 | | | |
| E–8 | 4,799.10 | 4,799.10 | | | |
| E–7 | 4,204.20 | 4,204.20 | | | |
| E–6 | 3,133.50 | 3,133.50 | | | |
| E–5 | 2,630.10 | 2,630.10 | | | |
| E–4 | 2,062.80 | 2,062.80 | | | |
| E–3 | 1,729.20 | 1,729.20 | | | |
| E–2 | 1,458.90 | 1,458.90 | | | |
| E–1 | 1,301.40 | 1,301.40 | | | |

[1] Notwithstanding the pay rates specified in this table, the actual basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff is $6,642.60, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,203.90.

**SEC. 602. INCREASE IN MAXIMUM RATE OF BASIC PAY FOR GENERAL AND FLAG OFFICER GRADES TO CONFORM TO INCREASE IN PAY CAP FOR SENIOR EXECUTIVE SERVICE PERSONNEL.**

(a) INCREASE.—Section 203(a)(2) of title 37, United States Code, is amended by striking "level III of the Executive Schedule" and inserting "level II of the Executive Schedule".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2007, and shall apply with respect to months beginning on or after that date. 37 USC 203 note.

**SEC. 603. ONE-YEAR EXTENSION OF PROHIBITION AGAINST REQUIRING CERTAIN INJURED MEMBERS TO PAY FOR MEALS PROVIDED BY MILITARY TREATMENT FACILITIES.**

(a) EXTENSION.—Section 402(h)(3) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) REPORT ON ADMINISTRATION OF PROHIBITION.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the administration of section 402(h) of title 37, United States Code. The report shall include—

(1) a description and assessment of the mechanisms used by the military departments to implement the prohibition contained in such section; and

(2) such recommendations as the Secretary considers appropriate regarding making such prohibition permanent.

**SEC. 604. AVAILABILITY OF SECOND BASIC ALLOWANCE FOR HOUSING FOR CERTAIN RESERVE COMPONENT OR RETIRED MEMBERS SERVING IN SUPPORT OF CONTINGENCY OPERATIONS.**

(a) AVAILABILITY.—Section 403(g) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary concerned may provide a basic allowance for housing to a member described in paragraph (1) at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to the location at which the member is serving, for members in the same grade at that location without dependents. The member may receive both a basic allowance for housing under paragraph (1) and under this paragraph for the same month, but may not receive the portion of the allowance authorized under section 404 of this title, if any, for lodging expenses if a basic allowance for housing is provided under this paragraph."; and

(3) in paragraph (3), as so redesignated, by striking "Paragraph (1)" and inserting "Paragraphs (1) and (2)".

37 USC 403 note.

(b) EFFECTIVE DATE.—Paragraph (2) of section 403(g) of title 37, United States Code, as added by subsection (a), shall apply with respect to months beginning on or after October 1, 2006.

**SEC. 605. EXTENSION OF TEMPORARY CONTINUATION OF HOUSING ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY TO SPOUSES WHO ARE ALSO MEMBERS.**

(a) EXTENSION.—Section 403(l) of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

"(3) An allowance may be paid under paragraph (2) to the spouse of the deceased member even though the spouse is also a member of the uniformed services. The allowance paid under such paragraph is in addition to any other pay and allowances to which the spouse is entitled as a member.".

37 USC 403 note.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendments made by subsection (a) shall take effect on October 1, 2006.

(2) TRANSITIONAL RULE.—After October 1, 2006, the Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard, may pay the allowance authorized by section 403(l)(2) of title 37, United States Code, to a member of the uniformed services who is the spouse of a member who died on active duty during the one-year period ending on that date, except that the payment of the allowance must terminate within 365 days after the date of the member's death.

**SEC. 606. PAYMENT OF FULL PREMIUM FOR COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM DURING SERVICE IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.**

(a) ENHANCED ALLOWANCE TO COVER SGLI DEDUCTIONS.—Subsection (a)(1) of section 437 of title 37, United States Code, is amended by striking "for the first $150,000" and all that follows through "of such title" and inserting "for the amount of Servicemembers' Group Life Insurance coverage held by the member under section 1967 of such title".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a)—

(A) by striking "(1)" before "in the case of"; and

(B) by striking paragraph (2);

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b) and in paragraph (2) of that subsection by striking "coverage amount specified in subsection (a)(1) or in effect pursuant to subsection (b)," and inserting "maximum coverage amount available for such insurance,".

(c) CLERICAL AMENDMENTS.—The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 7 of such title, are each amended by striking the fourth and fifth words.

37 USC 403 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply

with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after that date.

**SEC. 607. CLARIFICATION OF EFFECTIVE DATE OF PROHIBITION ON COMPENSATION FOR CORRESPONDENCE COURSES.**

Section 206(d) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(3) The prohibition in paragraph (1), including the prohibition as it relates to a member of the National Guard while not in Federal service, applies to—

"(A) any work or study performed on or after September 7, 1962, unless that work or study is specifically covered by the exception in paragraph (2); and

"(B) any claim based on that work or study arising after that date.".

**SEC. 608. EXTENSION OF PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMY.**

(a) EXTENSION.—Subsection (a) of section 606 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3287; 37 U.S.C. 211 note) is amended by striking "During fiscal year 2006" and inserting "During the period beginning on January 6, 2006, and ending on December 31, 2008".

(b) REPORT DATE.—Subsection (d)(1) of such section is amended by striking "February 1, 2007" and inserting "February 1, 2008".

## Subtitle B—Bonuses and Special and Incentive Pays

**SEC. 611. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) SELECTED RESERVE AFFILIATION OR ENLISTMENT BONUS.—Section 308c(i) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.—Section 308g(f)(2) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308h(e) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) SELECTED RESERVE ENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308i(f) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

**SEC. 612. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.**

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2007" and inserting "January 1, 2008".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(e) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

**SEC. 613. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.**

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

**SEC. 614. EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.**

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) ASSIGNMENT INCENTIVE PAY.—Section 307a(g) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(c) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) ENLISTMENT BONUS.—Section 309(e) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS OR ASSIGNED TO HIGH PRIORITY UNITS.—Section 323(i) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(g) INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.—Section 326(g) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(h) INCENTIVE BONUS FOR TRANSFER BETWEEN THE ARMED FORCES.—Section 327(h) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2009".

**SEC. 615. EXPANSION OF ELIGIBILITY OF DENTAL OFFICERS FOR ADDITIONAL SPECIAL PAY.**

(a) REPEAL OF INTERNSHIP AND RESIDENCY EXCEPTION.—Section 302b(a)(4) of title 37, United States Code, is amended by striking the first sentence and inserting the following new sentence: "An officer who is entitled to variable special pay under paragraph (2) or (3) is also entitled to additional special pay for any 12-month period during which an agreement executed under subsection (b) is in effect with respect to the officer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2006. 37 USC 302b note.

**SEC. 616. INCREASE IN MAXIMUM ANNUAL RATE OF SPECIAL PAY FOR SELECTED RESERVE HEALTH CARE PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.**

(a) INCREASE.—Section 302g(a) of title 37, United States Code, is amended by striking "$10,000" and inserting "$25,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 302g of title 37, United States Code, on or after that date. 37 USC 302g note.

**SEC. 617. EXPANSION AND ENHANCEMENT OF ACCESSION BONUS AUTHORITIES FOR CERTAIN OFFICERS IN HEALTH CARE SPECIALITIES.**

(a) INCREASE IN MAXIMUM AMOUNT OF ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(2) of title 37, United States Code, is amended by striking "$30,000" and inserting "$200,000".

(b) ACCESSION BONUS FOR MEDICAL OFFICERS IN CRITICALLY SHORT WARTIME SPECIALITIES.—Chapter 5 of title 37, United States Code, is amended by inserting after section 302j the following new section:

**"§ 302k. Special pay: accession bonus for medical officers in critically short wartime specialties**

"(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited school of medicine or osteopathy in a specialty designated by regulations as a critically short wartime specialty and who executes a written agreement described in subsection (d) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four consecutive years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in the amount determined by the Secretary concerned.

"(b) AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $400,000.

"(c) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

"(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in medicine or osteopathy; or

"(2) the Secretary concerned determines that the person is not qualified to become and remain certified as a doctor or osteopath in a specialty designated by regulations as a critically short wartime specialty.

"(d) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed force concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Medical Corps of the Army or the Navy or as an officer of the Air Force designated as a medical officer in a specialty designated by regulations as a critically short wartime specialty.

"(e) REPAYMENT.—A person who, after executing an agreement under subsection (a) is not commissioned as an officer of the armed forces, does not become licensed as a doctor or osteopath, as the case may be, or does not complete the period of active duty in a specialty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

"(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2007.".

(c) ACCESSION BONUS FOR DENTAL SPECIALIST OFFICERS IN CRITICALLY SHORT WARTIME SPECIALITIES.—Such chapter is further amended by inserting after section 302k, as added by subsection (b), the following new section:

**"§ 302l. Special pay: accession bonus for dental specialist officers in critically short wartime specialties**

"(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited dental school in a specialty designated by regulations as a critically short wartime specialty and who executes a written agreement described in subsection (d) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four consecutive years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in the amount determined by the Secretary concerned.

"(b) AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $400,000.

"(c) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

"(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in dentistry; or

"(2) the Secretary concerned determines that the person is not qualified to become and remain certified as a dentist in a specialty designated by regulations as a critically short wartime specialty.

"(d) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed force concerned, the person executing the agreement will be assigned

to duty, for the period of obligated service covered by the agreement, as an officer of the Dental Corps of the Army or the Navy or as an officer of the Air Force designated as a dental officer in a specialty designated by regulations as a critically short wartime specialty.

"(e) REPAYMENT.—A person who, after executing an agreement under subsection (a) is not commissioned as an officer of the armed forces, does not become licensed as a dentist, or does not complete the period of active duty in a specialty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

"(f) COORDINATION WITH OTHER ACCESSION BONUS AUTHORITY.—A person eligible to execute an agreement under both subsection (a) and section 302h of this title shall elect which authority to execute the agreement under. A person may not execute an agreement under both subsection (a) and such section 302h.

"(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2007.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302j the following new items:

"302k. Special pay: accession bonus for medical officers in critically short wartime specialties.

"302l. Special pay: accession bonus for dental specialist officers in critically short wartime specialties.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006, and shall apply to agreements— 37 USC 302h note.

(1) entered into or revised under section 302h of title 37, United States Code, on or after that date; or

(2) entered into under section 302k or 302l of such title, as added by subsections (b) and (c), on or after that date.

**SEC. 618. AUTHORITY TO PROVIDE LUMP SUM PAYMENT OF NUCLEAR OFFICER INCENTIVE PAY.**

(a) LUMP SUM PAYMENT OPTION.—Subsection (a) of section 312 of title 37, United States Code, is amended in the matter after paragraph (3)—

(1) by striking "in equal annual installments" and inserting "in a single lump-sum or in annual installments of equal or different amounts"; and

(2) by striking "with the number of installments being equal to the number of years covered by the contract plus one" and inserting "and, if the special pay will be paid in annual installments, the number of installments may not exceed the number of years covered by the agreement plus one".

(b) STYLISTIC AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) in subsection (a)—

(A) by striking "an officer" in the matter before paragraph (1) and inserting "the Secretary may pay special pay under subsection (b) to an officer";

(B) by striking the comma at the end of paragraph (3) and inserting a period;

(C) by striking "may, upon" and all that follows through "The Secretary of the Navy shall" and inserting the following:

"(b) PAYMENT AMOUNT; PAYMENT OPTIONS.—(1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed $30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.

"(2) The Secretary shall";

(D) by striking "Upon acceptance of the agreement by the Secretary or his designee" and inserting the following:

"(3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary"; and

(E) by striking "The Secretary (or his designee)" and inserting the following:

"(4) The Secretary";

(3) in subsection (c), as redesignated by paragraph (1), by striking "subsection (a) or subsection (d)(1)" and inserting "subsection (b) or (e)(1)"; and

(4) in the first sentence of subsection (e)(1), as redesignated by paragraph (1)—

(A) by striking "such subsection" and inserting "subsection (b)"; and

(B) by striking "that subsection" and inserting "this subsection".

(c) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "SPECIAL PAY AUTHORIZED; ELIGIBILITY.—" after "(a)";

(2) in subsection (c), as redesignated by subsection (b)(1), by inserting "REPAYMENT.—" after "(c)";

(3) in subsection (d), as redesignated by subsection (b)(1), by inserting "RELATION TO SERVICE OBLIGATION.—" after "(d)";

(4) in subsection (e), as redesignated by subsection (b)(1), by inserting "NEW AGREEMENT.—" after "(e)"; and

(5) in subsection (f), as redesignated by subsection (b)(1), by inserting "DURATION OF AUTHORITY.—" after "(f)".

**SEC. 619. INCREASE IN MAXIMUM AMOUNT OF NUCLEAR CAREER ACCESSION BONUS.**

(a) INCREASE.—Section 312b(a)(1) of title 37, United States Code, is amended by striking "$20,000" and inserting "$30,000".

37 USC 312b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 312b of title 37, United States Code, on or after that date.

**SEC. 620. INCREASE IN MAXIMUM AMOUNT OF INCENTIVE BONUS FOR TRANSFER BETWEEN ARMED FORCES.**

(a) INCREASE.—Section 327(d)(1) of title 37, United States Code, is amended by striking "$2,500" and inserting "$10,000".

37 USC 327 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 327 of title 37, United States Code, on or after that date.

**SEC. 621. ADDITIONAL AUTHORITIES AND INCENTIVES TO ENCOURAGE RETIRED MEMBERS AND RESERVE COMPONENT MEMBERS TO VOLUNTEER TO SERVE ON ACTIVE DUTY IN HIGH-DEMAND, LOW-DENSITY ASSIGNMENTS.**

(a) AUTHORITY TO OFFER INCENTIVE BONUS.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

**"§ 329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments**

"(a) INCENTIVE BONUS AUTHORIZED.—The Secretary of Defense may pay a bonus under this section to a retired member or former member of the Army, Navy, Air Force, or Marine Corps or to a member of a reserve component of the Army, Navy, Air Force, or Marine Corps (who is not otherwise serving on active duty) who executes a written agreement to serve on active duty for a period specified in the agreement in an assignment intended to alleviate the need for members in a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements.

"(b) MAXIMUM AMOUNT OF BONUS.—A bonus under subsection (a) and any incentive developed under subsection (d) may not exceed $50,000.

"(c) METHODS OF PAYMENT.—At the election of the Secretary of Defense, a bonus under subsection (a) and any incentive developed under subsection (d) shall be paid or provided—

"(1) when the member commences service on active duty; or

"(2) in annual installments in such amounts as may be determined by the Secretary.

"(d) DEVELOPMENT OF ADDITIONAL INCENTIVES.—(1) The Secretary of Defense may develop and provide to members referred to in subsection (a) additional incentives to encourage such members to return to active duty in assignments intended to alleviate the need for members in a high-demand, low-density military capability or in other specialties designated by the Secretary as critical to meet wartime or peacetime requirements.

"(2) The provision of any incentive developed under this subsection shall be subject to an agreement, as required for bonuses under subsection (a). Contracts.

"(3) Not later than 30 days before first offering any incentive developed under this subsection, the Secretary shall submit to the congressional defense committees a report that contains a description of that incentive and an explanation why a bonus under subsection (a) or other pay and allowances are not sufficient to alleviate the high-demand, low-density military capability or otherwise fill critical military specialties. Deadline.

"(4) In this subsection, the term 'congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus or other incentive paid or provided to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(f) PROHIBITION ON PROMOTIONS.—The written agreement required by subsections (a) and (d) shall specify that a member

who is paid or receives a bonus or other incentive under this section is not eligible for promotion while serving in the assignment for which the bonus or other incentive is provided.

"(g) REPAYMENT.—A member who does not complete the period of active duty specified in the agreement executed under subsection (a) or (d) shall be subject to the repayment provisions of section 303a(e) of this title.

"(h) HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY.—In this section, the term 'high-demand, low-density military capability' means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.

"(i) REGULATIONS.—The Secretary of Defense may prescribe such regulations as the Secretary considers necessary to carry out this section.

"(j) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (d) may be entered into after December 31, 2010.".

(b) TEMPORARY AUTHORITY TO ORDER RETIRED MEMBERS TO ACTIVE DUTY IN HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY.—Section 688a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following new sentence: "The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements."; and

(B) in the second sentence, by striking "officer" both places it appears and inserting "member";

(2) in subsection (b), by striking "an officer" and inserting "a member";

(3) in subsection (c), by striking "500 officers" and inserting "1,000 members";

(4) in subsection (d), by striking "officer" and inserting "member";

(5) in subsection (e), by striking "Officers" and inserting "Retired members";

(6) in subsection (f)—

(A) by striking "An officer" and inserting "A retired member"; and

(B) by striking "September 30, 2008" and inserting "December 31, 2010"; and

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

"(g) HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY DEFINED.—In this section, the term 'high-demand, low-density military capability' means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.".

(c) EXCLUSION FROM ACTIVE-DUTY LIST.—Section 641 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) Officers appointed pursuant to an agreement under section 329 of title 37.".

(d) CLERICAL AMENDMENTS.—

(1) TITLE 37.—The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by adding at the end the following new item:

"329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments.".

(2) TITLE 10.—(A) The heading of section 688a of title 10, United States Code, is amended to read as follows:

**"§ 688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments".**

(B) The table of sections at the beginning of chapter 39 of such title is amended by striking the item relating to section 688a and inserting the following new item:

"688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments.".

(e) EFFECTIVE DATE.—No agreement may be entered into under section 329 of title 37, United States Code, as added by subsection (a), before October 1, 2006. 37 USC 329 note.

(f) LIMITATION ON FISCAL YEAR 2007 OBLIGATIONS.—During fiscal year 2007, obligations incurred under section 329 of title 37, United States Code, as added by subsection (a), to provide bonuses or other incentives to retired members and former members of the Army, Navy, Air Force, or Marine Corps or to members of the reserve components of the Army, Navy, Air Force, and Marine Corps may not exceed $5,000,000.

**SEC. 622. ACCESSION BONUS FOR MEMBERS OF THE ARMED FORCES APPOINTED AS COMMISSIONED OFFICERS AFTER COMPLETING OFFICER CANDIDATE SCHOOL.**

(a) ACCESSION BONUS AUTHORIZED.—

(1) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by inserting after section 329, as added by section 621 of this Act, the following new section:

**"§ 330. Special pay: accession bonus for officer candidates**

"(a) ACCESSION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement described in subsection (c) may be paid an accession bonus under this section upon acceptance of the agreement by the Secretary concerned. Regulations.

"(b) AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $8,000.

"(c) AGREEMENT.—A written agreement referred to in subsection (a) is a written agreement by a person—

"(1) to complete officer candidate school;

"(2) to accept a commission or appointment as an officer of the armed forces; and

"(3) to serve on active duty as a commissioned officer for a period specified in the agreement.

Contracts.

"(d) PAYMENT METHOD.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount of the accession bonus payable under the agreement becomes fixed. The agreement shall specify whether the accession bonus will be paid in a lump sum or installments.

"(e) REPAYMENT.—A person who, having received all or part of the bonus under a written agreement under subsection (a), does not complete the total period of active duty as a commissioned officer as specified in such agreement shall be subject to the repayment provisions of section 303a(e) of this title.

"(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2007.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 329, as added by section 621, the following new item:

"330. Special pay: accession bonus for officer candidates.".

37 USC 330 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2006.

(b) AUTHORITY FOR PAYMENT OF BONUS UNDER EARLIER AGREEMENTS.—

(1) AUTHORITY.—The Secretary of the Army may pay a bonus to any person who, during the period beginning on April 1, 2005, and ending on April 6, 2006, executed an agreement to enlist for the purpose of attending officer candidate school and receive a bonus under section 309 of title 37, United States Code, and who has completed the terms of the agreement required for payment of the bonus.

(2) AMOUNT OF BONUS.—The amount of the bonus payable to a person under this subsection may not exceed $8,000.

(3) RELATION TO ENLISTMENT BONUS.—The bonus payable under this subsection is in addition to a bonus payable under section 309 of title 37, United States Code, or any other provision of law.

**SEC. 623. MODIFICATION OF CERTAIN AUTHORITIES APPLICABLE TO THE TARGETED SHAPING OF THE ARMED FORCES.**

(a) VOLUNTARY SEPARATION PAY AND BENEFITS.—

(1) INCREASE IN MAXIMUM AMOUNT OF PAY.—Subsection (f) of section 1175a of title 10, United States Code, is amended by striking "two times" and inserting "four times".

(2) EXTENSION OF AUTHORITY.—Subsection (k)(1) of such section is amended by striking "December 31, 2008" and inserting "December 31, 2012".

(3) REPEAL OF LIMITATION ON APPLICABILITY.—Subsection (b) of section 643 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3310; 10 U.S.C. 1175a note) is repealed.

(b) ENHANCED AUTHORITY FOR EARLY DISCHARGES.—

(1) RENEWAL OF AUTHORITY.—Subsection (a) of section 638a of title 10, United States Code, is amended by inserting "and for the purpose of subsection (b)(4) during the period beginning on October 1, 2006, and ending on December 31, 2012," after "December 31, 2001,".

(2) RELAXATION OF LIMITATION ON SELECTIVE EARLY DISCHARGE.—Subsection (d)(2) of such section is amended—

(A) in subparagraph (A), by inserting before the semicolon the following: ", except that during the period beginning on October 1, 2006, and ending on December 31, 2012, such number may be more than 30 percent of the officers considered in each competitive category, but may not be more than 30 percent of the number of officers considered in each grade"; and

(B) in subparagraph (B), by inserting before the period the following: ", except that during the period beginning on October 1, 2006, and ending on December 31, 2012, such number may be more than 30 percent of the officers considered in each competitive category, but may not be more than 30 percent of the number of officers considered in each grade".

**SEC. 624. ENHANCEMENT OF BONUS TO ENCOURAGE CERTAIN PERSONS TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.**

(a) INDIVIDUALS ELIGIBLE FOR BONUS.—Subsection (a) of section 645 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3310) is amended—

(1) by striking "The Secretary" and inserting the following: "(1) AUTHORITY.—The Secretary";

(2) by striking "a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve," and inserting "an individual referred to in paragraph (2)"; and

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

"(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Subject to subsection (c), the following individuals are eligible for a referral bonus under this section:

"(A) A member in the regular component of the Army.

"(B) A member of the Army National Guard.

"(C) A member of the Army Reserve.

"(D) A member of the Army in a retired status, including a member under 60 years of age who, but for age, would be eligible for retired pay.

"(E) A civilian employee of the Department of the Army.".

(b) CERTAIN REFERRALS INELIGIBLE.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

"(3) JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS.—A member of the Army detailed under subsection (c)(1) of section 2031 of title 10, United States Code, to serve as an administrator or instructor in the Junior Reserve Officers' Training Corps program or a retired member of the Army employed as an administrator or instructor in the program under subsection (d) of such section may not be paid a bonus under subsection (a).".

(c) AMOUNT OF BONUS.—Subsection (d) of such section is amended to read as follows:

"(d) AMOUNT OF BONUS.—The amount of the bonus payable for a referral under subsection (a) may not exceed $2,000. The amount shall be payable in two lump sums as provided in subsection (e).".

(d) PAYMENT OF BONUS.—Subsection (e) of such section is amended to read as follows:

"(e) PAYMENT.—A bonus payable for a referral of a person under subsection (a) shall be paid as follows:

"(1) Not more than $1,000 shall be paid upon the commencement of basic training by the person referred.

"(2) Not more than $1,000 shall be paid upon the completion of basic training and individual advanced training by the person referred.".

(e) COORDINATION WITH RECEIPT OF RETIRED PAY.—Such section is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) COORDINATION WITH RECEIPT OF RETIRED PAY.—A bonus paid under this section to a member of the Army in a retired status is in addition to any compensation to which the member is entitled under title 10, 37, or 38, United States Code, or any other provision of law.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to bonuses payable under section 645 of the National Defense Authorization Act for Fiscal Year 2006, as amended by this section, on or after that date.

# Subtitle C—Travel and Transportation Allowances

### SEC. 631. TRAVEL AND TRANSPORTATION ALLOWANCES FOR TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO ILLNESS OR INJURY OF MEMBERS.

Section 411h(b)(1) of title 37, United States Code, is amended—

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

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

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

"(E) a person related to the member as described in subparagraph (A), (B), (C), or (D) who is also a member of the uniformed services.".

# Subtitle D—Retired Pay and Survivor Benefits

### SEC. 641. RETIRED PAY OF GENERAL AND FLAG OFFICERS TO BE BASED ON RATES OF BASIC PAY PROVIDED BY LAW.

(a) DETERMINATION OF RETIRED PAY BASE.—Chapter 71 of title 10, United States Code, is amended by inserting after section 1407 the following new section:

### "§ 1407a. Retired pay base: officers retired in general or flag officer grades

"(a) RATES OF BASIC PAY TO BE USED IN DETERMINATION.—In a case in which the determination under section 1406 or 1407 of this title of the retired pay base applicable to the computation

of the retired pay of a covered general or flag officer involves a rate of basic pay payable to that officer for any period that was subject to a reduction under section 203(a)(2) of title 37 for such period, such retired-pay-base determination shall be made using the rate of basic pay for such period provided by law, rather than such rate as so reduced.

"(b) COVERED GENERAL AND FLAG OFFICERS.—In this section, the term 'covered general or flag officer' means a member or former member who after September 30, 2006, is retired in a general officer grade or flag officer grade.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1407 the following new item:

"1407a. Retired pay base: officers retired in general or flag officer grades.".

**SEC. 642. INAPPLICABILITY OF RETIRED PAY MULTIPLIER MAXIMUM PERCENTAGE TO CERTAIN SERVICE OF MEMBERS OF THE ARMED FORCES IN EXCESS OF 30 YEARS.**

(a) IN GENERAL.—Paragraph (3) of section 1409(b) of title 10, United States Code, is amended to read as follows:

"(3) 30 YEARS OF SERVICE.—

"(A) RETIREMENT BEFORE JANUARY 1, 2007.—In the case of a member who retires before January 1, 2007, with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent.

"(B) RETIREMENT AFTER DECEMBER 31, 2006.—In the case of a member who retires after December 31, 2006, with more than 30 years of creditable service, the percentage to be used under subsection (a) is the sum of—

"(i) 75 percent; and

"(ii) the product (stated as a percentage) of—

"(I) 2½; and

"(II) the member's years of creditable service (as defined in subsection (c)) in excess of 30 years of creditable service, under conditions authorized for purposes of this subparagraph during a period designated by the Secretary of Defense for purposes of this subparagraph.".

(b) RETIRED PAY FOR NON-REGULAR SERVICE.—Section 12739(c) of such title is amended—

(1) by striking "The total amount" and inserting "(1) Except as provided in paragraph (2), the total amount"; and

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

"(2) In the case of a person who retires after December 31, 2006, with more than 30 years of service credited to that person under section 12733 of this title, the total amount of the monthly retired pay computed under subsections (a) and (b) may not exceed the sum of—

"(A) 75 percent of the retired pay base upon which the computation is based; and

"(B) the product of—

"(i) the retired pay base upon which the computation is based; and

"(ii) 2½ percent of the years of service credited to that person under section 12733 of this title, for service under conditions authorized for purposes of

this paragraph during a period designated by the Secretary of Defense for purposes of this paragraph.".

**SEC. 643. MILITARY SURVIVOR BENEFIT PLAN BENEFICIARIES UNDER INSURABLE INTEREST COVERAGE.**

(a) AUTHORITY TO ELECT NEW BENEFICIARY.—Section 1448(b)(1) of title 10, United States Code, is amended—

(1) by inserting "or under subparagraph (G) of this paragraph" in the second sentence of subparagraph (E) before the period at the end; and

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

"(G) ELECTION OF NEW BENEFICIARY UPON DEATH OF PREVIOUS BENEFICIARY.—

"(i) AUTHORITY FOR ELECTION.—If the reason for discontinuation in the Plan is the death of the beneficiary, the participant in the Plan may elect a new beneficiary. Any such beneficiary must be a natural person with an insurable interest in the participant. Such an election may be made only during the 180-day period beginning on the date of the death of the previous beneficiary.

"(ii) PROCEDURES.—Such an election shall be in writing, signed by the participant, and made in such form and manner as the Secretary concerned may prescribe. Such an election shall be effective the first day of the first month following the month in which the election is received by the Secretary.

"(iii) VITIATION OF ELECTION BY PARTICIPANT WHO DIES WITHIN TWO YEARS OF ELECTION.—If a person providing an annuity under a election under clause (i) dies before the end of the two-year period beginning on the effective date of the election—

"(I) the election is vitiated; and

"(II) the amount by which the person's retired pay was reduced under section 1452 of this title that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the vitiated election if the deceased person had died after the end of such two-year period.".

(b) CHANGE IN PREMIUM FOR COVERAGE OF NEW BENEFICIARY.—Section 1452(c) of such title is amended by adding at the end the following new paragraph:

"(5) RULE FOR DESIGNATION OF NEW INSURABLE INTEREST BENEFICIARY FOLLOWING DEATH OF ORIGINAL BENEFICIARY.—The Secretary of Defense shall prescribe in regulations premiums which a participant making an election under section 1448(b)(1)(G) of this title shall be required to pay for participating in the Plan pursuant to that election. The total amount of the premiums to be paid by a participant under the regulations shall be equal to the sum of the following:

"(A) The total additional amount by which the retired pay of the participant would have been reduced before the effective date of the election if the original beneficiary (i) had not died and had been covered under the Plan through the date of the election, and (ii) had been the

same number of years younger than the participant (if any) as the new beneficiary designated under the election.

"(B) Interest on the amounts by which the retired pay of the participant would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable.

"(C) Any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.".

(c) TRANSITION.— 10 USC 1448 note.

(1) TRANSITION PERIOD.—In the case of a participant in the Survivor Benefit Plan who made a covered insurable-interest election (as defined in paragraph (2)) and whose designated beneficiary under that election dies before the date of the enactment of this Act or during the 18-month period beginning on such date, the time period applicable for purposes of the limitation in the third sentence of subparagraph (G)(i) of section 1448(b)(1) of title 10, United States Code, as added by subsection (a), shall be the two-year period beginning on the date of the enactment of this Act (rather than the 180-day period specified in that sentence).

(2) COVERED INSURABLE-INTEREST ELECTIONS.—For purposes of paragraph (1), a covered insurable-interest election is an election under section 1448(b)(1) of title 10, United States Code, made before the date of the enactment of this Act, or during the 18-month period beginning on such date, by a participant in the Survivor Benefit Plan to provide an annuity under that plan to a natural person with an insurable interest in that person.

(3) SURVIVOR BENEFIT PLAN.—For purposes of this subsection, the term "Survivor Benefit Plan" means the program under subchapter II of chapter 73 of title 10, United States Code.

**SEC. 644. MODIFICATION OF ELIGIBILITY FOR COMMENCEMENT OF AUTHORITY FOR OPTIONAL ANNUITIES FOR DEPENDENTS UNDER THE SURVIVOR BENEFIT PLAN.**

(a) IN GENERAL.—Section 1448(d)(2)(B) of title 10, United States Code, is amended by striking "who dies after November 23, 2003" and inserting "who dies after October 7, 2001".

(b) APPLICABILITY.—Any annuity payable to a dependent child under subchapter II of chapter 73 of title 10, United States Code, by reason of the amendment made by subsection (a) shall be payable only for months beginning on or after the date of the enactment of this Act. 10 USC 1448 note.

**SEC. 645. STUDY OF TRAINING COSTS, MANNING, OPERATIONS TEMPO, AND OTHER FACTORS THAT AFFECT RETENTION OF MEMBERS OF THE ARMED FORCES WITH SPECIAL OPERATIONS DESIGNATIONS.**

(a) REPORT REQUIRED.—Not later than August 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of

the House of Representatives a report on factors that affect retention of members of the Armed Forces who have a special operations forces designation.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) Information on the cost of training of members of the Armed Forces who have a special operations forces designation, with such information displayed separately and shown as aggregate costs of training for such members at the 4-year, 8-year, 12-year, 16-year, and 20-year points of service.

(2) The average cost of special operations-unique training, both predeployment and during deployment, for the number of members of the Armed Forces who have a special operations forces designation who have been deployed at least twice to areas in which they were eligible for hostile fire pay.

(3) For each component of the United States Special Operations Command, an estimate of when the assigned strength of that component will be under 90 percent of the authorized strength of that component, taking into account anticipated growth planned for in the most recent Quadrennial Defense Review.

(4) The percentage of members of the Armed Forces with a special operations forces designation who have accumulated over 48 months of hostile fire pay and the percentage who have accumulated over 60 months of such pay.

## Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

### SEC. 661. TREATMENT OF PRICE SURCHARGES OF CERTAIN MERCHANDISE SOLD AT COMMISSARY STORES.

(a) MERCHANDISE PROCURED FROM EXCHANGES.—Subsection (c)(3) of section 2484 of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "Subsections" and inserting "Except as provided in subparagraph (B), subsections"; and

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

"(B) When a military exchange is the vendor of tobacco products or other merchandise authorized for sale in a commissary store under paragraph (1), any revenue above the cost of procuring the merchandise shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).".

(b) MERCHANDISE TREATED AS NONCOMMISSARY STORE INVENTORY.—Subsection (g) of such section is amended—

(1) by inserting "(1)" before "Notwithstanding";

(2) by striking "Subsections" and inserting "Except as provided in paragraph (2), subsections"; and

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

"(2) When tobacco products are authorized for sale in a commissary store as noncommissary store inventory, any revenue above the cost of procuring the tobacco products shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).".

**SEC. 662. LIMITATIONS ON LEASE OF NON-EXCESS DEPARTMENT OF DEFENSE PROPERTY FOR PROTECTION OF MORALE, WELFARE, AND RECREATION ACTIVITIES AND REVENUE.**

(a) ADDITIONAL CONDITION ON USE OF LEASE AUTHORITY.—Subsection (b) section 2667 of title 10, United States Code, is amended—

(1) in paragraph (4), by striking "and" at the end;

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

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

"(6) except as otherwise provided in subsection (d), shall require the lessee to provide the covered entities specified in paragraph (1) of that subsection the right to establish and operate a community support facility or provide community support services, or seek equitable compensation for morale, welfare, and recreation programs of the Department of Defense in lieu of the operation of such a facility or the provision of such services, if the Secretary determines that the lessee will provide merchandise or services in direct competition with covered entities through the lease.".

(b) APPLICATION OF CONDITION; WAIVER.—Such section is further amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

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

"(d) COMMUNITY SUPPORT FACILITIES AND COMMUNITY SUPPORT SERVICES UNDER LEASE; WAIVER.—(1) In this subsection and subsection (b)(6), the term 'covered entity' means each of the following:

"(A) The Army and Air Force Exchange Service.

"(B) The Navy Exchange Service Command.

"(C) The Marine Corps exchanges.

"(D) The Defense Commissary Agency.

"(E) The revenue-generating nonappropriated fund activities of the Department of Defense conducted for the morale, welfare, and recreation of members of the armed forces.

"(2) The Secretary of a military department may waive the requirement in subsection (b)(6) with respect to a lease if—

"(A) the lease is entered into under subsection (g); or

"(B) the Secretary determines that the waiver is in the best interests of the Government.

"(3) The Secretary of the military department concerned shall provide to the congressional defense committees written notice of each waiver under paragraph (2), including the reasons for the waiver. Notification.

"(4) The covered entities shall exercise the right provided in subsection (b)(6) with respect to a lease, if at all, not later than 90 days after receiving notice from the Secretary of the military department concerned regarding the opportunity to exercise such right with respect to the lease. The Secretary may, at the discretion of the Secretary, extend the period under this paragraph for the exercise of the right with respect to a lease for such additional period as the Secretary considers appropriate. Deadline.

"(5) The Secretary of Defense shall prescribe in regulations uniform procedures and criteria for the evaluation of proposals Regulations.

for enhanced use leases involving the operation of community support facilities or the provision of community support services by either a lessee under this section or a covered entity.

Notification.

"(6) The Secretary of the military department concerned shall provide written notification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives regarding all leases under this section that include the operation of a community support facility or the provision of community support services, regardless of whether the facility will be operated by a covered entity or the lessee or the services will be provided by a covered entity or the lessee.".

(c) DEFINITIONS.—Subsection (i) of such section, as redesignated by subsection (b)(1) of this section, is amended to read as follows:

"(i) DEFINITIONS.—In this section:

"(1) The term 'community support facility' includes an ancillary supporting facility (as that term is defined in section 2871(1) of this title).

"(2) The term 'community support services' includes revenue-generating food, recreational, lodging support services, and resale operations and other retail facilities and services intended to support a community.

"(3) The term 'military installation' has the meaning given such term in section 2687(e)(1) of this title.".

(d) STYLISTIC, TECHNICAL, AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "LEASE AUTHORITY.—" after "(a)";

(2) in subsection (b), by inserting "CONDITIONS ON LEASES.—" after "(b)";

(3) in subsection (c), by inserting "TYPES OF IN-KIND CONSIDERATION.—" after "(c)";

(4) in subsection (e), as redesignated by subsection (b)(1) of this section—

(A) by inserting "DEPOSIT AND USE OF PROCEEDS.—" after "(e)"; and

(B) in paragraph (5), by striking "subsection (f)" and inserting "subsection (g)";

(5) in subsection (f), as redesignated by subsection (b)(1) of this section, by inserting "TREATMENT OF LESSEE INTEREST IN PROPERTY.—" after "(f)";

(6) in subsection (g), as redesignated by subsection (b)(1) of this section—

(A) by inserting "SPECIAL RULES FOR BASE CLOSURE AND REALIGNMENT PROPERTY.—" after "(g)"; and

(B) in paragraph (1), by striking "subsection (a)(3)" and inserting "subsection (a)(2)";

(7) in subsection (h), as redesignated by subsection (b)(1) of this section, by inserting "COMPETITIVE PROCEDURES FOR SELECTION OF CERTAIN LESSEES; EXCEPTION.—" after "(h)"; and

(8) in subsection (j), as redesignated by subsection (b)(1) of this section, by inserting "EXCLUSION OF CERTAIN LANDS.—" after "(j)".

**SEC. 663. REPORT ON COST EFFECTIVENESS OF PURCHASING COMMERCIAL INSURANCE FOR COMMISSARY AND EXCHANGE FACILITIES AND FACILITIES OF OTHER MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES.**

(a) REPORT REQUIRED.—Not later than July 31, 2007, the Secretary of Defense shall submit to Congress a report evaluating the cost effectiveness of the Defense Commissary Agency and the nonappropriated fund activities specified in subsection (b) purchasing commercial insurance to protect financial interests in facilities operated by the Defense Commissary Agency or those nonappropriated fund activities.

(b) COVERED NONAPPROPRIATED FUND ACTIVITIES.—The report shall apply with respect to— Applicability.

(1) the Army and Air Force Exchange Service;

(2) the Navy Exchange Service Command;

(3) the Marine Corps exchanges; and

(4) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

**SEC. 664. STUDY AND REPORT REGARDING ACCESS OF DISABLED PERSONS TO MORALE, WELFARE, AND RECREATION FACILITIES AND ACTIVITIES.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study regarding the current capability of morale, welfare, and recreation facilities and activities operated by nonappropriated fund instrumentalities of the Department of Defense to provide access to and accommodate disabled persons who are otherwise eligible to use such facilities or participate in such activities and the legal requirements regarding such access and accommodation applicable to these morale, welfare, and recreation facilities and activities, with specific attention to the applicability of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) ELEMENTS OF STUDY.—In conducting the study, the Secretary of Defense shall address at a minimum the following:

(1) The current plans of the Secretary of Defense and the Secretaries of the military departments to improve the access and accommodation of disabled persons to morale, welfare, and recreation facilities and activities operated by nonappropriated fund instrumentalities of the Department of Defense, including plans to make available additional golf carts at military golf courses that are accessible for disabled persons authorized to use such courses, and whether any portion of these plans require congressional authorization or funding.

(2) The timing and cost of making these morale, welfare, and recreation facilities and activities fully accessible to disabled persons.

(3) The expected utilization rates of these morale, welfare, and recreation facilities and activities by disabled persons, if the facilities and activities were fully accessible to disabled persons.

(4) Any legal requirements applicable to providing golf carts at military golf courses that are accessible for disabled persons authorized to use such courses and the current availability of accessible golf carts at such courses.

(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the results of the study and any related findings, conclusions, and recommendations that the Secretary considers to be appropriate concerning the access of disabled persons to morale, welfare, and recreation facilities and activities, and specifically the Secretary's conclusions on making accessible golf carts available at all military golf courses for use by disabled persons authorized to use such courses.

# Subtitle F—Other Matters

**SEC. 670. LIMITATIONS ON TERMS OF CONSUMER CREDIT EXTENDED TO SERVICEMEMBERS AND DEPENDENTS.**

(a) TERMS OF CONSUMER CREDIT.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 987. Terms of consumer credit extended to members and dependents: limitations**

"(a) INTEREST.—A creditor who extends consumer credit to a covered member of the armed forces or a dependent of such a member shall not require the member or dependent to pay interest with respect to the extension of such credit, except as—

"(1) agreed to under the terms of the credit agreement or promissory note;

"(2) authorized by applicable State or Federal law; and

"(3) not specifically prohibited by this section.

"(b) ANNUAL PERCENTAGE RATE.—A creditor described in subsection (a) may not impose an annual percentage rate of interest greater than 36 percent with respect to the consumer credit extended to a covered member or a dependent of a covered member.

"(c) MANDATORY LOAN DISCLOSURES.—

"(1) INFORMATION REQUIRED.—With respect to any extension of consumer credit (including any consumer credit originated or extended through the internet) to a covered member or a dependent of a covered member, a creditor shall provide to the member or dependent the following information orally and in writing before the issuance of the credit:

"(A) A statement of the annual percentage rate of interest applicable to the extension of credit.

"(B) Any disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(C) A clear description of the payment obligations of the member or dependent, as applicable.

Regulations.

"(2) TERMS.—Such disclosures shall be presented in accordance with terms prescribed by the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(d) PREEMPTION.—

"(1) INCONSISTENT LAWS.—Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that such law, rule, or regulation is inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides protection to a covered

member or a dependent of such a member in addition to the protection provided by this section.

"(2) DIFFERENT TREATMENT UNDER STATE LAW OF MEMBERS AND DEPENDENTS PROHIBITED.—States shall not—

"(A) authorize creditors to charge covered members and their dependents annual percentage rates of interest for loans higher than the legal limit for residents of the State; or

"(B) permit violation or waiver of any State consumer lending protections for the benefit of residents of the State on the basis of nonresident or military status of a covered member or dependent of such a member, regardless of the member's or dependent's domicile or permanent home of record.

"(e) LIMITATIONS.—It shall be unlawful for any creditor to extend consumer credit to a covered member or a dependent of such a member with respect to which—

"(1) the creditor rolls over, renews, repays, refinances, or consolidates any consumer credit extended to the borrower by the same creditor with the proceeds of other credit extended to the same covered member or a dependent;

"(2) the borrower is required to waive the borrower's right to legal recourse under any otherwise applicable provision of State or Federal law, including any provision of the Servicemembers Civil Relief Act;

"(3) the creditor requires the borrower to submit to arbitration or imposes onerous legal notice provisions in the case of a dispute;

"(4) the creditor demands unreasonable notice from the borrower as a condition for legal action;

"(5) the creditor uses a check or other method of access to a deposit, savings, or other financial account maintained by the borrower, or the title of a vehicle as security for the obligation;

"(6) the creditor requires as a condition for the extension of credit that the borrower establish an allotment to repay an obligation; or

"(7) the borrower is prohibited from prepaying the loan or is charged a penalty or fee for prepaying all or part of the loan.

"(f) PENALTIES AND REMEDIES.—

"(1) MISDEMEANOR.—A creditor who knowingly violates this section shall be fined as provided in title 18, or imprisoned for not more than one year, or both.

"(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

"(3) CONTRACT VOID.—Any credit agreement, promissory note, or other contract prohibited under this section is void from the inception of such contract.

"(4) ARBITRATION.—Notwithstanding section 2 of title 9, or any other Federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit shall be enforceable against any covered member or dependent of such a member, or any person who

was a covered member or dependent of that member when the agreement was made.

"(g) SERVICEMEMBERS CIVIL RELIEF ACT PROTECTIONS UNAFFECTED.—Nothing in this section may be construed to limit or otherwise affect the applicability of section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527).

"(h) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section.

"(2) Such regulations shall establish the following:

"(A) Disclosures required of any creditor that extends consumer credit to a covered member or dependent of such a member.

"(B) The method for calculating the applicable annual percentage rate of interest on such obligations, in accordance with the limit established under this section.

"(C) A maximum allowable amount of all fees, and the types of fees, associated with any such extension of credit, to be expressed and disclosed to the borrower as a total amount and as a percentage of the principal amount of the obligation, at the time at which the transaction is entered into.

"(D) Definitions of 'creditor' under paragraph (5) and 'consumer credit' under paragraph (6) of subsection (i), consistent with the provisions of this section.

"(E) Such other criteria or limitations as the Secretary of Defense determines appropriate, consistent with the provisions of this section.

"(3) In prescribing regulations under this subsection, the Secretary of Defense shall consult with the following:

"(A) The Federal Trade Commission.

"(B) The Board of Governors of the Federal Reserve System.

"(C) The Office of the Comptroller of the Currency.

"(D) The Federal Deposit Insurance Corporation.

"(E) The Office of Thrift Supervision.

"(F) The National Credit Union Administration.

"(G) The Treasury Department.

"(i) DEFINITIONS.—In this section:

"(1) COVERED MEMBER.—The term 'covered member' means a member of the armed forces who is—

"(A) on active duty under a call or order that does not specify a period of 30 days or less; or

"(B) on active Guard and Reserve Duty.

"(2) DEPENDENT.—The term 'dependent', with respect to a covered member, means—

"(A) the member's spouse;

"(B) the member's child (as defined in section 101(4) of title 38); or

"(C) an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered by this section.

"(3) INTEREST.—The term 'interest' includes all cost elements associated with the extension of credit, including fees, service charges, renewal charges, credit insurance premiums, any ancillary product sold with any extension of credit to a servicemember or the servicemember's dependent, as applicable, and any other charge or premium with respect to the extension of consumer credit.

"(4) ANNUAL PERCENTAGE RATE.—The term 'annual percentage rate' has the same meaning as in section 107 of the Truth and Lending Act (15 U.S.C. 1606), as implemented by regulations of the Board of Governors of the Federal Reserve System. For purposes of this section, such term includes all fees and charges, including charges and fees for single premium credit insurance and other ancillary products sold in connection with the credit transaction, and such fees and charges shall be included in the calculation of the annual percentage rate.

"(5) CREDITOR.—The term 'creditor' means a person—

"(A) who—

"(i) is engaged in the business of extending consumer credit; and

"(ii) meets such additional criteria as are specified for such purpose in regulations prescribed under this section; or

"(B) who is an assignee of a person described in subparagraph (A) with respect to any consumer credit extended.

"(6) CONSUMER CREDIT.—The term 'consumer credit' has the meaning provided for such term in regulations prescribed under this section, except that such term does not include (A) a residential mortgage, or (B) a loan procured in the course of purchasing a car or other personal property, when that loan is offered for the express purpose of financing the purchase and is secured by the car or personal property procured.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such title is amended by adding at the end the following new item:

"987. Terms of consumer credit extended to members and dependents: limitations.".

(c) EFFECTIVE DATE.— 10 USC 987 note.

(1) IN GENERAL.—Except as provided in paragraph (2), section 987 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2007, or on such earlier date as may be prescribed by the Secretary of Defense, and shall apply with respect to extensions of consumer credit on or after such effective date.

(2) AUTHORITY TO PRESCRIBE REGULATIONS.—Subsection (h) of such section shall take effect on the date of the enactment of this Act.

(3) PUBLICATION OF EARLIER EFFECTIVE DATE.—If the Secretary of Defense prescribes an effective date for section 987 of title 10, United States Code, as added by subsection (a), earlier than October 1, 2007, the Secretary shall publish that date in the Federal Register. Such publication shall be made not less than 90 days before that earlier effective date. Federal Register, publication. Deadline.

(d) INTERIM REGULATIONS.—The Secretary of Defense may prescribe interim regulations as necessary to carry out such section. For the purpose of prescribing such interim regulations, the Secretary is excepted from compliance with the notice-and-comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of section 987 of title 10, United States Code, as added by this section. 10 USC 987 note. Expiration date.

**SEC. 671. ENHANCEMENT OF AUTHORITY TO WAIVE CLAIMS FOR OVERPAYMENT OF PAY AND ALLOWANCES AND TRAVEL AND TRANSPORTATION ALLOWANCES.**

(a) MAXIMUM WAIVER AMOUNT; TIME FOR EXERCISE OF AUTHORITY.—Section 2774 of title 10, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking "$1,500" and inserting "$10,000"; and

(2) in subsection (b)(2), by striking "three years" and inserting "five years".

(b) CONFORMING AMENDMENTS REGARDING NATIONAL GUARD.—Section 716 of title 32, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking "$1,500" and inserting "$10,000"; and

(2) in subsection (b)(2), by striking "three years" and inserting "five years".

10 USC 2774 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on March 1, 2007.

**SEC. 672. EXCEPTION FOR NOTICE TO CONSUMER REPORTING AGENCIES REGARDING DEBTS OR ERRONEOUS PAYMENTS PENDING A DECISION TO WAIVE, REMIT, OR CANCEL.**

(a) EXCEPTION.—Section 2780(b) of title 10, United States Code, is amended—

(1) by striking "The Secretary" and inserting "(1) Except as provided in paragraph (2), the Secretary of Defense"; and

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

"(2) No disclosure shall be made under paragraph (1) with respect to an indebtedness while a decision regarding waiver of collection of the indebtedness is pending under section 2774 of this title or section 716 of title 32, or while a decision regarding remission or cancellation of the indebtedness is pending under section 4837, 6161, or 9837 of this title, unless the Secretary concerned (as defined in section 101(5) of title 37) determines that disclosure under that paragraph pending such decision is in the best interests of the United States.".

10 USC 2780 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2007.

(2) APPLICATION TO PRIOR ACTIONS.—Paragraph (2) of section 2780(b) of title 10, United States Code, as added by subsection (a), shall not be construed to apply to or invalidate any action taken under such section before March 1, 2007.

(c) REPORT.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the requirement in section 2780(b) of title 10, United States Code, to disclose to consumer reporting agencies in accordance with section 3711 of title 31, United States Code, information concerning certain indebtedness owed to the United States. The report shall include the following:

(1) The total number of members of the Armed Forces whose indebtedness has been disclosed to consumer reporting agencies under section 2780(b), United States Code, during the period beginning on January 1, 2003, and ending on June 30, 2006.

(2) The circumstances under which a decision to recover the indebtedness was made, rather than a decision to waive,

remit, or cancel the indebtedness under the provisions of law referred to in paragraph (2) of such section, as added by subsection (a), and the title of the person who made the decision.

(3) The cost of contracts for collection services to recover indebtedness owed to the United States that is delinquent.

(4) An evaluation of whether or not such contracts, and the practice of disclosing to consumer reporting agencies the identity of members of the Armed Forces who owe a delinquent debt to the United States, has been effective in reducing indebtedness to the United States.

(5) Such recommendations as the Secretary considers appropriate regarding the continuing disclosure of such information with respect to members of the Armed Forces.

**SEC. 673. EXPANSION AND ENHANCEMENT OF AUTHORITY TO REMIT OR CANCEL INDEBTEDNESS OF MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES INCURRED ON ACTIVE DUTY.**

(a) DEPARTMENT OF THE ARMY.—

(1) COVERAGE OF ALL MEMBERS AND FORMER MEMBERS.—Subsection (a) of section 4837 of title 10, United States Code, is amended by striking "of a member" and all that follows through "on active duty" and inserting "of a person to the United States or any instrumentality of the United States incurred while the person was serving on active duty as a member of the Army".

(2) REPEAL OF LIMITATION ON TIME FOR EXERCISE OF AUTHORITY.—Such section is further amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) REPEAL OF TERMINATION OF MODIFIED AUTHORITY.—Paragraph (3) of section 683(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3322; 10 U.S.C. 4837 note) is repealed.

(b) DEPARTMENT OF THE NAVY.—

(1) COVERAGE OF ALL MEMBERS AND FORMER MEMBERS.—Section 6161 of title 10, United States Code, is amended by striking "of a member" and all that follows through "on active duty" and inserting "of a person to the United States or any instrumentality of the United States incurred while the person was serving on active duty as a member of the naval service".

(2) REPEAL OF LIMITATION ON TIME FOR EXERCISE OF AUTHORITY.—Such section is further amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) REPEAL OF TERMINATION OF MODIFIED AUTHORITY.—Paragraph (3) of section 683(b) of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3323; 10 U.S.C. 6161 note) is repealed.

(c) DEPARTMENT OF THE AIR FORCE.—

(1) COVERAGE OF ALL MEMBERS AND FORMER MEMBERS.—Subsection (a) of section 9837 of title 10, United States Code, is amended by striking "of a member" and all that follows through "on active duty" and inserting "of a person to the United States or any instrumentality of the United States

incurred while the person was serving on active duty as a member of the Air Force".

(2) REPEAL OF LIMITATION ON TIME FOR EXERCISE OF AUTHORITY.—Such section is further amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) REPEAL OF TERMINATION OF MODIFIED AUTHORITY.—Paragraph (3) of section 683(c) of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3324; 10 U.S.C. 9837 note) is repealed.

10 USC 4837 note.

(d) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe the regulations required for purposes of sections 4837, 6161, and 9837 of title 10, United States Code, as amended by this section, not later than March 1, 2007.

(e) CLARIFYING AND EDITORIAL AMENDMENTS.—

(1) SECRETARY OF THE ARMY.—Subsection (a) of section 4837 of title 10, United States Code, as amended by subsection (a)(1), is further amended—

(A) by striking "If the" and all that follows through "States, the Secretary" and inserting "The Secretary of the Army"; and

(B) by inserting before the period at the end ", but only if the Secretary considers such action to be in the best interest of the United States".

(2) SECRETARY OF THE NAVY.—Subsection (a) of section 6161 of such title, as amended by subsection (b)(1), is further amended—

(A) by striking "If the" and all that follows through "States, the Secretary" and inserting "The Secretary of the Navy"; and

(B) by inserting before the period at the end ", but only if the Secretary considers such action to be in the best interest of the United States".

(3) SECRETARY OF THE AIR FORCE.—Subsection (a) of section 9837 of such title, as amended by subsection (c)(1), is further amended—

(A) by striking "If the" and all that follows through "States, the Secretary" and inserting "The Secretary of the Air Force"; and

(B) by inserting before the period at the end ", but only if the Secretary considers such action to be in the best interest of the United States".

**SEC. 674. PHASED RECOVERY OF OVERPAYMENTS OF PAY MADE TO MEMBERS OF THE UNIFORMED SERVICES.**

(a) PHASED RECOVERY REQUIRED; MAXIMUM MONTHLY INSTALLMENT.—Subsection (c) of section 1007 of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(3) If the indebtedness of a member of the uniformed services to the United States is due to the overpayment of pay or allowances to the member through no fault of the member, the amount of the overpayment shall be recovered in monthly installments. The amount deducted from the pay of the member for a month to recover the overpayment amount may not exceed 20 percent of the member's pay for that month unless the member requests or consents to collection of the overpayment at an accelerated rate.".

(b) RECOVERY DELAY FOR INJURED MEMBERS.—Such subsection is further amended by inserting after paragraph (3), as added by subsection (a), the following new paragraph:

"(4) If a member of the uniformed services is injured or wounded under the circumstances described in section 310(a)(2)(C) of this title or, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense, any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member's pay until—

"(A) the end of the 90-day period beginning on the date on which the member is notified of the overpayment; or

"(B) such earlier date as may be requested or agreed to by the member.".

(c) CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by inserting "(1)" before "Under regulations";

(2) by striking "his pay" both places it appears and inserting "the member's pay";

(3) by striking "However, after" and inserting the following: "(2) After"; and

(4) by inserting "by a member of the uniformed services" after "actually received".

**SEC. 675. JOINT FAMILY SUPPORT ASSISTANCE PROGRAM.**

10 USC 1781 note.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a joint family support assistance program for the purpose of providing to families of members of the Armed Forces the following types of assistance:

(1) Financial and material assistance.

(2) Mobile support services.

(3) Sponsorship of volunteers and family support professionals for the delivery of support services.

(4) Coordination of family assistance programs and activities provided by Military OneSource, Military Family Life Consultants, counselors, the Department of Defense, other Federal agencies, State and local agencies, and non-profit entities.

(5) Facilitation of discussion on military family assistance programs, activities, and initiatives between and among the organizations, agencies, and entities referred to in paragraph (4).

(6) Such other assistance that the Secretary considers appropriate.

(b) LOCATIONS.—The Secretary of Defense shall carry out the program in not more than six areas of the United States selected by the Secretary. Up to three of the areas selected for the program shall be areas that are geographically isolated from military installations.

(c) RESOURCES AND VOLUNTEERS.—The Secretary of Defense shall provide personnel and other resources of the Department of Defense necessary for the implementation and operation of the program and may accept and utilize the services of non-Government volunteers and non-profit entities under the program.

(d) PROCEDURES.—The Secretary of Defense shall establish procedures for the operation of the program and for the provision of assistance to families of members of the Armed Forces under the program.

(e) RELATION TO FAMILY SUPPORT CENTERS.—The program is not intended to operate in lieu of existing family support centers, but is instead intended to augment the activities of the family support centers.

(f) IMPLEMENTATION PLAN.—

Deadline.

(1) PLAN REQUIRED.—Not later than 90 days after the date on which funds are first obligated for the program, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a plan for the implementation of the program.

(2) ELEMENTS.—The plan required under paragraph (1) shall include the following:

(A) A description of the actions taken to select the areas in which the program will be conducted.

(B) A description of the procedures established under subsection (d).

(C) A review of proposed actions to be taken under the program to improve coordination of family assistance program and activities between and among the Department of Defense, other Federal agencies, State and local agencies, and non-profit entities.

(g) REPORT.—

(1) REPORT REQUIRED.—Not later than 270 days after the date on which funds are first obligated for the program, the Secretary of Defense shall submit to the congressional defense committees a report on the program.

(2) ELEMENTS.—The report shall include the following:

(A) A description of the program, including the areas in which the program is conducted, the procedures established under subsection (d) for operation of the program, and the assistance provided through the program for families of members of the Armed Forces.

(B) An assessment of the effectiveness of the program in providing assistance to families of members of the Armed Forces.

(C) An assessment of the advisability of extending the program or making it permanent.

(h) DURATION.—The authority to carry out the program shall expire at the end of the three-year period beginning on the date on which funds are first obligated for the program.

Establishment.

**SEC. 676. SPECIAL WORKING GROUP ON TRANSITION TO CIVILIAN EMPLOYMENT OF NATIONAL GUARD AND RESERVE MEMBERS RETURNING FROM DEPLOYMENT IN OPERATION IRAQI FREEDOM OR OPERATION ENDURING FREEDOM.**

(a) WORKING GROUP REQUIRED.—The Secretary of Defense shall establish within the Department of Defense a working group to identify and assess the needs of members of the National Guard and Reserve returning from deployment in Operation Iraqi Freedom or Operation Enduring Freedom in making the transition to civilian employment on their return from such deployment.

(b) MEMBERS.—

(1) APPOINTMENT.—Subject to paragraph (2), the Secretary of Defense shall appoint the members of the working group. The Secretary of Defense shall attempt to achieve a balance of members on the working group from among employees of the following agencies:

(A) The Department of Defense.

(B) The Department of Veterans Affairs.

(C) The Department of Labor.

(2) CONCURRENCE.—The appointment of employees of the Department of Veterans Affairs and the Department of Labor under paragraph (1) shall be subject to the concurrence of the Secretary of Veterans Affairs and the Secretary of Labor, respectively.

(c) RESPONSIBILITIES.—The working group shall—

(1) identify and assess the needs of members of the National Guard and Reserve returning from deployment in Operation Iraqi Freedom or Operation Enduring Freedom in making the transition to civilian employment on their return from deployment, including the needs of—

(A) members who were self-employed before deployment and seek to return to such employment after deployment;

(B) members who were students before deployment and seek to return to school or commence employment after deployment;

(C) members who have experienced multiple recent deployments; and

(D) members who have been wounded or injured during deployment;

(2) identify and assess the extent to which such members receive promotions on their return from deployment in Operation Iraqi Freedom or Operation Enduring Freedom or experience constructive termination by their employers as a result of such deployment; and

(3) develop recommendations on means of improving assistance to such members in meeting the needs identified in paragraph (1) on their return from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.

(d) CONSULTATION.—In carrying out its responsibilities under subsection (c), the working group shall consult with the following:

(1) Employees of the Small Business Administration.

(2) Representatives of employers that employ, and associations of employers whose members employ, members of the National Guard and Reserve deployed in Operation Iraqi Freedom or Operation Enduring Freedom.

(3) Representatives of employee assistance organizations.

(4) Representatives of organizations that assist wounded or injured members of the National Guard and Reserves in finding or sustaining employment.

(5) Representatives of such other public or private organizations and entities as the working group considers appropriate.

(e) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the working group established under subsection (a) shall submit to the Secretary of Defense and Congress a report on its activities under subsection (c).

(2) ELEMENTS.—The report shall include the following:

(A) The results of the identifications and assessments required under subsection (c).

(B) The recommendations developed under subsection (c)(3), including recommendations on the following:

(i) The provision of outreach and training to employers, employment assistance organizations, and associations of employers on the employment and transition needs of members of the National Guard and Reserve returning from deployment in Operation Iraqi Freedom or Operation Enduring Freedom.

(ii) The provision of outreach and training to employers, employment assistance organizations, and associations of employers on the needs of family members of such members.

(iii) The improvement of collaboration between the public and private sectors in order to ensure the successful transition of such members into civilian employment upon their return from such deployment.

Internet.

(3) AVAILABILITY TO PUBLIC.—The Secretary shall take appropriate actions to make the report available to the public, including through the Internet website of the Department of Defense.

(f) TERMINATION.—The working group shall terminate on the date that is two years after the date of the enactment of this Act.

(g) EMPLOYMENT ASSISTANCE ORGANIZATION DEFINED.—In this section, the term "employment assistance organization" means an organization or entity, whether public or private, that provides assistance to individuals in finding or retaining employment, including organizations and entities under military career support programs.

**SEC. 677. AUDIT OF PAY ACCOUNTS OF MEMBERS OF THE ARMY EVACUATED FROM A COMBAT ZONE FOR INPATIENT CARE.**

(a) AUDIT REQUIRED.—The Secretary of the Army shall conduct a complete audit of the pay accounts of each member of the Army wounded or injured in a combat zone who was evacuated from a theater of operations for inpatient care during the period beginning on May 1, 2005, and ending on April 30, 2006.

(b) REPORT ON RESULTS OF AUDIT.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the audit conducted under subsection (a).

(2) IDENTIFICATION OF MEMBERS.—The report shall include a list of each member of the Army described in subsection (a) identified, in a manner that protects the privacy of the members, by—

(A) the date of the wound or injury that is the basis for the inclusion of the member on the list; and

(B) the grade of the member and unit designation as of that date.

(3) ADDITIONAL REPORT ELEMENTS.—For each member included on the list prepared under paragraph (2), the report shall include the following:

(A) A statement of any underpayment of each of any pay, allowance, or other monetary benefit to which the member was entitled during the period beginning on the date on which the wound or injury was incurred and ending on April 30, 2006, including basic pay, hazardous duty pay, imminent danger pay, basic allowance for housing,

basic allowance for subsistence, any family separation allowance, any tax exclusion for combat duty, and any other pay, allowance, or monetary benefit to which such member was entitled during such period.

(B) A statement of any disbursements made to correct underpayments made to the member, as identified under subparagraph (A).

(C) A statement of any debts to the United States collected or pending collection from the member.

(D) A statement of any reimbursements or debt relief granted to the member for a debt identified under subparagraph (C).

(E) If the member has applied to the United States for a relief of debt—

(i) a description of the nature of the debt for which relief was applied; and

(ii) a description of the disposition of the application, including—

(I) if relief was granted, the date of disbursement of relief; and

(II) if relief was denied, the reasons for the denial of relief.

(F) A report of any referral of the member to a collection or credit agency.

(4) FORM OF REPORT.—The report shall be submitted in unclassified form, but may include a classified annex.

**SEC. 678. REPORT ON ELIGIBILITY AND PROVISION OF ASSIGNMENT INCENTIVE PAY.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report—

(1) specifying the number of members of the Army National Guard and the Army Reserve adversely affected by the disparate treatment afforded to members who previously served under a call or order to active duty under section 12304 of title 10, United States Code, in determining eligibility for assignment incentive pay; and

(2) containing proposed remedies or courses of action to correct this disparity, including allowing time served during a call or order to active duty under such section 12304 to count toward the time needed to qualify for assignment incentive pay.

**SEC. 679. SENSE OF CONGRESS CALLING FOR PAYMENT TO WORLD WAR II VETERANS WHO SURVIVED BATAAN DEATH MARCH.**

(a) CALL FOR APPROPRIATE COMPENSATION.—It is the sense of Congress that—

(1) there should be paid to each living Bataan Death March survivor an appropriate amount of compensation in recognition of their captivity during World War II; and

(2) in the case of a Bataan Death March survivor who is deceased, but who has an unremarried surviving spouse, such compensation should be paid to that surviving spouse.

(b) BATAAN DEATH MARCH SURVIVOR.—In this section, the term "Bataan Death March survivor" means an individual who as a member of the Armed Forces during World War II was captured on the peninsula of Bataan or island of Corregidor in the territory

of the Philippines by Japanese forces and participated in and survived the Bataan Death March.

# TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—TRICARE Program Improvements

Sec. 701. TRICARE coverage for forensic examination following sexual assault or domestic violence.
Sec. 702. Authorization of anesthesia and other costs for dental care for children and certain other patients.
Sec. 703. Improvements to descriptions of cancer screening for women.
Sec. 704. Prohibition on increases in certain health care costs for members of the uniformed services.
Sec. 705. Demonstration project on coverage of selected over-the-counter drugs under the pharmacy benefits program.
Sec. 706. Expanded eligibility of Selected Reserve members under TRICARE program.
Sec. 707. Relationship between the TRICARE program and employer-sponsored group health care plans.
Sec. 708. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.

Subtitle B—Studies and Reports

Sec. 711. Department of Defense task force on the future of military health care.
Sec. 712. Study relating to chiropractic health care services.
Sec. 713. Comptroller General audits of Department of Defense health care costs and cost-saving measures.
Sec. 714. Transfer of custody of the Air Force Health Study assets to Medical Follow-up Agency.
Sec. 715. Study on allowing dependents of activated members of reserve components to retain civilian health care coverage.
Sec. 716. Study of health effects of exposure to depleted uranium.
Sec. 717. Report and plan on services to military dependent children with autism.
Sec. 718. Comptroller General study on Department of Defense pharmacy benefits program.
Sec. 719. Review of Department of Defense medical quality improvement program.
Sec. 720. Report on distribution of hemostatic agents for use in the field.
Sec. 721. Longitudinal study on traumatic brain injury incurred by members of the Armed Forces in Operation Iraqi Freedom and Operation Enduring Freedom.

Subtitle C—Planning, Programming, and Management

Sec. 731. Standardization of claims processing under TRICARE program and Medicare program.
Sec. 732. Requirements for support of military treatment facilities by civilian contractors under TRICARE.
Sec. 733. Standards and tracking of access to health care services for wounded, injured, or ill servicemembers returning to the United States from a combat zone.
Sec. 734. Disease and chronic care management.
Sec. 735. Additional elements of assessment of Department of Defense task force on mental health relating to mental health of members who were deployed in Operation Iraqi Freedom and Operation Enduring Freedom.
Sec. 736. Additional authorized option periods for extension of current contracts under TRICARE.
Sec. 737. Military vaccination matters.
Sec. 738. Enhanced mental health screening and services for members of the Armed Forces.

Subtitle D—Other Matters

Sec. 741. Pilot projects on early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.
Sec. 742. Requirement to certify and report on conversion of military medical and dental positions to civilian medical and dental positions.
Sec. 743. Three-year extension of joint incentives program on sharing of health care resources by the Department of Defense and Department of Veterans Affairs.
Sec. 744. Training curricula for family caregivers on care and assistance for members and former members of the Armed Forces with traumatic brain injury.

Sec. 745. Recognition of Representative Lane Evans upon his retirement from the House of Representatives.

# Subtitle A—TRICARE Program Improvements

**SEC. 701. TRICARE COVERAGE FOR FORENSIC EXAMINATION FOLLOWING SEXUAL ASSAULT OR DOMESTIC VIOLENCE.**

Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(17) Forensic examinations following a sexual assault or domestic violence may be provided.".

**SEC. 702. AUTHORIZATION OF ANESTHESIA AND OTHER COSTS FOR DENTAL CARE FOR CHILDREN AND CERTAIN OTHER PATIENTS.**

Paragraph (1) of section 1079(a) of title 10, United States Code, is amended to read as follows:

"(1) With respect to dental care—

"(A) except as provided in subparagraph (B), only that care required as a necessary adjunct to medical or surgical treatment may be provided; and

"(B) in connection with dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under, only institutional and anesthesia services may be provided.".

**SEC. 703. IMPROVEMENTS TO DESCRIPTIONS OF CANCER SCREENING FOR WOMEN.**

(a) TERMS RELATED TO PRIMARY AND PREVENTIVE HEALTH CARE SERVICES FOR WOMEN.—Section 1074d of title 10, United States Code, is amended—

(1) in subsection (a)(1), by adding at the end the following new sentence: "The services described in paragraphs (1) and (2) of subsection (b) shall be provided under such procedures and at such intervals as the Secretary of Defense shall prescribe."; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "Papanicolaou tests (pap smear)" and inserting "Cervical cancer screening"; and

(B) in paragraph (2), by striking "Breast examinations and mammography" and inserting "Breast cancer screening".

(b) TERMS RELATED TO CONTRACTS FOR MEDICAL CARE FOR SPOUSES AND CHILDREN.—Section 1079(a)(2) of such title is amended—

(1) in the matter preceding subparagraph (A), by striking "the schedule of pap smears and mammograms" and inserting "the schedule and method of cervical cancer screenings and breast cancer screenings"; and

(2) in subparagraph (B), by striking "pap smears and mammograms" and inserting "cervical and breast cancer screenings".

**SEC. 704. PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS FOR MEMBERS OF THE UNIFORMED SERVICES.**

(a) PROHIBITION ON INCREASE IN CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by adding at the end the following: "A premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2007.".

(b) PROHIBITION ON INCREASE IN CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of title 10, United States Code, is amended by inserting after "charges for inpatient care" the following: ", except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on September 30, 2007.".

(c) PROHIBITION ON INCREASE IN PREMIUMS UNDER TRICARE COVERAGE FOR CERTAIN MEMBERS IN THE SELECTED RESERVE.—Section 1076d(d)(3) of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on April 1, 2006, and ending on September 30, 2007, the monthly amount of the premium may not be increased above the amount in effect for the month of March 2006.".

(d) PROHIBITION ON INCREASE IN PREMIUMS UNDER TRICARE COVERAGE FOR MEMBERS OF THE READY RESERVE.—Section 1076b(e)(3) of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on April 1, 2006, and ending on September 30, 2007, the monthly amount of a premium under paragraph (2) may not be increased above the amount in effect for the first month health care is provided under this section as amended by Public Law 109–163.".

10 USC 1074g note.

**SEC. 705. DEMONSTRATION PROJECT ON COVERAGE OF SELECTED OVER-THE-COUNTER DRUGS UNDER THE PHARMACY BENEFITS PROGRAM.**

(a) REQUIREMENT TO CONDUCT DEMONSTRATION.—The Secretary of Defense shall conduct a demonstration project under section 1092 of title 10, United States Code, to allow particular over-the-counter drugs to be included on the uniform formulary under section 1074g of such title.

(b) ELEMENTS OF DEMONSTRATION PROJECT.—

(1) INCLUSION OF CERTAIN OVER-THE-COUNTER DRUGS.—(A) As part of the demonstration project, the Secretary shall modify uniform formulary specifications under section 1074g(a) of such title to include an over-the-counter drug (referred to in this section as an "OTC drug") on the uniform formulary if the Pharmacy and Therapeutics Committee finds that the OTC drug is cost-effective and therapeutically equivalent to a prescription drug. If the Pharmacy and Therapeutics Committee makes such a finding, the OTC drug shall be considered to be in the same therapeutic class of pharmaceutical agents as the prescription drug.

(B) An OTC drug shall be made available to a beneficiary through the demonstration project, but only if—

(i) the beneficiary has a prescription for a drug requiring a prescription; and

(ii) pursuant to subparagraph (A), the OTC drug—

(I) is on the uniform formulary; and

(II) has been determined to be therapeutically equivalent to the prescription drug.

(2) CONDUCT THROUGH MILITARY FACILITIES, RETAIL PHARMACIES, OR MAIL ORDER PROGRAM.—The Secretary shall conduct the demonstration project through at least two of the means described in subparagraph (E) of section 1074g(a)(2)(E) of such title through which OTC drugs are provided and may conduct the demonstration project throughout the entire pharmacy benefits program or at a limited number of sites. If the project is conducted at a limited number of sites, the number of sites shall be not less than five in each TRICARE region for each of the two means described in such subparagraph.

(3) PERIOD OF DEMONSTRATION.—The Secretary shall provide for conducting the demonstration project for a period of time necessary to evaluate the feasibility and cost effectiveness of the demonstration. Such period shall be at least as long as the period covered by pharmacy contracts in existence on the date of the enactment of this Act (including any extensions of the contracts), or five years, whichever is shorter.

(4) IMPLEMENTATION DEADLINE.—Implementation of the demonstration project shall begin not later than May 1, 2007.

(c) EVALUATION OF DEMONSTRATION PROJECT.—The Secretary shall evaluate the demonstration project for the following:

(1) The costs and benefits of providing OTC drugs under the pharmacy benefits program in each of the means chosen by the Secretary to conduct the demonstration project.

(2) The clinical effectiveness of providing OTC drugs under the pharmacy benefits program.

(3) Customer satisfaction with the demonstration project.

(d) REPORT.—Not later than two years after implementation of the demonstration project begins, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the demonstration project. The report shall contain—

(1) the evaluation required by subsection (c);

(2) recommendations for improving the provision of OTC drugs under the pharmacy benefits program; and

(3) recommendations on whether permanent authority should be provided to cover OTC drugs under the pharmacy benefits program.

(e) CONTINUATION OF DEMONSTRATION PROJECT.—If the Secretary recommends in the report under subsection (d) that permanent authority should be provided, the Secretary may continue the demonstration project for up to one year after submitting the report.

(f) DEFINITIONS.—In this section:

(1) The term "drug" means a drug, including a biological product, within the meaning of section 1074g(f)(2) of title 10, United States Code.

(2) The term "OTC drug" has the meaning indicated for such term in subsection (b)(1)(A).

(3) The term "over-the-counter drug" means a drug that is not subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

(4) The term "prescription drug" means a drug that is subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

**SEC. 706. EXPANDED ELIGIBILITY OF SELECTED RESERVE MEMBERS UNDER TRICARE PROGRAM.**

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) ELIGIBILITY.—A member" and inserting "(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph: "(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended—

(1) by striking "(b) PERIOD OF COVERAGE.—(1) TRICARE Standard" and all that follows through "(4) Eligibility" and inserting "(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility"; and

(2) by striking paragraph (5).

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e);

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d); and

(C) by striking paragraph (3) of subsection (f).

(2) The heading for such section is amended to read as follows:

**"§ 1076d. TRICARE program: TRICARE standard coverage for members of the Selected Reserve".**

Effective date.

(d) REPEAL OF OBSOLETE PROVISION.—Effective October 1, 2007, section 1076b of title 10, United States Code, is repealed.

Effective date.

(e) CLERICAL AMENDMENTS.—Effective October 1, 2007, the table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

10 USC 1076d note.

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

10 USC 1076d note.

(g) EFFECTIVE DATE.—The Secretary of Defense shall ensure that health care under TRICARE Standard is provided under section 1076d of title 10, United States Code, as amended by this section, beginning not later than October 1, 2007.

**SEC. 707. RELATIONSHIP BETWEEN THE TRICARE PROGRAM AND EMPLOYER-SPONSORED GROUP HEALTH CARE PLANS.**

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1097b the following new section:

**"§ 1097c. TRICARE program: relationship with employer-sponsored group health plans**

"(a) PROHIBITION ON FINANCIAL INCENTIVES NOT TO ENROLL IN A GROUP HEALTH PLAN.—(1) Except as provided in this subsection, the provisions of section 1862(b)(3)(C) of the Social Security Act shall apply with respect to financial or other incentives for a TRICARE-eligible employee not to enroll (or to terminate enrollment) under a health plan which would (in the case of such enrollment) be a primary plan under sections 1079(j)(1) and 1086(g) of this title in the same manner as such section 1862(b)(3)(C) applies to financial or other incentives for an individual entitled to benefits under title XVIII of the Social Security Act not to enroll (or to terminate enrollment) under a group health plan or a large group health plan which would (in the case of enrollment) be a primary plan (as defined in section 1862(b)(2)(A) of such Act).

"(2)(A) The Secretary of Defense may by regulation adopt such additional exceptions to the prohibition referenced and applied under paragraph (1) as the Secretary deems appropriate and such paragraph (1) shall be implemented taking into account the adoption of such exceptions.

"(B) The Secretary of Defense and the Secretary of Health and Human Services are authorized to enter into agreements for carrying out this subsection. Any such agreement shall provide that any expenses incurred by the Secretary of Health and Human Services pertaining to carrying out this subsection shall be reimbursed by the Secretary of Defense.

"(C) Authorities of the Inspector General of the Department of Defense shall be available for oversight and investigations of responsibilities of employers and other entities under this subsection.

"(D) Information obtained under section 1095(k) of this title may be used in carrying out this subsection in the same manner as information obtained under section 1862(b)(5) of the Social Security Act may be used in carrying out section 1862(b) of such Act.

"(E) Any amounts collected in carrying out paragraph (1) shall be handled in accordance with section 1079a of this title.

"(b) ELECTION OF TRICARE-ELIGIBLE EMPLOYEES TO PARTICIPATE IN GROUP HEALTH PLAN.—A TRICARE-eligible employee shall have the opportunity to elect to participate in the group health plan offered by the employer of the employee and receive primary coverage for health care services under the plan in the same manner and to the same extent as similarly situated employees of such employer who are not TRICARE-eligible employees.

"(c) INAPPLICABILITY TO CERTAIN EMPLOYERS.—The provisions of this section do not apply to any employer who has fewer than 20 employees.

"(d) RETENTION OF ELIGIBILITY FOR COVERAGE UNDER TRICARE.—Nothing in this section, including an election made by a TRICARE-eligible employee under subsection (b), shall be construed to affect, modify, or terminate the eligibility of a

TRICARE-eligible employee or spouse of such employee for health care or dental services under this chapter in accordance with the other provisions of this chapter.

"(e) OUTREACH.—The Secretary of Defense shall, in coordination with the other administering Secretaries, conduct outreach to inform covered beneficiaries who are entitled to health care benefits under the TRICARE program of the rights and responsibilities of such beneficiaries and employers under this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'employer' includes a State or unit of local government.

"(2) The term 'group health plan' means a group health plan (as that term is defined in section 5000(b)(1) of the Internal Revenue Code of 1986 without regard to section 5000(d) of the Internal Revenue Code of 1986).

"(3) The term 'TRICARE-eligible employee' means a covered beneficiary under section 1086 of this title entitled to health care benefits under the TRICARE program.

"(g) EFFECTIVE DATE.—This section shall take effect on January 1, 2008.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1097b the following new item:

"1097c. TRICARE program: relationship with employer-sponsored group health plans.".

**SEC. 708. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.**

Effective date.

(a) TEMPORARY PROHIBITION.—During the period beginning on October 1, 2006, and ending on September 30, 2007, the cost sharing requirements established under paragraph (6) of section 1074g of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section may not exceed amounts as follows:

(1) In the case of generic agents, $3.

(2) In the case of formulary agents, $9.

(3) In the case of nonformulary agents, $22.

(b) TRANSFER OF FUNDS.—The Secretary of Defense shall transfer $186,000,000 from the unobligated balances of the National Defense Stockpile Transaction Fund to the Department of Defense Medicare-Eligible Retiree Health Care Fund.

## Subtitle B—Studies and Reports

**SEC. 711. DEPARTMENT OF DEFENSE TASK FORCE ON THE FUTURE OF MILITARY HEALTH CARE.**

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to the future of military health care.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of health care programs and costs.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Medical Departments of the Army, Navy, and Air Force;

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force;

(C) persons who have experience in—

(i) health care actuarial forecasting;

(ii) health care program and budget development;

(iii) health care information technology;

(iv) health care performance measurement;

(v) health care quality improvement including evidence-based medicine; and

(vi) women's health;

(D) the senior medical advisor to the Chairman of the Joint Chiefs of Staff;

(E) the Director of Defense Procurement and Acquisition Policy in the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(F) at least one member from the Defense Business Board;

(G) at least one representative from an organization that advocates on behalf of active duty and retired members of the Armed Forces who has experience in health care; and

(H) at least one member from the Institute of Medicine.

(3) INDIVIDUALS APPOINTED OUTSIDE THE DEPARTMENT OF DEFENSE.—

(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and local governments, or individuals from the private sector.

(B) Individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs; and

(ii) an officer or employee of the Department of Health and Human Services.

(4) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 90 days after the date of the enactment of this Act.

(5) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) ASSESSMENT AND RECOMMENDATIONS ON THE FUTURE OF MILITARY HEALTH CARE.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a report containing

Reports.

an assessment of, and recommendations for, sustaining the military health care services being provided to members of the Armed Forces, retirees, and their families.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration the findings and recommendations included in the Healthcare for Military Retirees Task Group of the Defense Business Board, previous Government Accountability Office reports, studies and reviews by the Assistant Secretary of Defense for Health Affairs, and any other studies or research conducted by organizations regarding program and organizational improvements to the military health care system.

(3) ELEMENTS.—The assessment and recommendations (including recommendations for legislative or administrative action) shall include measures to address the following:

(A) Wellness initiatives and disease management programs of the Department of Defense, including health risk tracking and the use of rewards for wellness.

(B) Education programs focused on prevention awareness and patient-initiated health care.

(C) The ability to account for the true and accurate cost of health care in the military health system.

(D) Alternative health care initiatives to manage patient behavior and costs, including options and costs and benefits of a universal enrollment system for all TRICARE users.

(E) The appropriate command and control structure within the Department of Defense and the Armed Forces to manage the military health system.

(F) The adequacy of the military health care procurement system, including methods to streamline existing procurement activities.

(G) The appropriate mix of military and civilian personnel to meet future readiness and high-quality health care service requirements.

(H) The beneficiary and Government cost sharing structure required to sustain military health benefits over the long term.

(I) Programs focused on managing the health care needs of Medicare-eligible military beneficiaries.

(J) Efficient and cost effective contracts for health care support and staffing services, including performance-based requirements for health care provider reimbursement.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORTS.—

(1) INTERIM REPORT.—Not later than May 31, 2007, the task force shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives an interim report on the activities of the task force. At a minimum, the report shall include interim findings and recommendations regarding subsection (c)(3)(H), particularly with regard to cost sharing under the pharmacy benefits program.

(2) FINAL REPORT.—(A) The task force shall submit to the Secretary of Defense a final report on its activities under this section. The report shall include—

(i) a description of the activities of the task force;

(ii) the assessment and recommendations required by subsection (c); and

(iii) such other matters relating to the activities of the task force that the task force considers appropriate.

(B) Not later than 90 days after receipt of the report under subparagraph (A), the Secretary shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the final report of the task force is transmitted to Congress under subsection (e)(2).

**SEC. 712. STUDY RELATING TO CHIROPRACTIC HEALTH CARE SERVICES.**

(a) STUDY REQUIRED.—

(1) GROUPS COVERED.—The Secretary of Defense shall conduct a study of providing chiropractic health care services and benefits to the following groups:

(A) All members of the uniformed services on active duty and entitled to care under section 1074(a) of title 10, United States Code.

(B) All members described in subparagraph (A) and their eligible dependents, and all members of the Selected Reserves and their eligible dependents.

(C) All members or former members of the uniformed services who are entitled to retired or retainer pay or equivalent pay and their eligible dependents.

(2) MATTERS EXAMINED.—

(A) For each group listed in subparagraphs (A), (B), and (C) of paragraph (1), the study shall examine the following with respect to chiropractic health care services and benefits:

(i) The cost of providing such services and benefits.

(ii) The feasibility of providing such services and benefits.

(iii) An assessment of the health care benefits of providing such services and benefits.

(iv) An estimate of the potential cost savings of providing such services and benefits in lieu of other medical services.

(v) The identification of existing and planned health care infrastructure, including personnel, equipment, and facilities, to accommodate the provision of chiropractic health care services.

(B) For the members of the group listed in subparagraph (A) of paragraph (1), the study shall also examine the effects of providing chiropractic health care services and benefits—

(i) on the readiness of such members; and

(ii) on the acceleration of the return to duty of such members following an identified injury or other malady that can be appropriately treated with chiropractic health care services.

(3) SPACE AVAILABLE COSTS.—The study shall also include a detailed analysis of the projected costs of providing chiropractic health care services on a space available basis in the military treatment facilities currently providing chiropractic care under section 702 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (as enacted by Public Law 106–398; 10 U.S.C. 1092 note).

(4) ELIGIBLE DEPENDENT DEFINED.—In this section, the term "eligible dependent" has the meaning given that term in section 1076a(k) of title 10, United States Code.

(b) REPORT REQUIRED.—Not later than March 31, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study required under subsection (a).

**SEC. 713. COMPTROLLER GENERAL AUDITS OF DEPARTMENT OF DEFENSE HEALTH CARE COSTS AND COST-SAVING MEASURES.**

(a) GENERAL AUDIT REQUIRED.—

(1) IN GENERAL.—The Comptroller General of the United States, in cooperation with the Director of the Congressional Budget Office, shall conduct an audit of the Department of Defense initiative to manage future medical benefits available through the Department known as "Sustain the Benefit".

(2) ELEMENTS.—The audit required by paragraph (1) shall examine the following:

(A) The basis for the calculation by the Department of Defense of the portion of the costs of health care benefits provided by the Department to beneficiaries that were paid by such beneficiaries in each of 1995 and 2005, including—

(i) a comparison of the cost to the Department of providing such benefits in each of 1995 and 2005;

(ii) the explanation for any increases in the costs of the Department of providing such benefits between 1995 and 2005; and

(iii) a comparison of the amounts paid, by category of beneficiaries, for health care benefits in 1995 with the amounts paid, by category of beneficiaries, for such benefits in 2005.

(B) The calculations and assumptions utilized by the Department in estimating the savings anticipated through the implementation of proposed increases in cost-sharing for health care benefits beginning in 2007.

(C) The average annual rate of increase, based on inflation, of medical costs for the Department under the Defense Health Program.

(D) The annual rate of growth in the cost of the Defense Health Program that is attributable to inflation in the cost of medical services over the last five years and how such rate of growth compares with annual rates of increases in health care premiums under the Federal Employee Health Benefit Program and other health care programs as well as rates of growth of other health care cost indices over that time.

(E) The assumptions utilized by the Department in estimating savings associated with adjustments in copayments for pharmaceuticals.

(F) The costs of the administration of the Defense Health Program and the TRICARE program for all categories of beneficiaries.

(b) AUDIT OF TRICARE RESERVE SELECT PROGRAM.—

(1) IN GENERAL.—In addition to the audit required by subsection (a), the Comptroller General shall conduct an audit of the costs of the Department of Defense in implementing the TRICARE Reserve Select Program.

(2) ELEMENTS.—The audit required by paragraph (1) shall include an examination of the following:

(A) A comparison of the annual premium amounts established by the Department of Defense for the TRICARE Reserve Select Program with the actual costs of the Department in providing benefits under that program in fiscal years 2004 and 2005.

(B) The rate of inflation of health care costs of the Department during fiscal years 2004 and 2005, and a comparison of that rate of inflation with the annual increase in premiums under the TRICARE Reserve Select Program in January 2006.

(C) A comparison of the financial and health-care utilization assumptions utilized by the Department in establishing premiums under the TRICARE Reserve Select Program with actual experiences under that program in the first year of the implementation of that program.

(3) TRICARE RESERVE SELECT PROGRAM DEFINED.—In this section, the term "TRICARE Reserve Select Program" means the program carried out under section 1076d of title 10, United States Code.

(c) USE OF INDEPENDENT EXPERTS.—Notwithstanding any other provision of law, in conducting the audits required by this section, the Comptroller General may engage the services of appropriate independent experts, including actuaries.

(d) REPORT.—Not later than June 1, 2007, the Comptroller General shall submit to the congressional defense committees a

report on the audits conducted under this section. The report shall include—

(1) the findings of the Comptroller General as a result of the audits; and

(2) such recommendations as the Comptroller General considers appropriate in light of such findings to ensure maximum efficiency in the administration of the health care benefits programs of the Department of Defense.

**SEC. 714. TRANSFER OF CUSTODY OF THE AIR FORCE HEALTH STUDY ASSETS TO MEDICAL FOLLOW-UP AGENCY.**

(a) TRANSFER.—

(1) NOTIFICATION OF PARTICIPANTS.—The Secretary of the Air Force shall notify the participants of the Air Force Health Study that the study as currently constituted is ending as of September 30, 2006. In consultation with the Medical Follow-up Agency (in this section referred to as the "Agency") of the Institute of Medicine of the National Academy of Sciences, the Secretary of the Air Force shall request the written consent of the participants to transfer their data and biological specimens to the Agency during fiscal year 2007 and written consent for the Agency to maintain the data and specimens and make them available for additional studies.

Deadline.

(2) COMPLETION OF TRANSFER.—Custodianship of the Air Force Health Study shall be completely transferred to the Agency on or before September 30, 2007. Assets to be transferred shall include electronic data files and biological specimens of all the study participants.

(3) COPIES TO ARCHIVES.—The Air Force shall send paper copies of all study documents to the National Archives.

(b) REPORT ON TRANSFER.—

(1) REQUIREMENT.—Not later than 30 days after completion of the transfer of the assets of the Air Force Health Study under subsection (a), the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the transfer.

(2) MATTERS COVERED.—At a minimum, the report shall include information on the number of study participants whose data and biological specimens were not transferred, the efforts that were taken to contact such participants, and the reasons why the transfer of their data and specimens did not occur.

(c) DISPOSITION OF ASSETS NOT TRANSFERRED.—The Secretary of the Air Force may not destroy any data or biological specimens not transferred under subsection (a) until the expiration of the one-year period following submission of the report under subsection (b).

(d) FUNDING.—

(1) COSTS OF TRANSFER.—The Secretary of Defense shall make available to the Air Force $850,000 for preparation, transfer of the assets of the Air Force Health Study, and shipment of data and specimens to the Medical Follow-up Agency and the National Archives during fiscal year 2007 from amounts available from the Department of Defense for that fiscal year. The Secretary of Defense is authorized to transfer the freezers and other physical assets assigned to the Air Force Health Study to the Agency without charge.

(2) COSTS OF COLLABORATION.—The Secretary of Defense may reimburse the National Academy of Sciences up to $200,000 for costs of the Medical Follow-up Agency to collaborate with the Air Force in the transfer and receipt of the assets of the Air Force Health Study to the Agency during fiscal year 2007 from amounts available from the Department of Defense for that fiscal year.

**SEC. 715. STUDY ON ALLOWING DEPENDENTS OF ACTIVATED MEMBERS OF RESERVE COMPONENTS TO RETAIN CIVILIAN HEALTH CARE COVERAGE.**

(a) STUDY REQUIREMENT.—The Secretary of Defense shall conduct a study on the feasibility of allowing family members of members of the reserve components of the Armed Forces who are called or ordered to active duty in support of a contingency operation to continue health care coverage under a civilian health care program and provide reimbursement for such health care.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) An assessment of the number of military dependents with special health care needs (such as ongoing chemotherapy or physical therapy) who would benefit from continued coverage under the member's civilian health care plan instead of enrolling in the TRICARE program.

(2) An assessment of the feasibility of providing reimbursement to the member or the sponsor of the civilian health coverage.

(3) A recommendation on the appropriate rate of reimbursement for members or sponsors of civilian health coverage.

(4) The feasibility of including dependents who do not have access to health care providers that accept payment under the TRICARE program.

(c) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study required under subsection (a).

**SEC. 716. STUDY OF HEALTH EFFECTS OF EXPOSURE TO DEPLETED URANIUM.**

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary for Veterans Affairs and the Secretary of Health and Human Services, shall conduct a comprehensive study of the health effects of exposure to depleted uranium munitions on uranium-exposed soldiers and on children of uranium-exposed soldiers who were born after the exposure of the uranium-exposed soldiers to depleted uranium.

(b) URANIUM-EXPOSED SOLDIERS.—In this section, the term "uranium-exposed soldiers" means a member or former member of the Armed Forces who handled, came in contact with, or had the likelihood of contact with depleted uranium munitions while on active duty, including members and former members who—

(1) were exposed to smoke from fires resulting from the burning of vehicles containing depleted uranium munitions or fires at depots at which depleted uranium munitions were stored;

(2) worked within environments containing depleted uranium dust or residues from depleted uranium munitions;

(3) were within a structure or vehicle while it was struck by a depleted uranium munition;

(4) climbed on or entered equipment or structures struck by a depleted uranium munition; or

(5) were medical personnel who provided initial treatment to members of the Armed Forces described in paragraph (1), (2), (3), or (4).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the results of the study described in subsection (a).

**SEC. 717. REPORT AND PLAN ON SERVICES TO MILITARY DEPENDENT CHILDREN WITH AUTISM.**

(a) PLAN REQUIRED.—The Secretary of Defense shall, within 180 days after the date of the enactment of this Act, develop a plan to provide services to military dependent children with autism pursuant to the authority for an extended health care services program in subsections (d) and (e) of section 1079 of title 10, United States Code. Such plan shall include—

(1) requirements for the education, training, and supervision of individuals providing services for military dependent children with autism;

(2) standards for identifying and measuring the availability, distribution, and training of individuals of various levels of expertise to provide such services; and

(3) procedures to ensure that such services are in addition to other publicly provided services to such children.

(b) PARTICIPATION OF AFFECTED FAMILIES.—In developing the plan required under subsection (a), the Secretary shall ensure the involvement and participation of affected military families or their representatives.

(c) REPORT REQUIRED.—Not later than 30 days after completion of the plan required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan. The report may include any additional information the Secretary considers relevant.

**SEC. 718. COMPTROLLER GENERAL STUDY ON DEPARTMENT OF DEFENSE PHARMACY BENEFITS PROGRAM.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the Department of Defense pharmacy benefits program required by section 1074g of title 10, United States Code.

(b) ELEMENTS.—The study required by subsection (a) shall include an examination of the following:

(1) The cost of the Department of Defense pharmacy benefits program since the inception of the program.

(2) The relative costs of various options under the program.

(3) The copayment structure under the program.

(4) The effectiveness of the rebate system under the program as a way of passing on discounts received by the Federal Government in the purchase of pharmaceutical agents.

(5) The uniform formulary under the program, including the success of the formulary in achieving savings anticipated through use of the formulary.

(6) Various alternative means of purchasing pharmaceutical agents more efficiently for availability under the program.

(7) The composition and decision-making processes of the Pharmacy and Therapeutics Committee.

(8) The composition of the Beneficiary Advisory Panel and its history as an advisory panel under the program (including the frequency of the acceptance of its recommendations by the Secretary of Defense).

(9) Quality assurance mechanisms under the program.

(10) The role of the program in support of the disease and chronic care management programs of the Department of Defense.

(11) Mechanisms for customer service and customer feedback under the program.

(12) Beneficiary satisfaction with the program.

(c) REPORT.—Not later than nine months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include such recommendations as the Comptroller General considers appropriate for legislative or administrative action to improve the Department of Defense pharmacy benefits program in light of the study.

**SEC. 719. REVIEW OF DEPARTMENT OF DEFENSE MEDICAL QUALITY IMPROVEMENT PROGRAM.**

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on actions taken in response to the recommendations of the July 2001 report of the Department of Defense Healthcare Quality Initiatives Review Panel.

(2) MATTERS COVERED.—The report shall address the status of actions concerning each of the Panel's general and specific recommendations, including the amount of resources allocated by fiscal year to implement each recommendation. In any instance in which no action has been taken, justification for such inaction shall be provided in the report.

(b) REVIEW REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall enter into a contract with the Institute of Medicine of the National Academy of Sciences, or another similarly qualified independent academic medical organization, for the purpose of conducting an independent review of the Department of Defense medical quality improvement program. Contracts.

(2) ELEMENTS.—The review required pursuant to paragraph (1) shall include the following:

(A) An assessment of the methods used by the Department of Defense to monitor medical quality in services provided in military hospitals and clinics and in services provided in civilian hospitals and providers under the military health care system.

(B) An assessment of the transparency and public reporting mechanisms of the Department on medical quality.

(C) An assessment of how the Department incorporates medical quality into performance measures for military and civilian health care providers within the military health care system.

(D) An assessment of the patient safety programs of the Department.

(E) A description of the extent to which the Department seeks to address particular medical errors, and an assessment of the adequacy of such efforts.

(F) An assessment of accountability within the military health care system for preventable negative outcomes involving negligence.

(G) An assessment of the performance of the health care safety and quality measures of the Department.

(H) An assessment of the collaboration of the Department with national initiatives to develop evidence-based quality measures and intervention strategies, especially the initiatives of the Agency for Health Care Research and Quality within the Department of Health and Human Services.

(I) A comparison of the methods, mechanisms, and programs and activities referred to in subparagraphs (A) through (G) with similar methods, mechanisms, programs, and activities used in other public and private health care systems and organizations.

(3) REPORT.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review required pursuant to paragraph (1).

(B) ELEMENTS.—The report required by subparagraph (A) shall include the following:

(i) The results of the review required pursuant to paragraph (1).

(ii) A discussion of recent highlights in the accomplishments of the Department of Defense medical quality assurance program.

(iii) Such recommendations for legislative or administrative action as the Secretary considers appropriate for the improvement of the program.

**SEC. 720. REPORT ON DISTRIBUTION OF HEMOSTATIC AGENTS FOR USE IN THE FIELD.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the distribution of hemostatic agents to members of the Armed Forces serving in Iraq and Afghanistan, including a description of any distribution problems and attempts to resolve such problems.

**SEC. 721. LONGITUDINAL STUDY ON TRAUMATIC BRAIN INJURY INCURRED BY MEMBERS OF THE ARMED FORCES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a longitudinal study on the effects of traumatic brain injury incurred by members of the Armed Forces serving in Operation Iraqi

Freedom or Operation Enduring Freedom on the members who incur such an injury and their families.

(b) DURATION.—The study required by subsection (a) shall be conducted for a period of 15 years.

(c) ELEMENTS.—The study required by subsection (a) shall specifically address the following:

(1) The long-term physical and mental health effects of traumatic brain injuries incurred by members of the Armed Forces during service in Operation Iraqi Freedom or Operation Enduring Freedom.

(2) The health care, mental health care, and rehabilitation needs of such members for such injuries after the completion of inpatient treatment through the Department of Defense, the Department of Veterans Affairs, or both.

(3) The type and availability of long-term care rehabilitation programs and services within and outside the Department of Defense and the Department of Veterans Affairs for such members for such injuries, including community-based programs and services and in-home programs and services.

(4) The effect on family members of a member incurring such an injury.

(d) CONSULTATION.—The Secretary of Defense shall conduct the study required by subsection (a) and prepare the reports required by subsection (e) in consultation with the Secretary of Veterans Affairs.

(e) PERIODIC AND FINAL REPORTS.—After the third, seventh, eleventh, and fifteenth years of the study required by subsection (a), the Secretary of Defense shall submit to Congress a comprehensive report on the results of the study during the preceding years. Each report shall include the following:

(1) Current information on the cumulative outcomes of the study.

(2) Such recommendations as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate based on the outcomes of the study, including recommendations for legislative, programmatic, or administrative action to improve long-term care and rehabilitation programs and services for members of the Armed Forces with traumatic brain injuries.

# Subtitle C—Planning, Programming, and Management

### SEC. 731. STANDARDIZATION OF CLAIMS PROCESSING UNDER TRICARE PROGRAM AND MEDICARE PROGRAM.

(a) IN GENERAL.—Effective beginning with the next contract option period for managed care support contracts under the TRICARE program, the claims processing requirements under the TRICARE program on the matters described in subsection (b) shall be identical to the claims processing requirements under the Medicare program on such matters.

(b) COVERED MATTERS.—The matters described in this subsection are as follows:

(1) The utilization of single or multiple provider identification numbers for purposes of the payment of health care claims by Department of Defense contractors.

(2) The documentation required to substantiate medical necessity for items and services that are covered under both the TRICARE program and the Medicare program.

(c) REPORT ON COLLECTION OF AMOUNTS OWED.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed description of the following:

(1) All TRICARE policies and directives concerning collection of amounts owed to the United States pursuant to section 1095 of title 10, United States Code, from third party payers, including—

(A) collection by military treatment facilities from third-party payers; and

(B) collection by contractors providing managed care support under the TRICARE program from other insurers in cases of private insurance liability for health care costs of a TRICARE beneficiary.

(2) An estimate of the outstanding amounts owed from third party payers in each of fiscal years 2002, 2003, and 2004.

(3) The amounts collected from third party payers in each of fiscal years 2002, 2003, and 2004.

(4) A plan of action to streamline the business practices that underlie the policies and directives described in paragraph (1).

(5) A plan of action to accelerate and increase the collections or recoupments of amounts owed from third party payers.

(d) ANNUAL REPORTS ON CLAIMS PROCESSING STANDARDIZATION.—

(1) IN GENERAL.—Not later than October 1, 2007, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a complete list of the claims processing requirements under the TRICARE program that differ from claims processing requirements under the Medicare program.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for each claims processing requirement listed in such report, a business case that justifies maintaining such requirement under the TRICARE program as a different claims processing requirement than that required under the Medicare program.

(e) DEFINITIONS.—In this section:

(1) The term "Medicare program" means the program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

**SEC. 732. REQUIREMENTS FOR SUPPORT OF MILITARY TREATMENT FACILITIES BY CIVILIAN CONTRACTORS UNDER TRICARE.**

(a) ANNUAL INTEGRATED REGIONAL REQUIREMENTS ON SUPPORT.—The Regional Director of each region under the TRICARE program shall develop each year integrated, comprehensive requirements for the support of military treatment facilities in such region that is provided by contract civilian health care and administrative personnel under the TRICARE program.

(b) PURPOSES.—The purposes of the requirements established under subsection (a) shall be as follows:

(1) To ensure consistent standards of quality in the support of military treatment facilities by contract civilian health care personnel under the TRICARE program.

(2) To identify targeted, actionable opportunities throughout each region of the TRICARE program for the most efficient and cost effective delivery of health care and support of military treatment facilities.

(3) To ensure the most effective use of various available contracting methods in securing support of military treatment facilities by civilian health care personnel under the TRICARE program, including resource-sharing and clinical support agreements, direct contracting, and venture capital investments.

(c) FACILITATION AND ENHANCEMENT OF CONTRACTOR SUPPORT.—

(1) IN GENERAL.—The Secretary of Defense shall take appropriate actions to facilitate and enhance the support of military treatment facilities under the TRICARE program in order to assure maximum quality and productivity.

(2) ACTIONS.—In taking actions under paragraph (1), the Secretary shall—

(A) require consistent standards of quality for contract civilian health care personnel providing support of military treatment facilities under the TRICARE program, including—

(i) consistent credentialing requirements among military treatment facilities;

(ii) consistent performance standards for private sector companies providing health care staffing services to military treatment facilities and clinics, including, at a minimum, those standards established for accreditation of health care staffing firms by the Joint Commission on the Accreditation of Health Care Organizations Health Care Staffing Standards; and

(iii) additional standards covering—

(I) financial stability;

(II) medical management;

(III) continuity of operations;

(IV) training;

(V) employee retention;

(VI) access to contractor data; and

(VII) fraud prevention;

(B) ensure the availability of adequate and sustainable funding support for projects which produce a return on investment to the military treatment facilities;

(C) ensure that a portion of any return on investment is returned to the military treatment facility to which such savings are attributable;

(D) remove financial disincentives for military treatment facilities and civilian contractors to initiate and sustain agreements for the support of military treatment facilities by such contractors under the TRICARE program;

(E) provide for a consistent methodology across all regions of the TRICARE program for developing cost benefit analyses of agreements for the support of military treatment facilities by civilian contractors under the TRICARE program based on actual cost and utilization data within each region of the TRICARE program; and

(F) provide for a system for monitoring the performance of significant projects for support of military treatment facilities by a civilian contractor under the TRICARE program.

(d) REPORTS TO CONGRESS.—

(1) ANNUAL REPORTS REQUIRED.—Not later than February 1, 2008, and each year thereafter, the Secretary, in coordination with the military departments, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the support of military treatment facilities by civilian contractors under the TRICARE program during the preceding fiscal year.

(2) ELEMENTS.—Each report shall set forth, for the fiscal year covered by such report, the following:

(A) The level of support of military health treatment facilities that is provided by contract civilian health care personnel under the TRICARE program in each region of the TRICARE program.

(B) An assessment of the compliance of such support with regional requirements under subsection (a).

(C) The number and type of agreements for the support of military treatment facilities by contract civilian health care personnel.

(D) The standards of quality in effect under the requirements under subsection (a).

(E) The savings anticipated, and any savings achieved, as a result of the implementation of the requirements under subsection (a).

(F) An assessment of the compliance of contracts for health care staffing services for Department of Defense facilities with the requirements of subsection (c)(2)(A).

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 2006.

**SEC. 733. STANDARDS AND TRACKING OF ACCESS TO HEALTH CARE SERVICES FOR WOUNDED, INJURED, OR ILL SERVICEMEMBERS RETURNING TO THE UNITED STATES FROM A COMBAT ZONE.**

(a) REPORT ON UNIFORM STANDARDS FOR ACCESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on uniform standards for the access of wounded, injured, or ill members of the Armed Forces to health care services in the United States following return from a combat zone.

(b) MATTERS COVERED.—The report required by subsection (a) shall describe in detail policies with respect to the following:

(1) The access of wounded, injured, or ill members of the Armed Forces to emergency care.

(2) The access of such members to surgical services.

(3) Waiting times for referrals and consultations of such members by medical personnel, dental personnel, mental health specialists, and rehabilitative service specialists, including personnel and specialists with expertise in prosthetics and in the treatment of head, vision, and spinal cord injuries.

(4) Waiting times of such members for acute care and for routine follow-up care.

(c) REFERRAL TO PROVIDERS OUTSIDE MILITARY HEALTH CARE SYSTEM.—The Secretary shall require that health care services and rehabilitation needs of members described in subsection (a) be met through whatever means or mechanisms possible, including through the referral of members described in that subsection to health care providers outside the military health care system.

(d) UNIFORM SYSTEM FOR TRACKING OF PERFORMANCE.—The Secretary shall establish a uniform system for tracking the performance of the military health care system in meeting the requirements for access of wounded, injured, or ill members of the Armed Forces to health care services described in subsection (a).

(e) REPORTS.—

(1) TRACKING SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the system established under subsection (d).

(2) ACCESS.—Not later than October 1, 2006, and each quarter thereafter during fiscal year 2007, the Secretary shall submit to such committees a report on the performance of the health care system in meeting the access standards described in the report required by subsection (a).

**SEC. 734. DISEASE AND CHRONIC CARE MANAGEMENT.**

(a) PROGRAM DESIGN AND DEVELOPMENT REQUIRED.—Not later than October 1, 2007, the Secretary of Defense shall design and develop a fully integrated program on disease and chronic care management for the military health care system that provides, to the extent practicable, uniform policies and practices on disease management and chronic care management throughout that system, including both military hospitals and clinics and civilian healthcare providers within the TRICARE network. Deadline.

(b) PURPOSES OF PROGRAM.—The purposes of the program required by subsection (a) are as follows:

(1) To facilitate the improvement of the health status of individuals under care in the military health care system.

(2) To ensure the availability of effective health care services in that system for individuals with diseases and other chronic conditions.

(3) To ensure the proper allocation of health care resources for individuals who need care for disease or other chronic conditions.

(c) ELEMENTS OF PROGRAM DESIGN.—The program design required by subsection (a) shall meet the following requirements:

(1) Based on uniform policies prescribed by the Secretary, the program shall, at a minimum, address the following chronic diseases and conditions:

(A) Diabetes.
(B) Cancer.
(C) Heart disease.
(D) Asthma.
(E) Chronic obstructive pulmonary disorder.
(F) Depression and anxiety disorders.

(2) The program shall meet nationally recognized accreditation standards for disease and chronic care management.

(3) The program shall include specific outcome measures and objectives on disease and chronic care management.

(4) The program shall include strategies for disease and chronic care management for all beneficiaries, including beneficiaries eligible for benefits under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), for whom the TRICARE program is not the primary payer for health care benefits.

(5) Activities under the program shall conform to applicable laws and regulations relating to the confidentiality of health care information.

(d) IMPLEMENTATION PLAN REQUIRED.—Not later than February 1, 2008, the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop an implementation plan for the disease and chronic care management program. In order to facilitate the carrying out of the program, the plan developed by the Secretary shall—

(1) require a comprehensive analysis of the disease and chronic care management opportunities within each region of the TRICARE program, including within military treatment facilities and through contractors under the TRICARE program;

(2) ensure continuous, adequate funding of disease and chronic care management activities throughout the military health care system in order to achieve maximum health outcomes and cost avoidance;

(3) eliminate, to the extent practicable, any financial disincentives to sustained investment by military hospitals and health care services contractors of the Department of Defense in the disease and chronic care management activities of the Department;

(4) ensure that appropriate clinical and claims data, including pharmacy utilization data, is available for use in implementing the program;

(5) ensure outreach to eligible beneficiaries who, on the basis of their clinical conditions, are candidates for the program utilizing print and electronic media, telephone, and personal interaction; and

(6) provide a system for monitoring improvements in health status and clinical outcomes under the program and savings associated with the program.

(e) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the design, development, and implementation of the program on disease and chronic care management required by this section.

(2) REPORT ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the design and development of the program required by subsection (a).

(B) A description of the implementation plan required by subsection (d).

(C) A description and assessment of improvements in health status and clinical outcomes that are anticipated as a result of implementation of the program.

(D) A description of the savings and return on investment associated with the program.

(E) A description of an investment strategy to assure the sustainment of the disease and chronic care management programs of the Department of Defense.

**SEC. 735. ADDITIONAL ELEMENTS OF ASSESSMENT OF DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH RELATING TO MENTAL HEALTH OF MEMBERS WHO WERE DEPLOYED IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.**

Section 723(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3348) is amended by adding at the end the following new paragraph:

"(4) MENTAL HEALTH NEEDS OF MEMBERS WHO WERE DEPLOYED IN OIF OR OEF.—As part of the assessment required by paragraph (1) of the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense, the task force shall consider the specific needs with respect to mental health of members who were deployed in Operation Iraqi Freedom or Operation Enduring Freedom upon their return from such deployment, including the following:

"(A) An identification of mental health conditions and disorders (including Post Traumatic Stress Disorder, suicide attempts, and suicide) occurring among members who have undergone multiple deployments in Operation Iraqi Freedom or Operation Enduring Freedom.

"(B) An evaluation of the availability to members of assessments under the Mental Health Self-Assessment Program of the Department of Defense to ensure the long-term availability of the diagnostic mechanisms of the assessment to detect mental health conditions that may emerge in such members over time.

"(C) The availability of programs and services under the Mental Health Self-Assessment Program to address the mental health of dependent children of members who were deployed in Operation Iraqi Freedom or Operation Enduring Freedom.

"(D) Recommendations on mechanisms for improving the mental health services available to members who were deployed in Operation Iraqi Freedom or Operation Enduring Freedom, including members who have undergone multiple deployments.".

**SEC. 736. ADDITIONAL AUTHORIZED OPTION PERIODS FOR EXTENSION OF CURRENT CONTRACTS UNDER TRICARE.**

(a) ADDITIONAL NUMBER OF AUTHORIZED PERIODS.—

(1) IN GENERAL.—The Secretary of Defense, after consulting with the other administering Secretaries, may extend any contract for the delivery of health care entered into under section 1097 of title 10, United States Code, that is in force on the date of the enactment of this Act by one year, and upon expiration of such extension by one additional year, if the Secretary determines that such extension—

(A) is in the best interests of the Department of Defense and covered beneficiaries;

(B) is cost effective; and

(C) will—

(i) facilitate the effective administration of the TRICARE program; or

(ii) ensure continuity in the delivery of health care under the TRICARE program.

(2) LIMITATION ON NUMBER OF EXTENSIONS.—The total number of one-year extensions of a contract that may be granted under paragraph (1) may not exceed two extensions.

(3) NOTICE AND WAIT.—The Secretary may not commence the exercise of the authority in paragraph (1) with respect to a contract covered by that paragraph until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the following:

(A) The minimum level of performance, including beneficiary satisfaction and cost, by the incumbent contractor under the contract that will be required by the Secretary in order to be eligible for an extension authorized by such paragraph.

(B) The justification for such extension based on each of the criteria in paragraph (1).

(C) The justification for such extension based on a cost-benefit analysis.

(4) DEFINITIONS.—In this subsection, the terms "administering Secretaries", "covered beneficiary", and "TRICARE program" have the meaning given such terms in section 1072 of title 10, United States Code.

(b) REPORT ON CONTRACTING MECHANISMS FOR HEALTH CARE SERVICE SUPPORT CONTRACTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on contracting mechanisms under consideration for future contracts for health care service support under section 1097 of title 10, United States Code. The report shall include an assessment of the advantages and disadvantages for the Department of Defense (including the potential for stimulating competition and the effect on health care beneficiaries of the Department) of providing in such contracts for a single term of 5 years, with a single optional period of extension of an additional 5 years if performance under such contract is rated as "excellent".

**SEC. 737. MILITARY VACCINATION MATTERS.**

(a) ADDITIONAL ELEMENT FOR COMPTROLLER GENERAL STUDY AND REPORT ON VACCINE HEALTHCARE CENTERS.—Section 736(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3356) is amended by adding at the end the following new paragraph:

"(10) The feasibility and advisability of transferring direct responsibility for the Centers from the Army Medical Command to the Under Secretary of Defense for Personnel and Readiness and the Deputy Assistant Secretary of Defense for Force Health Protection and Readiness.".

(b) LIMITATION ON RESTRUCTURING OF VACCINE HEALTHCARE CENTERS.—The Secretary of Defense may not downsize or otherwise restructure the Vaccine Healthcare Centers of the Department of Defense during fiscal year 2007. The Secretary shall ensure that the Secretary of each military department shall, from amounts allocated during fiscal year 2007 from the Defense Health Program,

fund and maintain the Vaccine Healthcare Center of the military department concerned.

**SEC. 738. ENHANCED MENTAL HEALTH SCREENING AND SERVICES FOR MEMBERS OF THE ARMED FORCES.**

(a) ADDITIONAL REQUIRED ELEMENTS FOR PREDEPLOYMENT AND POSTDEPLOYMENT MEDICAL EXAMINATIONS.—Subsection (b) of section 1074f of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The system"; and

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

"(2) The predeployment and postdeployment medical examination of a member of the armed forces required under paragraph (1) shall include the following:

"(A) An assessment of the current treatment of the member and any use of psychotropic medications by the member for a mental health condition or disorder.

"(B) An assessment of traumatic brain injury.".

(b) CRITERIA FOR REFERRAL FOR FURTHER EVALUATIONS.—Such section is further amended by adding at the end the following:

"(e) CRITERIA FOR REFERRAL FOR FURTHER EVALUATIONS.—The system described in subsection (a) shall include—

"(1) development of clinical practice guidelines to be utilized by healthcare providers in determining whether to refer a member of the armed forces for further evaluation relating to mental health (including traumatic brain injury);

"(2) mechanisms to ensure that healthcare providers are trained in the application of such clinical practice guidelines; and

"(3) mechanisms for oversight to ensure that healthcare providers apply such guidelines consistently.".

(c) MINIMUM MENTAL HEALTH STANDARDS FOR DEPLOYMENT.—Such section is further amended by adding at the end the following:

"(f) MINIMUM MENTAL HEALTH STANDARDS FOR DEPLOYMENT.—(1) The Secretary of Defense shall prescribe in regulations minimum standards for mental health for the eligibility of a member of the armed forces for deployment to a combat operation or contingency operation. Regulations.

"(2) The standards required by paragraph (1) shall include the following:

"(A) A specification of the mental health conditions, treatment for such conditions, and receipt of psychotropic medications for such conditions that preclude deployment of a member of the armed forces to a combat operation or contingency operation, or to a specified type of such operation.

"(B) Guidelines for the deployability and treatment of members of the armed forces diagnosed with a severe mental illness or post traumatic stress disorder.

"(3) The Secretary shall take appropriate actions to ensure the utilization of the standards prescribed under paragraph (1) in the making of determinations regarding the deployability of members of the armed forces to a combat operation or continency operation.".

(d) QUALITY ASSURANCE.—Subsection (d) of such section is amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

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

"(2) The quality assurance program established under paragraph (1) shall also include the following elements:

"(A) The types of healthcare providers conducting postdeployment health assessments.

"(B) The training received by such providers applicable to the conduct of such assessments, including training on assessments and referrals relating to mental health.

"(C) The guidance available to such providers on how to apply the clinical practice guidelines developed under subsection (e)(1) in determining whether to make a referral for further evaluation of a member of the armed forces relating to mental health.

"(D) The effectiveness of the tracking mechanisms required under this section in ensuring that members who receive referrals for further evaluations relating to mental health receive such evaluations and obtain such care and services as are warranted.

"(E) Programs established for monitoring the mental health of each member who, after deployment to a combat operation or contingency operations, is known—

"(i) to have a mental health condition or disorder; or

"(ii) to be receiving treatment, including psychotropic medications, for a mental health condition or disorder.".

(e) COMPTROLLER GENERAL REPORTS ON IMPLEMENTATION OF REQUIREMENTS.—

(1) STUDY ON IMPLEMENTATION.—The Comptroller General of the United States shall carry out a study of the implementation of the requirements of the amendments made by this section.

(2) REPORTS.—Not later than March 1, 2008, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study carried out under paragraph (1).

Deadline.

(f) IMPLEMENTATION.—The Secretary of Defense shall implement the requirements of the amendments made by this section not later than six months after the date of the enactment of this Act.

(g) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken to implement the requirements of the amendments made by this section not later than June 1, 2007.

## Subtitle D—Other Matters

### SEC. 741. PILOT PROJECTS ON EARLY DIAGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) PILOT PROJECTS REQUIRED.—The Secretary of Defense shall carry out not less than three pilot projects to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.

(b) DURATION.—Any pilot project carried out under this section shall begin not later than October 1, 2007, and cease on September 30, 2008. Deadlines.

(c) PILOT PROJECT REQUIREMENTS.—

(1) DIAGNOSTIC AND TREATMENT APPROACHES.—One of the pilot projects under this section shall be designed to evaluate effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat post traumatic stress disorder.

(2) NATIONAL GUARD OR RESERVE MEMBERS.—

(A) One of the pilot projects under this section shall be focused on members of the National Guard or Reserves who are located more than 40 miles from a military medical facility and who are served primarily by civilian community health resources.

(B) The pilot project described in subparagraph (A) shall be designed to develop educational materials and other tools for use by members of the National Guard or Reserves who come into contact with other members of the National Guard or Reserves who may suffer from post traumatic stress disorder in order to encourage and facilitate early reporting and referral for treatment.

(3) OUTREACH.—One of the pilot projects under this section shall be designed to provide outreach to the family members of the members of the Armed Forces on post traumatic stress disorder and other mental health conditions.

(d) EVALUATION OF PILOT PROJECTS.—The Secretary shall evaluate each pilot project carried out under this section in order to assess the effectiveness of the approaches taken under such pilot project—

(1) to improve the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among members of the regular components of the Armed Forces, and among members of the National Guard and Reserves, who have returned from deployment; and

(2) to provide outreach to the family members of the members of the Armed Forces described in paragraph (1) on post traumatic stress disorder and other mental health conditions among such members of the Armed Forces.

(e) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than December 31, 2008, the Secretary shall submit to the congressional defense committees a report on the pilot projects carried out under this section.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of each pilot project carried out under this section.

(B) An assessment of the effectiveness of the approaches taken under each pilot project to improve the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among members of the Armed Forces.

(C) Any recommendations for legislative or administrative action that the Secretary considers appropriate in light of the pilot projects, including recommendations on—

(i) the training of health care providers in the military and civilian health care systems on early diagnosis and treatment of post traumatic stress disorder and other mental health conditions; and

(ii) the provision of outreach on post traumatic stress disorder and other mental health conditions to members of the National Guard and Reserves who have returned from deployment.

(D) A plan, in light of the pilot projects, for the improvement of the health care services provided to members of the Armed Forces in order to better assure the early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among members of the Armed Forces, including a specific plan for outreach on post traumatic stress disorder and other mental health conditions to members of the National Guard and Reserves who have returned from deployment in order to facilitate and enhance the early diagnosis and treatment of post traumatic stress disorder and other mental health conditions among such members of the National Guard and Reserves.

**SEC. 742. REQUIREMENT TO CERTIFY AND REPORT ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS.**

(a) PROHIBITION ON CONVERSIONS.—

(1) SUBMISSION OF CERTIFICATION.—The Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position in a fiscal year until the Secretary submits to the congressional defense committees with respect to that fiscal year a certification that the conversions within that department will not increase cost or decrease quality of care or access to care.

(2) REPORT ON CERTIFICATION.—Each certification under paragraph (1) shall include a written report setting forth the following:

(A) The methodology used by the Secretary in making the determinations necessary for the certification.

(B) The number of military medical or dental positions, by grade or band and specialty, planned for conversion to civilian medical or dental positions.

(C) The results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area.

(D) An analysis, by affected area, showing the extent to which access to health care and cost of health care will be affected in both the direct care and purchased care systems, including an assessment of the effect of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of

care in either the direct or purchased care system because of the planned conversions.

(E) The extent to which military medical and dental positions planned for conversion to civilian medical or dental positions will affect recruiting and retention of uniformed medical and dental personnel.

(F) A comparison of the full costs for the military medical and dental positions planned for conversion with the estimated full costs for civilian medical and dental positions, including expenses such as recruiting, salary, benefits, training, and any other costs the Department identifies.

(G) An assessment showing that the military medical or dental positions planned for conversion are in excess of the military medical and dental positions needed to meet medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

(H) An identification of each medical and dental position scheduled to be converted to a civilian position in the subsequent fiscal year, including the location of each position scheduled for conversion, the estimated cost of such conversion, and whether or not civilian personnel are available in the location for filling a converted military medical or dental position.

(3) SUBMISSION DEADLINE.—A certification and report with respect to any fiscal year after fiscal year 2007 shall be submitted at the same time the budget of the President for such fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

(b) REQUIREMENT FOR COMPTROLLER GENERAL REVIEW.—Not later than 120 days after the submission of the budget of the President for a fiscal year, the Comptroller General shall submit to the congressional defense committees a report on any certifications and reports submitted with respect to that fiscal year under subsection (a). Deadline.

(c) REQUIREMENT TO RESUBMIT CERTIFICATION AND REPORT REQUIRED BY PUBLIC LAW 109–163.—The Secretary of each military department shall resubmit the certification and report required by section 744(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3360; 10 U.S.C. 129c note). Such resubmissions shall address in their entirety the elements required by section 744(a)(2) of such Act.

(d) SPECIAL REQUIREMENTS FOR FISCAL YEAR 2007 CERTIFICATION.—

(1) LIST OF 2007 PLANNED CONVERSIONS.—The report required by paragraph (2) of subsection (a) with respect to fiscal year 2007 shall contain, in addition to the elements required by that paragraph, a list of each military medical or dental position scheduled to be converted to a civilian medical or dental position in fiscal year 2007.

(2) RESUBMISSION REQUIRED FIRST.—The certification and report required by subsection (a) with respect to fiscal year 2007 may not be submitted prior to the resubmission required by subsection (c).

(3) PROHIBITION ON CONVERSIONS DURING FISCAL YEAR 2007.—No conversions of a military medical or dental position

may occur during fiscal year 2007 prior to both the resubmission required by subsection (c) and the submission of the certification and report required by subsection (a).

(e) REPORT ON FISCAL YEAR 2008 CONVERSION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report that identifies the military medical or dental positions scheduled to be converted to civilian medical or dental positions in fiscal year 2008. Such report shall include the location of the positions scheduled for conversion, the estimated cost of such conversion, and whether or not civilian personnel are available in the location for filling the proposed converted military medical or dental position.

(f) DEFINITIONS.—In this section:

(1) The term "military medical or dental position" means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

(2) The term "civilian medical or dental position" means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

(3) The term "affected area" means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

(4) The term "uniformed services" has the meaning given that term in section 1072(1) of title 10, United States Code.

(5) The term "conversion", with respect to a military medical or dental position, means a change, effective as of the date of the documentation by the Department of Defense making the change, of the position to a civilian medical or dental position.

**SEC. 743. THREE-YEAR EXTENSION OF JOINT INCENTIVES PROGRAM ON SHARING OF HEALTH CARE RESOURCES BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.**

Section 8111(d)(3) of title 38, United States Code, is amended by striking "September 30, 2007" and inserting "September 30, 2010".

**SEC. 744. TRAINING CURRICULA FOR FAMILY CAREGIVERS ON CARE AND ASSISTANCE FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES WITH TRAUMATIC BRAIN INJURY.**

(a) TRAUMATIC BRAIN INJURY FAMILY CAREGIVER PANEL.—

(1) ESTABLISHMENT.—The Secretary of Defense shall establish a panel within the Department of Defense, to be known as the "Traumatic Brain Injury Family Caregiver Panel", to develop coordinated, uniform, and consistent training curricula to be used in training family members in the provision of care and assistance to members and former members of the Armed Forces with traumatic brain injuries.

(2) MEMBERS.—The Traumatic Brain Injury Family Caregiver Panel shall consist of 15 members appointed by the Secretary of Defense from among the following:

(A) Physicians, nurses, rehabilitation therapists, and other individuals with an expertise in caring for and assisting individuals with traumatic brain injury, including

persons who specialize in caring for and assisting individuals with traumatic brain injury incurred in combat.

(B) Representatives of family caregivers or family caregiver associations.

(C) Health and medical personnel of the Department of Defense and the Department of Veterans Affairs with expertise in traumatic brain injury and personnel and readiness representatives of the Department of Defense with expertise in traumatic brain injury.

(D) Psychologists or other individuals with expertise in the mental health treatment and care of individuals with traumatic brain injury.

(E) Experts in the development of training curricula.

(F) Family members of members of the Armed Forces with traumatic brain injury.

(G) Such other individuals the Secretary considers appropriate.

(3) CONSULTATION.—In establishing the Traumatic Brain Injury Family Caregiver Panel and appointing the members of the Panel, the Secretary of Defense shall consult with the Secretary of Veterans Affairs.

(b) DEVELOPMENT OF CURRICULA.—

(1) DEVELOPMENT.—The Traumatic Brain Injury Family Caregiver Panel shall develop training curricula to be used by family members of members and former members of the Armed Forces on techniques, strategies, and skills for care and assistance for such members and former members with traumatic brain injury.

(2) SCOPE OF CURRICULA.—The curricula shall—

(A) be based on empirical research and validated techniques; and

(B) shall provide for training that permits recipients to tailor caregiving to the unique circumstances of the member or former member of the Armed Forces receiving care.

(3) PARTICULAR REQUIREMENTS.—In developing the curricula, the Traumatic Brain Injury Family Caregiver Panel shall—

(A) specify appropriate training commensurate with the severity of traumatic brain injury; and

(B) identify appropriate care and assistance to be provided for the degree of severity of traumatic brain injury for caregivers of various levels of skill and capability.

(4) USE OF EXISTING MATERIALS.—In developing the curricula, the Traumatic Brain Injury Family Caregiver Panel shall use and enhance any existing training curricula, materials, and resources applicable to such curricula as the Panel considers appropriate.

(5) DEADLINE FOR DEVELOPMENT.—The Traumatic Brain Injury Family Caregiver Panel shall develop the curricula not later than one year after the date of the enactment of this Act.

(c) DISSEMINATION OF CURRICULA.—

(1) DISSEMINATION MECHANISMS.—The Secretary of Defense shall develop mechanisms for the dissemination of the curricula developed under subsection (b)—

(A) to health care professionals who treat or otherwise work with members and former members of the Armed Forces with traumatic brain injury;

(B) to family members affected by the traumatic brain injury of such members and former members; and

(C) to other care or support personnel who may provide service to members or former members affected by traumatic brain injury.

(2) USE OF EXISTING MECHANISMS.—In developing such mechanisms, the Secretary may use and enhance existing mechanisms, including the Military Severely Injured Center (authorized under section 564 of this Act) and the programs for service to severely injured members established by the military departments.

(d) REPORT.—Not later than one year after the development of the curricula required by subsection (b), the Secretary of Defense and the Secretary of Veterans Affairs shall submit to the Committees on Armed Services and Veterans Affairs of the Senate and the House of Representatives a report on the following:

(1) The actions undertaken under this section.

(2) Recommendations for the improvement or updating of training curriculum developed and provided under this section.

**SEC. 745. RECOGNITION OF REPRESENTATIVE LANE EVANS UPON HIS RETIREMENT FROM THE HOUSE OF REPRESENTATIVES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Representative Lane Evans was elected to the House of Representatives in 1982 and is completing his 12th term representing the people of Illinois' 17th Congressional district.

(2) As a member of the Committee on Armed Services of the House of Representatives since 1988, Representative Evans has worked to bring common sense priorities to defense spending and strengthen the military's conventional readiness.

(3) Representative Evans has served as the ranking member of the Committee on Veterans' Affairs of the House of Representatives since 1997 and has been a tireless advocate for military veterans, ensuring that veterans receive the medical care they need and advocating for individuals suffering from post-traumatic stress disorder and Gulf War Syndrome.

(5) Drawing on his own experience as a member of the Marine Corps, Representative Evans has tirelessly fought for both current members of the Armed Forces and veterans and has been a leader in legislative efforts to assist members exposed to Agent Orange.

(4) Representative Evans' efforts to improve the transition of individuals from military service to the care of the Department of Veterans Affairs will continue to benefit generations of veterans long into the future.

(6) Representative Evans is credited with bringing new services to veterans living in his Congressional district, including outpatient clinics in the Quad Cities and Quincy and the Quad-Cities Vet Center.

(7) Representative Evans has worked with local leaders to promote the Rock Island Arsenal and has seen it win new jobs and missions through his support.

(b) RECOGNITION.—Congress recognizes and commends Representative Lane Evans for his 24 years of service to benefit the

people of Illinois, members of the Armed Forces and their families, veterans, and the United States.

# TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

Sec. 801. Requirements management certification training program.
Sec. 802. Additional requirements relating to technical data rights.
Sec. 803. Study and report on revisions to Selected Acquisition Report requirements.
Sec. 804. Biannual updates on implementation of acquisition reform in the Department of Defense.
Sec. 805. Additional certification requirements for major defense acquisition programs before proceeding to Milestone B.
Sec. 806. Original baseline estimate for major defense acquisition programs.
Sec. 807. Lead system integrators.

Subtitle B—Acquisition Policy and Management

Sec. 811. Time-certain development for Department of Defense information technology business systems.
Sec. 812. Pilot program on time-certain development in acquisition of major weapon systems.
Sec. 813. Establishment of Panel on Contracting Integrity.
Sec. 814. Linking of award and incentive fees to acquisition outcomes.
Sec. 815. Report on defense instruction relating to contractor personnel authorized to accompany Armed Forces.
Sec. 816. Major automated information system programs.
Sec. 817. Internal controls for procurements on behalf of the Department of Defense by certain non-defense agencies.
Sec. 818. Determination of contract type for development programs.
Sec. 819. Three-year extension of requirement for reports on commercial price trend analyses of the Department of Defense.
Sec. 820. Government performance of critical acquisition functions.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 831. One-year extension of special temporary contract closeout authority.
Sec. 832. Limitation on contracts for the acquisition of certain services.
Sec. 833. Use of Federal supply schedules by State and local governments for goods and services for recovery from natural disasters, terrorism, or nuclear, biological, chemical, or radiological attack.
Sec. 834. Waivers to extend task order contracts for advisory and assistance services.

Subtitle D—United States Defense Industrial Base Provisions

Sec. 841. Assessment and annual report of United States defense industrial base capabilities and acquisitions of articles, materials, and supplies manufactured outside the United States.
Sec. 842. Protection of strategic materials critical to national security.
Sec. 843. Strategic Materials Protection Board.

Subtitle E—Other Matters

Sec. 851. Report on former Department of Defense officials employed by contractors of the Department of Defense.
Sec. 852. Report and regulations on excessive pass-through charges.
Sec. 853. Program manager empowerment and accountability.
Sec. 854. Joint policies on requirements definition, contingency program management, and contingency contracting.
Sec. 855. Clarification of authority to carry out certain prototype projects.
Sec. 856. Contracting with employers of persons with disabilities.
Sec. 857. Enhanced access for small business.
Sec. 858. Procurement goal for Hispanic-serving institutions.

# Subtitle A—Provisions Relating to Major Defense Acquisition Programs

**SEC. 801. REQUIREMENTS MANAGEMENT CERTIFICATION TRAINING PROGRAM.**

(a) TRAINING PROGRAM.—

(1) REQUIREMENT.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the Defense Acquisition University, shall develop a training program to certify military and civilian personnel of the Department of Defense with responsibility for generating requirements for major defense acquisition programs (as defined in section 2430(a) of title 10, United States Code).

(2) COMPETENCY AND OTHER REQUIREMENTS.—The Under Secretary shall establish competency requirements for the personnel undergoing the training program. The Under Secretary shall define the target population for such training program by identifying which military and civilian personnel should have responsibility for generating requirements. The Under Secretary also may establish other training programs for personnel not subject to chapter 87 of title 10, United States Code, who contribute significantly to other types of acquisitions by the Department of Defense.

Effective date.

(b) APPLICABILITY.—Effective on and after September 30, 2008, a member of the Armed Forces or an employee of the Department of Defense with authority to generate requirements for a major defense acquisition program may not continue to participate in the requirements generation process unless the member or employee successfully completes the certification training program developed under this section.

(c) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an interim report, not later than March 1, 2007, and a final report, not later than March 1, 2008, on the implementation of the training program required under this section.

**SEC. 802. ADDITIONAL REQUIREMENTS RELATING TO TECHNICAL DATA RIGHTS.**

(a) ADDITIONAL REQUIREMENTS RELATING TO TECHNICAL DATA RIGHTS.—Section 2320 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The Secretary of Defense shall require program managers for major weapon systems and subsystems of major weapon systems to assess the long-term technical data needs of such systems and subsystems and establish corresponding acquisition strategies that provide for technical data rights needed to sustain such systems and subsystems over their life cycle. Such strategies may include the development of maintenance capabilities within the Department of Defense or competition for contracts for sustainment of such systems or subsystems. Assessments and corresponding acquisition strategies developed under this section with respect to a weapon system or subsystem shall—

"(1) be developed before issuance of a contract solicitation for the weapon system or subsystem;

"(2) address the merits of including a priced contract option for the future delivery of technical data that were not acquired upon initial contract award;

"(3) address the potential for changes in the sustainment plan over the life cycle of the weapon system or subsystem; and

"(4) apply to weapon systems and subsystems that are to be supported by performance-based logistics arrangements as well as to weapons systems and subsystems that are to be supported by other sustainment approaches.".

(b) MODIFICATION OF PRESUMPTION OF DEVELOPMENT EXCLUSIVELY AT PRIVATE EXPENSE.—Section 2321(f) of title 10, United States Code, is amended—

(1) by striking "EXPENSE FOR COMMERCIAL ITEMS CONTRACTS.—In" and inserting "EXPENSE.—(1) Except as provided in paragraph (2), in"; and

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

"(2) In the case of a challenge to a use or release restriction that is asserted with respect to technical data of a contractor or subcontractor (whether or not under a contract for commercial items) for a major system or a subsystem or component thereof on the basis that the major system, subsystem or component was developed exclusively at private expense, the challenge to the use or release restriction shall be sustained unless information provided by the contractor or subcontractor demonstrates that the item was developed exclusively at private expense.".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise regulations under section 2320 of title 10, United States Code, to implement subsection (e) of such section (as added by this section), including incorporating policy changes developed under such subsection into Department of Defense Directive 5000.1 and Department of Defense Instruction 5000.2. Deadline.

**SEC. 803. STUDY AND REPORT ON REVISIONS TO SELECTED ACQUISITION REPORT REQUIREMENTS.**

(a) STUDY REQUIREMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics in coordination with the service acquisition executives of each military department, shall conduct a study on revisions to requirements relating to Selected Acquisition Reports, as set forth in section 2432 of title 10, United States Code.

(b) MATTERS COVERED.—The study required under subsection (a) shall—

(1) focus on incorporating into the Selected Acquisition Report those elements of program progress that the Department of Defense considers most relevant to evaluating the performance and progress of major defense acquisition programs, with particular reference to the cost estimates and program schedule established when a major defense acquisition program receives Milestone B approval;

(2) address the need to ensure that data provided through the Selected Acquisition Report is consistent with data provided through internal Department of Defense reporting systems for management purposes; and

(3) include any recommendations to add to, modify, or delete elements of the Selected Acquisition Report, consistent with the findings of the study.

(c) REPORT.—Not later than March 1, 2007, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study, including such recommendations as the Secretary considers appropriate.

**SEC. 804. BIANNUAL UPDATES ON IMPLEMENTATION OF ACQUISITION REFORM IN THE DEPARTMENT OF DEFENSE.**

Reports. Deadlines.

(a) BIANNUAL UPDATES REQUIREMENT.—Not later than January 1 and July 1 of each year, beginning with January 1, 2007, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a report containing an update on the implementation of plans to reform the acquisition system in the Department of Defense.

(b) MATTERS COVERED.—Each report provided under subsection (a) shall cover the implementation of reforms of the processes for acquisition, including generation of requirements, award of contracts, and financial management. At a minimum, the reports shall take into account the recommendations made by the following:

(1) The Defense Acquisition Performance Assessment Panel.

(2) The Defense Science Board Summer Study on Transformation, issued in February 2006.

(3) The Beyond Goldwater-Nichols Study of the Center for Strategic and International Studies.

(4) The Quadrennial Defense Review, issued February 6, 2006.

(c) RECOMMENDATIONS.—Each report submitted under subsection (a) shall include such recommendations as the Secretary considers appropriate, and implementation plans for the recommendations.

(d) TERMINATION OF REPORT REQUIREMENT.—The requirement to submit reports under subsection (a) shall terminate on December 31, 2008.

**SEC. 805. ADDITIONAL CERTIFICATION REQUIREMENTS FOR MAJOR DEFENSE ACQUISITION PROGRAMS BEFORE PROCEEDING TO MILESTONE B.**

(a) ADDITIONAL CERTIFICATION REQUIREMENTS.—Subsection (a) of section 2366a of title 10, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (10);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) by inserting before paragraph (2) (as so redesignated) the following new paragraph (1):

"(1) appropriate market research has been conducted prior to technology development to reduce duplication of existing technology and products;";

(4) in paragraph (7) (as so redesignated), by striking "and" at the end; and

(5) by inserting after such paragraph (7) the following new paragraphs:

"(8) reasonable cost and schedule estimates have been developed to execute the product development and production plan under the program;

"(9) funding is available to execute the product development and production plan under the program, through the period covered by the future-years defense program submitted during the fiscal year in which the certification is made, consistent with the estimates described in paragraph (8) for the program; and".

(b) WAIVER FOR NATIONAL SECURITY.—Subsection (c) of such section is amended by striking "(5), or (6)" and inserting "(5), (6), (7), (8), or (9)".

**SEC. 806. ORIGINAL BASELINE ESTIMATE FOR MAJOR DEFENSE ACQUISITION PROGRAMS.**

Section 2435(d)(1) of title 10, United States Code, is amended by inserting after "with respect to the program under subsection (a)" the following: "prepared before the program enters system development and demonstration, or at program initiation, whichever occurs later".

**SEC. 807. LEAD SYSTEM INTEGRATORS.**

(a) LIMITATIONS ON CONTRACTORS ACTING AS LEAD SYSTEM INTEGRATORS.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2410p. Contracts: limitations on lead system integrators**

"(a) IN GENERAL.—Except as provided in subsection (b), no entity performing lead system integrator functions in the acquisition of a major system by the Department of Defense may have any direct financial interest in the development or construction of any individual system or element of any system of systems.

"(b) EXCEPTION.—An entity described in subsection (a) may have a direct financial interest in the development or construction of an individual system or element of a system of systems if—

"(1) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that—

"(A) the entity was selected by the Department of Defense as a contractor to develop or construct the system or element concerned through the use of competitive procedures; and

"(B) the Department took appropriate steps to prevent any organizational conflict of interest in the selection process; or

"(2) the entity was selected by a subcontractor to serve as a lower-tier subcontractor, through a process over which the entity exercised no control.

"(c) CONSTRUCTION.—Nothing in this section shall be construed to preclude an entity described in subsection (a) from performing work necessary to integrate two or more individual systems or elements of a system of systems with each other.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410p. Contracts: limitations on lead system integrators".

(3) EFFECTIVE DATE.—Section 2410p of title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts entered into after December 31, 2006.

Deadline.

(b) UPDATE OF REGULATIONS ON LEAD SYSTEM INTEGRATORS.—Not later than December 31, 2006, the Secretary of Defense shall update the acquisition regulations of the Department of Defense in order to specify fully in such regulations the matters with respect to lead system integrators set forth in section 805(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3372) and the amendments made by subsection (a).

(c) ADDITIONAL REPORT REQUIREMENTS.—The Secretary of Defense shall include in the report required by section 805 of such Act—

(1) a precise and comprehensive definition of the term "lead system integrator", as that term is used in such section; and

(2) a specification of various types of contracts and fee structures that are appropriate for use by lead system integrators in the production, fielding, and sustainment of complex systems.

## Subtitle B—Acquisition Policy and Management

### SEC. 811. TIME-CERTAIN DEVELOPMENT FOR DEPARTMENT OF DEFENSE INFORMATION TECHNOLOGY BUSINESS SYSTEMS.

(a) MILESTONE A LIMITATION.—The Department of Defense executive or entity that is the milestone decision authority for an information system described in subsection (c) may not provide Milestone A approval for the system unless, as part of the decision process for such approval, that authority determines that the system will achieve initial operational capability within a specified period of time not exceeding five years.

(b) INITIAL OPERATIONAL CAPABILITY LIMITATION.—If an information system described in subsection (c), having received Milestone A approval, has not achieved initial operational capability within five years after the date of such approval, the system shall be deemed to have undergone a critical change in program requiring the evaluation and report required by section 2445c(d) of title 10, United States Code (as added by section 816 of this Act).

(c) COVERED SYSTEMS.—An information system described in this subsection is any Department of Defense information technology business system that is not a national security system, as defined in 3542(b)(2) of title 44, United States Code.

(d) DEFINITIONS.—In this section:

(1) MILESTONE DECISION AUTHORITY.—The term "milestone decision authority" has the meaning given that term in Department of Defense Instruction 5000.2, dated May 12, 2003.

(2) MILESTONE A.—The term "Milestone A" has the meaning given that term in Department of Defense Instruction 5000.2, dated May 12, 2003.

**SEC. 812. PILOT PROGRAM ON TIME-CERTAIN DEVELOPMENT IN ACQUISITION OF MAJOR WEAPON SYSTEMS.**

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program on the use of time-certain development in the acquisition of major weapon systems.

(b) PURPOSE OF PILOT PROGRAM.—The purpose of the pilot program authorized by subsection (a) is to assess the feasibility and advisability of utilizing time-certain development in the acquisition of major weapon systems in order to deliver new capabilities to the warfighter more rapidly through—

(1) disciplined decision-making;

(2) emphasis on technological maturity; and

(3) appropriate trade-offs between—

(A) cost and system performance; and

(B) program schedule.

(c) INCLUSION OF SYSTEMS IN PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense may include a major weapon system in the pilot program only if—

(A) the major weapon system meets the criteria under paragraph (2) in accordance with that paragraph; and

(B) the Milestone Decision Authority nominates such program to the Secretary of Defense for inclusion in the program.

(2) CRITERIA.—For purposes of paragraph (1) a major weapon system meets the criteria under this paragraph only if the Milestone Decision Authority determines, in consultation with the service acquisition executive for the military department carrying out the acquisition program for the system and one or more combatant commanders responsible for fielding the system, that—

(A) the certification requirements of section 2366a of title 10, United States Code (as amended by section 805 of this Act), have been met, and no waivers have been granted from such requirements;

(B) a preliminary design has been reviewed using systems engineering, and the system, as so designed, will meet battlefield needs identified by the relevant combatant commanders after appropriate requirements analysis;

(C) a representative model or prototype of the system, or key subsystems, has been demonstrated in a relevant environment, such as a well-simulated operational environment;

(D) an independent cost estimate has been conducted and used as the basis for funding requirements for the acquisition program for the system;

(E) the budget of the military department responsible for carrying out the acquisition program for the system provides the funding necessary to execute the product development and production plan consistent with the requirements identified pursuant to subparagraph (D);

(F) an appropriately qualified program manager has entered into a performance agreement with the Milestone Decision Authority that establishes expected parameters for the cost, schedule, and performance of the acquisition program for the system, consistent with a business case for such acquisition program;

(G) the service acquisition executive and the program manager have developed a strategy to ensure stability in program management until, at a minimum, the delivery of the initial operational capability under the acquisition program for the system has occurred;

(H) the service acquisition executive, the relevant combatant commanders, and the program manager have agreed that no additional requirements that would be inconsistent with the agreed-upon program schedule will be added during the development phase of the acquisition program for the system; and

(I) a planned initial operational capability will be delivered to the relevant combatant commanders within a defined period of time as prescribed in regulations by the Secretary of Defense.

(3) TIMING OF DECISION.—The decision whether to include a major weapon system in the pilot program shall be made at the time of milestone approval for the acquisition program for the system.

(d) LIMITATION ON NUMBER OF WEAPONS SYSTEMS IN PILOT PROGRAM.—The number of major weapon systems included in the pilot program at any time may not exceed six major weapon systems.

(e) LIMITATION ON COST OF WEAPONS SYSTEMS IN PILOT PROGRAM.—The Secretary of Defense may include a major weapon system in the pilot program only if, at the time a major weapon system is proposed for inclusion, the total cost for system design and development of the weapon system, as set forth in the cost estimate referred to in subsection (c)(2)(D), does not exceed $1,000,000,000 during the period covered by the current future-years defense program.

(f) SPECIAL FUNDING AUTHORITY.—

(1) AUTHORITY FOR RESERVE ACCOUNT.—Notwithstanding any other provision of law, the Secretary of Defense may establish a special reserve account utilizing funds made available for the major weapon systems included in the pilot program.

(2) ELEMENTS.—The special reserve account may include—

(A) funds made available for any major weapon system included in the pilot program to cover termination liability;

(B) funds made available for any major weapon system included in the pilot program for award fees that may be earned by contractors; and

(C) funds appropriated to the special reserve account.

(3) AVAILABILITY OF FUNDS.—Funds in the special reserve account may be used, in accordance with guidance issued by the Secretary for purposes of this section, for the following purposes:

(A) To cover termination liability for any major weapon system included in the pilot program.

(B) To pay award fees that are earned by any contractor for a major weapon system included in the pilot program.

(C) To address unforeseen contingencies that could prevent a major weapon system included in the pilot program from meeting critical schedule or performance requirements.

(4) REPORTS ON USE OF FUNDS.—Not later than 30 days after the use of funds in the special reserve account for the purpose specified in paragraph (3)(C), the Secretary shall submit to the congressional defense committees a report on the use of funds in the account for such purpose. The report shall set forth the purposes for which the funds were used and the reasons for the use of the funds for such purposes.

(5) RELATIONSHIP TO APPROPRIATIONS.—Nothing in this subsection may be construed as extending any period of time for which appropriated funds are made available.

(g) ADMINISTRATION OF PILOT PROGRAM.—The Secretary of Defense shall prescribe policies and procedures on the administration of the pilot program. Such policies and procedures shall—

(1) provide for the use of program status reports based on earned value data to track progress on a major weapon system under the pilot program against baseline estimates applicable to such system at each systems engineering technical review point; and

(2) grant authority, to the maximum extent practicable, to the program manager for the acquisition program for a major weapon system to make key program decisions and trade-offs, subject to management reviews only if cost or schedule deviations exceed the baselines for such acquisition program by 10 percent or more.

(h) REMOVAL OF WEAPONS SYSTEMS FROM PILOT PROGRAM.—The Secretary of Defense shall remove a major weapon system from the pilot program if—

(1) the weapon system receives Milestone C approval; or

(2) the Secretary determines that the weapon system is no longer in substantial compliance with the criteria in subsection (c)(2) or is otherwise no longer appropriate for inclusion in the pilot program.

(i) EXPIRATION OF AUTHORITY TO INCLUDE ADDITIONAL SYSTEMS IN PILOT PROGRAM.—

(1) EXPIRATION.—A major weapon system may not be included in the pilot program after September 30, 2012.

(2) RETENTION OF SYSTEMS.—A major weapon system included in the pilot program before the date specified in paragraph (1) in accordance with the requirements of this section may remain in the pilot program after that date.

(j) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than one year after including the first major weapon system in the pilot program, and annually thereafter, the Secretary shall submit to the congressional defense committees a report on the pilot program, and the major weapon systems included in the pilot program, during the one-year period ending on the date of such report.

(2) ELEMENTS.—Each report under this subsection shall include—

(A) a description of progress under the pilot program, and on each major weapon system included in the pilot program, during the period covered by such report;

(B) a description of the use of all funds in the special reserve account established under subsection (f); and

(C) such other matters as the Secretary considers appropriate.

(k) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term "major weapon system" means a weapon system that is treatable as a major system under section 2302(5) of title 10, United States Code.

**SEC. 813. ESTABLISHMENT OF PANEL ON CONTRACTING INTEGRITY.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Defense shall establish a panel to be known as the "Panel on Contracting Integrity".

(2) COMPOSITION.—The panel shall be composed of the following:

(A) A representative of the Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall be the chairman of the panel.

(B) A representative of the service acquisition executive of each military department.

(C) A representative of the Inspector General of the Department of Defense.

(D) A representative of the Inspector General of each military department.

(E) A representative of each Defense Agency involved with contracting, as determined appropriate by the Secretary of Defense.

(F) Such other representatives as may be determined appropriate by the Secretary of Defense.

(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the panel shall—

(1) conduct reviews of progress made by the Department of Defense to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur;

(2) review the report by the Comptroller General required by section 841 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3389), relating to areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse; and

(3) recommend changes in law, regulations, and policy that it determines necessary to eliminate such areas of vulnerability.

(c) MEETINGS.—The panel shall meet as determined necessary by the Secretary of Defense but not less often than once every six months.

(d) REPORT.—

(1) REQUIREMENT.—The panel shall prepare and submit to the Secretary of Defense and the congressional defense committees an annual report on its activities. The report shall be submitted not later than December 31 of each year and contain a summary of the panel's findings and recommendations for the year covered by the report.

(2) FIRST REPORT.—The first report under this subsection shall be submitted not later than December 31, 2007, and shall contain an examination of the current structure in the Department of Defense for contracting integrity and recommendations for any changes needed to the system of administrative safeguards and disciplinary actions to ensure accountability at the appropriate level for any violations of appropriate standards of behavior in contracting.

(3) INTERIM REPORTS.—The panel may submit such interim reports to the congressional defense committees as the Secretary of Defense considers appropriate.

(e) TERMINATION.—The panel shall terminate on December 31, 2009.

**SEC. 814. LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES.**

(a) GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance, with detailed implementation instructions (including definitions), for the Department of Defense on the appropriate use of award and incentive fees in Department of Defense acquisition programs.

Deadline.

(b) ELEMENTS.—The guidance under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to acquisition outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be "excellent" or "superior" and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be "acceptable", "average", "expected", "good", or "satisfactory";

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure consistent use of guidelines and definitions relating to award and incentive fees across the military departments and Defense Agencies;

(8) ensure that the Department of Defense—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis;

(9) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes; and

(10) provide mechanisms for sharing proven incentive strategies for the acquisition of different types of products and services among contracting and program management officials.

(c) ASSESSMENT OF INDEPENDENT EVALUATION MECHANISMS.—

(1) IN GENERAL.—The Secretary of Defense shall select a federally funded research and development center to assess

various mechanisms that could be used to ensure an independent evaluation of contractor performance for the purpose of making determinations applicable to the judging and payment of award fees.

(2) CONSIDERATIONS.—The assessment conducted pursuant to paragraph (1) shall include consideration of the advantages and disadvantages of a system in which award fees are—

(A) held in a separate fund or funds of the Department of Defense; and

(B) allocated to a specific program only upon a determination by an independent board, charged with comparing contractor performance across programs, that such fees have been earned by the contractor for such program.

(3) REPORT.—The Secretary shall submit to the congressional defense committees a report on the assessment conducted pursuant to paragraph (1) not later than one year after the date of the enactment of this Act.

**SEC. 815. REPORT ON DEFENSE INSTRUCTION RELATING TO CONTRACTOR PERSONNEL AUTHORIZED TO ACCOMPANY ARMED FORCES.**

(a) REPORT ON IMPLEMENTATION OF INSTRUCTION.—The Secretary of Defense shall submit to Congress a report on the Department of Defense instruction described in subsection (c).

(b) MATTERS COVERED.—The report shall include the following:

(1) Information on the status of the implementation of the instruction.

(2) A discussion of how the instruction is being applied to—

(A) contracts in existence on the date the instruction was issued, including contracts with respect to which an option to extend is exercised after such date;

(B) task orders issued under such contracts after the date referred to in subparagraph (A); and

(C) contracts entered into after the date referred to in subparagraph (A).

(3) An analysis of the effectiveness of the instruction.

(4) A review of compliance with the instruction.

(c) INSTRUCTION DESCRIBED.—The instruction referred to in this section is Department of Defense Instruction Number 3020.14, titled "Contractor Personnel Authorized to Accompany the United States Armed Forces".

**SEC. 816. MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.**

(a) REPORTS AND INFORMATION ON PROGRAM COST AND PERFORMANCE.—

(1) IN GENERAL.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 144 the following new chapter:

## "CHAPTER 144A—MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS

"Sec.
"2445a. Major automated information system program defined.
"2445b. Cost, schedule, and performance information.
"2445c. Reports: quarterly reports; reports on program changes.
"2445d. Construction with other reporting requirements.

**"§ 2445a. Major automated information system program defined**

"(a) IN GENERAL.—In this chapter, the term 'major automated information system program' means a Department of Defense program for the acquisition of an automated information system (either as a product or a service) if—

"(1) the program is designated by the Secretary of Defense, or a designee of the Secretary, as a major automated information system program; or

"(2) the dollar value of the program is estimated to exceed—

"(A) $32,000,000 in fiscal year 2000 constant dollars for all program costs in a single fiscal year;

"(B) $126,000,000 in fiscal year 2000 constant dollars for all program acquisition costs for the entire program; or

"(C) $378,000,000 in fiscal year 2000 constant dollars for the total life-cycle costs of the program (including operation and maintenance costs).

"(b) ADJUSTMENT.—The Secretary of Defense may adjust the amounts (and base fiscal year) set forth in subsection (a) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the congressional defense committees.

"(c) INCREMENTS.—In the event any increment of a major automated information system program separately meets the requirements for treatment as a major automated information system program, the provisions of this chapter shall apply to such increment as well as to the overall major automated information system program of which such increment is a part.

**"§ 2445b. Cost, schedule, and performance information**

"(a) SUBMITTAL OF COST, SCHEDULE, AND PERFORMANCE INFORMATION.—The Secretary of Defense shall submit to Congress each calendar year, not later than 45 days after the President submits to Congress the budget for a fiscal year under section 1105 of title 31, budget justification documents regarding cost, schedule, and performance for each major automated information system program for which funds are requested by the President in the budget. Deadline.

"(b) ELEMENTS.—The documents submitted under subsection (a) with respect to a major automated information system program shall include detailed and summarized information with respect to the automated information system to be acquired under the program, and shall specifically include each of the following:

"(1) The development schedule, including major milestones.

"(2) The implementation schedule, including estimates of milestone dates, initial operational capability, and full operational capability.

"(3) Estimates of development costs and full life-cycle costs.

"(4) A summary of key performance parameters.

"(c) BASELINE.—(1) For purposes of this chapter, the initial submittal to Congress of the documents required by subsection (a) with respect to a major automated information system program shall constitute the original estimate or information originally submitted on such program for purposes of the reports and determinations on program changes in section 2445c of this title.

"(2) An adjustment or revision of the original estimate or information originally submitted on a program may be treated as the original estimate or information originally submitted on the program if the adjustment or revision is the result of a critical change in the program covered by section 2445c(d) of this title.

"(3) In the event of an adjustment or revision to the original estimate or information originally submitted on a program under paragraph (2), the Secretary of Defense shall include in the next budget justification documents submitted under subsection (a) after such adjustment or revision a notification to the congressional defense committees of such adjustment or revision, together with the reasons for such adjustment or revision.

**"§ 2445c. Reports: quarterly reports; reports on program changes**

"(a) QUARTERLY REPORTS BY PROGRAM MANAGERS.—The program manager of a major automated information system program shall, on a quarterly basis, submit to the senior Department of Defense official responsible for the program a written report identifying any variance in the projected development schedule, implementation schedule, life-cycle costs, or key performance parameters for the major automated information system to be acquired under the program from such information as originally submitted to Congress under section 2445b of this title.

"(b) SENIOR OFFICIALS RESPONSIBLE FOR PROGRAMS.—For purposes of this section, the senior Department of Defense official responsible for a major automated information system program is—

"(1) in the case of an automated information system to be acquired for a military department, the senior acquisition executive for the military department; or

"(2) in the case of any other automated information system to be acquired for the Department of Defense or any component of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(c) REPORT ON SIGNIFICANT CHANGES IN PROGRAM.—

Notification.

"(1) IN GENERAL.—If, based on a quarterly report submitted by the program manager of a major automated information system program pursuant to subsection (a), the senior Department of Defense official responsible for the program makes a determination described in paragraph (2), the official shall, not later than 45 days after receiving such report, notify the congressional defense committees in writing of such determination.

"(2) COVERED DETERMINATION.—A determination described in this paragraph with respect to a major automated information system program is a determination that—

"(A) there has been a schedule change that will cause a delay of more than six months but less than a year in any program schedule milestone or significant event from the schedule originally submitted to Congress under paragraph (1) or (2) of section 2445b(b) of this title;

"(B) the estimated program development cost or full life-cycle cost for the program has increased by at least 15 percent, but less than 25 percent, over the original estimate submitted to Congress under paragraph (3) of section 2445b(b) of this title; or

"(C) there has been a significant, adverse change in the expected performance of the major automated information system to be acquired under the program from the parameters originally submitted to Congress under paragraph (4) of section 2445b(b) of this title.

"(d) REPORT ON CRITICAL CHANGES IN PROGRAM.—

"(1) IN GENERAL.—If, based on a quarterly report submitted by the program manager of a major automated information system program pursuant to subsection (a), the senior Department of Defense official responsible for the program makes a determination described in paragraph (2), the official shall, not later than 60 days after receiving such report—

"(A) carry out an evaluation of the program under subsection (e); and

"(B) submit, through the Secretary of Defense, to the congressional defense committees a report meeting the requirements of subsection (f).

"(2) COVERED DETERMINATION.—A determination described in this paragraph with respect to a major automated information system program is a determination that—

"(A) the system failed to achieve initial operational capability within five years of milestone A approval;

"(B) there has been a schedule change that will cause a delay of one year or more in any program schedule milestone or significant event from the schedule originally submitted to Congress under paragraph (1) or (2) of section 2445b(b) of this title;

"(C) the estimated program development cost or full life-cycle cost for the program has increased by 25 percent or more over the original estimate submitted to Congress under paragraph (3) of section 2445b(b) of this title; or

"(D) there has been a change in the expected performance of the major automated information system to be acquired under the program that will undermine the ability of the system to perform the functions anticipated at the time information on the program was originally submitted to Congress under section 2445b(b) of this title.

"(e) PROGRAM EVALUATION.—The evaluation of a major automated information system program conducted under this subsection for purposes of subsection (d)(1)(A) shall include an assessment of—

"(1) the projected cost and schedule for completing the program if current requirements are not modified;

"(2) the projected cost and schedule for completing the program based on reasonable modification of such requirements; and

"(3) the rough order of magnitude of the cost and schedule for any reasonable alternative system or capability.

"(f) REPORT ON CRITICAL PROGRAM CHANGES.—A report on a major automated information system program conducted under this subsection for purposes of subsection (d)(1)(B) shall include a written certification (with supporting explanation) stating that— Certification.

"(1) the automated information system to be acquired under the program is essential to the national security or to the efficient management of the Department of Defense;

"(2) there is no alternative to the system which will provide equal or greater capability at less cost;

"(3) the new estimates of the costs, schedule, and performance parameters with respect to the program and system are reasonable; and

"(4) the management structure for the program is adequate to manage and control program costs.

"(g) PROHIBITION ON OBLIGATION OF FUNDS.—(1) If the determination of a critical change to a program is made by the senior Department official responsible for the program under subsection (d)(2) and a report is not submitted to Congress within the 60-day period provided by subsection (d)(1), appropriated funds may not be obligated for any major contract under the program.

Applicability. Termination date.

"(2) The prohibition on the obligation of funds for a program under paragraph (1) shall cease to apply on the date on which Congress has received a report in compliance with the requirements of subsection (d)(2).

**"§ 2445d. Construction with other reporting requirements**

"In the case of a major automated information system program covered by this chapter that is also treatable as a major defense acquisition program for which reports would be required under chapter 144 of this title, no reports on the program are required under such chapter if the requirements of this chapter with respect to the program are met.".

(2) CLERICAL AMENDMENTS.—The tables of chapters the beginning of subtitle A of such title, and of part IV of subtitle A of such title, are each amended by inserting after the item relating to chapter 144 the following new item:

"144A. Major Automated Information System Programs .....2445a".

(b) REPORT ON REPORTING REQUIREMENTS APPLICABLE TO MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the reporting requirements applicable to major automated information system programs as of the date of the report, including a specification of such reporting requirements considered by the Secretary to be duplicative or redundant.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on January 1, 2008, and shall apply with respect to any major automated information system program for which amounts are requested in the budget of the President (as submitted to Congress under section 1105 of title 31, United States Code) for a fiscal year after fiscal year 2008, regardless of whether the acquisition of the automated information system to be acquired under the program was initiated before, on, or after January 1, 2008.

(2) REPORT REQUIREMENT.—Subsection (b) shall take effect on the date of the enactment of this Act.

**SEC. 817. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE BY CERTAIN NON-DEFENSE AGENCIES.**

(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

Deadline.

(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2007, jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) determine in writing whether—

(i) such non-defense agency is compliant with defense procurement requirements;

(ii) such non-defense agency is not compliant with defense procurement requirements, but has a program or initiative to significantly improve compliance with defense procurement requirements;

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency; or

(iv) such non-defense agency is not compliant with defense procurement requirements to such an extent that the interests of the Department of Defense are at risk in procurements conducted by such non-defense agency.

(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that a conclusion stated in clause (ii), (iii), or (iv) of subparagraph (B) of that paragraph is correct in the case of a covered non-defense agency, such Inspectors General shall, not later than June 15, 2008, jointly— Deadline.

(A) conduct a second review, as described in subparagraph (A) of that paragraph, regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2007; and

(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a covered non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the Department of Defense and the Inspector General of each covered non-defense agency shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section. Deadline.

(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by mutual agreement conduct separate

reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraph (1) or (2) of subsection (a), as applicable, with respect to each such separate review.

Deadlines.

(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2007, and before June 16, 2008, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency for which a determination described in clause (iii) or (iv) of paragraph (1)(B) of subsection (a) has been made under subsection (a).

(2) LIMITATION AFTER REVIEW PERIOD.—After June 15, 2008, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

(3) LIMITATION FOLLOWING FAILURE TO REACH MOU.—Commencing on the date that is 60 days after the date of the enactment of this Act, if a memorandum of understanding between the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency cannot be attained causing the review required by this section to not be performed, no official of the Department of Defense, except as provided in subsection (e) or (f), may order, purchase or otherwise procure property or services in an amount in excess of $100,000 through such non-defense agency.

(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a covered non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a covered non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a covered non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of such non-defense agency jointly—

(1) determine that such non-defense agency is compliant with defense procurement requirements; and

(2) notify the Secretary of Defense of that determination. Notification.

(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR.—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

(h) RESOLUTION OF DISAGREEMENTS.—If the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency are unable to agree on a joint determination under subsection (a) or (f), a determination by the Inspector General of the Department of Defense under such subsection shall be conclusive for the purposes of this section.

(i) DEFINITIONS.—In this section:

(1) The term "covered non-defense agency" means each of the following:

(A) The Department of Veterans Affairs.

(B) The National Institutes of Health.

(2) The term "governmentwide acquisition contract", with respect to a covered non-defense agency, means a task or delivery order contract that—

(A) is entered into by the non-defense agency; and

(B) may be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

**SEC. 818. DETERMINATION OF CONTRACT TYPE FOR DEVELOPMENT PROGRAMS.**

(a) REPEAL OF SUPERSEDED REQUIREMENTS.—Section 807 of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 2304 note) is repealed.

(b) MODIFICATION OF REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall modify the regulations of the Department of Defense regarding the determination of contract type for development programs. Deadline.

(c) ELEMENTS.—As modified under subsection (b), the regulations shall require the Milestone Decision Authority for a major defense acquisition program to select the contract type for a development program at the time of a decision on Milestone B approval (or Key Decision Point B approval in the case of a space program) that is consistent with the level of program risk for the program. The Milestone Decision Authority may select—

(1) a fixed-price type contract (including a fixed price incentive contract); or

(2) a cost type contract.

(d) CONDITIONS WITH RESPECT TO AUTHORIZATION OF COST TYPE CONTRACT.—As modified under subsection (b), the regulations shall provide that the Milestone Decision Authority may authorize the use of a cost type contract under subsection (c) for a development program only upon a written determination that—

(1) the program is so complex and technically challenging that it would not be practicable to reduce program risk to a level that would permit the use of a fixed-price type contract; and

(2) the complexity and technical challenge of the program is not the result of a failure to meet the requirements established in section 2366a of title 10, United States Code.

(e) JUSTIFICATION FOR SELECTION OF CONTRACT TYPE.—As modified under subsection (b), the regulations shall require the Milestone Decision Authority to document the basis for the contract type selected for a program. The documentation shall include an explanation of the level of program risk for the program and, if the Milestone Decision Authority determines that the level of program risk is high, the steps that have been taken to reduce program risk and reasons for proceeding with Milestone B approval despite the high level of program risk.

**SEC. 819. THREE-YEAR EXTENSION OF REQUIREMENT FOR REPORTS ON COMMERCIAL PRICE TREND ANALYSES OF THE DEPARTMENT OF DEFENSE.**

Section 803(c)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (10 U.S.C. 2306a note) is amended by striking "2006" and inserting "2009".

**SEC. 820. GOVERNMENT PERFORMANCE OF CRITICAL ACQUISITION FUNCTIONS.**

Deadline.

(a) GOAL.—It shall be the goal of the Department of Defense and each of the military departments to ensure that, within five years after the date of the enactment of this Act, for each major defense acquisition program and each major automated information system program, each of the following positions is performed by a properly qualified member of the Armed Forces or full-time employee of the Department of Defense:

(1) Program manager.
(2) Deputy program manager.
(3) Chief engineer.
(4) Systems engineer.
(5) Cost estimator.

Deadline.

(b) PLAN OF ACTION.—Not later than six months after the date of enactment of this Act, the Secretary of Defense shall develop and begin implementation of a plan of action for recruiting, training, and ensuring appropriate career development of military and civilian personnel to achieve the objective established in subsection (a). The plan of action required by this subsection shall include specific, measurable interim milestones.

(c) REPORTS.—Not later than one year after the date of the enactment of this Act and each year thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made by the Department of Defense and the military departments toward achieving the goal established in subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term "major defense acquisition program" has the meaning given such term in section 2430(a) of title 10, United States Code.

(2) The term "major automated information system program" has the meaning given such term in section 2445a(a) of title 10, United States Code (as added by section 816 of this Act).

# Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

**SEC. 831. ONE-YEAR EXTENSION OF SPECIAL TEMPORARY CONTRACT CLOSEOUT AUTHORITY.**

Section 804(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1542) is amended by striking "September 30, 2006" and inserting "September 30, 2007".

**SEC. 832. LIMITATION ON CONTRACTS FOR THE ACQUISITION OF CERTAIN SERVICES.**

(a) LIMITATION.—Except as provided in subsection (b), the Secretary of Defense may not enter into a service contract to acquire a military flight simulator.

(b) WAIVER.—The Secretary of Defense may waive subsection (a) with respect to a contract if the Secretary—

(1) determines that a waiver is necessary for national security purposes; and

(2) provides to the congressional defense committees an economic analysis as described in subsection (c) at least 30 days before the waiver takes effect.

(c) ECONOMIC ANALYSIS.—The economic analysis provided under subsection (b) shall include, at a minimum, the following:

(1) A clear explanation of the need for the contract.

(2) An examination of at least two alternatives for fulfilling the requirements that the contract is meant to fulfill, including the following with respect to each alternative:

(A) A rationale for including the alternative.

(B) A cost estimate of the alternative and an analysis of the quality of each cost estimate.

(C) A discussion of the benefits to be realized from the alternative.

(D) A best value determination of each alternative and a detailed explanation of the life-cycle cost calculations used in the determination.

(d) DEFINITIONS.—In this section:

(1) The term "military flight simulator" means any major system to simulate the form, fit, and function of a military aircraft that has no commonly available commercial variant.

(2) The term "service contract" means any contract entered into by the Department of Defense the principal purpose of which is to furnish services in the United States through the use of service employees.

(3) The term "service employees" has the meaning provided in section 8(b) of the Service Contract Act of 1965 (41 U.S.C. 357(b)).

**SEC. 833. USE OF FEDERAL SUPPLY SCHEDULES BY STATE AND LOCAL GOVERNMENTS FOR GOODS AND SERVICES FOR RECOVERY FROM NATURAL DISASTERS, TERRORISM, OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.**

(a) AUTHORITY TO USE SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

"(d) USE OF SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.—

"(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for goods or services that are to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

"(2) DETERMINATION BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall determine which goods and services qualify as goods and services described in paragraph (1) before the Administrator provides for the use of the Federal supply schedule relating to such goods and services.

"(3) VOLUNTARY USE.—In the case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

"(4) DEFINITIONS.—The definitions in subsection (c)(3) shall apply for purposes of this subsection.".

Deadline.

(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement subsection (d) of section 502 of title 40, United States Code (as added by subsection (a)).

**SEC. 834. WAIVERS TO EXTEND TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.**

(a) DEFENSE CONTRACTS.—

(1) WAIVER AUTHORITY.—The head of an agency may issue a waiver to extend a task order contract entered into under section 2304b of title 10, United States Code, for a period not exceeding 10 years, through five one-year options, if the head of the agency determines in writing—

(A) that the contract provides engineering or technical services of such a unique and substantial technical nature that award of a new contract would be harmful to the continuity of the program for which the services are performed;

(B) that award of a new contract would create a large disruption in services provided to the Department of Defense; and

(C) that the Department of Defense would, through award of a new contract, endure program risk during critical program stages due to loss of program corporate knowledge of ongoing program activities.

(2) DELEGATION.—The authority of the head of an agency under paragraph (1) may be delegated only to the senior procurement executive of the agency.

(3) REPORT.—Not later than April 1, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on advisory and assistance services. The report shall include the following information:

(A) The methods used by the Department of Defense to identify a contract as an advisory and assistance services contract, as defined in section 2304b of title 10, United States Code.

(B) The number of such contracts awarded by the Department during the five-year period preceding the date of the enactment of this Act.

(C) The average annual expenditures by the Department for such contracts.

(D) The average length of such contracts.

(E) The number of such contracts recompeted and awarded to the previous award winner.

(4) PROHIBITION ON USE OF AUTHORITY BY DEPARTMENT OF DEFENSE IF REPORT NOT SUBMITTED.—The head of an agency may not issue a waiver under paragraph (1) if the report required by paragraph (3) is not submitted by the date set forth in that paragraph.

(b) CIVILIAN AGENCY CONTRACTS.—

(1) WAIVER AUTHORITY.—The head of an executive agency may issue a waiver to extend a task order contract entered into under section 303I of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253i) for a period not exceeding 10 years, through five one-year options, if the head of the agency determines in writing—

(A) that the contract provides engineering or technical services of such a unique and substantial technical nature that award of a new contract would be harmful to the continuity of the program for which the services are performed;

(B) that award of a new contract would create a large disruption in services provided to the executive agency; and

(C) that the executive agency would, through award of a new contract, endure program risk during critical program stages due to loss of program corporate knowledge of ongoing program activities.

(2) DELEGATION.—The authority of the head of an executive agency under paragraph (1) may be delegated only to the Chief Acquisition Officer of the agency (or the senior procurement executive in the case of an agency for which a Chief Acquisition Officer has not been appointed or designated under section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a))).

(3) REPORT.—Not later than April 1, 2007, the Administrator for Federal Procurement Policy shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on advisory and assistance services. The report shall include the following information:

(A) The methods used by executive agencies to identify a contract as an advisory and assistance services contract, as defined in section 303I(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253i(i)).

(B) The number of such contracts awarded by each executive agency during the five-year period preceding the date of the enactment of this Act.

(C) The average annual expenditures by each executive agency for such contracts.

(D) The average length of such contracts.

(E) The number of such contracts recompeted and awarded to the previous award winner.

(4) PROHIBITION ON USE OF AUTHORITY BY EXECUTIVE AGENCIES IF REPORT NOT SUBMITTED.—The head of an executive agency may not issue a waiver under paragraph (1) if the report required by paragraph (3) is not submitted by the date set forth in that paragraph.

Deadline.

(c) TERMINATION OF AUTHORITY.—A waiver may not be issued under this section after December 31, 2011.

(d) COMPTROLLER GENERAL REVIEW.—

(1) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the committees described in paragraph (3) a report on the use of advisory and assistance services contracts by the Federal Government.

(2) DEFENSE AND CIVILIAN AGENCY CONTRACTS COVERED.—The report shall cover both of the following:

(A) Advisory and assistance services contracts as defined in section 2304b of title 10, United States Code.

(B) Advisory and assistance services contracts as defined in section 303I(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253i(i)).

(3) MATTERS COVERED.—The report shall address the following issues:

(A) The extent to which executive agencies and elements of the Department of Defense require advisory and assistance services for periods of greater than five years.

(B) The extent to which such advisory and assistance services are provided by the same contractors under recurring contracts.

(C) The rationale for contracting for advisory and assistance services that will be needed on a continuing basis, rather than performing the services inside the Federal Government.

(D) The contract types and oversight mechanisms used by the Federal Government in contracts for advisory and assistance services and the extent to which such contract types and oversight mechanisms are adequate to protect the interests of the Government and taxpayers.

(E) The actions taken by the Federal Government to prevent organizational conflicts of interest and improper personal services contracts in its contracts for advisory and assistance services.

(4) COMMITTEES.—The committees described in this paragraph are the following:

(A) The Committees on Armed Services and on Homeland Security and Governmental Affairs of the Senate.

(B) The Committees on Armed Services and on Government Reform of the House of Representatives.

# Subtitle D—United States Defense Industrial Base Provisions

**SEC. 841. ASSESSMENT AND ANNUAL REPORT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES AND ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.**

Section 812 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1542) is amended—

(1) by amending the heading to read as follows:

**"SEC. 812. ASSESSMENT AND ANNUAL REPORT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES AND ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.";**

(2) by adding at the end of subsection (c)(2)(A) the following new clauses:

"(v) The dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States.

"(vi) An itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.).

"(vii) A summary of—

"(I) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

"(II) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States."; and

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

"(d) PUBLIC AVAILABILITY.—The Secretary of Defense shall make the report submitted under subsection (c) publicly available to the maximum extent practicable.

"(e) APPLICABILITY.—This section shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).".

**SEC. 842. PROTECTION OF STRATEGIC MATERIALS CRITICAL TO NATIONAL SECURITY.**

(a) REQUIREMENT TO BUY FROM AMERICAN SOURCES.—

(1) IN GENERAL.—Subchapter V of chapter 148 of title 10, United States Code, is amended by inserting after section 2533a the following new section:

**"§ 2533b. Requirement to buy strategic materials critical to national security from American sources; exceptions**

"(a) REQUIREMENT.—Except as provided in subsections (b) through (j), funds appropriated or otherwise available to the Department of Defense may not be used for procurement of—

"(1) the following types of end items, or components thereof, containing a specialty metal not melted or produced in the United States: aircraft, missile and space systems, ships, tank and automotive items, weapon systems, or ammunition; or

"(2) a specialty metal that is not melted or produced in the United States and that is to be purchased directly by the Department of Defense or a prime contractor of the Department.

"(b) AVAILABILITY EXCEPTION.—(1) Subsection (a) does not apply to the extent that the Secretary of Defense or the Secretary of the military department concerned determines that compliant specialty metal of satisfactory quality and sufficient quantity, and in the required form, cannot be procured as and when needed. For purposes of the preceding sentence, the term 'compliant specialty metal' means specialty metal melted or produced in the United States.

"(2) This subsection applies to prime contracts and subcontracts at any tier under such contracts.

"(c) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

"(1) Procurements outside the United States in support of combat operations or in support of contingency operations.

"(2) Procurements for which the use of procedures other than competitive procedures has been approved on the basis of section 2304(c)(2) of this title, relating to unusual and compelling urgency of need.

"(d) EXCEPTION RELATING TO AGREEMENTS WITH FOREIGN GOVERNMENTS.—Subsection (a)(1) does not preclude the procurement of a specialty metal if—

"(1) the procurement is necessary—

"(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

"(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

"(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title.

"(e) EXCEPTION FOR COMMISSARIES, EXCHANGES, AND OTHER NONAPPROPRIATED FUND INSTRUMENTALITIES.—Subsection (a) does not apply to items purchased for resale purposes in commissaries, exchanges, and nonappropriated fund instrumentalities operated by the Department of Defense.

"(f) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to procurements in amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of this title.

"(g) EXCEPTION FOR PURCHASES OF ELECTRONIC COMPONENTS.—Subsection (a) does not apply to procurements of commercially available electronic components whose specialty metal content is

de minimis in value compared to the overall value of the lowest level electronic component produced that contains such specialty metal.

"(h) APPLICABILITY TO PROCUREMENTS OF COMMERCIAL ITEMS.—This section applies to procurements of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

"(i) SPECIALTY METAL DEFINED.—In this section, the term 'specialty metal' means any of the following:

"(1) Steel—

"(A) with a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

"(B) containing more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium.

"(2) Metal alloys consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 percent.

"(3) Titanium and titanium alloys.

"(4) Zirconium and zirconium base alloys.

"(j) ADDITIONAL DEFINITIONS.—In this section:

"(1) The term 'United States' includes possessions of the United States.

"(2) The term 'component' has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2533b. Requirement to buy strategic materials critical to national security from American sources; exceptions.".

(3) CONFORMING AMENDMENTS.—Section 2533a of title 10, United States Code, is amended—

(A) by striking paragraph (2) of subsection (b) and redesignating paragraph (3) of such subsection as paragraph (2);

(B) in subsection (c), by striking "or specialty metals (including stainless steel flatware)"; and

(C) in subsection (e)—

(i) by striking "SPECIALTY METALS AND" in the heading; and

(ii) by striking "specialty metals or".

(4) EFFECTIVE DATES.—

(A) Section 2533b of title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts entered into after the date occurring 30 days after the date of the enactment of this Act.

(B) The amendments made by paragraph (3) shall take effect on the date occurring 30 days after the date of the enactment of this Act.

(b) ONE-TIME WAIVER OF SPECIALTY METALS DOMESTIC SOURCE REQUIREMENT.—

(1) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may accept specialty metals if such

metals were incorporated into items produced, manufactured, or assembled in the United States before the date of the enactment of this Act with respect to which the contracting officer for the contract determines that the contractor is not in compliance with section 2533b of title 10, United States Code (as added by subsection (a)(1)), if—

(A) the contracting officer for the contract determines in writing that—

(i) it would not be practical or economical to remove or replace the specialty metals incorporated in such items or to substitute items containing compliant materials;

(ii) the prime contractor and subcontractor responsible for providing items containing non-compliant materials have in place an effective plan to ensure compliance with section 2533b of title 10, United States Code (as so added), with regard to items containing specialty metals if such metals were incorporated into items produced, manufactured, or assembled in the United States after the date of the enactment of this Act; and

(iii) the non-compliance is not knowing or willful; and

(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics or the service acquisition executive of the military department concerned approves the determination.

Deadline.
Website.

(2) NOTICE.—Not later than 15 days after a contracting officer makes a determination under paragraph (1)(A) with respect to a contract, the contracting officer shall post a notice on FedBizOpps.gov that a waiver has been granted for the contract under this subsection.

(3) DEFINITION.—In this subsection, the term "FedBizOpps.gov" means the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site).

(4) TERMINATION OF AUTHORITY.—A contracting officer may exercise the authority under this subsection only with respect to the delivery of items the final acceptance of which takes place after the date of the enactment of this Act and before September 30, 2010.

**SEC. 843. STRATEGIC MATERIALS PROTECTION BOARD.**

(a) IN GENERAL.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 187. Strategic Materials Protection Board**

"(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Strategic Materials Protection Board.

"(2) The Board shall be composed of representatives of the following:

"(A) The Secretary of Defense, who shall be the chairman of the Board.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(C) The Under Secretary of Defense for Intelligence.

"(D) The Secretary of the Army.

"(E) The Secretary of the Navy.

"(F) The Secretary of the Air Force.

"(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Board shall—

"(1) determine the need to provide a long term domestic supply of materials designated as critical to national security to ensure that national defense needs are met;

"(2) analyze the risk associated with each material designated as critical to national security and the effect on national defense that the nonavailability of such material from a domestic source would have;

"(3) recommend a strategy to the President to ensure the domestic availability of materials designated as critical to national security;

"(4) recommend such other strategies to the President as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security; and

"(5) publish not less frequently than once every two years in the Federal Register recommendations regarding materials critical to national security, including a list of specialty metals, if any, recommended for addition to, or removal from, the definition of 'specialty metal' for purposes of section 2533b of this title.

Federal Register, publication.

"(c) MEETINGS.—The Board shall meet as determined necessary by the Secretary of Defense but not less frequently than once every two years to make recommendations regarding materials critical to national security as described in subsection (b)(5).

"(d) REPORTS.—After each meeting of the Board, the Board shall prepare and submit to Congress a report containing the results of the meeting and such recommendations as the Board determines appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"187. Strategic Materials Protection Board.".

(c) FIRST MEETING OF BOARD.—The first meeting of the Strategic Materials Protection Board, established by section 187 of title 10, United States Code (as added by subsection (a)) shall be not later than 180 days after the date of the enactment of this Act.

Deadline.

# Subtitle E—Other Matters

### SEC. 851. REPORT ON FORMER DEPARTMENT OF DEFENSE OFFICIALS EMPLOYED BY CONTRACTORS OF THE DEPARTMENT OF DEFENSE.

(a) REPORT REQUIRED.—Not later than December 1, 2007, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the employment of former officials of the Department of Defense by major defense contractors during the most recent calendar year for which, in the judgment of the Comptroller General, data are reasonably available. The report shall assess the extent to which

former officials of the Department of Defense who served in acquisition-related positions were provided compensation by major defense contractors during such calendar year.

(b) OBJECTIVES OF REPORT.—The objectives of the report required by subsection (a) shall be to determine the effectiveness of existing statutes and regulations governing the employment of former Department of Defense officials by defense contractors, including section 207 of title 18, United States Code, and section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). At a minimum, the report shall assess the extent to which such former officials who receive compensation from defense contractors have been assigned by those contractors to work on—

(1) Department of Defense contracts or programs for which such former officials personally had program oversight responsibility or decision-making authority when they served in the Department of Defense; or

(2) Department of Defense contracts or programs which are the responsibility of the agency, office, or command in which such former officials served in the Department of Defense.

(c) CONFIDENTIALITY REQUIREMENT.—The report required by subsection (a) shall not include the names of specific former Department of Defense officials who receive compensation from defense contractors or information from which such individuals could be identified.

(d) ACCESS TO INFORMATION.—In accordance with the contract clause required pursuant to section 2313(c) of title 10, United States Code, a major defense contractor shall provide the Comptroller General access to information requested by the Comptroller General for the purpose of this review regarding former officials of the Department of Defense who have received compensation from the contractor during the relevant calendar year.

(e) DEFINITIONS.—In this section:

(1) MAJOR DEFENSE CONTRACTOR.—The term "major defense contractor" includes any company that received more than $500,000,000 in contract awards from the Department of Defense in fiscal year 2005.

(2) FORMER DEPARTMENT OF DEFENSE OFFICIAL.—The term "former Department of Defense official" means either of the following:

(A) A former Department of Defense employee.

(B) A former or retired member of the Armed Forces.

**SEC. 852. REPORT AND REGULATIONS ON EXCESSIVE PASS-THROUGH CHARGES.**

(a) COMPTROLLER GENERAL REPORT ON EXCESSIVE PASS-THROUGH CHARGES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall issue a report on pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense.

(2) MATTERS COVERED.—The report issued under this subsection—

(A) shall assess the extent to which the Department of Defense has paid excessive pass-through charges to contractors who provided little or no value to the performance of the contract;

(B) shall assess the extent to which the Department has been particularly vulnerable to excessive pass-through charges on any specific category of contracts or by any specific category of contractors (including any category of small business); and

(C) shall determine the extent to which any prohibition on excessive pass-through charges would be inconsistent with existing commercial practices for any specific category of contracts or have an unjustified adverse effect on any specific category of contractors (including any category of small business).

(b) REGULATIONS REQUIRED.—

(1) IN GENERAL.—Not later than May 1, 2007, the Secretary of Defense shall prescribe regulations to ensure that pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. Deadline.

(2) SCOPE OF REGULATIONS.—The regulations prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is—

(i) awarded on the basis of adequate price competition; or

(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(B) may include such additional exceptions as the Secretary determines to be necessary in the interest of the national defense.

(3) DEFINITION.—In this section, the term "excessive pass-through charge", with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor (other than charges for the direct costs of managing lower-tier contracts and subcontracts and overhead and profit based on such direct costs).

(4) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the steps taken to implement the requirements of this subsection, including—

(A) any standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

(B) any procedures established for preventing excessive pass-through charges; and

(C) any exceptions determined by the Secretary to be necessary in the interest of the national defense.

(5) EFFECTIVE DATE.—The regulations prescribed under this subsection shall apply to contracts awarded for or on behalf of the Department of Defense on or after May 1, 2007.

**SEC. 853. PROGRAM MANAGER EMPOWERMENT AND ACCOUNTABILITY.**

(a) STRATEGY.—The Secretary of Defense shall develop a comprehensive strategy for enhancing the role of Department of Defense program managers in developing and carrying out defense acquisition programs.

(b) MATTERS TO BE ADDRESSED.—The strategy required by this section shall address, at a minimum—

(1) enhanced training and educational opportunities for program managers;

(2) increased emphasis on the mentoring of current and future program managers by experienced senior executives and program managers within the Department;

(3) improved career paths and career opportunities for program managers;

(4) additional incentives for the recruitment and retention of highly qualified individuals to serve as program managers;

(5) improved resources and support (including systems engineering expertise, cost estimating expertise, and software development expertise) for program managers;

(6) improved means of collecting and disseminating best practices and lessons learned to enhance program management throughout the Department;

(7) common templates and tools to support improved data gathering and analysis for program management and oversight purposes;

(8) increased accountability of program managers for the results of defense acquisition programs; and

(9) enhanced monetary and nonmonetary awards for successful accomplishment of program objectives by program managers.

Deadline.

(c) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS BEFORE MILESTONE B.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the qualifications, resources, responsibilities, tenure, and accountability of program managers for the program development period (before Milestone B approval (or Key Decision Point B approval in the case of a space program)).

Deadline.

(d) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS AFTER MILESTONE B.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the qualifications, resources, responsibilities, tenure and accountability of program managers for the program execution period (from Milestone B approval (or Key Decision Point B approval in the case of a space program) until the delivery of the first production units of a program). The guidance issued pursuant to this subsection shall address, at a minimum—

(1) the need for a performance agreement between a program manager and the milestone decision authority for the program, setting forth expected parameters for cost, schedule, and performance, and appropriate commitments by the program

manager and the milestone decision authority to ensure that such parameters are met;

(2) authorities available to the program manager, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established at Milestone B (or Key Decision Point B in the case of a space program) and reflected in the performance agreement; and

(3) the extent to which a program manager for such period should continue in the position without interruption until the delivery of the first production units of the program.

(e) REPORTS.—

(1) REPORT BY SECRETARY OF DEFENSE.—Not later than 270 days after the date of enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the strategy developed pursuant to subsection (a) and the guidance issued pursuant to subsections (b) and (c).

(2) REPORT BY COMPTROLLER GENERAL.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the actions taken by the Secretary of Defense to implement the requirements of this section.

**SEC. 854. JOINT POLICIES ON REQUIREMENTS DEFINITION, CONTINGENCY PROGRAM MANAGEMENT, AND CONTINGENCY CONTRACTING.**

(a) IN GENERAL.—

(1) JOINT POLICY REQUIREMENT.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2333. Joint policies on requirements definition, contingency program management, and contingency contracting**

"(a) JOINT POLICY REQUIREMENT.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop joint policies for requirements definition, contingency program management, and contingency contracting during combat operations and post-conflict operations.

"(b) REQUIREMENTS DEFINITION MATTERS COVERED.—The joint policy for requirements definition required by subsection (a) shall, at a minimum, provide for the following:

"(1) The assignment of a senior commissioned officer or civilian member of the senior executive service, with appropriate experience and qualifications related to the definition of requirements to be satisfied through acquisition contracts (such as for delivery of products or services, performance of work, or accomplishment of a project), to act as head of requirements definition and coordination during combat operations, post-conflict operations, and contingency operations, if required, including leading a requirements review board involving all organizations concerned.

"(2) An organizational approach to requirements definition and coordination during combat operations, post-conflict operations, and contingency operations that is designed to ensure that requirements are defined in a way that effectively implements United States Government and Department of Defense

objectives, policies, and decisions regarding the allocation of resources, coordination of interagency efforts in the theater of operations, and alignment of requirements with the proper use of funds.

"(c) CONTINGENCY PROGRAM MANAGEMENT MATTERS COVERED.—The joint policy for contingency program management required by subsection (a) shall, at a minimum, provide for the following:

"(1) The assignment of a senior commissioned officer or civilian member of the senior executive service, with appropriate program management experience and qualifications, to act as head of program management during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving multiple United States Government agencies and international organizations, if required.

"(2) A preplanned organizational approach to program management during combat operations, post-conflict operations, and contingency operations that is designed to ensure that the Department of Defense is prepared to conduct such program management.

"(3) Identification of a deployable cadre of experts, with the appropriate tools and authority, and trained in processes under paragraph (6).

"(4) Utilization of the hiring and appointment authorities necessary for the rapid deployment of personnel to ensure the availability of key personnel for sufficient lengths of time to provide for continuing program and project management.

"(5) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to program management personnel in—

"(A) the use of laws, regulations, policies, and directives related to program management in combat or contingency environments;

"(B) the integration of cost, schedule, and performance objectives into practical acquisition strategies aligned with available resources and subject to effective oversight; and

"(C) procedures of the Department of Defense related to funding mechanisms and contingency contract management.

"(6) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

"(7) Such steps as may be needed to ensure jointness and cross-service coordination in the area of program management during contingency operations.

"(d) CONTINGENCY CONTRACTING MATTERS COVERED.—(1) The joint policy for contingency contracting required by subsection (a) shall, at a minimum, provide for the following:

"(A) The designation of a senior commissioned officer or civilian member of the senior executive service in each military department with the responsibility for administering the policy.

"(B) The assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report

directly to the commander of the combatant command in whose area of responsibility the operations occur.

"(C) A sourcing approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency contracting during combat operations, post-conflict operations, and contingency operations, including stabilization and reconstruction operations involving interagency organizations, if required.

"(D) A requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

"(i) the use of law, regulations, policies, and directives related to contingency contracting operations;

"(ii) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under section 2304 of this title, sealed bidding, letter contracts, indefinite delivery indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract actions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

"(iii) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

"(iv) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process.

"(E) Appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation.

"(F) Such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

"(2) To the extent practicable, the joint policy for contingency contracting required by subsection (a) should be taken into account in the development of interagency plans for stabilization and reconstruction operations, consistent with the report submitted by the President under section 1035 of this Act on interagency operating procedures for the planning and conduct of stabilization and reconstruction operations.

"(e) DEFINITIONS.—In this section:

"(1) CONTINGENCY CONTRACTING PERSONNEL.—The term 'contingency contracting personnel' means members of the armed forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).

"(2) CONTINGENCY CONTRACTING.—The term 'contingency contracting' means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

"(3) CONTINGENCY OPERATION.—The term 'contingency operation' has the meaning provided in section 101(13) of this title.

"(4) ACQUISITION SUPPORT AGENCIES.—The term 'acquisition support agencies' means Defense Agencies and Department of Defense Field Activities that carry out and provide support for acquisition-related activities.

"(5) CONTINGENCY PROGRAM MANAGEMENT.—The term 'contingency program management' means the process of planning, organizing, staffing, controlling, and leading the combined efforts of participating civilian and military personnel and organizations for the management of a specific defense acquisition program or programs during combat operations, post-conflict operations, and contingency operations.

"(6) REQUIREMENTS DEFINITION.—The term 'requirements definition' means the process of translating policy objectives and mission needs into specific requirements, the description of which will be the basis for awarding acquisition contracts for projects to be accomplished, work to be performed, or products to be delivered.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2333. Joint policies on requirements definition, contingency contracting, and program management.".

(b) DEADLINE FOR DEVELOPMENT OF JOINT POLICIES.—The Secretary of Defense shall develop the joint policies required under section 2333 of title 10, United States Code, as added by subsection (a), not later than 18 months after the date of enactment of this Act.

(c) REPORTS.—

(1) INTERIM REPORT.—

(A) REQUIREMENT.—Not later than 365 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on requirements definition, contingency contracting, and program management.

(B) MATTERS COVERED.—The report shall include discussions of the following:

(i) Progress in the development of the joint policies under section 2333 of title 10, United States Code.

(ii) The ability of the Armed Forces to support requirements definition, contingency contracting, and program management.

(iii) The ability of commanders of combatant commands to request requirements definition, contingency contracting, or program management support, and the ability of the military departments and the acquisition support agencies to respond to such requests and provide such support, including the availability of rapid acquisition personnel for such support.

(iv) The ability of the current civilian and military acquisition workforce to deploy to combat theaters of operations and to conduct requirements definition, contingency contracting, or program management activities during combat and during post-conflict, reconstruction, or other contingency operations.

(v) The effect of different periods of deployment on continuity in the acquisition process.

(2) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees referred to in paragraph (1)(A) a final report on requirements definition, contingency contracting, and program management, containing a discussion of the implementation of the joint policies developed under section 2333 of title 10, United States Code (as so added), including updated discussions of the matters covered in the interim report. In addition, the report should include a discussion of the actions taken to ensure that the joint policies will be adequately resourced at the time of execution.

**SEC. 855. CLARIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.**

Section 845(a) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in paragraph (2)(A), by inserting "or, for the Defense Advanced Projects Agency or the Missile Defense Agency, the director of the agency" after "(41 U.S.C. 414(c))"; and

(2) in paragraph (3), by inserting "or director of the Defense Advanced Projects Agency or Missile Defense Agency" after "executive".

**SEC. 856. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.**

(a) INAPPLICABILITY OF CERTAIN LAWS.—

(1) INAPPLICABILITY OF THE RANDOLPH-SHEPPARD ACT TO CONTRACTS AND SUBCONTRACTS FOR MILITARY DINING FACILITY SUPPORT SERVICES COVERED BY JAVITS-WAGNER-O'DAY ACT.—The Randolph-Sheppard Act (20 U.S.C. 107 et seq.) does not apply to full food services, mess attendant services, or services supporting the operation of a military dining facility that, as of the date of the enactment of this Act, were services on the procurement list established under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47).

(2) INAPPLICABILITY OF THE JAVITS-WAGNER-O'DAY ACT TO CONTRACTS FOR THE OPERATION OF A MILITARY DINING FACILITY.—(A) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) does not apply at the prime contract level to any contract entered into by the Department of Defense as of the date of the enactment of this Act with a State licensing agency under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) for the operation of a military dining facility.

(B) The Javits-Wagner-O'Day Act shall apply to any subcontract entered into by a Department of Defense contractor for full food services, mess attendant services, and other services supporting the operation of a military dining facility.

(3) REPEAL OF SUPERSEDED LAW.—Subsections (a) and (b) of section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2021) are repealed.

(b) REVIEW AND REPORT BY COMPTROLLER GENERAL OF RANDOLPH-SHEPPARD AND JAVITS-WAGNER-O'DAY CONTRACTS.—

(1) IN GENERAL.—The Comptroller General shall conduct a review of a representative sample of food service contracts

described in paragraph (2) and determine in writing the following:

(A) Differences in operational procedures and administration of contracts awarded by the Department of Defense under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) on a State-by-State basis with regard to the relationship between State licensing agencies and blind vendors.

(B) Differences in competition, source selection, and management processes and procedures for contracts awarded by the Department under the Randolph-Sheppard Act and the Javits-Wagner-O'Day Act, including a review of the average total cost of contract awards and compensation packages to all beneficiaries.

(C) Precise methods used to determine whether a price is fair and reasonable under contracts awarded by the Department under the Randolph-Sheppard Act and the Javits-Wagner-O'Day Act, as required under the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

(2) CONTRACTS COVERED.—For purposes of the review under paragraph (1), a food service contract described in this paragraph is a contract—

(A) for full food services, mess attendant services, or services supporting the operation of all or any part of a military dining facility;

(B) that was awarded under either the Randolph-Sheppard Act or the Javits-Wagner-O'Day Act; and

(C) that is in effect on the date of the enactment of this Act.

(3) REPORT.—Not later than March 1, 2007, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review conducted under this subsection, with such findings and recommendations as the Comptroller General considers appropriate.

(c) REQUIREMENTS FOR INSPECTORS GENERAL OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF EDUCATION.—

Deadline.

(1) REVIEW OF MANAGEMENT PROCEDURES.—Not later than March 1, 2007, the Inspector General of the Department of Defense and the Inspector General of the Department of Education shall jointly review the management procedures under both the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.). In carrying out this paragraph, the Inspectors General shall each have access to the following:

(A) Memoranda on program management and the basis for contract award under the programs.

(B) Guidance sent to State agencies on administration of the programs.

(C) Names of participating vendors, as well as qualifying experience and educational background of such vendors.

Deadline.

(2) MEMORANDUM OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the Department of Defense and the Inspector General of the Department of

Education shall enter into a memorandum of understanding with each other to carry out paragraph (1).

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Inspector General of the Department of Defense and the Inspector General of the Department of Education shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review required by paragraph (1). The report shall include—

(A) findings of the Inspectors General regarding the management procedures reviewed; and

(B) such other information and recommendations as the Inspectors General consider appropriate.

(d) DEFINITIONS.—In this section:

(1) The term "State licensing agency" means any agency designated by the Secretary of Education under section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

(2) The term "military dining facility" means a facility owned, operated, leased, or wholly controlled by the Department of Defense and used to provide dining services to members of the Armed Forces, including a cafeteria, military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces.

**SEC. 857. ENHANCED ACCESS FOR SMALL BUSINESS.**

Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608) is amended by striking the period at the end of the first sentence and inserting the following: "or, in the case of a small business concern (as defined in the Small Business Act and regulations under that Act), $150,000 or less.".

**SEC. 858. PROCUREMENT GOAL FOR HISPANIC-SERVING INSTITUTIONS.**

Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

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

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

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

"(D) Hispanic-serving institutions (as defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).";

(2) in subsection (a)(2)—

(A) by inserting after "historically Black colleges and universities" the following: ", Hispanic-serving institutions,"; and

(B) by inserting after "such colleges and universities" the following: "and institutions";

(3) in subsection (c)(1), by inserting after "historically Black colleges and universities" the following: ", Hispanic-serving institutions,"; and

(4) in subsection (c)(3), by inserting after "historically Black colleges and universities" the following: ", to Hispanic-serving institutions,".

# TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

Sec. 901. Increase in authorized number of Assistant Secretaries of Defense.
Sec. 902. Modifications to the Combatant Commander Initiative Fund.
Sec. 903. Addition to membership of specified council.
Sec. 904. Consolidation and standardization of authorities relating to Department of Defense Regional Centers for Security Studies.
Sec. 905. Oversight by Office of Under Secretary of Defense for Acquisition, Technology, and Logistics of exercise of acquisition authority by combatant commanders and heads of Defense Agencies.
Sec. 906. Standardization of statutory references to "national security system" within laws applicable to Department of Defense.
Sec. 907. Correction of reference to predecessor of Defense Information Systems Agency.

Subtitle B—Space Activities

Sec. 911. Designation of successor organizations for the disestablished Interagency Global Positioning Executive Board.
Sec. 912. Extension of authority for pilot program for provision of space surveillance network services to non-United States Government entities.
Sec. 913. Operationally responsive space.
Sec. 914. Independent review and assessment of Department of Defense organization and management for national security in space.

Subtitle C—Chemical Demilitarization Program

Sec. 921. Sense of Congress on completion of destruction of United States chemical weapons stockpile.
Sec. 922. Comptroller General review of cost-benefit analysis of off-site versus on-site treatment and disposal of hydrolysate derived from neutralization of VX nerve gas at Newport Chemical Depot, Indiana.
Sec. 923. Incentives clauses in chemical demilitarization contracts.
Sec. 924. Chemical demilitarization program contracting authority.

Subtitle D—Intelligence-Related Matters

Sec. 931. Four-year extension of authority of Secretary of Defense to engage in commercial activities as security for intelligence collection activities.
Sec. 932. Annual reports on intelligence oversight activities of the Department of Defense.
Sec. 933. Collection by National Security Agency of service charges for certification or validation of information assurance products.

Subtitle E—Other Matters

Sec. 941. Department of Defense policy on unmanned systems.
Sec. 942. Executive Schedule level IV for Deputy Under Secretary of Defense for Logistics and Materiel Readiness.
Sec. 943. Study and report on reform of Defense Travel System.
Sec. 944. Administration of pilot project on Civilian Linguist Reserve Corps.
Sec. 945. Improvement of authorities on the National Security Education Program.
Sec. 946. Report on the posture of United States Special Operations Command to conduct the global war on terrorism.

## Subtitle A—Department of Defense Management

### SEC. 901. INCREASE IN AUTHORIZED NUMBER OF ASSISTANT SECRETARIES OF DEFENSE.

(a) INCREASE.—Section 138(a) of title 10, United States Code, is amended by striking "nine" and inserting "ten".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking "(9)" after "Assistant Secretaries of Defense" and inserting "(10)".

**SEC. 902. MODIFICATIONS TO THE COMBATANT COMMANDER INITIATIVE FUND.**

(a) ADDITION TO AUTHORIZED ACTIVITIES.—Subsection (b)(6) of section 166a of title 10, United States Code is amended by striking "civil assistance" and inserting "civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance".

(b) ADDITIONAL PRIORITY CONSIDERATION.—Subsection (c) of such section is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

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

"(3) the provision of funds to be used for urgent and unanticipated humanitarian relief and reconstruction assistance, particularly in a foreign country where the armed forces are engaged in a contingency operation.".

**SEC. 903. ADDITION TO MEMBERSHIP OF SPECIFIED COUNCIL.**

Section 179(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The commander of the United States Strategic Command.".

**SEC. 904. CONSOLIDATION AND STANDARDIZATION OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.**

(a) BASIC AUTHORITIES FOR REGIONAL CENTERS.—

(1) IN GENERAL.—Section 184 of title 10, United States Code, is amended to read as follows:

**"§ 184. Regional Centers for Security Studies**

"(a) IN GENERAL.—The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

"(b) REGIONAL CENTERS SPECIFIED.—(1) A Department of Defense Regional Center for Security Studies is a Department of Defense institution that—

"(A) is operated, and designated as such, by the Secretary of Defense for the study of security issues relating to a specified geographic region of the world; and

"(B) serves as a forum for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

"(2) The Department of Defense Regional Centers for Security Studies are the following:

"(A) The George C. Marshall European Center for Security Studies, established in 1993 and located in Garmisch-Partenkirchen, Germany. Germany.

"(B) The Asia-Pacific Center for Security Studies, established in 1995 and located in Honolulu, Hawaii. Hawaii.

"(C) The Center for Hemispheric Defense Studies, established in 1997 and located in Washington, D.C. District of Columbia.

"(D) The Africa Center for Strategic Studies, established in 1999 and located in Washington, D.C. District of Columbia.

District of Columbia.

"(E) The Near East South Asia Center for Strategic Studies, established in 2000 and located in Washington, D.C.

"(3) No institution or element of the Department of Defense may be designated as a Department of Defense Regional Center for Security Studies for purposes of this section, other than the institutions specified in paragraph (2), except as specifically provided by law after the date of the enactment of this section.

"(c) REGULATIONS.—The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary.

"(d) PARTICIPATION.—Participants in activities of the Regional Centers may include United States and foreign military, civilian, and nongovernmental personnel.

"(e) EMPLOYMENT AND COMPENSATION OF FACULTY.—At each Regional Center, the Secretary may, subject to the availability of appropriations—

"(1) employ a Director, a Deputy Director, and as many civilians as professors, instructors, and lecturers as the Secretary considers necessary; and

"(2) prescribe the compensation of such persons, in accordance with Federal guidelines.

"(f) PAYMENT OF COSTS.—(1) Participation in activities of a Regional Center shall be on a reimbursable basis (or by payment in advance), except in a case in which reimbursement is waived in accordance with paragraph (3).

"(2) For a foreign national participant, payment of costs may be made by the participant, the participant's own government, by a Department or agency of the United States other than the Department of Defense, or by a gift or donation on behalf of one or more Regional Centers accepted under section 2611 of this title on behalf of the participant's government.

"(3) The Secretary of Defense may waive reimbursement of the costs of activities of the Regional Centers for foreign military officers and foreign defense and security civilian government officials from a developing country if the Secretary determines that attendance of such personnel without reimbursement is in the national security interest of the United States. Costs for which reimbursement is waived pursuant to this paragraph shall be paid from appropriations available to the Regional Centers.

"(4) Funds accepted for the payment of costs shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available to that Regional Center for the same purposes and same period as the appropriation with which merged.

"(5) Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.

"(g) SUPPORT TO OTHER AGENCIES.—The Director of a Regional Center may enter into agreements with the Secretaries of the military departments, the heads of the Defense Agencies, and, with the concurrence of the Secretary of Defense, the heads of other Federal departments and agencies for the provision of services by that Regional Center under this section. Any such participating department and agency shall transfer to the Regional Center funds to pay the full costs of the services received.

"(h) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the operation of the Regional Centers for security studies during the preceding fiscal year. The annual report shall include, for each Regional Center, the following information:

"(1) The status and objectives of the center.

"(2) The budget of the center, including the costs of operating the center.

"(3) A description of the extent of the international participation in the programs of the center, including the costs incurred by the United States for the participation of each foreign nation.

"(4) A description of the foreign gifts and donations, if any, accepted under section 2611 of this title.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"184. Regional Centers for Security Studies.".

(b) CONFORMING AMENDMENTS.—

(1) EMPLOYMENT AND COMPENSATION AUTHORITY FOR CIVILIAN FACULTY.—Section 1595 of title 10, United States Code, is amended—

(A) in subsection (c)—

(i) by striking paragraphs (3) and (5); and

(ii) by redesignating paragraphs (4) and (6) as paragraphs (3) and (4), respectively; and

(B) by striking subsection (e).

(2) STATUS OF CENTER FOR HEMISPHERIC DEFENSE STUDIES.—Section 2165 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking paragraph (6); and

(ii) by redesignating paragraph (7) as paragraph (6); and

(B) by striking subsection (c).

**SEC. 905. OVERSIGHT BY OFFICE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS OF EXERCISE OF ACQUISITION AUTHORITY BY COMBATANT COMMANDERS AND HEADS OF DEFENSE AGENCIES.**

(a) DESIGNATION OF OFFICIAL FOR OVERSIGHT.—The Secretary of Defense shall designate a senior acquisition official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to oversee the exercise of acquisition authority by—

(1) any commander of a combatant command who is authorized by section 166b, 167, or 167a of title 10, United States Code, to exercise acquisition authority; and

(2) any head of a Defense Agency who is designated by the Secretary of Defense to exercise acquisition authority.

(b) GUIDANCE.—

(1) IN GENERAL.—The senior acquisition official designated under subsection (a) shall develop guidance to ensure that the use of acquisition authority by commanders of combatant commands and the heads of Defense Agencies—

(A) is in compliance with department-wide acquisition policy; and

(B) is coordinated with and mutually supportive of acquisition programs of the military departments.

(2) URGENT REQUIREMENTS.—Guidance developed under paragraph (1) shall take into account the need to fulfill the urgent requirements of the commanders of combatant commands and the heads of Defense Agencies and to ensure that those requirements are addressed expeditiously.

(c) CONSULTATION.—The senior acquisition official designated under subsection (a) shall on a regular basis consult on matters related to requirements and acquisition with the commanders of combatant commands and the heads of Defense Agencies referred to in that subsection.

(d) DEADLINE FOR DESIGNATION.—The Secretary of Defense shall make the designation required by subsection (a) not later than 180 days after the date of the enactment of this Act.

**SEC. 906. STANDARDIZATION OF STATUTORY REFERENCES TO "NATIONAL SECURITY SYSTEM" WITHIN LAWS APPLICABLE TO DEPARTMENT OF DEFENSE.**

(a) DEFENSE BUSINESS SYSTEMS.—Section 2222(j)(6) of title 10, United States Code, is amended by striking "in section 2315 of this title" and inserting "in section 3542(b)(2) of title 44".

(b) CHIEF INFORMATION OFFICER RESPONSIBILITIES.—Section 2223(c)(3) of such title is amended by striking "section 11103 of title 40" and inserting "section 3542(b)(2) of title 44".

(c) PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES.—The text of section 2315 of such title is amended to read as follows:

"For purposes of subtitle III of title 40, the term 'national security system', with respect to a telecommunications and information system operated by the Department of Defense, has the meaning given that term by section 3542(b)(2) of title 44.".

**SEC. 907. CORRECTION OF REFERENCE TO PREDECESSOR OF DEFENSE INFORMATION SYSTEMS AGENCY.**

Paragraph (1) of section 193(f) of title 10, United States Code, is amended to read as follows:

"(1) The Defense Information Systems Agency.".

## Subtitle B—Space Activities

**SEC. 911. DESIGNATION OF SUCCESSOR ORGANIZATIONS FOR THE DISESTABLISHED INTERAGENCY GLOBAL POSITIONING EXECUTIVE BOARD.**

(a) SUCCESSOR ORGANIZATIONS.—Section 8 of the Commercial Space Transportation Competitiveness Act of 2000 (10 U.S.C. 2281 note) is amended by striking "by Congress" and all that follows and inserting "for the functions and activities of the following organizations established pursuant to the United States Space-Based Position, Navigation, and Timing Policy issued December 8, 2004 (and any successor organization, to the extent the successor organization performs the functions of the specified organization):

"(1) The interagency committee known as the National Space-Based Positioning, Navigation, and Timing Executive Committee.

"(2) The support office for the committee specified in paragraph (1) known as the National Space-Based Positioning, Navigation, and Timing Coordination Office.

"(3) The Federal advisory committee known as the National Space-Based Positioning, Navigation, and Timing Advisory Board.".

(b) CLARIFICATION.—Such section is further amended by striking "interagency funding" and inserting "multi-agency funding".

**SEC. 912. EXTENSION OF AUTHORITY FOR PILOT PROGRAM FOR PROVISION OF SPACE SURVEILLANCE NETWORK SERVICES TO NON-UNITED STATES GOVERNMENT ENTITIES.**

Deadline.

Section 2274(i) of title 10, United States Code, is amended by striking "shall be conducted" and all that follows and inserting "may be conducted through September 30, 2009.".

**SEC. 913. OPERATIONALLY RESPONSIVE SPACE.**

(a) UNITED STATES POLICY ON OPERATIONALLY RESPONSIVE SPACE.—It is the policy of the United States to demonstrate, acquire, and deploy an effective capability for operationally responsive space to support military users and operations from space, which shall consist of—

(1) responsive satellite payloads and busses built to common technical standards;

(2) low-cost space launch vehicles and supporting range operations that facilitate the timely launch and on-orbit operations of satellites;

(3) responsive command and control capabilities; and

(4) concepts of operations, tactics, techniques, and procedures that permit the use of responsive space assets for combat and military operations other than war.

(b) OPERATIONALLY RESPONSIVE SPACE PROGRAM OFFICE.—

(1) ESTABLISHMENT OF OFFICE.—Section 2273a of title 10, United States Code, is amended to read as follows:

**"§ 2273a. Operationally Responsive Space Program Office**

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish within the Department of Defense an office to be known as the Operationally Responsive Space Program Office (in this section referred to as the 'Office').

"(b) HEAD OF OFFICE.—The head of the Office shall be—

"(1) the Department of Defense Executive Agent for Space; or

"(2) the designee of the Secretary of Defense, who shall report to the Department of Defense Executive Agent for Space.

"(c) MISSION.—The mission of the Office shall be—

"(1) to contribute to the development of low-cost, rapid reaction payloads, busses, spacelift, and launch control capabilities in order to fulfill joint military operational requirements for on-demand space support and reconstitution; and

"(2) to coordinate and execute operationally responsive space efforts across the Department of Defense with respect to planning, acquisition, and operations.

"(d) ELEMENTS.—The Secretary of Defense shall select the elements of the Department of Defense to be included in the Office so as to contribute to the development of capabilities for operationally responsive space and to achieve a balanced representation

of the military departments in the Office to ensure proper acknowledgment of joint considerations in the activities of the Office, except that the Office shall include the following:

"(1) A science and technology element that shall pursue innovative approaches to the development of capabilities for operationally responsive space through basic and applied research focused on (but not limited to) payloads, bus, and launch equipment.

"(2) An acquisition element that shall undertake the acquisition of systems necessary to integrate, sustain, and launch assets for operationally responsive space.

"(3) An operations element that shall—

"(A) sustain and maintain assets for operationally responsive space prior to launch;

"(B) integrate and launch such assets; and

"(C) operate such assets in orbit.

"(4) A combatant command support element that shall serve as the primary intermediary between the military departments and the combatant commands in order to—

"(A) ascertain the needs of the commanders of the combatant commands; and

"(B) integrate operationally responsive space capabilities into—

"(i) operations plans of the combatant commands;

"(ii) techniques, tactics, and procedures of the military departments; and

"(iii) military exercises, demonstrations, and war games.

"(5) Such other elements as the Secretary of Defense may consider necessary.

"(e) ACQUISITION AUTHORITY.—The acquisition activities of the Office shall be subject to the following:

"(1) The Department of Defense Executive Agent for Space shall be the senior acquisition executive of the Office.

"(2) The Joint Capabilities Integration and Development System process shall not apply to acquisitions by the Office for operational experimentation.

"(3) The commander of the United States Strategic Command, or the designee of the commander, shall—

"(A) validate all system requirements for systems to be acquired by the Office; and

"(B) participate in the approval of any acquisition program initiated by the Office.

"(4) To the maximum extent practicable, the procurement unit cost of a launch vehicle procured by the Office for launch to low earth orbit should not exceed $20,000,000 (in constant dollars).

"(5) To the maximum extent practicable, the procurement unit cost of an integrated satellite procured by the Office should not exceed $40,000,000 (in constant dollars).

"(f) REQUIRED PROGRAM ELEMENT.—(1) The Secretary of Defense shall ensure that, within budget program elements for space programs of the Department of Defense, that—

"(A) there is a separate, dedicated program element for operationally responsive space;

"(B) to the extent applicable, relevant program elements should be consolidated into the program element required by subparagraph (A); and

"(C) the Office executes its responsibilities through this program element.

"(2) The Office shall manage the program element required by paragraph (1)(A).".

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 135 of such title is amended to read as follows:

"2273a. Operationally Responsive Space Program Office.".

(c) PLAN FOR OPERATIONALLY RESPONSIVE SPACE.—

(1) PLAN REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a plan for the acquisition by the Department of Defense of capabilities for operationally responsive space to support military users and military operations.

Reports. Deadline.

(2) ELEMENTS.—The plan required by paragraph (1) shall include the following:

(A) An identification of the roles and missions of each military department, Defense Agency, and other component or element of the Department of Defense for the fulfillment of the mission of the Department with respect to operationally responsive space.

(B) An identification of the capabilities required by the Department to fulfill such mission during the period covered by the current future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code, and an additional 10-year period.

(C) A description of the chain of command and reporting structure of the Operationally Responsive Space Program Office established under section 2273a of title 10, United States Code, as amended by subsection (b).

(D) A description of the classification of information required for the Operationally Responsive Space Program Office in order to ensure that the Office carries out its responsibilities under such section 2273a in a proper and efficient manner.

(E) A description of the acquisition policies and procedures applicable to the Operationally Responsive Space Program Office, including a description of any legislative or administrative action necessary to provide the Office additional acquisition authority to carry out its responsibilities.

(F) A schedule for the implementation of the plan and the establishment of the Operationally Responsive Space Program Office.

(G) The funding and personnel required to implement the plan over the course of the current future-years defense program.

(H) A description of any additional authorities and programmatic, organizational, or other changes necessary to ensure that the Operationally Responsive Space Program Office can successfully carry out its responsibilities.

(d) REPEAL OF SUPERSEDED LAW.—Section 913 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3408; 10 U.S.C. 2273a note) is repealed.

**SEC. 914. INDEPENDENT REVIEW AND ASSESSMENT OF DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT FOR NATIONAL SECURITY IN SPACE.**

(a) INDEPENDENT REVIEW AND ASSESSMENT REQUIRED.—The Secretary of Defense shall select an appropriate entity outside the Department of Defense to conduct an independent review and assessment of the organization and management of the Department of Defense for national security in space. In selecting the entity to conduct the review and assessment, the Secretary shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(b) ELEMENTS.—The review and assessment required by this section shall address the following:

(1) The requirements of the Department of Defense for national security space capabilities, as identified by the Department, and the efforts of the Department to fulfill such requirements.

(2) The actions that could be taken by the Department to modify the organization and management of the Department over the near-term, medium-term, and long-term in order to strengthen United States national security in space, and the ability of the Department to implement its requirements and carry out the future space missions, including the following:

(A) Actions to improve or enhance current interagency coordination processes regarding the operation of national security space assets, including improvements or enhancements in interoperability and communications.

(B) Actions to improve or enhance the relationship between the intelligence aspects of national security space (so-called "black space") and the non-intelligence aspects of national security space (so-called "white space").

(C) Actions to improve or enhance the manner in which military space issues are addressed by professional military education institutions.

(D) Actions to create a specialized career field for military space acquisition personnel, to include an emphasis on long-term assignments, that could help develop and maintain a professional space acquisition cadre with technical expertise and institutional knowledge.

(c) LIAISON.—The Secretary of Defense shall designate at least one senior civilian employee of the Department of Defense, and at least one general or flag officer, to serve as liaison between the Department, the Armed Forces, and the entity conducting the review and assessment under this section.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the entity conducting the review and assessment under this section shall submit to the Secretary of Defense and the congressional defense committees a report containing—

(1) the results of the review and assessment; and

(2) recommendations on the best means by which the Department may improve its organization and management for national security in space.

# Subtitle C—Chemical Demilitarization Program

### SEC. 921. SENSE OF CONGRESS ON COMPLETION OF DESTRUCTION OF UNITED STATES CHEMICAL WEAPONS STOCKPILE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on January 13, 1993 (commonly referred to as the "Chemical Weapons Convention"), requires that destruction of the entire United States chemical weapons stockpile be completed by no later than the extended deadline of April 29, 2012.

(2) On April 10, 2006, the Department of Defense notified Congress that the United States would not meet even the extended deadline under the Chemical Weapons Convention for destruction of the United States chemical weapons stockpile.

(3) Destroying existing chemical weapons is a homeland security imperative and an arms control priority and is required by United States law.

(4) The elimination and nonproliferation of chemical weapons of mass destruction is of utmost importance to the national security of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States is committed to making every effort to safely dispose of its entire chemical weapons stockpile by the Chemical Weapons Convention extended deadline of April 29, 2012, or as soon thereafter as possible, and will carry out all of its other obligations under that Convention;

(2) to prevent further delays in completing the destruction of the United States chemical weapons stockpile, the Secretary of Defense should prepare a comprehensive schedule for the safe destruction of such stockpile and should annually submit that schedule (as currently in effect) to the congressional defense committees, either separately or as part of another required report, until such destruction is completed;

(3) the Secretary of Defense should make every effort to ensure adequate funding to complete the elimination of the United States chemical weapons stockpile in the shortest time possible, consistent with the requirement to protect public health, safety, and the environment; and

(4) when selecting a site for the treatment or disposal of neutralized chemical agent at a location remote from the location where the agent is stored, the Secretary of Defense should propose a credible process that seeks to gain the support of affected communities.

**SEC. 922. COMPTROLLER GENERAL REVIEW OF COST-BENEFIT ANALYSIS OF OFF-SITE VERSUS ON-SITE TREATMENT AND DISPOSAL OF HYDROLYSATE DERIVED FROM NEUTRALIZATION OF VX NERVE GAS AT NEWPORT CHEMICAL DEPOT, INDIANA.**

Reports.

(a) REVIEW REQUIRED.—Not later than December 1, 2006, the Comptroller General shall submit to Congress a report containing a review of the cost-benefit analysis prepared by the Secretary of the Army entitled "Cost-Benefit Analysis of Off-Site Versus On-Site Treatment and Disposal of Newport Caustic Hydrolysate" and dated April 24, 2006.

(b) CONTENT OF REVIEW.—In conducting the review under subsection (a), the Comptroller General shall consider and assess at a minimum the following matters:

(1) The adequacy of the rationale contained in the cost-benefit analysis referred to in subsection (a) in dismissing five of the eight technologies for hydrolysate treatment directed for consideration on page 116 of the Report of the Committee on Armed Services of the House of Representatives on H.R. 1815 (House Report 109–89).

(2) The rationale for the failure of the Secretary of the Army to consider other technical solutions, such as constructing a wastewater disposal system at the Newport Chemical Depot.

(3) The adequacy of the cost-benefit analysis presented for the three technologies considered.

New Jersey.

(c) LIMITATION ON TRANSPORT PENDING REPORT.—The Secretary of the Army may not transport neutralized bulk nerve agent (other than those small quantities necessary for laboratory evaluation of the disposal process) from the Newport Chemical Depot to the State of New Jersey until the earlier of—

(1) the end of the 60-day period beginning on the date on which the report required by subsection (a) is submitted; or

(2) February 1, 2007.

**SEC. 923. INCENTIVES CLAUSES IN CHEMICAL DEMILITARIZATION CONTRACTS.**

(a) IN GENERAL.—

(1) AUTHORITY TO INCLUDE CLAUSES IN CONTRACTS.—The Secretary of Defense may, for the purpose specified in paragraph (2), authorize the inclusion of an incentives clause in any contract for the destruction of the United States stockpile of lethal chemical agents and munitions carried out pursuant to section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

(2) PURPOSE.—The purpose of a clause referred to in paragraph (1) is to provide the contractor for a chemical demilitarization facility an incentive to accelerate the safe elimination of the United States chemical weapons stockpile and to reduce the total cost of the Chemical Demilitarization Program by providing incentive payments for the early completion of destruction operations and the closure of such facility.

(b) INCENTIVES CLAUSES.—

(1) IN GENERAL.—An incentives clause under this section shall permit the contractor for the chemical demilitarization facility concerned the opportunity to earn incentive payments for the completion of destruction operations and facility closure

activities within target incentive ranges specified in such clause.

(2) LIMITATION ON INCENTIVE PAYMENTS.—The maximum incentive payment under an incentives clause with respect to a chemical demilitarization facility may not exceed amounts as follows:

(A) In the case of an incentive payment for the completion of destruction operations within the target incentive range specified in such clause, $110,000,000.

(B) In the case of an incentive payment for the completion of facility closure activities within the target incentive range specified in such clause, $55,000,000.

(3) TARGET RANGES.—An incentives clause in a contract under this section shall specify the target incentive ranges of costs for completion of destruction operations and facility closure activities, respectively, as jointly agreed upon by the contracting officer and the contractor concerned. An incentives clause shall require a proportionate reduction in the maximum incentive payment amounts in the event that the contractor exceeds an agreed-upon target cost if such excess costs are the responsibility of the contractor.

(4) CALCULATION OF INCENTIVE PAYMENTS.—The amount of the incentive payment earned by a contractor for a chemical demilitarization facility under an incentives clause under this section shall be based upon a determination by the Secretary on how early in the target incentive range specified in such clause destruction operations or facility closure activities, as the case may be, are completed.

(5) CONSISTENCY WITH EXISTING OBLIGATIONS.—The provisions of any incentives clause under this section shall be consistent with the obligation of the Secretary of Defense under section 1412(c)(1)(A) of the Department of Defense Authorization Act, 1986, to provide for maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions.

(6) ADDITIONAL TERMS AND CONDITIONS.—In negotiating the inclusion of an incentives clause in a contract under this section, the Secretary may include in such clause such additional terms and conditions as the Secretary considers appropriate.

(c) ADDITIONAL LIMITATION ON PAYMENTS.—

(1) PAYMENT CONDITIONAL ON PERFORMANCE.—No payment may be made under an incentives clause under this section unless the Secretary determines that the contractor concerned has satisfactorily performed its duties under such incentives clause.

(2) PAYMENT CONTINGENT ON APPROPRIATIONS.—An incentives clause under this section shall specify that the obligation of the Government to make payment under such incentives clause is subject to the availability of appropriations for that purpose. Amounts appropriated for Chemical Agents and Munitions Destruction, Defense, shall be available for payments under incentives clauses under this section.

**SEC. 924. CHEMICAL DEMILITARIZATION PROGRAM CONTRACTING AUTHORITY.**

(a) MULTIYEAR CONTRACTING AUTHORITY.—The Secretary of Defense may carry out responsibilities under section 1412(a) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)) through multiyear contracts entered into before the date of the enactment of this Act.

(b) AVAILABILITY OF FUNDS.—Contracts entered into under subsection (a) shall be funded through annual appropriations for the destruction of chemical agents and munitions.

## Subtitle D—Intelligence-Related Matters

**SEC. 931. FOUR-YEAR EXTENSION OF AUTHORITY OF SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.**

Section 431(a) of title 10, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2010".

**SEC. 932. ANNUAL REPORTS ON INTELLIGENCE OVERSIGHT ACTIVITIES OF THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 427. Intelligence oversight activities of Department of Defense: annual reports**

"(a) ANNUAL REPORTS REQUIRED.—(1) Not later than March 1 of each year, the Secretary of Defense shall submit—

"(A) to the congressional committees specified in subparagraph (A) of paragraph (2) a report on the intelligence oversight activities of the Department of Defense during the previous calendar year insofar as such oversight activities relate to tactical intelligence and intelligence-related activities of the Department; and

"(B) to the congressional committees specified in subparagraph (B) of paragraph (2) a report on the intelligence oversight activities of the Department of Defense during the previous calendar year insofar as such oversight activities relate to intelligence and intelligence-related activities of the Department other than those specified in subparagraph (A).

"(2)(A) The committees specified in this subparagraph are the following:

"(i) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(ii) The Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

"(B) The committees specified in this subparagraph are the following:

"(i) The Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

"(ii) The Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.

"(b) ELEMENTS.—Each report under subsection (a) shall include, for the calendar year covered by such report and with respect to oversight activities subject to coverage in that report, the following:

"(1) A description of any violation of law or of any Executive order or Presidential directive (including Executive Order No. 12333) that comes to the attention of any General Counsel or Inspector General within the Department of Defense, or the Under Secretary of Defense for Intelligence, and a description of the actions taken by such official with respect to such activity.

"(2) A description of the results of intelligence oversight inspections undertaken by each of the following:

"(A) The Office of the Secretary of Defense.

"(B) Each military department.

"(C) Each combat support agency.

"(D) Each field operating agency.

"(3) A description of any changes made in any program for the intelligence oversight activities of the Department of Defense, including any training program.

"(4) A description of any changes made in any published directive or policy memoranda on the intelligence or intelligence-related activities of—

"(A) any military department;

"(B) any combat support agency; or

"(C) any field operating agency.

"(c) DEFINITIONS.—In this section:

"(1) The term 'intelligence oversight activities of the Department of Defense' refers to any activity undertaken by an agency, element, or component of the Department of Defense to ensure compliance with regard to requirements or instructions on the intelligence and intelligence-related activities of the Department under law or any Executive order or Presidential directive (including Executive Order No. 12333).

"(2) The term 'combat support agency' has the meaning given that term in section 193(f) of this title.

"(3) The term 'field operating agency' means a specialized subdivision of the Department of Defense that carries out activities under the operational control of the Department.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"427. Intelligence oversight activities of Department of Defense: annual reports.".

**SEC. 933. COLLECTION BY NATIONAL SECURITY AGENCY OF SERVICE CHARGES FOR CERTIFICATION OR VALIDATION OF INFORMATION ASSURANCE PRODUCTS.**

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section:

"SEC. 20. (a) The Director may collect charges for evaluating, certifying, or validating information assurance products under the National Information Assurance Program or successor program.

"(b) The charges collected under subsection (a) shall be established through a public rulemaking process in accordance with Office of Management and Budget Circular No. A–25. Regulations.

"(c) Charges collected under subsection (a) shall not exceed the direct costs of the program referred to in that subsection.

"(d) The appropriation or fund bearing the cost of the service for which charges are collected under the program referred to in subsection (a) may be reimbursed, or the Director may require advance payment subject to such adjustment on completion of the work as may be agreed upon.

"(e) Amounts collected under this section shall be credited to the account or accounts from which costs associated with such amounts have been or will be incurred, to reimburse or offset the direct costs of the program referred to in subsection (a).".

## Subtitle E—Other Matters

**SEC. 941. DEPARTMENT OF DEFENSE POLICY ON UNMANNED SYSTEMS.**

(a) POLICY REQUIRED.—The Secretary of Defense shall develop a policy, to be applicable throughout the Department of Defense, on research, development, test and evaluation, procurement, and operation of unmanned systems.

(b) ELEMENTS.—The policy required by subsection (a) shall include or address the following:

(1) An identification of missions and mission requirements, including mission requirements for the military departments and joint mission requirements, for which unmanned systems may replace manned systems.

(2) A preference for unmanned systems in acquisition programs for new systems, including a requirement under any such program for the development of a manned system for a certification that an unmanned system is incapable of meeting program requirements.

(3) An assessment of the circumstances under which it would be appropriate to pursue joint development and procurement of unmanned systems and components of unmanned systems.

(4) The transition of unmanned systems unique to one military department to joint systems, when appropriate.

(5) An organizational structure for effective management, coordination, and budgeting for the development and procurement of unmanned systems, including an assessment of the feasibility and advisability of designating a single department or other element of the Department of Defense to act as executive agent for the Department on unmanned systems.

(6) The integration of unmanned and manned systems to enhance support of the missions identified in paragraph (1).

(7) Such other matters that the Secretary of Defense considers to be appropriate.

(c) CONSULTATION.—The Secretary of Defense shall develop the policy required by subsection (a) in consultation with the Chairman of the Joint Chiefs of Staff.

(d) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report containing—

(1) the policy required by subsection (a); and

(2) an implementation plan for the policy that includes—

(A) a strategy and schedules for the replacement of manned systems with unmanned systems in the performance of the missions identified in the policy pursuant to subsection (b)(1);

(B) establishment of programs to address technical, operational, and production challenges, and gaps in capabilities, with respect to unmanned systems; and

(C) an assessment of progress towards meeting the goals identified for the subset of unmanned air and ground systems established in section 220 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–38).

(e) UNMANNED SYSTEMS DEFINED.—In this section, the term "unmanned systems" consists of unmanned aerial systems, unmanned ground systems, and unmanned maritime systems.

**SEC. 942. EXECUTIVE SCHEDULE LEVEL IV FOR DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.**

(a) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Deputy Under Secretary of Defense for Personnel and Readiness the following new item:

"Deputy Under Secretary of Defense for Logistics and Materiel Readiness.".

(b) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals appointed as Deputy Under Secretary of Defense for Logistics and Materiel Readiness on or after that date.

**SEC. 943. STUDY AND REPORT ON REFORM OF DEFENSE TRAVEL SYSTEM.**

(a) INDEPENDENT STUDY OF SYSTEM.—

(1) STUDY REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees the results and recommendations of an independent study of the Defense Travel System conducted to determine the most cost-effect method of meeting Department of Defense travel requirements. The study shall be conducted by an entity outside the Department of Defense. Deadline.

(2) ELEMENTS OF STUDY.—At a minimum, the study required by this subsection shall address the following:

(A) The feasibility of separating the financial infrastructure of the Defense Travel System, including voucher processing, accounting, disbursing, debt collection, management accountability, and archival functions, from the travel reservation process.

(B) The feasibility of converting the travel reservation process to a fee-for-services system or authorizing the use of multiple travel reservation processes, all of which processes would use the financial infrastructure of the Defense Travel System.

(C) The feasibility of making the use of the financial infrastructure of the Defense Travel System mandatory for all Department of Defense travel transactions.

Deadline.

Reports.

(b) IMPLEMENTATION PLANS.—Not later than 60 days after the Secretary of Defense receives the independent study required by subsection (a), the Secretary shall submit to the congressional defense committees a report describing the actions, if any, that the Secretary intends to take to implement the recommendations contained in the study. If the Secretary does not intend to implement any of the recommendations, the Secretary shall explain the basis for this decision.

(c) CONDITIONS ON NEW CONTRACT OR EXPENDITURES FOR DEFENSE TRAVEL SYSTEM.—Except to continue operations to provide current services and to perform the functions described in paragraphs (1) through (3), the Secretary of Defense may not initiate a new contract for the Defense Travel System or expend funds for the Defense Travel System until each of the following occurs:

(1) The Secretary submits the report required by subsection (b).

(2) The Secretary develops firm, fixed requirements for the Defense Travel System.

(3) The Secretary develops a schedule to phase out the legacy travel systems made redundant by implementation of the Defense Travel System.

**SEC. 944. ADMINISTRATION OF PILOT PROJECT ON CIVILIAN LINGUIST RESERVE CORPS.**

(a) TRANSFER OF ADMINISTRATION TO SECRETARY OF DEFENSE.—

(1) IN GENERAL.—Administration of the pilot project on the establishment of a Civilian Linguist Reserve Corps required by section 613 of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–487; 118 Stat. 3959; 50 U.S.C. 403–1b note) is hereby transferred from the Director of National Intelligence to the Secretary of Defense.

(2) CONFORMING AMENDMENTS.—Section 613 of the Intelligence Authorization Act for Fiscal Year 2005 is amended—

(A) by striking "Director of National Intelligence" each place it appears and inserting "Secretary of Defense"; and

(B) by striking "Director" each place it appears and inserting "Secretary".

(b) COORDINATION WITH DIRECTOR OF NATIONAL INTELLIGENCE IN ADMINISTRATION.—Subsection (a) of such section is further amended—

(1) by inserting "(1)" after "PILOT PROJECT.—"; and

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

"(2) The Secretary shall conduct the pilot project in coordination with the Director of National Intelligence.".

(c) DISCHARGE OF PROJECT THROUGH NATIONAL SECURITY EDUCATION PROGRAM.—Subsection (a) of such section is further amended by adding at the end the following new paragraph:

"(3) The Secretary shall conduct the pilot project through the National Security Education Program.".

(d) DURATION OF PROJECT.—Subsection (c) of such section is amended by striking "three-year period" and inserting "five-year period".

(e) REPEAL OF SUPERSEDED AUTHORIZATION.—Such section is further amended by striking subsection (f).

**SEC. 945. IMPROVEMENT OF AUTHORITIES ON THE NATIONAL SECURITY EDUCATION PROGRAM.**

(a) EXPANSION OF EMPLOYMENT CREDITABLE UNDER SERVICE AGREEMENTS.—Paragraph (2) of subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended to read as follows:

Deadline.

"(2)(A) will (in accordance with regulations prescribed by the Secretary of Defense in coordination with the heads of the other Federal departments and agencies concerned) begin work not later than three years after the recipient's completion of degree study during which scholarship assistance was provided under the program—

"(i) for not less than one year in a position certified by the Secretary of Defense, in coordination with the Director of National Intelligence, the Secretary of Homeland Security, and the Secretary of State (as appropriate), as contributing to the national security of the United States in the Department of Defense, any element of the intelligence community, the Department of Homeland Security, or the Department of State; or

"(ii) for not less than one year in a position in a Federal agency or office that is identified by the Secretary of Defense under subsection (g) as having national security responsibilities if the recipient demonstrates to the Secretary that no position is available in the departments and agencies covered by clause (i); or

"(B) will (in accordance with such regulations) begin work not later than two years after the recipient's completion or termination of study for which fellowship assistance was provided under the program—

"(i) for not less than one year in a position certified by the Secretary of Defense, in coordination with the Director of National Intelligence, the Secretary of Homeland Security, and the Secretary of State (as appropriate), as contributing to the national security of the United States in the Department of Defense, any element of the intelligence community, the Department of Homeland Security, or the Department of State; or

"(ii) for not less than one year in a position in a Federal agency or office that is identified by the Secretary of Defense under subsection (g) as having national security responsibilities if the recipient demonstrates to the Secretary that no position is available in the departments and agencies covered by clause (i); and".

(b) TEMPORARY EMPLOYMENT AND RETENTION OF CERTAIN PARTICIPANTS.—Such section is further amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) TEMPORARY EMPLOYMENT AND RETENTION OF CERTAIN PARTICIPANTS.—

"(1) IN GENERAL.—The Secretary of Defense may—

"(A) appoint or retain a person provided scholarship or fellowship assistance under the program in a position in the Department of Defense on an interim basis during the period of the person's pursuit of a degree under the program and for a period not to exceed two years after completion of the degree, but only if, in the case of the period after completion of the degree, there is an active investigation to provide security clearance to the person for an appropriate permanent position in the Department of Defense under subsection (b)(2); and

"(B) if there is no appropriate permanent position available for the person after the end of the periods described in subparagraph (A), separate the person from employment with the Department without regard to any other provision of law, in which event the service agreement of the person under subsection (b) shall terminate.

"(2) TREATMENT OF CERTAIN SERVICE.—The period of service of a person covered by paragraph (1) in a position on an interim basis under that paragraph shall, after completion of the degree, be treated as a period of service for purposes of satisfying the obligated service requirements of the person under the service agreement of the person under subsection (b).".

Deadline.

(c) PLAN FOR IMPROVING PROGRAM.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a plan for improving the recruitment, placement, and retention within the Department of Defense of individuals who receive scholarships or fellowships under the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) in order to facilitate the purposes of that Act in meeting the requirements of the Department in acquiring individuals with critical foreign language skills and individuals who are regional experts.

**SEC. 946. REPORT ON THE POSTURE OF UNITED STATES SPECIAL OPERATIONS COMMAND TO CONDUCT THE GLOBAL WAR ON TERRORISM.**

(a) FINDINGS.—Congress makes the following findings:

(1) The 2006 Quadrennial Defense Review recommends an increase in the size of the United States Special Operations Command as a fundamental part of the efforts of the Department of Defense to fight the global war on terrorism.

(2) Special operations forces conducting all nine of their statutory activities, as specified in section 167(j) of title 10, United States Code, play a crucial role in the global war on terrorism, and the Department of Defense should take a balanced approach to the expansion of the force structure of that command to provide additional capability in both the active and reserve components.

(3) Special operations forces are engaged in operations across the globe and in extreme and varied operational environments which require specialized training to successfully operate in those environments.

(4) Due to the global and long-term nature of the global war on terrorism, the Secretary of Defense should assess whether the United States Special Operations Command has

the appropriate force structure and training focus required for successful operations in the global war on terrorism.

(b) REPORT ON POSTURE OF SOCOM TO CONDUCT THE GLOBAL WAR ON TERRORISM.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report assessing the posture of the United States Special Operations Command to conduct the global war on terrorism. The Secretary shall include in the report the following:

(1) The Secretary's assessment of whether the United States Special Operations Command is appropriately manned, resourced, and equipped to successfully meet the long-term requirements of the global war on terrorism.

(2) The Secretary's assessment whether the expansion of that command as recommended in the 2006 Quadrennial Defense Review provides an appropriate balance between active and reserve component capabilities.

(3) The Secretary's assessment of whether United States Special Operations Command has sufficient Army Special Forces to meet the 2006 Quadrennial Defense Review objective of building allied and partner nation capacity through security assistance and other training missions such as the Joint Combined Exchange Training program.

(4) A detailed statement of the efforts of the commander of the United States Special Operations Command to provide special operations forces personnel with specialized environmental training in preparation for operations across the globe and in extreme and varied operational environments such as mountain, jungle, or desert environments.

# TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. General transfer authority.
Sec. 1002. Authorization of additional emergency supplemental appropriations for fiscal year 2006.
Sec. 1003. Reduction in certain authorizations due to savings relating to lower inflation.
Sec. 1004. Increase in fiscal year 2006 general transfer authority.
Sec. 1005. United States contribution to NATO common-funded budgets in fiscal year 2007.
Sec. 1006. Report on budgeting for fluctuations in fuel cost rates.
Sec. 1007. Modification of date of submittal of OMB/CBO report on scoring of outlays.
Sec. 1008. Budgeting for ongoing military operations in Afghanistan and Iraq.

Subtitle B—Policy Relating to Vessels and Shipyards

Sec. 1011. Aircraft carrier force structure.
Sec. 1012. Sense of Congress on naming the CVN–78 aircraft carrier as the U.S.S. Gerald R. Ford.
Sec. 1013. Transfer of naval vessels to foreign nations based upon vessel class.
Sec. 1014. Overhaul, repair, and maintenance of vessels in foreign shipyards.
Sec. 1015. Report on options for future lease arrangement for Guam Shipyard.
Sec. 1016. Assessments of naval vessel construction efficiencies and of effectiveness of special contractor incentives.
Sec. 1017. Obtaining carriage by vessel: criterion regarding overhaul, repair, and maintenance of vessels in the United States.
Sec. 1018. Riding gang member requirements.
Sec. 1019. Authority to transfer SS Arthur M. Huddell to the Government of Greece.

Subtitle C—Counter-Drug Activities

Sec. 1021. Extension of authority of Department of Defense to provide additional support for counterdrug activities of other governmental agencies.
Sec. 1022. Extension and expansion of Department of Defense authority to provide support for counter-drug activities of certain foreign governments.
Sec. 1023. Extension of authority to support unified counterdrug and counterterrorism campaign in Colombia.
Sec. 1024. Continuation of reporting requirement regarding Department of Defense expenditures to support foreign counterdrug activities.
Sec. 1025. Report on interagency counter-narcotics plan for Afghanistan and South and Central Asian regions.
Sec. 1026. Report on United States support for Operation Bahamas, Turks & Caicos.

Subtitle D—Force Structure and Defense Policy Matters

Sec. 1031. Improvements to Quadrennial Defense Review.
Sec. 1032. Quarterly reports on implementation of 2006 Quadrennial Defense Review Report.
Sec. 1033. Report on feasibility of establishing a regional combatant command for Africa.
Sec. 1034. Determination of Department of Defense intratheater and intertheater airlift requirements and sealift mobility requirements.
Sec. 1035. Presidential report on improving interagency support for United States 21st century national security missions and interagency operations in support of stability, security, transition, and reconstruction operations.

Subtitle E—Reports

Sec. 1041. Additional element in annual report on chemical and biological warfare defense.
Sec. 1042. Report on biodefense human capital requirements in support of biosafety laboratories.
Sec. 1043. Report on technologies for neutralizing or defeating threats to military rotary-wing aircraft from portable air defense systems and rocket-propelled grenades.
Sec. 1044. Reports on expanded use of unmanned aerial vehicles in the National Airspace System.
Sec. 1045. Report on incentives to encourage certain members and former members of the Armed Forces to serve in the Bureau of Customs and Border Protection.
Sec. 1046. Repeal of certain report requirements.
Sec. 1047. Requirement for identification of recently enacted recurring reporting requirements applicable to the Department of Defense.

Subtitle F—Miscellaneous Authorities and Limitations on Availability and Use of Funds

Sec. 1051. Acceptance and retention of reimbursement from non-Federal sources to defray Department of Defense costs of conferences.
Sec. 1052. Increased flexibility in use of funds for Joint Staff exercises.
Sec. 1053. Prohibition on parking of funds.
Sec. 1054. Modification of authorities relating to the Special Inspector General for Iraq Reconstruction.

Subtitle G—Matters Involving Detainees

Sec. 1061. Provision of information to Congress on certain criminal investigations and prosecutions involving detainees.

Subtitle H—Other Matters

Sec. 1071. Technical and clerical amendments.
Sec. 1072. Revision to authorities relating to Commission on the Implementation of the New Strategic Posture of the United States.
Sec. 1073. Revised deadline for submission of final report of EMP Commission.
Sec. 1074. Extension of returning worker exemption to H–2B numerical limitation.
Sec. 1075. Patent term extensions for the badges of the American Legion, the American Legion Women's Auxiliary, and the Sons of the American Legion.
Sec. 1076. Use of the Armed Forces in major public emergencies.
Sec. 1077. Increased hunting and fishing opportunities for members of the Armed Forces, retired members, and disabled veterans.

# Subtitle A—Financial Matters

**SEC. 1001. GENERAL TRANSFER AUTHORITY.**

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2007 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $4,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

**SEC. 1002. AUTHORIZATION OF ADDITIONAL EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2006.**

(a) IRAQ, AFGHANISTAN, AND THE GLOBAL WAR ON TERROR.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation, or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to title I of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

(b) HURRICANE DISASTER RELIEF AND RECOVERY.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in the National Defense Authorization Act for Fiscal Year 2006 are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation, or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

(c) BORDER SECURITY.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in the National Defense Authorization Act for Fiscal Year 2006 are hereby adjusted,

with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation, or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to title V of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

**SEC. 1003. REDUCTION IN CERTAIN AUTHORIZATIONS DUE TO SAVINGS RELATING TO LOWER INFLATION.**

(a) REDUCTION.—The aggregate amount authorized to be appropriated by titles I, II, and III is the amount equal to the sum of all the amounts authorized to be appropriated by such titles reduced by $757,051,000.

(b) SOURCE OF SAVINGS.—Reductions required in order to comply with subsection (a) shall be derived from savings resulting from lower-than-expected inflation as a result of a review of the inflation assumptions used in the preparation of the budget of the President for fiscal year 2007, as submitted to Congress pursuant to section 1005 of title 31, United States Code.

(c) ALLOCATION OF REDUCTION.—The Secretary of Defense shall allocate the reduction required by subsection (a) among the amounts authorized to be appropriated for accounts in titles I, II, and III to reflect the extent to which net savings from lower-than-expected inflation are allocable to amounts authorized to be appropriated to such accounts.

**SEC. 1004. INCREASE IN FISCAL YEAR 2006 GENERAL TRANSFER AUTHORITY.**

Section 1001(a)(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3418) is amended by striking "$3,500,000,000" and inserting "$5,000,000,000".

**SEC. 1005. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2007.**

(a) FISCAL YEAR 2007 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2007 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2006, of funds appropriated for fiscal years before fiscal year 2007 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $797,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $310,277,000 for the Military Budget.

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

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

**SEC. 1006. REPORT ON BUDGETING FOR FLUCTUATIONS IN FUEL COST RATES.**

(a) SECRETARY OF DEFENSE REPORT.—

(1) REPORT ON BUDGETING FOR FUEL COST FLUCTUATIONS.—Not later than February 15, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the fuel rate and cost projection used in the annual Department of Defense budget presentation.

(2) MATTERS TO BE INCLUDED.—In the report under paragraph (1), the Secretary shall—

(A) identify alternative approaches for selecting fuel rates that would produce more realistic estimates of amounts required to be appropriated or otherwise made available for the Department of Defense to accommodate fuel rate fluctuations;

(B) discuss the advantages and disadvantages of each approach identified pursuant to subparagraph (A); and

(C) identify the Secretary's preferred approach among the alternative identified pursuant to subparagraph (A) and provide the Secretary's rationale for preferring that approach.

(3) IDENTIFICATION OF ALTERNATIVE APPROACHES.—In identifying alternative approaches pursuant to paragraph (2)(A), the Secretary shall examine—

(A) approaches used by other Federal departments and agencies; and

(B) the feasibility of using private economic forecasting.

(b) COMPTROLLER GENERAL REVIEW AND REPORT.—The Comptroller General shall review the report under subsection (a), including the basis for the Secretary's conclusions stated in the report, and shall submit, not later than March 15, 2007, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of that review.

**SEC. 1007. MODIFICATION OF DATE OF SUBMITTAL OF OMB/CBO REPORT ON SCORING OF OUTLAYS.**

Section 226(a) of title 10, United States Code, is amended by striking "January 15 of each year" and inserting "April 1 of each year".

**SEC. 1008. BUDGETING FOR ONGOING MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ.**

The President's budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2007 shall include—

(1) a request for the appropriation of funds for such fiscal year for ongoing military operations in Afghanistan and Iraq;

(2) an estimate of all funds expected to be required in that fiscal year for such operations; and

(3) a detailed justification of the funds requested.

# Subtitle B—Policy Relating to Vessels and Shipyards

**SEC. 1011. AIRCRAFT CARRIER FORCE STRUCTURE.**

(a) REDUCTION IN MINIMUM NUMBER OF OPERATIONAL AIRCRAFT CARRIERS REQUIRED BY LAW.—Section 5062(b) of title 10, United States Code, is amended by striking "12" and inserting "11".

(b) REQUIRED CERTIFICATION BEFORE RETIREMENT OF U.S.S. JOHN F. KENNEDY.—The Secretary of the Navy may not retire the U.S.S. John F. Kennedy (CV–67) from operational status unless the Secretary of Defense first submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the Secretary's certification that the Secretary has received—

(1) a formal notice from the Secretary of Homeland Security that the Department of Homeland Security does not desire to maintain and operate that vessel; and

(2) a formal notice from the North Atlantic Treaty Organization that the North Atlantic Treaty Organization does not desire to maintain and operate that vessel.

(c) CONDITIONS ON STATUS OF U.S.S. JOHN F. KENNEDY IF RETIRED.—Upon the retirement from operational status of the U.S.S. John F. Kennedy (CV–67), the Secretary of the Navy—

(1) while the vessel is in the custody and control of the Navy, shall maintain that vessel in a state of preservation (including configuration control, dehumidification, cathodic protection, and maintenance of spares) that would allow for reactivation of that vessel in the event that the vessel was needed in response to a national emergency; and

(2) if the vessel is transferred from the custody and control of the Navy, shall require as a condition of such transfer that—

(A) if the President declares a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), the transferee shall, upon request of the Secretary of Defense, return the vessel to the United States; and

(B) in such a case (unless the transferee is otherwise notified by the Secretary), title to the vessel shall revert immediately to the United States.

**SEC. 1012. SENSE OF CONGRESS ON NAMING THE CVN–78 AIRCRAFT CARRIER AS THE U.S.S. GERALD R. FORD.**

(a) FINDINGS.—Congress makes the following findings:

(1) Gerald R. Ford has served his country with honor and distinction for the past 64 years, and continues to serve.

(2) Gerald R. Ford was commissioned in the Naval Reserve in 1942 and served valiantly at sea on the U.S.S. Monterey (CVL–26) during World War II, taking part in major operations in the Pacific, including at Makin Island, Kwajalein, Truk, Saipan, and the Philippine Sea.

(3) Gerald R. Ford received 9 engagement stars and 2 bronze stars for his service in the Navy during World War II.

(4) Gerald R. Ford was first elected to the House of Representatives in 1948.

(5) During 25 years of service in the House of Representatives, Gerald R. Ford distinguished himself by an exemplary record for character, decency, and trustworthiness.

(6) Throughout his service in the House of Representatives, Gerald R. Ford was an ardent proponent of strong national defense and international leadership by the United States.

(7) From 1965 to 1973, Gerald R. Ford served as minority leader of the House of Representatives, raising the standard for bipartisanship in his tireless fight for freedom, hope, and justice.

(8) In 1973, Gerald R. Ford was appointed by President Nixon to the office of Vice President of the United States under the 25th Amendment to the Constitution, having been confirmed by overwhelming majorities in both Houses of Congress.

(9) On August 9, 1974, Gerald R. Ford became the 38th President of the United States, taking office during one of the most challenging periods in the history of the United States.

(10) As President from August 9, 1974, to January 20, 1977, Gerald R. Ford restored the faith of the people of the United States in the office of the President through his steady leadership, courage, and ultimate integrity.

(11) As President, Gerald R. Ford helped restore the prestige of the United States in the world community by working to achieve peace in the Middle East, preserve detente with the Soviet Union, and set new limits on the spread of nuclear weapons.

(12) As President, Gerald R. Ford served as Commander in Chief of the Armed Forces with great dignity, supporting a strong Navy and a global military presence for the United States and honoring the members of the Armed Forces.

(13) Since leaving the office of President, Gerald R. Ford has been an international ambassador of American goodwill, a noted scholar and lecturer, a strong supporter of human rights, and a promoter of higher education.

(14) Gerald R. Ford was awarded the Medal of Freedom and the Congressional Gold Medal in 1999 in recognition of his contribution to the Nation.

(15) As President, Gerald R. Ford bore the weight of a constitutional crisis and guided the Nation on a path of healing and restored hope, earning forever the enduring respect and gratitude of the Nation.

(b) NAMING OF CVN–78 AIRCRAFT CARRIER.—It is the sense of Congress that the nuclear-powered aircraft carrier of the Navy designated as CVN–78 should be named the U.S.S. Gerald R. Ford.

**SEC. 1013. TRANSFER OF NAVAL VESSELS TO FOREIGN NATIONS BASED UPON VESSEL CLASS.**

Section 7307(a) of title 10, United States Code, is amended—

(1) by striking "disposition of that vessel is approved" and inserting "disposal of that vessel, or of a vessel of the class of that vessel, is authorized"; and

(2) by adding at the end the following new sentences: "In the case of an authorization by law for the disposal of such a vessel that names a specific vessel as being authorized for such disposal, the Secretary of Defense may substitute another vessel of the same class, if the vessel substituted has virtually identical capabilities as the named vessel. In the case of an authorization by law for the disposal of vessels of a specified class, the Secretary may dispose of vessels of that class pursuant to that authorization only in the number of such vessels specified in that law as being authorized for disposal.".

**SEC. 1014. OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN FOREIGN SHIPYARDS.**

Section 7310(a) of title 10, United States Code, is amended—

(1) by inserting "OR GUAM" in the subsection heading after "UNITED STATES"; and

(2) by inserting "or Guam" after "in the United States".

**SEC. 1015. REPORT ON OPTIONS FOR FUTURE LEASE ARRANGEMENT FOR GUAM SHIPYARD.**

(a) REPORT REQUIRED.—Not later than December 15, 2006, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Service of the House of Representatives a report describing the options available with respect to the Guam Shipyard in Santa Rita, Guam.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include the following:

(1) An evaluation of the performance of the entities that, as of the date of the enactment of this Act, are the lessee and operators of the Guam Shipyard under the terms of the lease in effect on the date of the enactment of this Act.

(2) An evaluation of each of the following options with respect to the Guam Shipyard lease:

(A) Terminating the remaining term of the lease and issuing a new 25 year lease with the same entity.

(B) Terminating the remaining term of the lease with respect to the approximately 73 acres within the Guam Shipyard that are required for mission requirements and leaving the remaining term of the lease in effect with respect to the approximately 27 acres within the Facility that are not required for mission requirements.

(C) Terminating the remaining term of the lease and negotiating a new use arrangement with a different lessee or operator. The new use arrangement options shall include:

(i) Government-owned and government-operated facility.

(ii) Government-owned and contractor-operated facility.

(iii) Government-leased property for contractor-owned and contractor-operated facility.

(c) OPTIONS FOR NEW USE ARRANGEMENTS.—In evaluating the options under subsection (b)(2)(C), the Secretary of the Navy shall include an evaluation of each of the following:

(1) The anticipated future military vessel repair and workload on Guam in relation to the 2006 Quadrennial Defense Review, issued on February 6, 2006, pursuant to section 118 of title 10, United States Code.

(2) The anticipated military vessel repair and workload attributable to vessels comprising the Maritime Prepositioning Ship Squadron Three.

(3) The anticipated military vessel repair and workload due to a change in section 7310 of title 10, United States Code, that would designate Guam as a United States homeport facility.

(4) The expected workload if the submarine tender the U.S.S. Frank Cable (AS–40) is decommissioned.

(5) The estimated reacquisition costs of transferred Government property.

(6) Costs to improve floating dry dock mooring certification and required nuclear certification for the floating dry dock designated as AFDB–8 to conduct the following maintenance:

(A) Dry-docking selected restricted availabilities and mid-term availability for attack submarines.

(B) Dry-docking phased maintenance availabilities for amphibious vessels, including to amphibious assault ships, dock landing ships, and amphibious transport dock ships.

(C) Dry-docking phased maintenance availabilities for surface combatants, including cruisers, destroyers, and frigates.

(7) Commercial opportunities for development to expand commercial ship repair and general industrial services, given anti-terrorism force protection requirements at the current facility.

(8) Estimates from three contractors for the maintenance and repair costs associated with executing a multiship, multi-option contract that would generate a minimum 60,000 manday commitment for the Department of the Navy and Military Sealift Command vessels.

(9) A projection of the maintenance and repair costs associated with executing a minimum 60,000 mandays for the Department of the Navy and Military Sealift Command vessels as a Government-owned and Government-operated Navy ship repair facility.

(d) INPUT FROM CONTRACTORS.—In evaluating the options under clauses (ii) and (iii) of subsection (b)(2)(C) for the purposes of paragraphs (1), (2), and (3) of subsection (c), the Secretary of the Navy shall seek input from at least three contractors on the viability of operations based on the projected workload fiscal years 2008 through 2013.

(e) RECOMMENDATIONS.—The Secretary of the Navy shall include in the report required under subsection (a) the following:

(1) The recommendations of the Secretary with respect to continuation of the existing Guam Shipyard lease based on evaluations conducted pursuant to subsection (b)(1).

(2) The option under subsection (b)(2) that the Secretary recommends for fiscal year 2008.

(f) GAO REPORT.—Not later than March 1, 2007, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Service of the House of Representatives a report evaluating the report submitted by the Secretary of the Navy under subsection (a). The report shall include the option under subsection (b)(2) that the Secretary recommends for fiscal year 2008.

**SEC. 1016. ASSESSMENTS OF NAVAL VESSEL CONSTRUCTION EFFICIENCIES AND OF EFFECTIVENESS OF SPECIAL CONTRACTOR INCENTIVES.**

(a) ASSESSMENT REQUIRED.—The Secretary of the Navy shall conduct an assessment of each of the aspects of naval vessel construction specified in subsection (b) in order to determine—

(1) what inefficiencies exist in those aspects of naval vessel construction;

(2) what innovative design and production technologies, processes, and performance incentives are warranted to alleviate the inefficiencies so identified; and

(3) what action the Secretary intends to take to facilitate the adoption by the shipbuilding industry of the technologies, processes, and performance incentives identified under paragraph (2).

(b) ASPECTS TO BE ASSESSED.—Subsection (a) applies with respect to the following aspects of naval vessel construction:

(1) Program design, engineering, and production engineering.

(2) Organization and operating systems.

(3) Steelwork production.

(4) Ship construction and outfitting.

(5) Combat systems development, integration, and installation.

(c) CONSIDERATION OF PRIOR ASSESSMENTS.—In making the assessments required by subsection (a), the Secretary shall take into consideration the results of—

(1) the study of the cost effectiveness of the ship construction program of the Navy required by section 1014 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2041);

(2) the assessment of the United States naval shipbuilding industry required by section 254 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3180); and

(3) any prior assessment performed by or on behalf of the Department of Defense.

(d) SPECIAL CONTRACTOR INCENTIVES.—In addition to the assessments under subsection (a), the Secretary shall conduct an assessment of the effectiveness of the use in naval vessel construction contracts of special contract incentives for investment by the contractor in facilities and process improvement projects. Such assessment shall include the following:

(1) A description of the intent of the use of such incentives in naval vessel construction contracts.

(2) A description of the process and criteria used by the Secretary for evaluation of proposed projects to receive such

incentives in naval vessel construction contracts and for the selection among such proposed projects for inclusion of incentives in such contracts.

(3) For each facility or process improvement project for which funds were provided in a naval vessel construction contract during the five-year period ending on the date of the enactment of this Act (including the facility or process improvement project contract incentives incorporated in the Virginia-class submarine construction contract and in the CVN–21 construction contract)—

(A) a description of the facility or process improvement project proposed by the contractor;

(B) the amount expended (or to be expended) by the United States for the project under the contract; and

(C) the estimated or actual return on investment for the amounts referred to in subparagraph (B).

(4) The plans of the Secretary of the Navy to use similar contract incentives in ongoing and future shipbuilding programs.

(5) Any recommendation by the Secretary for the enactment of legislation that might increase the effectiveness of, or expand the use of, such contract incentives.

(e) REPORT.—Not later than April 1, 2007, the Secretary of the Navy shall submit to the congressional defense committees a report on—

(1) the Secretary's assessments of naval vessel construction efficiencies under subsection (a), addressing each of the matters specified in that subsection; and

(2) the Secretary's assessment of the effectiveness of special incentives for contractor investment in facilities and process improvement projects under subsection (d).

**SEC. 1017. OBTAINING CARRIAGE BY VESSEL: CRITERION REGARDING OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN THE UNITED STATES.**

(a) ACQUISITION POLICY.—In order to maintain the national defense industrial base, the Secretary of Defense shall issue an acquisition policy that establishes, as a criterion required to be considered in obtaining carriage by vessel of cargo for the Department of Defense, the extent to which an offeror of such carriage had overhaul, repair, and maintenance work for covered vessels of the offeror performed in shipyards located in the United States.

(b) COVERED VESSELS.—A vessel is a covered vessel of an offeror under this section if the vessel is—

(1) owned, operated, or controlled by the offeror; and

(2) qualified to engage in the carriage of cargo in the coastwise or non-contiguous trade under section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), section 12106 of title 46, United States Code, and section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802).

(c) APPLICATION OF POLICY.—The acquisition policy shall include rules providing for application of the policy to covered vessels as expeditiously as is practicable based on the nature of carriage obtained, and by no later than June 1, 2007.

(d) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations as necessary to carry out the acquisition policy and submit

such regulations to the Committees on Armed Services of the Senate and the House of Representatives, by not later than June 1, 2007.

(2) INTERIM REGULATIONS.—

(A) IN GENERAL.—The Secretary may prescribe interim regulations as necessary to carry out the acquisition policy. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code.

(B) SUBMISSION TO CONGRESS.—Upon the issuance of interim regulations under this paragraph, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the interim regulations and a description of the acquisition policy developed (or being developed) under subsection (a).

(C) EXPIRATION.—All interim regulations prescribed under the authority of this paragraph that are not earlier superseded by final regulations shall expire no later than June 1, 2007.

(e) ANNUAL REPORT.—The Secretary, acting through the United States Transportation Command, shall annually submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding overhaul, repair, and maintenance performed on covered vessels of each offeror of carriage to which the acquisition policy applies.

(f) DEFINITIONS.—In this section:

(1) FOREIGN SHIPYARD.—The term "foreign shipyard" means a shipyard that is not located in the United States.

(2) UNITED STATES.—The term "United States" means—

(A) any State of the United States; and

(B) Guam.

**SEC. 1018. RIDING GANG MEMBER REQUIREMENTS.**

(a) REQUIREMENT FOR CHARTERS AND CONTRACTS.—

(1) IN GENERAL.—The Secretary of Defense may not award, renew, extend, or exercise an option to extend any charter of a vessel documented under chapter 121 of title 46, United States Code, for the Department of Defense, or any contract for the carriage of cargo by a vessel documented under that chapter for the Department of Defense, unless the charter or contract, respectively, includes provisions that allow riding gang members to perform work on the vessel during the effective period of the charter or contract only under terms, conditions, restrictions, and requirements that, except as provided in paragraphs (2) and (3), are substantially the same as those that apply under section 8106 of title 46, United States Code, as in effect immediately before the enactment of this Act, with respect to a vessel referred to in that section.

(2) LIMITATION.—For purposes of paragraph (1) of this subsection, subsections (a)(1)(A)(ii), (c), and (d) of section 8106 of title 46, United States Code, shall not apply with respect to a charter or contract referred to in paragraph (1).

(3) MERCHANT MARINER'S DOCUMENT REQUIRED.—The Secretary of Defense shall include in the provisions required under paragraph (1) a requirement that each riding gang member

who performs work on the vessel must hold a merchant mariner's document issued under chapter 73 of title 46, United States Code.

(4) RIDING GANG MEMBER DEFINED.—In this subsection the term "riding gang member" has the meaning that term has in section 8106 of title 46, United States Code, as in effect immediately before the enactment of this Act.

(b) EXEMPTIONS BY SECRETARY OF DEFENSE.—

(1) IN GENERAL.—The Secretary of Defense may issue regulations that exempt from the charter or contract provisions required under subsection (a) any individual who is on a vessel for purposes other than engaging in the operation or maintenance of the vessel, including an individual who is— Regulations.

(A) one of the personnel who accompany, supervise, guard, and maintain unit equipment aboard a ship, commonly referred to as supercargo personnel;

(B) one of the force protection personnel of the vessel;

(C) a specialized repair technician; or

(D) otherwise required by the Secretary of Defense to be aboard the vessel.

(2) BACKGROUND CHECK.—Such regulations shall include a requirement that any individual who is exempt under the regulations must pass a background check before going aboard the vessel, unless the individual holds a merchant mariner's document issued under chapter 73 of title 46, United States Code.

(3) EXEMPTED INDIVIDUAL NOT TREATED AS IN ADDITION TO THE CREW.—An individual exempted under paragraph (1) shall not be counted as an individual in addition to the crew for the purposes of section 3304 of title 46, United States Code.

**SEC. 1019. AUTHORITY TO TRANSFER SS ARTHUR M. HUDDELL TO THE GOVERNMENT OF GREECE.**

(a) AUTHORITY TO TRANSFER.—The President is authorized to transfer the ex-Liberty ship SS Arthur M. Huddell to the Government of Greece in accordance with such terms and conditions as the President may determine.

(b) ADDITIONAL EQUIPMENT.—The President is authorized to convey additional equipment from other obsolete vessels of the National Defense Reserve Fleet to assist the Government of Greece in using the vessel referred to in subsection (a) as a museum exhibit.

(c) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARD.—To the maximum extent practicable, the President shall require, as a condition of the transfer of the vessel referred to in subsection (a), that the Government of Greece have such repair or refurbishment of the vessel as is needed performed at a shipyard located in the United States.

## Subtitle C—Counter-Drug Activities

**SEC. 1021. EXTENSION OF AUTHORITY OF DEPARTMENT OF DEFENSE TO PROVIDE ADDITIONAL SUPPORT FOR COUNTERDRUG ACTIVITIES OF OTHER GOVERNMENTAL AGENCIES.**

Section 1004(a) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended by striking "through 2006" and inserting "through 2011".

**SEC. 1022. EXTENSION AND EXPANSION OF DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.**

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of subsection (a) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as amended by section 1021 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136: 117 Stat. 1593), is amended by striking "September 30, 2006" and inserting "September 30, 2008".

(b) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(10) The Government of Azerbaijan.

"(11) The Government of Kazakhstan.

"(12) The Government of Kyrgyzstan.

"(13) The Government of Armenia.

"(14) The Government of Guatemala.

"(15) The Government of Belize.

"(16) The Government of Panama.".

(c) TYPES OF SUPPORT.—Subsection (c) of such section is amended—

(1) in paragraph (2), by inserting ", vehicles, and, subject to section 484(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c(a)), aircraft" after "patrol boats"; and

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

"(4) The transfer of detection, interception, monitoring, and testing equipment.

"(5) For the Government of Afghanistan only, individual and crew-served weapons of 50 caliber or less and ammunition for such weapons for counter-narcotics security forces.".

(d) MAXIMUM ANNUAL AMOUNT OF SUPPORT.—Subsection (e)(2) of such section is amended—

(1) by striking "or $40,000,000" and inserting "$40,000,000"; and

(2) by inserting before the period at the end the following: ", or $60,000,000 during either of the fiscal years 2007 and 2008".

**SEC. 1023. EXTENSION OF AUTHORITY TO SUPPORT UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.**

Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042) is amended—

(1) in subsection (a)(1), by striking "and 2006" and inserting "through 2008"; and

(2) in subsection (c), by striking "and 2006" and inserting "through 2008".

**SEC. 1024. CONTINUATION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTERDRUG ACTIVITIES.**

(a) TWO-YEAR EXTENSION OF REPORTING REQUIREMENT.—Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1215) and section 1021 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3426), is further amended by striking "Not later than April 15, 2006," and inserting "(a) REPORTS REQUIRED.—Not later than April 15, 2006, February 15, 2007, and February 15, 2008,".

(b) ADDITIONAL INFORMATION TO BE INCLUDED.—Such section is further amended—

(1) by designating the second sentence as subsection (b) and striking "The report" and inserting "INFORMATION TO BE PROVIDED.—Each report under this section"; and

(2) in paragraph (2), by inserting before the period at the end the following: "and the amount of funds provided for each type of counterdrug activity assisted".

(c) FORM AND SUBMISSION OF REPORTS.—Such section is further amended—

(1) in subsection (a), as designated by subsection (a) of this section, by striking "the congressional defense committees" and inserting "the congressional committees specified in subsection (d)"; and

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

"(c) FORM OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified form.

"(d) SPECIFIED COMMITTEES.—The congressional committees specified in this subsection are the following:

"(1) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(2) The Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.".

**SEC. 1025. REPORT ON INTERAGENCY COUNTER-NARCOTICS PLAN FOR AFGHANISTAN AND SOUTH AND CENTRAL ASIAN REGIONS.**

(a) REPORT REQUIRED.—Not later than December 31, 2006, the Secretary of Defense shall submit to the congressional defense committees a report updating the interagency counter-narcotics implementation plan for Afghanistan and the South and Central Asian regions, including Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Kazakhstan, Iran, Armenia, Azerbaijan, Pakistan, India, and China.

(b) CONSULTATION.—The report under this section shall be prepared in consultation with the Secretary of State, the Administrator of the Agency for International Development, and the Director of the Drug Enforcement Administration.

(c) MATTERS TO BE INCLUDED.—The report shall include the following for each foreign government covered by the report:

(1) A consideration of what activities should be reallocated among the United States and the foreign government based on the capabilities of each department and agency involved.

(2) Any measures necessary to clarify the legal authority required to complete the mission.

(3) The measures necessary for the United States to successfully complete its counter-narcotics efforts in Afghanistan and the South and Central Asian regions, including an assessment of whether sufficient personnel and other resources, including infrastructure and development initiatives, are being made available by the United States and the foreign government.

(4) Current and proposed United States funding to support counter-narcotics activities of the foreign government.

**SEC. 1026. REPORT ON UNITED STATES SUPPORT FOR OPERATION BAHAMAS, TURKS & CAICOS.**

(a) FINDINGS.—Congress makes the following findings:

(1) In 1982 the United States Government created Operation Bahamas, Turks & Caicos (OPBAT) to counter the smuggling of cocaine into the United States.

(2) According to the Drug Enforcement Agency, an estimated 80 percent of the cocaine entering the United States in the 1980s came through the Bahamas, whereas, according to the Office of National Drug Control Policy, only an estimated 10 percent comes through the Bahamas today.

(3) According to the Drug Enforcement Agency, more than 80,000 kilograms of cocaine and nearly 700,000 pounds of marijuana have been seized in Operation Bahamas, Turks & Caicos since 1986, with a combined street value of approximately two billion dollars.

(4) The Army has provided military airlift to law enforcement officials under Operation Bahamas, Turks & Caicos to create an effective, reliable, and immediate response capability for drug interdiction. This support is largely responsible for the decline in cocaine shipments to the United States through the Bahamas.

(5) The Bahamas is an island nation composed of approximately 700 islands and keys, which makes aviation assets the best and most efficient method of transporting law enforcement agents and interdicting smugglers.

(6) It is in the interests of the United States to maintain the results of the successful Operation Bahamas, Turks & Caicos program and prevent drug smugglers from rebuilding their operations through the Bahamas.

(b) REPORT ON UNITED STATES GOVERNMENT SUPPORT FOR OPBAT.—

(1) REPORT ON DECISION TO WITHDRAW.—Not later than 30 days before implementing a decision to withdraw Department of Defense helicopters from Operation Bahamas, Turks & Caicos, the Secretary of Defense shall submit to the Congress a report outlining the plan for the coordination of the Operation Bahamas, Turks & Caicos mission, at the same level of effectiveness, using other United States Government assets.

(2) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, and with other appropriate officials of the United States Government, in preparing the report under paragraph (1).

(3) ELEMENTS.—The report under paragraph (1) on the withdrawal of equipment referred to in that paragraph shall include the following:

(A) An explanation of the military justification for the withdrawal of the equipment.

(B) An assessment of the availability of other options (including other Government helicopters) to provide the capability being provided by the equipment to be withdrawn.

(C) An explanation of how each option specified under subparagraph (B) will provide the capability currently provided by the equipment to be withdrawn.

(D) An assessment of the potential use of unmanned aerial vehicles in Operation Bahamas, Turks & Caicos, including the capabilities of such vehicles and any advantages or disadvantages associated with the use of such vehicles in that operation, and a recommendation on whether or not to deploy such vehicles in that operation.

# Subtitle D—Force Structure and Defense Policy Matters

**SEC. 1031. IMPROVEMENTS TO QUADRENNIAL DEFENSE REVIEW.**

(a) FINDINGS.—Congress finds that the comprehensive examination of the defense program and policies of the United States that is undertaken by the Security Defense every four years pursuant to section 118 of title 10, United States Code, known as the Quadrennial Defense Review, is—

(1) vital in laying out the strategic military planning and threat objectives of the Department of Defense; and

(2) critical to identifying the correct mix of military planning assumptions, defense capabilities, and strategic focuses for the Armed Forces.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Quadrennial Defense Review is intended to provide more than an overview of global threats and the general strategic orientation of the Department of Defense.

(c) CONDUCT OF REVIEW.—Subsection (b) of section 118 of title 10, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

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

"(4) to make recommendations that are not constrained to comply with the budget submitted to Congress by the President pursuant to section 1105 of title 31.".

(d) ADDITIONAL ELEMENTS IN REPORT TO CONGRESS.—Subsection (d) of such section is amended—

(1) in paragraph (1), by inserting ", the strategic planning guidance," after "United States";

(2) by redesignating paragraphs (9) through (15) as paragraphs (10), (11), (12), (13), (14), (15), and (17), respectively;

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

"(9) The specific capabilities, including the general number and type of specific military platforms, needed to achieve the strategic and warfighting objectives identified in the review."; and

(4) by inserting after paragraph (15), as redesignated by paragraph (2), the following new paragraph:

"(16) The homeland defense and support to civil authority missions of the active and reserve components, including the organization and capabilities required for the active and reserve components to discharge each such mission.".

(e) CJCS REVIEW.—Subsection (e)(1) of such section is amended by inserting before the period at the end the following: "and a description of the capabilities needed to address such risk".

(f) INDEPENDENT ASSESSMENT.—Such section is further amended by adding at the end the following new subsection:

Deadlines.

"(f) INDEPENDENT PANEL ASSESSMENT.—(1) Not later than six months before the date on which the report on a Quadrennial Defense Review is to be submitted under subsection (d), the Secretary of Defense shall establish a panel to conduct an assessment of the quadrennial defense review.

"(2) Not later than three months after the date on which the report on a quadrennial defense review is submitted under subsection (d) to the congressional committees named in that subsection, the panel appointed under paragraph (1) shall submit to those committees an assessment of the review, including the recommendations of the review, the stated and implied assumptions incorporated in the review, and the vulnerabilities of the strategy and force structure underlying the review. The assessment of the panel shall include analyses of the trends, asymmetries, and concepts of operations that characterize the military balance with potential adversaries, focusing on the strategic approaches of possible opposing forces.".

**SEC. 1032. QUARTERLY REPORTS ON IMPLEMENTATION OF 2006 QUADRENNIAL DEFENSE REVIEW REPORT.**

(a) REPORTS REQUIRED.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of recommendations described in the Department of Defense 2006 Quadrennial Defense Review Report.

(b) CONTENTS OF REPORTS.—Each quarterly report under subsection (a) shall, at a minimum—

(1) describe the processes and procedures established by the Secretary of Defense to examine the various recommendations referred to in subsection (a);

(2) discuss implementation plans and strategies for each area highlighted by the Quadrennial Defense Review Report;

(3) provide relevant information about the status of such implementation; and

(4) indicate changes in the Secretary's assessment of the defense strategies or capabilities required since the publication of the 2006 Quadrennial Defense Review Report.

(c) INITIAL REPORT.—The first report under subsection (a) shall be submitted not later than January 31, 2007.

(d) EXPIRATION OF REQUIREMENT.—The reporting requirement in subsection (a) shall terminate upon the earlier of the following:

(1) The date of the publication of the next Quadrennial Defense Review Report after the date of the enactment of this Act pursuant to section 118 of title 10, United States Code.

(2) The date of transmission of a written notification by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives that implementation of the recommendations of the 2006 Quadrennial Defense Review is complete.

**SEC. 1033. REPORT ON FEASIBILITY OF ESTABLISHING A REGIONAL COMBATANT COMMAND FOR AFRICA.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the establishment under chapter 6 of title 10, United States Code, of a new unified combatant command with a geographic area of responsibility consisting of the African continent and adjacent waters.

(b) CONTENT.—The report under subsection (a) shall include—

(1) a study on the feasibility and advisability of establishing a combatant command for Africa as described in subsection (a);

(2) an assessment of the benefits and problems associated with establishing such a command; and

(3) an estimate of the costs, time, and resources needed to establish such a command.

**SEC. 1034. DETERMINATION OF DEPARTMENT OF DEFENSE INTRATHEATER AND INTERTHEATER AIRLIFT REQUIREMENTS AND SEALIFT MOBILITY REQUIREMENTS.**

(a) DETERMINATION OF REQUIREMENTS.—The Secretary of Defense, as part of the 2006 Mobility Capabilities Study, shall determine Department of Defense mobility requirements as follows:

(1) The Secretary shall determine intratheater and intertheater airlift mobility requirements (stated in terms of million ton miles per day) and sealift mobility requirements (stated in terms of tons) necessary to support warfighting objectives of the commanders of the combatant commands for each scenario that was modeled in the 2005 Mobility Capabilities Study and each scenario that is modeled in the 2006 Mobility Capabilities Study.

(2) The Secretary shall determine intratheater and intertheater airlift mobility requirements (stated in terms of million ton miles per day) and sealift mobility requirements (stated in terms of tons) for executing the National Military Strategy with a low acceptable level of risk, with a medium acceptable level of risk, and with a high acceptable level of risk, for each of the following:

(A) Two overlapping "swift defeat" campaigns.

(B) The Global War on Terrorism.

(C) Baseline security posture operations.

(D) Homeland defense and civil support operations.
(E) Special operations missions.
(F) Global long-range strike missions.
(G) Strategic nuclear missions.

(b) REPORT.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report providing the mobility requirements determined pursuant to subsection (a). As part of the report, the Secretary shall—

(1) set forth each mobility requirement specified in paragraph (1) or (2) of subsection (a); and

(2) compare those defined mobility requirements to the Department of Defense's mobility capability program of record for intertheater and intratheater airlift and sealift.

(c) MOBILITY CAPABILITIES STUDIES.—For purposes of this section:

(1) 2006 MOBILITY CAPABILITIES STUDY.—The term "2006 Mobility Capabilities Study" means the studies conducted by the Secretary of Defense and the Joint Staff during 2006 as a follow-on to the 2005 Mobility Capabilities Study.

(2) 2005 MOBILITY CAPABILITIES STUDY.—The term "2005 Mobility Capabilities Study" means the comprehensive Mobility Capabilities Study completed in December 2005 and conducted through the Office of Program Analysis and Evaluation of the Department of Defense to assess mobility needs for all aspects of the National Defense Strategy.

**SEC. 1035. PRESIDENTIAL REPORT ON IMPROVING INTERAGENCY SUPPORT FOR UNITED STATES 21ST CENTURY NATIONAL SECURITY MISSIONS AND INTERAGENCY OPERATIONS IN SUPPORT OF STABILITY, SECURITY, TRANSITION, AND RECONSTRUCTION OPERATIONS.**

(a) REPORT REQUIRED.—Not later than April 1, 2007, the President shall submit to Congress a report on building interagency capacity and enhancing the integration of civilian capabilities of the executive branch with the capabilities of the Armed Forces to enhance the achievement of United States national security goals and objectives.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the capacity and capabilities required within the civilian agencies of the United States Government to achieve the full range of United States national security goals and objectives, to defend United States national security interests, and, in particular, to coordinate with the Armed Forces where deployed, including capacity and capabilities in at least the following areas:

(A) Organizations and organizational structures, including a description of the roles, responsibilities, and authorities;

(B) Planning and assessment capabilities;

(C) Information sharing policies, practices, and systems;

(D) Leadership issues, including command and control of forces and personnel in the field;

(E) Personnel policies and systems, including those pertaining to recruiting, retention, training, education, promotion, awards, employment, deployment, and retirement; and

(F) Acquisition authorities, including identifying any economies of scale that could be gained by improved coordination of acquisition activities and replicating "best practices", as appropriate.

(2) The criteria and considerations used to evaluate progress in each of the areas specified in paragraph (1) towards building interagency capacity and capabilities and integrating such capabilities across the United States Government to enhance the achievement of United States national security goals and objectives.

(3) Recommendations for specific legislative proposals that would build interagency capacity by—

(A) addressing statutory or budgetary impediments, if any, to the improvement of interagency cooperation and coordination in order to carry out the full range of national security missions (including stability, security, transition, and reconstruction operations); and

(B) providing means to enhance the integration of civilian capabilities with the capabilities of deployed elements of the Armed Forces for each of those national security missions.

(c) ADDITIONAL REPORT ELEMENTS.—The report under subsection (a) shall include a portion dedicated to efforts to address the near-term need to strengthen interagency operations in support of stability, security, transition, and reconstruction operations, including a plan to establish interagency operating procedures for the departments and agencies of the United States Government for the planning and conduct of stability, security, transition, and reconstruction operations. Such plan shall include the following:

(1) A delineation of the roles, responsibilities, and authorities of the departments and agencies of the United States Government for stability, security, transition, and reconstruction operations.

(2) A description of operational processes for setting policy direction for stability, security, transition, and reconstruction operations in order to guide—

(A) operational planning and funding decisions of those departments and agencies;

(B) integration of civilian and military planning efforts;

(C) integration of programs and activities into an implementation plan;

(D) oversight of policy implementation;

(E) provision of guidance to field-level personnel on program direction and priorities; and

(F) monitoring of field implementation of assistance programs.

(3) A description of available capabilities and resources of each department and agency of the United States Government that could be used in support of stability, security, transition, and reconstruction operations and identification of additional resources needed to support the conduct of such operations.

(4) A description of how the capabilities and resources of the departments and agencies of the United States Government will be coordinated to support stability, security, transition, and reconstruction operations.

(5) A description of existing, or planned, protocols between departments and agencies of the United States Government on the utilization and allocation of assets in field operations that support stability, security, transition, and reconstruction operations.

(6) Recommendations for improving interagency training, education, and simulation exercises in order to adequately prepare civilian and military personnel in the departments and agencies of the United States Government to perform stability, security, transition, and reconstruction operations.

(7) Guidance for the implementation of the plan.

(d) FORM OF REPORT.—To the maximum extent practicable, the report shall be unclassified, with a classified annex, if necessary.

# Subtitle E—Reports

### SEC. 1041. ADDITIONAL ELEMENT IN ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL WARFARE DEFENSE.

Section 1703(b) of the National Defense Authorization Act for Fiscal Year 1994 (50 U.S.C. 1523(b)) is amended by adding at the end the following new paragraph:

"(10) A description of the coordination and integration of the program of the Defense Advanced Research Projects Agency (DARPA) on basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems under section 1701(c)(2) with the overall program of the Department of Defense on chemical and biological warfare defense, including—

"(A) an assessment of the degree to which the DARPA program is coordinated and integrated with, and supports the objectives and requirements of, the overall program of the Department of Defense; and

"(B) the means by which the Department determines the level of such coordination and support.".

### SEC. 1042. REPORT ON BIODEFENSE HUMAN CAPITAL REQUIREMENTS IN SUPPORT OF BIOSAFETY LABORATORIES.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the Department of Defense human capital requirements for pending capital programs to construct biodefense laboratories at Biosafety Level (BSL) 3 and Biosafety Level 4 or to expand current biodefense laboratories to such biosafety levels.

(b) ELEMENTS.—In conducting the study, the Secretary shall address the following:

(1) The number of trained research and support staff, by discipline and qualification level, including researchers, laboratory technicians, animal handlers, facility managers, facility or equipment maintainers, biosecurity personnel (including biosafety, physical, and electronic security personnel), and other safety personnel required—

(A) for existing biodefense laboratories at Biosafety Level 3 and Biosafety Level 4; and

(B) to manage biodefense research efforts to combat bioterrorism at the biodefense laboratories described in subsection (a).

(2) Plans to recruit and retain skilled personnel, in numbers sufficient to meet requirements described in paragraph (1)(B).

(3) A forecast of the training required to provide the personnel described by paragraph (1)(B) in time to meet the scheduled openings of the biodefense laboratories described in subsection (a), including—

(A) the types of training required;

(B) the length of training required; and

(C) the training sources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the results of the study conducted under this section.

**SEC. 1043. REPORT ON TECHNOLOGIES FOR NEUTRALIZING OR DEFEATING THREATS TO MILITARY ROTARY-WING AIRCRAFT FROM PORTABLE AIR DEFENSE SYSTEMS AND ROCKET-PROPELLED GRENADES.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on technologies for neutralizing or defeating threats to military rotary-wing aircraft posed by portable air defense systems and rocket-propelled grenades that are being researched, developed, employed, or considered by the United States Government or the North Atlantic Treaty Organization.

(b) CONTENT.—The report under subsection (a) shall include the following:

(1) An assessment of the expected value and utility of the technologies referred to in subsection (a), particularly with respect to—

(A) the saving of lives;

(B) the ability to reduce the vulnerability of aircraft; and

(C) the enhancement of the ability of aircraft and their crews to accomplish assigned missions.

(2) An assessment of the potential costs of developing and deploying such technologies.

(3) A description of efforts undertaken to develop such technologies, including—

(A) nonlethal countermeasures;

(B) lasers and other systems designed to dazzle, impede, or obscure threatening weapons or their users;

(C) direct fire response systems;

(D) directed energy weapons; and

(E) passive and active systems.

(4) A description of any impediment to the development of such technologies, such as legal restrictions under the law of war, treaty restrictions under the Protocol on Blinding Lasers, and political obstacles such as the reluctance of other allied countries to pursue such technologies.

**SEC. 1044. REPORTS ON EXPANDED USE OF UNMANNED AERIAL VEHICLES IN THE NATIONAL AIRSPACE SYSTEM.**

(a) FINDINGS.—Congress makes the following findings:

(1) Unmanned aerial vehicles (UAVs) serve Department of Defense intelligence, surveillance, reconnaissance, and combat missions.

(2) Operational reliability of unmanned aerial systems continues to improve, and development and fielding of so-called sense-and-avoid technology should continue in order to provide unmanned aerial systems with an appropriate level of safety.

(3) Unmanned aerial vehicles have the potential to support the Nation's homeland defense mission, border security mission, and natural disaster recovery efforts.

(b) REPORTS.—

(1) DOD REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the relevant congressional committees a report on the actions of the Department of Defense to develop standards for the testing and operation of unmanned aerial vehicles in the National Airspace System.

(2) FAA REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to the relevant congressional committees a report on progress in developing a policy for testing and a plan for achieving wider access by unmanned aerial vehicles that are appropriately equipped to operate in the National Airspace System

(3) RELEVANT CONGRESSIONAL COMMITTEE.—For the purposes of this subsection, the relevant congressional committees are the following:

(A) The Committee on Armed Services, the Committee on Commerce, the Committee on Science and Transportation, and the Committee on Homeland Security and Governmental Affairs of the Senate.

(B) The Committee on Armed Services, the Committee on Energy and Commerce, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 1045. REPORT ON INCENTIVES TO ENCOURAGE CERTAIN MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES TO SERVE IN THE BUREAU OF CUSTOMS AND BORDER PROTECTION.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly submit to the congressional committees specified in subsection (e) a report assessing the desirability and feasibility of offering incentives to members and former members of the Armed Forces described in subsection (b) for the purpose of encouraging such members to serve in the Bureau of Customs and Border Protection of the Department of Homeland Security.

(b) COVERED MEMBERS AND FORMER MEMBERS.—The members and former members of the Armed Forces to be covered by the report under subsection (a) are the following:

(1) Members of the reserve components of the Armed Forces.

(2) Former members of the Armed Forces within two years of separation from service in the Armed Forces.

(c) REQUIREMENTS AND LIMITATIONS.—

(1) NATURE OF INCENTIVES.—In considering incentives for purposes of the report required by subsection (a), the Secretaries shall consider such incentives as the Secretaries jointly consider appropriate, whether or not such incentives are monetary or otherwise and whether or not such incentives are authorized by current law or regulations.

(2) TARGETING OF INCENTIVES.—In assessing any incentive for purposes of the report, the Secretaries shall give particular attention to the utility of such incentive in—

(A) encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by members and former members of the Armed Forces described in subsection (b) who provided border patrol or border security assistance to the Bureau as part of their duties as members of the Armed Forces; and

(B) leveraging military training and experience by accelerating training, or allowing credit to be applied to related areas of training, required for service with the Bureau of Customs and Border Protection.

(3) PAYMENT.—In assessing incentives for purposes of the report, the Secretaries shall assume that any costs of such incentives shall be borne by the Department of Homeland Security.

(d) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of various monetary and non-monetary incentives considered for purposes of the report.

(2) An assessment of the desirability and feasibility of utilizing any such incentive for the purpose specified in subsection (a), including an assessment of the particular utility of such incentive in encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by members and former members of the Armed Forces described in subsection (c)(2)(A).

(3) Any other matters that the Secretaries jointly consider appropriate.

(e) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to—

(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.

**SEC. 1046. REPEAL OF CERTAIN REPORT REQUIREMENTS.**

(a) ANNUAL REPORT ON AVIATION CAREER INCENTIVE PAY.—Section 301a of title 37, United States Code, is amended by striking subsection (f).

(b) ANNUAL REPORT ON EFFECTS OF CERTAIN INITIATIVES ON RECRUITMENT AND RETENTION.—

(1) REPEAL.—Section 1015 of title 37, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 of such title is amended by striking the item relating to section 1015.

(c) SECRETARY OF DEFENSE RECOMMENDATION ON NEED FOR DEFENSE IMPACT REVIEW PROCESS.—Section 1041 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1217) is repealed.

(d) REPORT ON PILOT PROGRAM TO ENHANCE MILITARY RECRUITING BY IMPROVING MILITARY AWARENESS OF SCHOOL COUNSELORS AND EDUCATORS.—Section 564 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–133; 10 U.S.C. 503 note)) is amended by striking subsection (c).

(e) ANNUAL REPORT ON MEDICAL INFORMATICS.—Section 723(d) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1071 note) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

**SEC. 1047. REQUIREMENT FOR IDENTIFICATION OF RECENTLY ENACTED RECURRING REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.**

(a) IDENTIFICATION AND SUBMITTAL TO CONGRESSIONAL COMMITTEES.—

Deadline.

(1) IN GENERAL.—Not later than March 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a listing of each provision of law specified in paragraph (2).

(2) COVERED PROVISIONS OF LAW.—Paragraph (1) applies with respect to any provision of law enacted on or after November 24, 2003 (the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136)), and before February 1, 2007, that requires the submission by the Secretary of Defense or any other official of the Department of Defense of annual, semiannual, or other periodic reports to one or more of the congressional defense committees.

(b) ADDITIONAL MATTER TO BE SUBMITTED.—The Secretary of Defense shall include with the listing submitted under subsection (a) the following:

(1) With respect to each provision of law covered by that subsection, a description of the report requirement under that provision.

(2) For each such report requirement—

(A) an assessment by the Secretary—

(i) of the burden imposed on the Department of Defense by the preparation of the report; and

(ii) of the utility of such report from the perspective of the Department of Defense; and

(B) a recommendation on the advisability of repealing or modifying the requirement for the submittal of such report.

(c) DEFINITION.—In this section, the term "report" has the meaning given that term in section 480(c) of title 10, United States Code.

# Subtitle F—Miscellaneous Authorities and Limitations on Availability and Use of Funds

**SEC. 1051. ACCEPTANCE AND RETENTION OF REIMBURSEMENT FROM NON-FEDERAL SOURCES TO DEFRAY DEPARTMENT OF DEFENSE COSTS OF CONFERENCES.**

(a) IN GENERAL.—Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2262. Department of Defense conferences: collection of fees to cover Department of Defense costs**

"(a) AUTHORITY TO COLLECT FEES.—(1) The Secretary of Defense may collect fees from any individual or commercial participant in a conference, seminar, exhibition, symposium, or similar meeting conducted by the Department of Defense (in this section referred to collectively as a 'conference').

"(2) The Secretary may provide for the collection of fees under this section directly or by contract. The fees may be collected in advance of a conference.

"(b) USE OF COLLECTED FEES.—Amounts collected under subsection (a) with respect to a conference shall be credited to the appropriation or account from which the costs of the conference are paid and shall be available to pay the costs of the Department of Defense with respect to the conference or to reimburse the Department for costs incurred with respect to the conference.

"(c) TREATMENT OF EXCESS AMOUNTS.—In the event the total amount of fees collected under subsection (a) with respect to a conference exceeds the actual costs of the Department of Defense with respect to the conference, the amount of such excess shall be deposited into the Treasury as miscellaneous receipts.

"(d) ANNUAL REPORTS.—(1) Not later than 45 days after the President submits to Congress the budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a budget justification document summarizing the use of the fee-collection authority provided by this section.

"(2) Each report shall include the following:

"(A) A list of all conferences conducted during the preceding two calendar years for which fees were collected under this section.

"(B) For each conference included on the list under subparagraph (A):

"(i) The estimated costs of the Department for the conference.

"(ii) The actual costs of the Department for the conference, including a separate statement of the amount of any conference coordinator fees associated with the conference.

"(iii) The amount of fees collected under this section for the conference.

"(C) An estimate of the number of conferences to be conducted during the calendar year in which the report is submitted for which the Department will collect fees under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 134 of such title is amended by adding at the end the following new item:

"2262. Department of Defense conferences: collection of fees to cover Department of Defense costs.".

**SEC. 1052. INCREASED FLEXIBILITY IN USE OF FUNDS FOR JOINT STAFF EXERCISES.**

(a) IN GENERAL.—Amounts available to the Chairman of the Joint Chiefs of Staff for joint staff exercises may be available for any expenses as follows:

(1) Expenses of the Armed Forces in connection with such exercises, including expense relating to self-deploying watercraft under the jurisdiction of a military department.

(2) Expenses relating to the costs of port support activities in connection with such exercises, including transportation and port handling.

(3) Expenses relating to the breakout and operation of prepositioned watercraft and lighterage for joint logistics and over the shore exercises in connection with such exercises.

(b) SUPPLEMENT NOT SUPPLANT.—Any amounts made available by the Chairman of the Joint Chiefs of Staff under subsection (a) for expenses covered by that subsection are in addition to any other amounts available under law for such expenses.

**SEC. 1053. PROHIBITION ON PARKING OF FUNDS.**

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2773a the following new section:

**"§ 2773b. Parking of funds: prohibition; penalties**

"(a) PROHIBITION.—An officer or employee of the Department of Defense may not direct the designation of funds for a particular purpose in the budget of the President, as submitted to Congress pursuant to section 1105 of title 31, or the supporting documents of the Department of Defense component of such budget, with the knowledge or intent that such funds, if made available to the Department, will not be used for the purpose for which they are designated.

"(b) PENALTIES.—The direction of the designation of funds in violation of the prohibition in subsection (a) shall be treated for purposes of chapter 13 of title 31 as a violation of section 1341(a)(1)(A) of such title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 165 of such title is amended by inserting after the item relating to section 2773a the following new item:

"2773b. Parking of funds: prohibition; penalties.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date that is 31 days after the date of the enactment of this Act.

(2) MODIFICATION OF CERTAIN POLICIES AND REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall modify the policies and regulations of the Department of Defense regarding the preparation and submittal to Congress of budget materials for the Department of Defense to take into account section 2773b of title 10, United States Code, as added by subsection (a). Deadline.

**SEC. 1054. MODIFICATION OF AUTHORITIES RELATING TO THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.**

(a) DUTIES.—For purposes of carrying out the duties of the Special Inspector General for Iraq Reconstruction under section 3001(f) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1235 et seq.; 5 U.S.C. App., note to section 8G of Public Law 95–452), any United States funds appropriated or otherwise made available for fiscal year 2006 for the reconstruction of Iraq, irrespective of the designation of such funds, shall be deemed to be amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.

(b) TERMINATION.—Section 3001(o) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1238; 5 U.S.C. App., note to section 8G of Public Law 95–452) is amended to read as follows:

"(o) TERMINATION.—The Office of the Inspector General shall terminate on October 1, 2007, with transition operations authorized to continue through December 31, 2007.".

# Subtitle G—Matters Involving Detainees

**SEC. 1061. PROVISION OF INFORMATION TO CONGRESS ON CERTAIN CRIMINAL INVESTIGATIONS AND PROSECUTIONS INVOLVING DETAINEES.**

(a) ANNUAL REPORT.—Subsection (c) of section 1093 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2070) is amended—

(1) in paragraph (1), by inserting ", or any prosecution on account of," after "Notice of any investigation into"; and

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

"(3) For each investigation or prosecution described in paragraph (1) with respect to which notice is included in the report—

"(A) a detailed and comprehensive description of such investigation or prosecution and any resulting judicial or nonjudicial punishment or other disciplinary action; and

"(B) if the individual receiving the punishment or disciplinary action is a member of the Armed Forces, the grade of that individual (i) as of the time of the incident resulting in the investigation or prosecution, (ii) as of the beginning of the investigation or prosecution, and (iii) as of the submission of the report.".

(b) TIMELY SUBMISSION OF COVERED INFORMATION.—Such section is further amended by adding at the end the following new subsection:

"(f) ADDITIONAL REPORTING.—In addition to the annual report under subsection (c), the Secretary of Defense shall submit to the committees named in that subsection regular and timely reports on the matters described in paragraphs (1) and (3) of that subsection.".

## Subtitle H—Other Matters

**SEC. 1071. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 115 is amended—

(A) by striking the second subsection (i) (added by section 512(b) of Public Law 108–375 (118 Stat. 1880)); and

(B) by adding at the end of subsection (i) the following new paragraph:

"(13) Members of the National Guard on full-time National Guard duty involuntarily and performing homeland defense activities under chapter 9 of title 32.".

(2) Sections 133(c)(1), 2225(f)(1), 2302c(b), 2304(f)(1)(B)(iii), 2359a(i), and 2382(c)(3)(A) are amended by striking "section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))" and inserting "section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))".

(3) Section 426(a)(1)(B) is amended by striking "coordiation" and inserting "coordination".

(4) Section 843(b)(2) is amended—

(A) in subparagraph (B)(iii), by striking "article 126" and inserting "article 125"; and

(B) in subparagraph (C), by striking "under chapter 110 or 117, or under section 1591, of title 18" and inserting "under chapter 110 or 117 of title 18 or under section 1591 of that title".

(5) Section 1107a(a) is amended—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(B) in paragraph (2), as so redesignated, by striking "subparagraph (A)" and inserting "paragraph (1)".

(6) Section 1217(a) is amended by striking "the date of" and all that follows and inserting "October 28, 2004.".

(7) Section 1406(i)(3)(B)(vi) is amended by striking "Advisor for" and inserting "Advisor to".

(8) Section 1448(d)(6)(A) is amended by striking the second comma after "November 23, 2003".

(9) Section 2006(b)(1) is amended—

(A) by inserting "of this title" after "and 1607"; and

(B) by striking "of this title" before the period at the end.

(10) Section 2103a(b) is amended in the subsection heading by striking "ELIGIBILTY" and inserting "ELIGIBILITY".

(11) Section 2105 is amended by adding a period at the end of the last sentence.

(12) The item relating to section 2152 in the table of sections at the beginning of chapter 107 is amended to read as follows:

"2152. Joint professional military education: general requirements.".

(13) The heading for section 2155, and the item relating to that section in the table of sections at the beginning of chapter 107, are amended by capitalizing the first letter of the fifth word.

(14) Section 2155(a) is amended in the subsection heading by inserting "PHASE" after "EDUCATION".

(15) Section 2157 is amended by striking "phase II" in paragraph (1) and inserting "Phase II".

(16) Section 2216(b)(1) is amended by striking "subsections" and inserting "subsection".

(17) The heading for section 2440 is amended so that the first letter of each word after the first is lower case.

(18) The item relating to section 2481 in the table of sections at the beginning of subchapter I of chapter 147 is amended by adding a period at the end.

(19)(A) The second section 2613 (added by section 1051(a) of Public Law 108–375 (118 Stat. 2053)) is redesignated as section 2614 and is amended by redesignating the second subsection (c) as subsection (d).

(B) The item relating to such section in the table of sections at the beginning of chapter 155 is revised to reflect the redesignation of such section by subparagraph (A).

(20) Section 2613(b) is amended by striking "In the" and inserting "In this".

(21) Section 2692(b)(9) is amended by striking "materiel" and inserting "material".

(22) Section 2694a(c) is amended in the subsection heading by striking "REVISIONARY" and inserting "REVERSIONARY".

(23) Section 2703(h) is amended by striking "subsection" in the first sentence and inserting "section".

(24) Section 2722(c)(2) is amended by striking "section 921" and inserting "section 921(a)".

(25) Section 2784a(a)(2) is amended by striking "care" and inserting "card".

(26) Section 2831(f)(2) is amended by striking "enviromental" and inserting "environmental".

(27) Section 3911(b) is amended—

(A) in paragraph (1), by striking the second comma after "paragraph (2)"; and

(B) in paragraph (2), by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006" and inserting "January 6, 2006,".

(28) Section 4342(a)(9) is amended by striking "cadet" and inserting "cadets".

(29) Section 4544(d) is amended in the subsection heading by striking "ARANGEMENT" and inserting "ARRANGEMENT".

(30) Section 4687(c) is amended by striking "section 921(10)" and inserting "section 921(a)(10)".

(31) The item relating to section 6086 in the table of sections at the beginning of chapter 557 is amended by striking the semicolon and inserting a colon.

(32) The table of sections at the beginning of chapter 561 is amended—

(A) in the item relating to section 6154, by striking the semicolon and inserting a colon; and

(B) by striking the item relating to section 6161 and inserting the following:

"6161. Settlement of accounts: remission or cancellation of indebtedness of members.".

(33) Section 6323(a)(2) is amended—

(A) in subparagraph (A), by striking the second comma after "subparagraph (B)"; and

(B) in subparagraph (B), by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006" and inserting "January 6, 2006,".

(34) The item relating to section 6965 in the table of sections at the beginning of chapter 603 is amended by striking the semicolon and inserting a colon.

(35) The item relating to section 7081 in the table of sections at the beginning of chapter 607 is amended by striking the first semicolon and inserting a colon.

(36) Section 7306b(b)(1) is amended by striking "section 2(14)" and inserting "section 3(14)".

(37) Section 8911(b) is amended—

(A) in paragraph (1), by striking the second comma after "paragraph (2)"; and

(B) in paragraph (2), by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006" and inserting "January 6, 2006,".

(38) Section 9342(a)(9) is amended by striking "cadet" and inserting "cadets".

(39) Section 9355(c)(1) is amended by striking "board" and inserting "Board".

(40) Section 12731(a)(3) is amended by striking "before the end of the 180-day period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005" and inserting "before April 25, 2005".

(41) Section 12741 is amended by striking "under subsection (b)" in subsections (c) and (d) and inserting "under subsection (a)".

(42) Section 18233(f)(2) is amended by striking the comma after "purchase".

(b) TITLE 32, UNITED STATES CODE.—Title 32, United States Code, is amended as follows:

(1) Section 902 is amended by striking "(a)" before "The Secretary".

(2) Section 908(b)(1) is amended by striking "subsection (i)" and inserting "subsection (i)(13)".

(c) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 210(c)(6) is amended by striking "Advisor for" and inserting "Advisor to".

(2) Section 301(f)(2)(C) is amended by striking the comma after "the term".

(3) Section 308g(f) is amended by striking the second period at the end.

(4) Section 308j is amended by striking subsection (g) and inserting the following new subsection:

"(g) REPAYMENT.—A person who enters into an agreement under this section and receives all or part of the bonus under the agreement, but who does not accept a commission or an appointment as an officer or does not commence to participate or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(5) The table of sections at the beginning of chapter 7 is amended—

(A) by striking the item relating to section 407 and inserting the following:

"407. Travel and transportation allowances: dislocation allowance."; and

(B) by striking the item relating to section 425 and inserting the following:

"425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour.".

(6) Section 402a(b)(3)(B) is amended by striking "section 310 of this section" and inserting "section 310 of this title".

(7) Section 414(c) is amended by striking ", or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff" before the period at the end.

(8) The heading of section 1010 is amended to read as follows:

**"§ 1010. Commissioned officers: promotions; effective date for pay and allowances".**

(d) PUBLIC LAW 109–272.—Effective as of August 14, 2006, and as if included therein as enacted, section 2(a) of Public Law 109–272 (120 Stat. 770; 16 U.S.C. 431 note) is amended by striking "division E" and inserting "division J".

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006.—Effective as of January 6, 2006, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended as follows:

(1) Section 341(e) (119 Stat. 3199) is amended by striking "(a)(1)(E)" and inserting "(a)(1)(F)".

(2) Section 545(b) (119 Stat. 3254) is amended by striking "title".

(3) Section 606(a) (119 Stat. 3287; 37 U.S.C. 211 note) is amended by striking "title 10" and inserting "title 37".

(4) Section 608(b) (119 Stat. 3289) is amended—

(A) in paragraph (1), by striking "the first sentence" and inserting "the second sentence"; and

(B) in paragraph (2), by striking "the second sentence" and inserting "the third sentence".

(5) Section 685(a) (119 Stat. 3325) is amended by striking "Advisor for" both places it appears and inserting "Advisor to".

(6) Section 687(a)(2) (119 Stat. 3327) is amended by striking "subsection (a)" and inserting "subsection (e)".

(7) Section 687(b)(15) (119 Stat. 3330) is amended—

(A) by striking "Subsection (d)" and inserting "Subsection (e)"; and

(B) in the matter inserted by that section, by striking "(d) REPAYMENT.—" and inserting "(e) REPAYMENT.—".

(8) Section 740(c) (119 Stat. 3359; 10 U.S.C. 1073 note) is amended by inserting "include" after "shall".

(f) RECONCILIATION OF DUPLICATE ENACTMENTS.—

(1) In executing to section 2554 of title 10, United States Code, the identical amendments made by section 8126(c)(2) of Public Law 109–148 (119 Stat. 2729) and section 1058(c) of Public Law 109–163 (119 Stat. 3443), such amendments shall be executed so as to appear only once in the law as amended.

(2) In executing to section 109 of the Housing and Community Development Act of 1974 the identical amendments made by section 8126(d) of Public Law 109–148 (119 Stat. 2730) and section 1058(d) of Public Law 109–163 (119 Stat. 3443), such amendments shall be executed so as to appear only once in the law as amended.

(3) Section 8126 of Public Law 109–148 (119 Stat. 2728) is repealed.

(g) RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005.—Effective as of October 28, 2004, and as if included therein as enacted, the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) is amended as follows:

(1) Section 416 is amended—

(A) in subsection (a)(1) (118 Stat. 1866), by inserting "the second place it appears" before the semicolon at the end; and

(B) in subsection (g)(1) (118 Stat. 1868), by inserting open quotation marks before "(1) Reserve".

(2) Subsections (a)(2), (b)(2), and (c)(2) of section 544 (118 Stat. 1906) are amended by striking "such title" and inserting "such chapter".

(3) Section 554(1) (118 Stat. 1913) is amended by inserting "of" in the quoted matter after "a period".

(4) Section 593(a) (118 Stat. 1934; 10 U.S.C. 503 note) is amended in the subsection heading by striking "SCREEING" and inserting "SCREENING".

(5) Section 645 (118 Stat. 1962; 10 U.S.C. 1448 note) is amended by redesignating the last subsection (relating to definitions) as subsection (j).

(6) Section 651(a)(5)(C) (118 Stat. 1966) is amended by striking "subsection (f)" and inserting "subsection (e)".

(7) Section 726(b)(1) (118 Stat. 1992) is amended by striking "(1)" in the second quoted matter.

(8) Section 731 (118 Stat. 1993; 10 U.S.C. 1074 note) is amended by striking "this title" each place it appears in subsections (a), (b)(3)(C), and (c)(1)(A) and inserting "this subtitle".

(9) Section 733(b)(2) (118 Stat. 1998; 10 U.S.C. 1074f note) is amended by striking "section 1301" and inserting "section 731(b)".

(10) Section 801(b)(2)(A) (118 Stat. 2004) is amended—

(A) by striking "(7), (8), and (9)" and inserting "(7) and (8)"; and

(B) by striking "(8), (9), and (10)" and inserting "(8) and (9)".

(11) Section 818(b) (118 Stat. 2016) is amended by inserting "of subsection (b)" after "Paragraph (3)".

(12) Section 1103(a)(1) (118 Stat. 2072) is amended by inserting "basic" after "rates of" in the first quoted matter.

(13) Section 1203(e)(2)(B) (118 Stat. 2079) is amended by inserting "office" after "and field" in the first quoted matter.

(h) BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—Section 806(d) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note) is amended in the subsection heading by striking "STATUES" and inserting "STATUTES".

(i) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

**SEC. 1072. REVISION TO AUTHORITIES RELATING TO COMMISSION ON THE IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.**

Section 1051 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3431) is amended—

(1) in subsection (c)(1), by striking "June 30, 2007" and inserting "September 30, 2007"; and

(2) in subsection (f), by striking "July 30, 2007" and inserting "November 30, 2007".

**SEC. 1073. REVISED DEADLINE FOR SUBMISSION OF FINAL REPORT OF EMP COMMISSION.**

Section 1403(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–346), as amended by section 1052(f) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3434), is amended by striking "June 30, 2007" and inserting "September 30, 2007".

**SEC. 1074. EXTENSION OF RETURNING WORKER EXEMPTION TO H–2B NUMERICAL LIMITATION.**

(a) IN GENERAL.—Section 214(g)(9) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)) is amended—

(1) by amending the first sentence of subparagraph (A) to read as follows: "Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitation of paragraph (1)(B) during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007."; and

(2) in subparagraph (B), by striking "referred to in subparagraph (A)" and inserting "to admit or otherwise provide status under section 101(a)(15)(H)(ii)(b)".

(b) DELETION OF PRIOR SUNSET PROVISION.—Section 402(b)(1) of the Save Our Small and Seasonal Businesses Act of 2005 (title IV of division B of Public Law 109–13; 119 Stat. 318; 8 U.S.C. 1184 note) is amended by striking "2004," and all that follows through the period at the end and inserting "2004.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006. If this section is enacted after October 1, 2006, the amendments made by this section shall take effect as if enacted on such date.

**SEC. 1075. PATENT TERM EXTENSIONS FOR THE BADGES OF THE AMERICAN LEGION, THE AMERICAN LEGION WOMEN'S AUXILIARY, AND THE SONS OF THE AMERICAN LEGION.**

(a) PATENT TERM EXTENSION FOR THE BADGE OF THE AMERICAN LEGION.—The term of the design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(b) PATENT TERM EXTENSION FOR THE BADGE OF THE AMERICAN LEGION WOMEN'S AUXILIARY.—The term of the design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

(c) PATENT TERM EXTENSION FOR THE BADGE OF THE SONS OF THE AMERICAN LEGION.—The term of the design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

**SEC. 1076. USE OF THE ARMED FORCES IN MAJOR PUBLIC EMERGENCIES.**

(a) USE OF THE ARMED FORCES AUTHORIZED.—

(1) IN GENERAL.—Section 333 of title 10, United States Code, is amended to read as follows:

**"§ 333. Major public emergencies; interference with State and Federal law**

"(a) USE OF ARMED FORCES IN MAJOR PUBLIC EMERGENCIES.—(1) The President may employ the armed forces, including the National Guard in Federal service, to—

"(A) restore public order and enforce the laws of the United States when, as a result of a natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident, or other condition in any State or possession of the United States, the President determines that—

"(i) domestic violence has occurred to such an extent that the constituted authorities of the State or possession are incapable of maintaining public order; and

"(ii) such violence results in a condition described in paragraph (2); or

"(B) suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy if such insurrection, violation, combination, or conspiracy results in a condition described in paragraph (2).

"(2) A condition described in this paragraph is a condition that—

"(A) so hinders the execution of the laws of a State or possession, as applicable, and of the United States within that State or possession, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State or possession are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

"(B) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

"(3) In any situation covered by paragraph (1)(B), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

"(b) NOTICE TO CONGRESS.—The President shall notify Congress of the determination to exercise the authority in subsection (a)(1)(A) as soon as practicable after the determination and every 14 days thereafter during the duration of the exercise of that authority.".

(2) PROCLAMATION TO DISPERSE.—Section 334 of such title is amended by inserting "or those obstructing the enforcement of the laws" after "insurgents".

(3) HEADING AMENDMENT.—The heading of chapter 15 of such title is amended to read as follows:

**"CHAPTER 15—ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER".**

(4) CLERICAL AMENDMENTS.—(A) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of such subtitle, are each amended by striking the item relating to chapter 15 and inserting the following new item:

"15 Enforcement of the Laws to Restore Public Order ..... 331".

(B) The table of sections at the beginning of chapter 15 of such title is amended by striking the item relating to sections 333 and inserting the following new item:

"333. Major public emergencies; interference with State and Federal law.".

(b) PROVISION OF SUPPLIES, SERVICES, AND EQUIPMENT.—

(1) IN GENERAL.—Chapter 152 of such title is amended by adding at the end the following new section:

**"§ 2567. Supplies, services, and equipment: provision in major public emergencies**

"(a) PROVISION AUTHORIZED.—In any situation in which the President determines to exercise the authority in section 333(a)(1)(A) of this title, the President may direct the Secretary of Defense to provide supplies, services, and equipment to persons affected by the situation.

"(b) COVERED SUPPLIES, SERVICES, AND EQUIPMENT.—The supplies, services, and equipment provided under this section may include food, water, utilities, bedding, transportation, tentage, search and rescue, medical care, minor repairs, the removal of debris, and other assistance necessary for the immediate preservation of life and property.

"(c) LIMITATIONS.—(1) Supplies, services, and equipment may be provided under this section—

"(A) only to the extent that the constituted authorities of the State or possession concerned are unable to provide such supplies, services, and equipment, as the case may be; and

"(B) only until such authorities, or other departments or agencies of the United States charged with the provision of such supplies, services, and equipment, are able to provide such supplies, services, and equipment.

"(2) The Secretary may provide supplies, services, and equipment under this section only to the extent that the Secretary determines that doing so will not interfere with military preparedness or ongoing military operations or functions.

"(d) INAPPLICABILITY OF CERTAIN AUTHORITIES.—The provision of supplies, services, or equipment under this section shall not be subject to the provisions of section 403(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(c)).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2567. Supplies, services, and equipment: provision in major public emergencies".

(c) CONFORMING AMENDMENT.—Section 12304(c)(1) of such title is amended by striking "No unit" and all that follows through "subsection (b)," and inserting "Except to perform any of the functions authorized by chapter 15 or section 12406 of this title or by subsection (b), no unit or member of a reserve component may be ordered to active duty under this section".

**SEC. 1077. INCREASED HUNTING AND FISHING OPPORTUNITIES FOR MEMBERS OF THE ARMED FORCES, RETIRED MEMBERS, AND DISABLED VETERANS.**

(a) ACCESS FOR MEMBERS, RETIRED MEMBERS, AND DISABLED VETERANS.—Consistent with section 2671 of title 10, United States Code, and using such funds as are made available for this purpose, the Secretary of Defense shall ensure that members of the Armed Forces, retired members, disabled veterans, and persons assisting disabled veterans are able to utilize lands under the jurisdiction of the Department of Defense that are available for hunting or fishing.

Reports. Deadline.

(b) ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the results of an assessment of those lands under the jurisdiction of the Department of Defense and suitable for hunting or fishing and describing the actions necessary—

(1) to further increase the acreage made available to members of the Armed Forces, retired members, disabled veterans, and persons assisting disabled veterans for hunting and fishing; and

(2) to make that acreage more accessible to disabled veterans.

California.

(c) RECREATIONAL ACTIVITIES ON SANTA ROSA ISLAND.—The Secretary of the Interior shall immediately cease the plan, approved in the settlement agreement for case number 96–7412 WJR and case number 97–4098 WJR, to exterminate the deer and elk on Santa Rosa Island, Channel Islands, California, by helicopter and shall not exterminate or nearly exterminate the deer and elk.

# TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Accrual of annual leave for members of the uniformed services performing dual employment.
Sec. 1102. Strategy for improving the senior management, functional, and technical workforce of the Department of Defense.

Sec. 1103. Three-year extension of authority for experimental personnel management program for scientific and technical personnel.
Sec. 1104. Reports on members of the Armed Forces and civilian employees of the Department of Defense serving in the legislative branch.
Sec. 1105. Extension of authority to waive annual limitation on total compensation paid to Federal civilian employees.

**SEC. 1101. ACCRUAL OF ANNUAL LEAVE FOR MEMBERS OF THE UNIFORMED SERVICES PERFORMING DUAL EMPLOYMENT.**

Section 5534a of title 5, United States Code, is amended by adding at the end the following new sentence: "Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service.".

**SEC. 1102. STRATEGY FOR IMPROVING THE SENIOR MANAGEMENT, FUNCTIONAL, AND TECHNICAL WORKFORCE OF THE DEPARTMENT OF DEFENSE.**

(a) INCLUSION IN 2007 STRATEGIC HUMAN CAPITAL PLAN.—The Secretary of Defense shall include in the March 1, 2007, strategic human capital plan required by section 1122(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3453; 10 U.S.C. prec. 1580 note) a strategic plan to shape and improve the senior management, functional, and technical workforce (including scientists and engineers) of the Department of Defense.

(b) SCOPE OF PLAN.—The strategic plan required by subsection (a) shall cover, at a minimum, the following categories of Department of Defense civilian personnel:

(1) Appointees in the Senior Executive Service under section 3131 of title 5, United States Code.

(2) Persons serving in positions described in section 5376(a) of title 5, United States Code.

(3) Highly qualified experts appointed pursuant to section 9903 of title 5, United States Code.

(4) Scientists and engineers appointed pursuant to section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–315)).

(5) Scientists and engineers appointed pursuant to section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).

(6) Persons serving in the Defense Intelligence Senior Executive Service under section 1606 of title 10, United States Code.

(7) Persons serving in Intelligence Senior Level positions under section 1607 of title 10, United States Code.

(c) CONTENTS OF PLAN.—The strategic plan required by subsection (a) shall include—

(1) an assessment of—

(A) the needs of the Department of Defense for senior management, functional, and technical personnel (including scientists and engineers) in light of recent trends and projected changes in the mission and organization of the Department and in light of staff support needed to accomplish that mission;

(B) the capability of the existing civilian employee workforce of the Department to meet requirements relating to the mission of the Department, including the impact on that capability of projected trends in the senior management, functional, and technical personnel workforce of the Department based on expected losses due to retirement and other attrition; and

(C) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the senior management, functional, and technical personnel (including scientists and engineers) it needs; and

(2) a plan of action for developing and reshaping the senior management, functional, and technical workforce of the Department to address the gaps identified under paragraph (1)(C), including—

(A) any legislative or administrative action that may be needed to adjust the requirements applicable to any category of civilian personnel identified in subsection (b) or to establish a new category of senior management or technical personnel;

(B) any changes in the number of personnel authorized in any category of personnel identified in subsection (b) that may be needed to address such gaps and effectively meet the needs of the Department;

(C) any changes in the rates or methods of pay for any category of personnel identified in subsection (b) that may be needed to address inequities and ensure that the Department has full access to appropriately qualified personnel to address such gaps and meet the needs of the Department;

(D) specific recruiting and retention goals, including the program objectives of the Department to be achieved through such goals;

(E) specific strategies for developing, training, deploying, compensating, motivating, and designing career paths and career opportunities for the senior management, functional, and technical workforce of the Department, including the program objectives of the Department to be achieved through such strategies; and

(F) specific steps that the Department has taken or plans to take to ensure that the senior management, functional, and technical workforce of the Department is managed in compliance with the requirements of section 129 of title 10, United States Code.

**SEC. 1103. THREE-YEAR EXTENSION OF AUTHORITY FOR EXPERIMENTAL PERSONNEL MANAGEMENT PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL.**

Section 1101(e)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note) is amended by striking "September 30, 2008" and inserting "September 30, 2011".

**SEC. 1104. REPORTS ON MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE SERVING IN THE LEGISLATIVE BRANCH.**

10 USC note prec. 711.

(a) QUARTERLY REPORTS ON DETAILS AND FELLOWSHIPS OF LONG DURATION.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the members of the Armed Forces and civilian employees of the Department of Defense who, as of the date of such report, have served continuously in the Legislative Branch for more than 12 consecutive months in one or a combination of covered legislative details or fellowships.

(b) REPORTS ON CERTAIN MILITARY DETAILS AND FELLOWSHIPS.—If a member of the Armed Forces is assigned to a covered legislative detail or fellowship as the last tour of duty of such member before retirement or separation from the Armed Forces in contravention of the regulations of the Department of Defense, the Secretary shall submit to the congressional defense committees a report on the assignment of such member to such covered legislative detail or fellowship. The report shall include a rationale for the waiver of the regulations of the Department in order to permit the detail or fellowship.

(c) REPORT ELEMENTS.—Each report under subsection (a) or (b) shall set forth, for each member of the Armed Forces or civilian employee of the Department of Defense covered by such report, the following:

(1) The name of such member or employee.

(2) In the case of a member, the Armed Force of such member.

(3) The committee or member of Congress to which such member or employee is detailed or assigned.

(4) A general description of the projects or tasks undertaken or to be undertaken, as applicable, by such member or employee as a detailee, fellow, or both.

(5) The anticipated termination date of the current detail or fellowship of such member or employee.

(d) COVERED LEGISLATIVE DETAIL OR FELLOWSHIP DEFINED.—In this section, the term "covered legislative detail or fellowship" means the following:

(1) A detail under the provisions of Department of Defense Directive 1000.17.

(2) A legislative fellowship (including a legislative fellowship under the provisions of Department of Defense Directive 1322.6).

**SEC. 1105. EXTENSION OF AUTHORITY TO WAIVE ANNUAL LIMITATION ON TOTAL COMPENSATION PAID TO FEDERAL CIVILIAN EMPLOYEES.**

Section 1105 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3450) is amended—

(1) in subsection (a), by inserting "and 2007" after "2006"; and

(2) in subsection (b)—

(A) by striking "$200,000" in the heading; and

(B) by striking "a calendar year" and inserting "2006 and $212,100 in 2007".

# TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

Sec. 1201. Logistic support for allied forces participating in combined operations.
Sec. 1202. Temporary authority to use acquisition and cross-servicing agreements to lend certain military equipment to foreign forces in Iraq and Afghanistan for personnel protection and survivability.
Sec. 1203. Recodification and revision to law relating to Department of Defense humanitarian demining assistance.
Sec. 1204. Enhancements to Regional Defense Combating Terrorism Fellowship Program.
Sec. 1205. Participation of the Department of Defense in multinational military centers of excellence.
Sec. 1206. Modification and extension of authorities relating to program to build the capacity of foreign military forces.
Sec. 1207. Authority for distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability.

Subtitle B—Nonproliferation Matters and Countries of Concern

Sec. 1211. North Korea.
Sec. 1212. Report on participation of multinational partners in the United Nations Command in the Republic of Korea.
Sec. 1213. Intelligence on Iran.
Sec. 1214. Sense of Congress on United States policy on the nuclear programs of Iran.

Subtitle C—Other Matters

Sec. 1221. Exclusion of petroleum, oil, and lubricants from limitations on annual amount of liabilities the United States may accrue under acquisition and cross-servicing agreements.
Sec. 1222. Modification of limitations on assistance under the American Servicemembers' Protection Act of 2002.
Sec. 1223. Humanitarian support for Iraqi children in urgent need of medical care.
Sec. 1224. Sense of Congress opposing the granting of amnesty by the government of Iraq to persons known to have attacked, killed, or wounded members of the United States Armed Forces in Iraq.
Sec. 1225. Annual reports on United States contributions to the United Nations.
Sec. 1226. Comprehensive regional strategy and annual reports on Somalia.
Sec. 1227. Report on the implementation of the Darfur Peace Agreement.
Sec. 1228. Sense of Congress concerning cooperation with Russia on issues pertaining to missile defense.
Sec. 1229. Sense of Congress calling for convening of a summit for a comprehensive political agreement for Iraq.
Sec. 1230. Sense of Congress on the commendable actions of the Armed Forces in Iraq.
Sec. 1231. Annual report on foreign sales of significant military equipment manufactured in the United States.

## Subtitle A—Assistance and Training

### SEC. 1201. LOGISTIC SUPPORT FOR ALLIED FORCES PARTICIPATING IN COMBINED OPERATIONS.

(a) AUTHORITY.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127b the following new section:

### "§ 127c. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services

"(a) AUTHORITY.—Subject to subsections (b) and (c), the Secretary of Defense may provide logistic support, supplies, and services to allied forces participating in a combined operation with

the armed forces. Provision of such support, supplies, and services to the forces of an allied nation may be made only with the concurrence of the Secretary of State.

"(b) LIMITATIONS.—(1) The authority provided by subsection (a) may be used only in accordance with the Arms Export Control Act and other export control laws of the United States.

"(2) The authority provided by subsection (a) may be used only for a combined operation—

"(A) that is carried out during active hostilities or as part of a contingency operation or a noncombat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance, a country stabilization operation, or a peacekeeping operation under chapter VI or VII of the Charter of the United Nations); and

"(B) in a case in which the Secretary of Defense determines that the allied forces to be provided logistic support, supplies, and services—

"(i) are essential to the success of the combined operation; and

"(ii) would not be able to participate in the combined operation but for the provision of such logistic support, supplies, and services by the Secretary.

"(c) LIMITATIONS ON VALUE.—(1) Except as provided in paragraph (2), the value of logistic support, supplies, and services provided under this section in any fiscal year may not exceed $100,000,000.

"(2) In addition to any logistic support, supplies, and services provided under subsection (a) that are covered by paragraph (1), the value of logistic support, supplies, and services provided under this section solely for the purposes of enhancing the interoperability of the logistical support systems of military forces participating in combined operation of the United States in order to facilitate such operations may not, in any fiscal year, exceed $5,000,000.

"(d) ANNUAL REPORT.—(1) Not later than December 31 each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report on the use of the authority provided by subsection (a) during the preceding fiscal year.

"(2) Each report under paragraph (1) shall be prepared in coordination with the Secretary of State.

"(3) Each report under paragraph (1) shall include, for the fiscal year covered by the report, the following:

"(A) Each nation provided logistic support, supplies, and services through the use of the authority provided by subsection (a).

"(B) For each such nation, a description of the type and value of logistic support, supplies, and services so provided.

"(e) DEFINITION.—In this section, the term 'logistic support, supplies, and services' has the meaning given that term in section 2350(1) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127b the following new item:

"127c. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services.".

**SEC. 1202. TEMPORARY AUTHORITY TO USE ACQUISITION AND CROSS-SERVICING AGREEMENTS TO LEND CERTAIN MILITARY EQUIPMENT TO FOREIGN FORCES IN IRAQ AND AFGHANISTAN FOR PERSONNEL PROTECTION AND SURVIVABILITY.**

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Secretary of Defense may treat covered military equipment as logistic support, supplies, and services under subchapter I of chapter 138 of title 10, United States Code, for the purpose of providing for the use of such equipment by military forces of a nation participating in combined operations with the United States in Iraq or Afghanistan.

(2) REQUIRED DETERMINATIONS.—Equipment may be provided to the military forces of a nation under the authority of this section only upon—

(A) a determination by the Secretary of Defense that the United States forces in the combined operation have no unfilled requirements for that equipment; and

(B) a determination by the Secretary of Defense, with the concurrence of the Secretary of State, that it is in the national security interest of the United States to provide for the use of such equipment by the military forces of that nation under this section.

(3) LIMITATION ON USE OF EQUIPMENT.—Equipment provided to the military forces of a nation under the authority of this section may be used by those forces only in Iraq or Afghanistan and only for personnel protection or to aid in the personnel survivability of those forces.

(4) LIMITATION ON DURATION OF PROVISION OF EQUIPMENT.—Equipment provided to the military forces of a nation under the authority of this section may be used by the military forces of that nation for not longer than one year.

(b) SEMIANNUAL REPORTS TO CONGRESSIONAL COMMITTEES.—

(1) USE OF AUTHORITY DURING FIRST SIX MONTHS OF FISCAL YEAR.—If the authority provided in subsection (a) is exercised during the first six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following April 30.

(2) USE OF AUTHORITY DURING SECOND SIX MONTHS OF FISCAL YEAR.—If the authority provided in subsection (a) is exercised during the second six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following October 30.

(3) CONTENT.—Each report under paragraph (1) or (2) shall include, with respect to each exercise of the authority provided in subsection (a) during the period covered by the report, the following:

(A) A description of the basis for the determination of the Secretary of Defense that it is in the national security interests of the United States to provide for the use of covered military equipment in the manner authorized in subsection (a).

(B) Identification of each foreign force that receives such equipment.

(C) A description of the type, quantity, and value of the equipment provided to each foreign force that receives such equipment.

(D) A description of the terms and duration of the provision of the equipment to each foreign force that receives such equipment.

(4) COORDINATION.—Each report under paragraph (1) or (2) shall be prepared in coordination with the Secretary of State.

(c) LIMITATIONS ON PROVISION OF MILITARY EQUIPMENT.—The provision of military equipment under this section is subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and of any other export control process under laws relating to the transfer of military equipment and technology to foreign nations.

(d) DEFINITIONS.—In this section:

(1) The term "covered military equipment" means items designated as significant military equipment in categories I, II, III, VII, XI, and XIII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

(2) The term "specified congressional committees" means—

(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

(e) EXPIRATION.—The authority to provide military equipment to the military forces of a foreign nation under this section expires on September 30, 2008.

**SEC. 1203. RECODIFICATION AND REVISION TO LAW RELATING TO DEPARTMENT OF DEFENSE HUMANITARIAN DEMINING ASSISTANCE.**

(a) REPEAL.—Section 401 of title 10, United States Code, is amended—

(1) in subsection (a), by striking paragraph (4);

(2) in subsection (b)—

(A) by striking "(1)" after "(b)"; and

(B) by striking paragraph (2);

(3) in subsection (c), by striking paragraphs (2) and (3); and

(4) in subsection (e), by striking paragraph (5).

(b) RECODIFICATION AND REVISION.—

(1) IN GENERAL.—Chapter 20 of such title is amended by adding at the end the following new section:

**"§ 407. Humanitarian demining assistance: authority; limitations**

Regulations.

"(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian demining assistance in a country if the Secretary concerned determines that the assistance will promote either—

"(A) the security interests of both the United States and the country in which the activities are to be carried out; or

"(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

"(2) Humanitarian demining assistance under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States.

"(3) The Secretary of Defense shall ensure that no member of the armed forces, while providing humanitarian demining assistance under this section—

"(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

"(B) provides such assistance as part of a military operation that does not involve the armed forces.

"(b) LIMITATIONS.—(1) Humanitarian demining assistance may not be provided under this section unless the Secretary of State specifically approves the provision of such assistance.

"(2) Any authority provided under any other provision of law to provide humanitarian demining assistance to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section.

"(c) EXPENSES.—(1) Expenses incurred as a direct result of providing humanitarian demining assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for the purpose of the provision by the Department of Defense of overseas humanitarian assistance.

"(2) Expenses covered by paragraph (1) include the following:

"(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

"(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting humanitarian demining activities, including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

"(3) The cost of equipment, services, and supplies provided in any fiscal year under this section may not exceed $10,000,000.

"(d) ANNUAL REPORT.—The Secretary of Defense shall include in the annual report under section 401 of this title a separate discussion of activities carried out under this section during the preceding fiscal year, including—

"(1) a list of the countries in which humanitarian demining assistance was carried out during the preceding fiscal year;

"(2) the type and description of humanitarian demining assistance carried out in each country during the preceding fiscal year, as specified in paragraph (1);

"(3) a list of countries in which humanitarian demining assistance could not be carried out during the preceding fiscal year due to insufficient numbers of Department of Defense personnel to carry out such activities; and

"(4) the amount expended in carrying out such assistance in each such country during the preceding fiscal year.

"(e) HUMANITARIAN DEMINING ASSISTANCE DEFINED.—In this section, the term 'humanitarian demining assistance', as it relates to training and support, means detection and clearance of landmines and other explosive remnants of war, including activities related to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"407. Humanitarian demining assistance: authority; limitations.".

**SEC. 1204. ENHANCEMENTS TO REGIONAL DEFENSE COMBATING TERRORISM FELLOWSHIP PROGRAM.**

(a) AUTHORIZED PURPOSES.—Subsection (a) of section 2249c of title 10, United States Code, is amended by striking "associated with" and all that follows and inserting: "associated with the education and training of foreign military officers, ministry of defense officials, or security officials at military or civilian educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Fellowship Program. Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs.".

(b) ANNUAL LIMITATION ON AMOUNT OBLIGATED.—Subsection (b) of such section is amended by striking "$20,000,000" and inserting "$25,000,000".

(c) OBLIGATION OF FUNDS ACROSS FISCAL YEARS.—Subsection (b) of such section is further amended by adding at the end the following new sentence: "Amounts available under the authority in subsection (a) for a fiscal year may be used for programs that begin in such fiscal year but end in the next fiscal year.".

(d) CLERICAL AMENDMENTS.—

(1) REFERENCE TO PROGRAM.—Subsection (c)(3) of such section is amended by striking "Regional Defense Counterterrorism Fellowship Program" and inserting "program referred to in subsection (a)".

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 2249c. Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials".**

(3) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter I of chapter 134 of such title is amended to read as follows:

"2249c. Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials.".

**SEC. 1205. PARTICIPATION OF THE DEPARTMENT OF DEFENSE IN MULTINATIONAL MILITARY CENTERS OF EXCELLENCE.**

(a) PARTICIPATION AUTHORIZED.—During fiscal year 2007, the Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the Armed Forces and Department of Defense civilian personnel in any multinational military center of excellence hosted by any nation or combination of nations referred to in subsection (b) for purposes of—

(1) enhancing the ability of military forces and civilian personnel of the nations participating in such center to engage in joint exercises or coalition or international military operations; or

(2) improving interoperability between the Armed Forces of the United States and the military forces of friendly foreign nations.

(b) COVERED NATIONS.—The nations referred to in this subsection are the following:

(1) The United States.

(2) Any member nation of the North Atlantic Treaty Organization (NATO).

(3) Any major non-NATO ally.

(4) Any other friendly foreign nation identified by the Secretary of Defense, with the concurrence of the Secretary of State, for purposes of this section.

(c) DEFINITIONS.—In this section:

(1) MULTINATIONAL MILITARY CENTER OF EXCELLENCE.—The term "multinational military center of excellence" means an entity sponsored by one or more nations that is accredited and approved by the Military Committee of the North Atlantic Treaty Organization (NATO) as offering recognized expertise and experience to personnel participating in the activities of such entity for the benefit of NATO by providing such personnel opportunities to—

(A) enhance education and training;

(B) improve interoperability and capabilities;

(C) assist in the development of doctrine; and

(D) validate concepts through experimentation.

(2) MAJOR NON-NATO ALLY.—The term "major non-NATO ally" means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k).

(d) MEMORANDUM OF UNDERSTANDING.—

(1) REQUIREMENT.—The participation of members of the Armed Forces or Department of Defense civilian personnel in a multinational military center of excellence under subsection

(a) shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the foreign nation or nations concerned.

(2) SCOPE.—If Department of Defense facilities, equipment, or funds are used to support a multinational military center of excellence under subsection (a), the memoranda of understanding under paragraph (1) with respect to that center shall provide details of any cost-sharing arrangement or other funding arrangement.

(e) AVAILABILITY OF APPROPRIATED FUNDS.—

(1) AVAILABILITY.—Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

(A) To pay the United States share of the operating expenses of any multinational military center of excellence in which the United States participates under this section.

(B) To pay the costs of the participation of members of the Armed Forces and Department of Defense civilian personnel in multinational military centers of excellence under this section, including the costs of expenses of such participants.

(2) LIMITATION ON AMOUNT.—The amount available under paragraph (1)(A) in fiscal year 2007 for the expenses referred to in that paragraph may not exceed $3,000,000.

(3) LIMITATION ON USE OF FUNDS.—No funds may be used under this section to fund the pay or salaries of members of the Armed Forces and Department of Defense civilian personnel who participate in multinational military centers of excellence under this section.

(f) USE OF DEPARTMENT OF DEFENSE FACILITIES AND EQUIPMENT.—Facilities and equipment of the Department of Defense may be used for purposes of the support of multinational military centers of excellence under this section that are hosted by the Department.

(g) REPORT ON USE OF AUTHORITY.—

(1) REPORT REQUIRED.—Not later than October 31, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority in this section during fiscal year 2007.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A detailed description of the participation of the Department of Defense, and of members of the Armed Forces and civilian personnel of the Department, in multinational military centers of excellence under the authority of this section during fiscal year 2007.

(B) For each multinational military center of excellence in which the Department of Defense, or members of the Armed Forces or civilian personnel of the Department, so participated—

(i) a description of such multinational military center of excellence;

(ii) a description of the activities participated in by the Department, or by members of the Armed Forces or civilian personnel of the Department; and

(iii) a statement of the costs of the Department for such participation, including—

(I) a statement of the United States share of the expenses of such center and a statement of the percentage of the United States share of the expenses of such center to the total expenses of such center; and

(II) a statement of the amount of such costs (including a separate statement of the amount of costs paid for under the authority of this section by category of costs).

**SEC. 1206. MODIFICATION AND EXTENSION OF AUTHORITIES RELATING TO PROGRAM TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.**

(a) PROGRAM IMPLEMENTATION VESTED IN SECRETARY OF DEFENSE.—

(1) AUTHORITY.—Subsection (a) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3456) is amended by striking "The President may direct the Secretary of Defense to" and inserting "The Secretary of Defense, with the concurrence of the Secretary of State, may".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b), by striking "directed by the President" in paragraphs (1) and (2);

(B) in subsection (c)—

(i) in paragraph (1), by striking "directed by the President"; and

(ii) in paragraphs (2) and (3), by striking "The President" and inserting "The Secretary of Defense";

(C) in subsection (d), by striking "directed by the President" both places it appears; and

(D) in subsection (e)(2), by striking "as directed by the President".

(b) FUNDING.—Subsection (c)(1) of such section is further amended—

(1) by striking "$200,000,000" and inserting "$300,000,000"; and

(2) by striking "defense-wide".

(c) NOTIFICATION TO CONGRESS.—Paragraph (1) of subsection (e) of such section is amended to read as follows:

"(1) NOTIFICATION.—Whenever the Secretary of Defense decides, with the concurrence of the Secretary of State, to conduct or support a program authorized under subsection (a), the Secretary of Defense shall submit to Congress a notification in writing of that decision. Any such notification shall be prepared in coordination with the Secretary of State.".

(d) ONE-YEAR EXTENSION OF PROGRAM AUTHORITY.—Subsection (g) of such section is amended to read as follows:

"(g) TERMINATION OF PROGRAM.—The authority provided under subsection (a) terminates at the close of September 30, 2008. Any program directed before that date may be completed, but only using funds available for fiscal year 2006, 2007, or 2008.".

**SEC. 1207. AUTHORITY FOR DISTRIBUTION TO CERTAIN FOREIGN PERSONNEL OF EDUCATION AND TRAINING MATERIALS AND INFORMATION TECHNOLOGY TO ENHANCE MILITARY INTEROPERABILITY.**

(a) DISTRIBUTION AUTHORIZED.—To enhance interoperability between the Armed Forces and military forces of friendly foreign countries, the Secretary of Defense may—

(1) provide to personnel referred to in subsection (b) electronically-distributed learning content for the education and training of such personnel for the development and enhancement of allied and friendly military capabilities for multinational operations, including joint exercises and coalition operations; and

(2) provide information technology, including computer software developed for such purpose, but only to the extent necessary to support the use of such learning content for the education and training of such personnel.

(b) AUTHORIZED RECIPIENTS.—The personnel to whom learning content and information technology may be provided under subsection (a) are military and civilian personnel of a friendly foreign government, with the permission of that government.

(c) EDUCATION AND TRAINING.—Any education and training provided under subsection (a) shall include the following:

(1) Internet-based education and training.

(2) Advanced distributed learning and similar Internet learning tools, as well as distributed training and computer assisted exercises.

(d) SECRETARY OF STATE CONCURRENCE IN CERTAIN ACTIVITIES.—In the case of any activity proposed to be undertaken under this section that is not authorized by another provision of law, the Secretary of Defense may undertake such activity only with the concurrence of the Secretary of State.

(e) APPLICABILITY OF EXPORT CONTROL REGIMES.—The provision of learning content and information technology under this section shall be subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and any other export control regime under law relating to the transfer of military technology to foreign nations.

(f) SECRETARY OF DEFENSE GUIDANCE.—

(1) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance on the procedures for the use of the authority provided in this section.

(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after issuing the guidance required by paragraph (1), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth such guidance. Deadline. Reports.

(3) MODIFICATION.—If the Secretary modifies the guidance issued under paragraph (1), the Secretary shall submit to the committees named in paragraph (2) a report setting forth the modified guidance not later than 30 days after the date of such modification. Reports. Deadline.

(g) ANNUAL REPORT.—

(1) REPORT REQUIRED.—Not later than October 31 of 2007 and 2008, the Secretary of Defense shall submit to the committees named in subsection (f)(1) a report on the exercise of

the authority provided in this section during the preceding fiscal year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

(A) A statement of the recipients of learning content and information technology provided under this section.

(B) A description of the type, quantity, and value of the learning content and information technology provided under this section.

(h) TERMINATION.—The authority provided in this section shall expire on September 30, 2008.

## Subtitle B—Nonproliferation Matters and Countries of Concern

**SEC. 1211. NORTH KOREA.**

(a) COORDINATOR OF POLICY ON NORTH KOREA.—

Deadline. President.

(1) APPOINTMENT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the President shall appoint a senior presidential coordinator of United States policy on North Korea.

(2) DESIGNATION.—The individual appointed under paragraph (1) may be known as the "North Korea Policy Coordinator" (in this subsection referred to as the "Coordinator)".

(3) DUTIES.—The Coordinator shall—

(A) conduct a full and complete interagency review of United States policy toward North Korea;

(B) consult with foreign governments, including the parties to the Six Party Talks on the denuclearization of the Korean peninsula; and

(C) provide policy direction and leadership for negotiations with North Korea relating to nuclear weapons, ballistic missiles, and other security matters.

(4) REPORT.—Not later than 90 days after the date of the appointment of an individual as Coordinator under paragraph (1), the Coordinator shall submit to the President and Congress an unclassified report, with a classified annex if necessary, on the actions undertaken under paragraph (3). The report shall set forth—

(A) the results of the review under paragraph (3)(A); and

(B) any other matter on North Korea that the Coordinator considers appropriate.

(5) TERMINATION.—The position under this subsection shall terminate no later than December 31, 2011.

(b) SEMIANNUAL REPORTS ON NUCLEAR AND MISSILE PROGRAMS OF NORTH KOREA.—

President.

(1) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter for fiscal years 2007 and 2008, the President shall transmit to Congress an unclassified report, with a classified annex as appropriate, on the nuclear program and the missile program of North Korea.

(2) MATTERS TO BE INCLUDED.—Each report under paragraph (1) shall include the following:

(A) The most current national intelligence estimate on the nuclear program and the missile program of North Korea and, consistent with the protection of intelligence sources and methods, an unclassified summary of the key judgments in that estimate.

(B) The most current unclassified United States Government assessment, stated as a range if necessary, of—

(i) the number of nuclear weapons possessed by North Korea; and

(ii) the amount of nuclear material suitable for weapons use produced by North Korea by plutonium reprocessing and uranium enrichment.

(C) Any other matter relating to the nuclear program or missile program of North Korea that the President considers appropriate.

**SEC. 1212. REPORT ON PARTICIPATION OF MULTINATIONAL PARTNERS IN THE UNITED NATIONS COMMAND IN THE REPUBLIC OF KOREA.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate committees of Congress a report on participation of multinational partners in the United Nations Command in the Republic of Korea.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A list of the nations that are current members of the United Nations Command in the Republic of Korea, together with a detailed description of the role and participation of each such member nation in the responsibilities and activities of the United Nations Command.

(2) A detailed description of efforts being undertaken by the United States to encourage enhanced participation in the responsibilities and activities of the United Nations Command in the Republic of Korea by such member nations.

(3) A discussion of how members of the United Nations Command in the Republic of Korea might be persuaded to increase their contribution of military forces stationed in the Republic and an assessment of how United States political-military requirements in the Republic of Korea might be affected by such increases.

(4) An assessment of how the contribution of additional military forces by a member of the United Nations Command might affect that member's approach to facilitating a diplomatic resolution of the nuclear challenge posed by the Democratic People's Republic of Korea.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Foreign Relations of the Senate; and

(2) the Committees on Armed Services and International Relations of the House of Representatives.

**SEC. 1213. INTELLIGENCE ON IRAN.**

(a) SUBMITTAL TO CONGRESS OF UPDATED NATIONAL INTELLIGENCE ESTIMATE ON IRAN.—

(1) SUBMITTAL REQUIRED.—The Director of National Intelligence shall submit to Congress an updated, comprehensive National Intelligence Estimate on Iran. Such National Intelligence Estimate shall be submitted as soon as is practicable, but not later than the end of the 90-day period beginning on the date of the enactment of this Act.

Deadline.

Reports.

(2) NOTICE REGARDING SUBMITTAL.—If before the end of the 90-day period specified in paragraph (1) the Director determines that the National Intelligence Estimate required by that paragraph cannot be submitted by the end of that period as required by that paragraph, the Director shall (before the end of that period) submit to Congress a report setting forth—

(A) the reasons why the National Intelligence Estimate cannot be submitted by the end of such 90-day period; and

(B) an estimated date for the submittal of the National Intelligence Estimate.

(3) FORM.—The National Intelligence Estimate under paragraph (1) shall be submitted in classified form. Consistent with the protection of intelligence sources and methods, an unclassified summary of the key judgments of the National Intelligence Estimate should be submitted.

(b) PRESIDENTIAL REPORT ON POLICY OBJECTIVES AND UNITED STATES STRATEGY REGARDING IRAN.—

(1) REPORT REQUIRED.—As soon as is practicable, but not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report on—

(A) the objectives of United States policy on Iran; and

(B) the strategy for achieving those objectives.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form with a classified annex, as appropriate.

(3) ELEMENTS.—The report submitted under paragraph (1) shall—

(A) address the role of diplomacy, incentives, sanctions, other punitive measures and incentives, and other programs and activities relating to Iran for which funds are provided by Congress; and

(B) summarize United States contingency planning regarding the range of possible United States military actions in support of United States policy objectives with respect to Iran.

**SEC. 1214. SENSE OF CONGRESS ON UNITED STATES POLICY ON THE NUCLEAR PROGRAMS OF IRAN.**

Congress—

(1) endorses the policy of the United States to achieve a successful diplomatic outcome, in coordination with leading members of the international community, with respect to the threat posed by the efforts of the Iranian regime to acquire a capability to produce nuclear weapons;

(2) calls on Iran to—

(A) suspend fully and verifiably its enrichment and reprocessing activities, as required by the International Atomic Energy Agency (IAEA); and

(B) work with the international community to achieve a negotiated outcome to the concerns regarding its nuclear program;

(3) in the event Iran fails to comply with United Nations Security Council Resolution 1696 (July 31, 2006), urges the Security Council to work for the adoption of appropriate measures under Article 41 of Chapter VII of the Charter of the United Nations; and

(4) urges the President and the Secretary of State to keep Congress fully and currently informed regarding the progress of this vital diplomatic initiative.

## Subtitle C—Other Matters

**SEC. 1221. EXCLUSION OF PETROLEUM, OIL, AND LUBRICANTS FROM LIMITATIONS ON ANNUAL AMOUNT OF LIABILITIES THE UNITED STATES MAY ACCRUE UNDER ACQUISITION AND CROSS-SERVICING AGREEMENTS.**

(a) EXCLUSION.—Section 2347 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "(other than petroleum, oils, and lubricants)" in paragraphs (1) and (2); and

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

"(d) The amount of any sale, purchase, or exchange of petroleum, oils, or lubricants by the United States under this subchapter in any fiscal year shall be excluded in any computation for the purposes of subsection (a) or (b) of the amount of reimbursable liabilities or reimbursable credits that the United States accrues under this subchapter in that fiscal year.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect beginning with fiscal year 2007. 10 USC 2347 note.

(c) REPORTS.—Not later than October 31 of 2007 and 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the exercise during the preceding fiscal year of the authority provided in subchapter I of chapter 138 of title 10, United States Code, with respect to the sale, purchase, or exchange of petroleum, oil, or lubricants. Each report shall identify each country involved in a sale, purchase, or exchange of petroleum, oil, or lubricants with the United States and include a description, by country, of the type, quantity, and value of the petroleum, oil, and lubricants that were sold, purchased, or exchanged by the United States.

**SEC. 1222. MODIFICATION OF LIMITATIONS ON ASSISTANCE UNDER THE AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2002.**

Section 2013(13)(A) of the American Servicemembers' Protection Act of 2002 (22 U.S.C. 7432(13)(A)) is amended by striking "or 5".

**SEC. 1223. HUMANITARIAN SUPPORT FOR IRAQI CHILDREN IN URGENT NEED OF MEDICAL CARE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense has discretionary authority to permit space-available travel on military aircraft for various reasons, including humanitarian purposes.

(2) Recently, 110 Iraqi children journeyed 22 hours by bus from Baghdad, Iraq, to Amman, Jordan, for urgently needed oral/facial surgery. While traveling, armed insurgents stopped and boarded the children's bus, raising serious questions about the safety of further travel by ground.

(3) Pursuant to the Secretary's discretionary authority referred to in paragraph (1), the Secretary authorized the Iraqi children to travel on military aircraft for their return trip from Amman to Baghdad.

(4) The Secretary is to be commended for his initiative in providing for the safe return of these children to Iraq by military aircraft.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should continue to provide space-available travel on military aircraft for humanitarian reasons to Iraqi children who would otherwise have no means available to seek urgently needed medical care such as that provided by a humanitarian organization in Amman, Jordan.

**SEC. 1224. SENSE OF CONGRESS OPPOSING THE GRANTING OF AMNESTY BY THE GOVERNMENT OF IRAQ TO PERSONS KNOWN TO HAVE ATTACKED, KILLED, OR WOUNDED MEMBERS OF THE UNITED STATES ARMED FORCES IN IRAQ.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Armed Forces of the United States and coalition military forces are serving heroically in Iraq to provide all the people of Iraq a better future.

(2) The Armed Forces of the United States and coalition military forces have served bravely in Iraq since the beginning of military operations in March of 2003.

(3) As of June 15, 2006, more than 2,500 members of the Armed Forces of the United States and members of coalition military forces have been killed and more than 18,000 have been injured in operations to bring peace and stability to all the people of Iraq.

(b) SENSE OF CONGRESS.—

(1) IRAQI SOVEREIGNTY.—It is the sense of Congress that the goal of the United States and of the coalition partners of the United States has been to empower the Iraqi people and, in doing so, to recognize their freedom to exercise full sovereignty.

(2) AMNESTY.—Recognizing the sovereignty of the Iraqi people as referred to in paragraph (1), it is further the sense of Congress that the Government of Iraq, consistent with that sovereignty, should not grant amnesty to persons known to have attacked, killed, or wounded members of the Armed Forces of the United States.

President.

**SEC. 1225. ANNUAL REPORTS ON UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS.**

(a) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act and annually thereafter until December 31, 2010, the President shall submit to Congress a report listing all assessed and voluntary contributions of the United States

Government for the preceding fiscal year to the United Nations and United Nations affiliated agencies and related bodies.

(b) CONTENTS.—Each report required under subsection (a) shall set forth, for the fiscal year covered by such report, the following:

(1) The total amount of all assessed and voluntary contributions of the United States Government to the United Nations and United Nations affiliated agencies and related bodies.

(2) The approximate percentage of United States Government contributions to each United Nations affiliated agency or body in such fiscal year when compared with all contributions to such agency or body from any source in such fiscal year.

(3) For each such contribution—

(A) the amount of such contribution;

(B) a description of such contribution (including whether assessed or voluntary);

(C) the department or agency of the United States Government responsible for such contribution;

(D) the purpose of such contribution; and

(E) the United Nations or United Nations affiliated agency or related body receiving such contribution.

**SEC. 1226. COMPREHENSIVE REGIONAL STRATEGY AND ANNUAL REPORTS ON SOMALIA.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should—

(1) support—

(A) the establishment of a functional, legitimate, and unified national government in Somalia;

(B) humanitarian assistance to the people of Somalia;

(C) efforts to prevent Somalia from becoming a safe haven for terrorists and terrorist activities; and

(D) regional stability;

(2) broaden and integrate its strategic approach toward Somalia within the context of United States policy and activities in the countries of the Horn of Africa and other relevant countries on the Arabian Peninsula; and

(3) coordinate and carry out all diplomatic, humanitarian, counterterrorism, and security-related activities in Somalia within the framework of an interagency process.

(b) COMPREHENSIVE REGIONAL STRATEGY.—

President.

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on a comprehensive regional strategy toward Somalia within the context of United States policy and activities in the countries of the Horn of Africa and other relevant countries on the Arabian Peninsula.

(2) COMPONENTS.—The comprehensive regional strategy described in the report shall include the following components:

(A) A clearly stated policy towards Somalia that will help establish a functional, legitimate, and unified national government in Somalia that is capable of maintaining the rule of law and preventing Somalia from becoming a safe haven for terrorists.

(B) A description of the type and form of bilateral, regional, and multilateral efforts to coordinate and strengthen diplomatic engagement with Somalia.

(C) A description of an integrated political, humanitarian, intelligence, and military approach to counter transnational security threats in Somalia and throughout the countries of the Horn of Africa.

(D) A description of an interagency framework involving the Federal agencies and departments of the United States to plan, coordinate, and execute United States policy and activities in Somalia and throughout the countries of the Horn of Africa and to oversee policy and program implementation.

(E) Guidance on the manner in which the comprehensive regional strategy will be implemented.

President.

(c) ANNUAL REPORTS.—Not later than April 1, 2007, and annually thereafter until April 1, 2010, the President shall submit to the appropriate congressional committees a report on the status of the implementation of the comprehensive regional strategy toward Somalia required under subsection (b).

(d) FORM.—Each report under this section, including the comprehensive regional strategy, shall be submitted in unclassified form, but may include a classified annex, as appropriate.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

**SEC. 1227. REPORT ON THE IMPLEMENTATION OF THE DARFUR PEACE AGREEMENT.**

(a) REQUIREMENT FOR REPORTS.—Not later than 90 days after the date of the enactment of this Act and every six months thereafter until December 31, 2011, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report on the implementation of the Darfur Peace Agreement of May 5, 2006, and the contributions of the Department of Defense to the North Atlantic Treaty Organization in support of the African Union Mission in Sudan (AMIS).

(b) CONTENTS.—Each report under subsection (a) shall include—

(1) a description of major violations of the Darfur Peace Agreement and major delays in implementing the Agreement, including violations and delays relating to the demobilization and disarmament of the Janjaweed, the voluntary safe return of internally displaced persons and refugees, and security and access for humanitarian supply routes;

(2) an assessment of the extent to which the Ceasefire Commission and the AMIS are able to monitor the implementation of the Darfur Peace Agreement and an assessment of efforts to impede the monitoring activities of the Ceasefire Commission and AMIS;

(3) a list of contributions made by the Department of Defense in support of NATO assistance to AMIS and the United Nations peacekeeping operation authorized for Darfur;

(4) a description of the activities carried out by United States Armed Forces in support of NATO assistance to AMIS and the United Nations peacekeeping operation authorized for Darfur;

(5) the amount of funds expended by the Department of Defense in support of NATO assistance to AMIS; and

(6) a description of the efforts by the United States to obtain troop contributions from other countries to serve in the United Nations peacekeeping operation authorized for Darfur.

(c) FORM AND AVAILABILITY OF REPORTS.—

(1) FORM.—Reports submitted under this section shall be in an unclassified form and may include a classified annex.

(2) AVAILABILITY.—The unclassified portion of such reports shall be made available to the public.

Public information.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

**SEC. 1228. SENSE OF CONGRESS CONCERNING COOPERATION WITH RUSSIA ON ISSUES PERTAINING TO MISSILE DEFENSE.**

It is the sense of Congress that—

(1) cooperation between the United States and Russia with regard to missile defense is in the interest of the United States;

(2) there does not exist strong enough engagement between the United States and Russia with respect to missile defense cooperation;

(3) the United States should explore innovative and non-traditional means of cooperation with Russia on issues pertaining to missile defense; and

(4) as part of such an effort, the Secretary of Defense should consider the possibilities for United States-Russian cooperation with respect to missile defense through—

(A) the testing of specific elements of the detection and tracking equipment of the Missile Defense Agency of the United States Department of Defense through the use of Russian target missiles; and

(B) the provision of early warning radar to the Missile Defense Agency by the use of Russian radar data.

**SEC. 1229. SENSE OF CONGRESS CALLING FOR CONVENING OF A SUMMIT FOR A COMPREHENSIVE POLITICAL AGREEMENT FOR IRAQ.**

(a) IN GENERAL.—It is the sense of Congress that the President should continue working with the Government of Iraq and the United Nations to convene a summit as soon as possible after the enactment of this Act for the purpose of reaching a comprehensive political agreement for Iraq—

(1) that promotes the Government of Iraq's National Reconciliation and Dialogue Plan of June 25, 2006, which is designed to focus on many of the fundamental questions dividing Iraqis; and

(2) that address the issues of—

(A) federalism;

(B) the equitable distribution of oil revenues;

(C) the demobilization and reintegration of armed militias

(D) the inducement of the armed opposition to lay down their arms and join the political process, and

(E) the building of a renewed international partnership with Iraq aimed at encouraging the economic recovery and reconstruction of Iraq.

(b) SUMMIT PARTICIPANTS.—A summit convened for the purpose stated in subsection (a) should include the following participants (as well as other appropriate participants):

(1) Representatives of Iraq's neighbors.

(2) Representatives of the Arab League.

(3) The Secretary General of the North Atlantic Treaty Organization.

(4) Representatives of the European Union.

(5) Leaders of the governments of each permanent member of the United Nations Security Council.

**SEC. 1230. SENSE OF CONGRESS ON THE COMMENDABLE ACTIONS OF THE ARMED FORCES IN IRAQ.**

(a) FINDINGS.—Congress makes the following findings:

(1) On June 7, 2006, the United States Armed Forces carried out an air strike near the City of Baquba, northeast of Baghdad, Iraq, that resulted in the death of Ahmad Fadeel al-Nazal al-Khalayleh, better known as Abu Musab al-Zarqawi, the leader of the al-Qaeda in Iraq terrorist organization and the most wanted terrorist in Iraq.

(2) Zarqawi, as the operational commander of al-Qaeda in Iraq, led a brutal campaign of suicide bombings, car bombings, assassinations, and abductions that caused the deaths of many members of the United States Armed Forces, civilian officials of the United States Government, thousands of innocent Iraqi civilians, and innocent civilians of other nations.

(3) Zarqawi publicly swore his allegiance to Osama bin Laden and al-Qaeda in 2004, and changed the name of his terrorist organization from the "Monotheism and Holy War Group" to "al-Qaeda in Iraq".

(4) In an audiotape broadcast in December 2004, Osama bin Laden, the leader of al-Qaeda's worldwide terrorist organization, called Zarqawi "the prince of al-Qaeda in Iraq".

(5) Three perpetrators confessed to being paid by Zarqawi to carry out the October 2002 assassination of the United States diplomat, Lawrence Foley, in Amman, Jordan.

(6) The Monotheism and Holy War Group claimed responsibility for—

(A) the August 2003 suicide attack that destroyed the United Nations headquarters in Baghdad and killed the United Nations envoy to Iraq, Sergio Vieira de Mello, along with 21 other people; and

(B) the suicide attack on the Imam Ali Mosque in Najaf that occurred less than two weeks later, which killed at least 85 people, including the Ayatollah Sayed Mohammed Baqr al-Hakim, and wounded dozens more.

(7) Zarqawi is believed to have personally beheaded American hostage Nicholas Berg in May 2004.

(8) In May 2004, Zarqawi was implicated in a car bombing that killed Izzadine Salim, the rotating president of the Iraqi Governing Council.

(9) In November 2005, al-Qaeda in Iraq attacked three hotels in Amman, Jordan, killing at least 67 innocent civilians.

(10) Zarqawi and his terrorist organization were directly responsible for numerous other brutal terrorist attacks against the American and coalition forces, Iraqi security forces and recruits, and innocent Iraqi civilians.

(11) Zarqawi sought to turn Iraq into a safe haven for al-Qaeda.

(12) To achieve that end, Zarqawi stated his opposition to the democratically elected government of Iraq and worked to divide the Iraqi people, foment sectarian violence, and incite a civil war in Iraq.

(13) The members of the United States Armed Forces, the intelligence community, and other Federal agencies, along with coalition partners and the Iraqi Security Forces, should be commended for their courage and extraordinary efforts to track down the most wanted terrorist in Iraq and to secure a free and prosperous future for the people of Iraq.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress—

(1) commends the United States Armed Forces, the intelligence community, and other Federal agencies, along with coalition partners, for the actions taken through June 7, 2006, that resulted in the death of Abu Musab al-Zarqawi, the leader of the al-Qaeda in Iraq terrorist organization and the most wanted terrorist in Iraq;

(2) commends the United States Armed Forces, the intelligence community, and other agencies for the action referred to in paragraph (1) and their exemplary performance in striving to bring freedom, democracy, and security to the people of Iraq;

(3) commends the coalition partners of the United States, the new government of Iraq, and members of the Iraqi Security Forces for their invaluable assistance in the operation referred to in paragraph (1) and their extraordinary efforts to secure a free and prosperous Iraq;

(4) commends United States civilian and military leadership for their continuing efforts to eliminate the leadership of al-Qaeda in Iraq, and also commends the new government of Iraq, led by Prime Minister Nouri al-Maliki, for its contribution to that achievement;

(5) recognizes that the death of Abu Musab al-Zarqawi is a victory for American and coalition forces in the global war on terror and a blow to the al-Qaeda terrorist organization;

(6) commends Iraqi Prime Minister Nouri al-Maliki on the finalization of the new Iraqi cabinet;

(7) urges the democratically elected government in Iraq to use this opportunity to defeat the terrorist enemy, to put an end to ethnic and sectarian violence, and to achieve a free, prosperous, and secure future for Iraq; and

(8) affirms that the Congress will continue to support the United States Armed Forces, the democratically elected unity

government of Iraq, and the people of Iraq in their quest to secure a free, prosperous, and democratic Iraq.

22 USC 2776a.

**SEC. 1231. ANNUAL REPORT ON FOREIGN SALES OF SIGNIFICANT MILITARY EQUIPMENT MANUFACTURED IN THE UNITED STATES.**

(a) REPORT REQUIRED.—Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on foreign military sales and direct sales to foreign entities of significant military equipment manufactured in the United States during the preceding calendar year.

(b) CONTENTS.—Each report required by subsection (a) shall indicate, for each sale of significant military equipment in excess of $2,000,000—

(1) the nature of the equipment and the dollar value of the sale;

(2) the country to which the equipment was sold; and

(3) the manufacturer of the equipment and the State in which the equipment was manufactured.

(c) PUBLIC AVAILABILITY.—The Secretary of Defense shall make each report required by subsection (a) publicly available to the maximum extent practicable.

(d) SIGNIFICANT MILITARY EQUIPMENT DEFINED.—In this section, the term "significant military equipment" has the meaning given the term in section 47(9) of the Arms Export Control Act (22 U.S.C. 2794(9) note).

# TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Extension of temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.

Sec. 1304. National Academy of Sciences study of prevention of proliferation of biological weapons.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2007 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2007 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $372,128,000 authorized to be appropriated to the Department of Defense for fiscal year 2007 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $76,985,000.

(2) For nuclear weapons storage security in Russia, $87,100,000.

(3) For nuclear weapons transportation security in Russia, $33,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $37,486,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $68,357,000.

(6) For chemical weapons destruction in Russia, $42,700,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $18,500,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2007 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2007 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2007 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) RESTRICTION.—The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

**SEC. 1303. EXTENSION OF TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.**

Section 1303 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2094; 22 U.S.C. 5952 note) is amended—

(1) in subsection (a), by striking "shall not apply for a calendar year for which the President submits to Congress a written certification" and inserting the following: "shall not apply for a calendar year to the chemical weapons destruction facility that is (as of 2006) under construction at Shchuch'ye in the Russian Federation, if the President submits to Congress a written certification, for the calendar year concerned,"; and

(2) in subsection (b), by striking "shall expire" and all that follows through the period at the end and inserting "is not effective for calendar years after calendar year 2011.".

**SEC. 1304. NATIONAL ACADEMY OF SCIENCES STUDY OF PREVENTION OF PROLIFERATION OF BIOLOGICAL WEAPONS.**

(a) STUDY REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to identify areas for further cooperation with Russia and other states of the former Soviet Union under the Cooperative Threat Reduction (CTR) program of the Department of Defense in the specific area of prevention of proliferation biological weapons.

(b) MATTERS TO BE INCLUDED IN STUDY.—The Secretary shall provide for the study under subsection (a) to include the following:

(1) A brief review of any ongoing or previously completed United States Government program (whether conducted through the Cooperative Threat Reduction program or otherwise) in the area of prevention of proliferation of biological weapons.

(2) An identification of further cooperative work between the United States Government and foreign governments, including technical scientific cooperation, that could effectively be pursued in the area of prevention of proliferation of biological weapons and the objectives that such work would be designed to achieve.

(3) An identification of any obstacles to designing and implementing a nonproliferation program (whether conducted through the Cooperative Threat Reduction program or otherwise) that could successfully accomplish the objectives identified pursuant to paragraph (2), together with recommendations for overcoming such obstacles, including recommendations in the area of coordination among relevant United States Government departments and agencies.

(c) REPORT.—

(1) SECRETARY OF DEFENSE REPORT.—Not later than December 31, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study carried out under subsection (a).

(2) MATTERS TO BE INCUDED.—The report under paragraph (1) shall incude the following:

(A) The results of the study carried out under subsection (a), including any report received from the National Academy of Sciences on such study.

(B) An assessment of the study by the Secretary.

(C) an action plan for implementing the recommendations from the study, if any, that the Secretary has decided to pursue.

(3) FORM OF SUBMITTAL.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) FUNDING.—Of the amounts made available pursuant to the authorization of appropriations in section 301(19) for Cooperative Threat Reduction programs, not more than $150,000 shall be available to carry out this section.

# TITLE XIV—MATTERS RELATED TO DEFENSE AGAINST TERRORISM AND RELATED SECURITY MATTERS

Sec. 1401. Enhancement to authority to pay rewards for assistance in combating terrorism.
Sec. 1402. Quarterly reports on Department of Defense response to threat posed by improvised explosive devices.
Sec. 1403. Requirement that all military wheeled vehicles used in Iraq and Afghanistan outside of secure military operating bases be protected by Improvised Explosive Device (IED) jammers.
Sec. 1404. Report on assessment process of Chairman of the Joint Chiefs of Staff relating to Global War on Terrorism.
Sec. 1405. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel.
Sec. 1406. Database of emergency response capabilities.

## SEC. 1401. ENHANCEMENT TO AUTHORITY TO PAY REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.

(a) INCREASE IN DELEGATION LIMITATION.—Paragraph (2) of section 127b(c) of title 10, United States Code, is amended by striking "$2,500" and inserting "$10,000".

(b) EXPANSION OF SENIOR OFFICERS TO WHOM COMBATANT COMMANDER AUTHORITY MAY BE DELEGATED.—Such paragraph is further amended—

(1) by inserting after "deputy commander" the following: ", or to the commander of a command directly subordinate to that commander,"; and

(2) by adding at the end the following new sentence: "Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A).".

## SEC. 1402. QUARTERLY REPORTS ON DEPARTMENT OF DEFENSE RESPONSE TO THREAT POSED BY IMPROVISED EXPLOSIVE DEVICES.

10 USC 113 note.

(a) REPORTS REQUIRED.—

(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report—

(A) regarding the status of the threat posed to United States and allied forces in Iraq and Afghanistan by improvised explosive devices; and

(B) describing efforts being undertaken by the Department of Defense to defeat that threat.

(2) SUPPLEMENTAL QUARTERLY REPORTS.—After the submission of the report under paragraph (1), the Secretary shall submit to Congress a supplemental report, not later than 30 days after the end of each calendar-year quarter, to account for every reported incident involving the detonation or discovery of an improvised explosive device during the preceding quarter that involved United States or allied forces in Iraq and Afghanistan.

(3) CLASSIFICATION OF REPORTS.—Reports under this section shall be transmitted in an unclassified manner with a classified annex, if necessary.

(b) JOINT IED DEFEAT ORGANIZATION AND RELATED OFFICES.—Each report under subsection (a) shall provide the following information regarding the joint entity in the Office of the Secretary of Defense known as the "Joint IED Defeat Organization" and those portions of all other organizational elements within the Department of Defense that are focused on countering improvised explosive devices:

(1) The number of Department of Defense personnel assigned to the Joint IED Defeat Organization and each other organizational element.

(2) The major locations to which such personnel are assigned and the organizational structure of those elements.

(3) The projected budget of the Joint IED Defeat Organization and those other elements relating to the counter-IED mission.

(4) The level of funding required for administrative costs relating to the counter-IED mission.

(c) EXISTING THREAT AND COUNTER MEASURES.—Each report under subsection (a) shall include the following information regarding the threat posed by improvised explosive devices and the countermeasures employed to defeat those threats:

(1) The number of improvised explosive devices being encountered by United States and allied military personnel, including general trends in tactics and technology used by the enemy.

(2) Passive countermeasures employed and the success rate of each such countermeasure.

(3) Active countermeasures employed and the success rate of each such countermeasure.

(4) Any evidence of assistance to the enemy by foreign countries or other entities not directly involved in fighting United States and allied forces in Iraq and Afghanistan.

(5) A summary of data collected and reports generated by the Department of Defense on efforts to counter improvised explosive devices in Iraq and Afghanistan and other fronts in the Global War on Terrorism.

(d) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OF NEW COUNTERMEASURES.—Each report under subsection (a) shall include the following information regarding research, development, test, and evaluation activities relating to new active and passive countermeasures and any impediments to those activities:

(1) The status of any effort within the Department of Defense to conduct research, development, test, and evaluation of passive and active countermeasures and to accelerate the introduction of those countermeasures into deployed units.

(2) Impediments to introduction of new passive and active countermeasures.

(e) INTERDICTION EFFORTS.—

(1) DESCRIPTION OF INTERDICTION EFFORTS.—Each report under subsection (a) shall identify those portions of any office within the Department of Defense (in addition to those discussed pursuant to subsection (b)) that are focused on interdiction of improvised explosive devices, together with the personnel and funding requirements for that office (as specified in subsection (b)) and the success of the interdiction efforts of that office.

(2) INTERDICTION DEFINED.—For purposes of this subsection, the term "interdiction" includes—

(A) the development of intelligence regarding persons and locations involved in the manufacture or deployment of improvised explosive devices; and

(B) subsequent action against those persons or locations, including efforts to prevent emplacement of improvised explosive devices.

**SEC. 1403. REQUIREMENT THAT ALL MILITARY WHEELED VEHICLES USED IN IRAQ AND AFGHANISTAN OUTSIDE OF SECURE MILITARY OPERATING BASES BE PROTECTED BY IMPROVISED EXPLOSIVE DEVICE (IED) JAMMERS.**

(a) REQUIREMENT.—The Secretary of Defense shall take such steps as necessary to ensure that by the end of fiscal year 2007 all United States military wheeled vehicles used in Iraq and Afghanistan outside of secure military operating bases are protected by Improvised Explosive Device (IED) jammers.

(b) FUNDING.—The Secretary shall carry out subsection (a) using funds provided pursuant to authorizations of appropriations in title XV.

(c) REPORT.—Not later than December 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the cost and timeline to complete compliance with the requirement in subsection (a) that by the end of fiscal year 2007 each vehicle described in that subsection be protected by an Improvised Explosive Device jammer.

**SEC. 1404. REPORT ON ASSESSMENT PROCESS OF CHAIRMAN OF THE JOINT CHIEFS OF STAFF RELATING TO GLOBAL WAR ON TERRORISM.**

Not later than March 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the semiannual assessment process relating to the Global War on Terrorism that is described in the annex to the National Military Strategic Plan for the War on Terrorism, issued by the Secretary of Defense on February 1, 2006, that is designated as the Implementation and Assessment Annex (Annex R).

**SEC. 1405. TREATMENT UNDER FREEDOM OF INFORMATION ACT OF CERTAIN CONFIDENTIAL INFORMATION SHARED WITH STATE AND LOCAL PERSONNEL.**

(a) IN GENERAL.—Chapter 3 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel**

"Confidential business information and other sensitive but unclassified homeland security information in the possession of the Department of Defense that is shared, pursuant to section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482), with State and local personnel (as defined in such section) shall not be subject to disclosure under section 552 of title 5 by virtue of the sharing of such information with such personnel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel.".

10 USC 113 note.

**SEC. 1406. DATABASE OF EMERGENCY RESPONSE CAPABILITIES.**

The Secretary of Defense shall maintain a database of emergency response capabilities that includes the following:

(1) The types of emergency response capabilities that each State's National Guard, as reported by the States, may be able to provide in response to a domestic natural or manmade disaster, both to their home States and under State-to-State mutual assistance agreements.

(2) The types of emergency response capabilities that the Department of Defense may be able to provide in support of the National Response Plan's Emergency Support Functions, and identification of the units that provide these capabilities.

# TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Purpose.
Sec. 1502. Army procurement.
Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Air Force procurement.
Sec. 1505. Defense-wide activities procurement.
Sec. 1506. Research, development, test, and evaluation.
Sec. 1507. Operation and maintenance.
Sec. 1508. Defense Health Program.
Sec. 1509. Classified programs.
Sec. 1510. Military personnel.
Sec. 1511. Treatment as additional authorizations.
Sec. 1512. Transfer authority.
Sec. 1513. Availability of funds.
Sec. 1514. Joint Improvised Explosive Device Defeat Fund.
Sec. 1515. Iraq Freedom Fund.
Sec. 1516. Iraq Security Forces Fund.
Sec. 1517. Afghanistan Security Forces Fund.
Sec. 1518. Submittal to Congress of Department of Defense supplemental and cost of war execution reports.

Sec. 1519. Limitation on availability of funds for certain purposes relating to Iraq.
Sec. 1520. Intelligence Community Management Account.

**SEC. 1501. PURPOSE.**

The purpose of this title is to authorize estimated future emergency supplemental appropriations for the Department of Defense for fiscal year 2007 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom.

**SEC. 1502. ARMY PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement accounts of the Army in amounts as follows:

(1) For aircraft procurement, $1,524,300,000

(2) For ammunition procurement, $48,591,000.

(3) For weapons and tracked combat vehicles procurement, $3,022,836,000.

(4) For other procurement, $4,636,810,000.

(5) For missile procurement, $3,200,000.

**SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement accounts for the Navy in amounts as follows:

(1) For aircraft procurement, $389,465,000

(2) For weapons procurement, $109,400,000.

(3) For other procurement, $14,600,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the procurement account for the Marine Corps in the amount of $4,397,926,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $151,439,000.

**SEC. 1504. AIR FORCE PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement accounts for the Air Force in amounts as follows:

(1) For aircraft procurement, $2,174,000,000.

(2) For other procurement, $5,650,000.

**SEC. 1505. DEFENSE-WIDE ACTIVITIES PROCUREMENT.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the procurement account for Defense-wide in the amount of $127,600,000.

**SEC. 1506. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $2,639,000.

(2) For the Navy, $7,856,000.

**SEC. 1507. OPERATION AND MAINTENANCE.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $28,045,387,000.

(2) For the Navy, $2,007,948,000.

(3) For the Marine Corps, $2,257,089,000.
(4) For the Air Force, $2,478,906,000.
(5) For Defense-wide activities, $1,544,614,000.
(6) For the Army National Guard, $221,500,000.
(7) For the Air National Guard, $2,000,000.
(8) For the Army Reserve, $500,000.

**SEC. 1508. DEFENSE HEALTH PROGRAM.**

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $869,200,000 for operation and maintenance.

**SEC. 1509. CLASSIFIED PROGRAMS.**

Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 2007 for classified programs, in the amount of $2,500,000,000.

**SEC. 1510. MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2007 a total of $8,106,979,000.

**SEC. 1511. TREATMENT AS ADDITIONAL AUTHORIZATIONS.**

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

**SEC. 1512. TRANSFER AUTHORITY.**

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2007 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

**SEC. 1513. AVAILABILITY OF FUNDS.**

Funds in this title shall be made available for obligation to the Army, Navy, Marine Corps, Air Force, and Defense-wide components by the end of the second quarter of fiscal year 2007.

**SEC. 1514. JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND.**

(a) AUTHORIZATION OF APPROPRIATION.—Funds are hereby authorized for fiscal year 2007 for the Joint Improvised Explosive Device Defeat Fund in the amount of $2,100,000,000.

(b) USE OF FUNDS.—Funds appropriated pursuant to subsection (a) shall be available to the Secretary of Defense for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop, and provide equipment, supplies, services, training, facilities, personnel, and funds to assist United States forces in the defeat of improvised explosive devices.

(c) TRANSFER AUTHORITY.—

(1) TRANSFERS AUTHORIZED.—Amounts authorized to be appropriated by subsection (a) may be transferred from the Joint Improvised Explosive Device Defeat Fund to any of the following accounts and funds of the Department of Defense to accomplish the purposes provided in subsection (b):

(A) Military personnel accounts.

(B) Operation and maintenance accounts.

(C) Procurement accounts.

(D) Research, development, test, and evaluation accounts.

(E) Defense working capital funds.

(2) ADDITIONAL TRANSFER AUTHORITY.—The transfer authority provided by paragraph (1) is in addition to any other transfer authority available to the Department of Defense.

(3) TRANSFERS BACK TO THE FUND.—Upon determination that all or part of the funds transferred from the Joint Improvised Explosive Device Defeat Fund under paragraph (1) are not necessary for the purpose provided, such funds may be transferred back to the Joint Improvised Explosive Device Defeat Fund.

(4) PRIOR NOTICE TO CONGRESSIONAL COMMITTEES.—Funds may not be obligated from the Joint Improvised Explosive Device Defeat Fund, or transferred under the authority provided in paragraph (1), until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the details of the proposed obligation or transfer.

(5) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

(d) MANAGEMENT PLAN.—

(1) PLAN REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a plan for the intended management and use of the Joint Improvised Explosive Device Defeat Fund.

(2) MATTER TO BE INCLUDED.—The plan required by paragraph (1) shall include an update of the plan required in the paragraph under the heading "Joint Improvised Explosive Device Defeat Fund" in chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 424), including identification of—

(A) year-to-date transfers and obligations; and

(B) projected transfers and obligations through September 30, 2007.

(e) QUARTERLY REPORTS.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary shall submit to the congressional defense committees a report summarizing the detail of any obligation or transfer of funds from the Joint Improvised Explosive Device Defeat Fund plan required by subsection (d).

(f) DURATION OF AUTHORITY.—Amounts appropriated to the Fund are available for obligation or transfer from the Fund until September 30, 2009.

**SEC. 1515. IRAQ FREEDOM FUND.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the Iraq Freedom Fund in the amount of $50,000,000.

(b) TRANSFER.—

(1) TRANSFER AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Freedom Fund to any accounts as follows:

(A) Operation and maintenance accounts of the Armed Forces.

(B) Military personnel accounts.

(C) Research, development, test, and evaluation accounts of the Department of Defense.

(D) Procurement accounts of the Department of Defense.

(E) Accounts providing funding for classified programs.

(F) The operating expenses account of the Coast Guard.

(2) NOTICE TO CONGRESS.—A transfer may not be made under the authority in paragraph (1) until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the transfer.

(3) TREATMENT OF TRANSFERRED FUNDS.—Amounts transferred to an account under the authority in paragraph (1) shall be merged with amounts in such account and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such account.

(4) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

**SEC. 1516. IRAQ SECURITY FORCES FUND.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the Iraq Security Forces Fund in the amount of $1,734,000,000.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds appropriated pursuant to subsection (a) shall be available to the Secretary of Defense for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, to provide assistance to the security forces of Iraq.

(2) TYPES OF ASSISTANCE AUTHORIZED.—Assistance provided under this section may include the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, construction, and funding.

(3) SECRETARY OF STATE CONCURRENCE.—Assistance may be provided under this section only with the concurrence of the Secretary of State.

(c) AUTHORITY IN ADDITION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations.

(d) TRANSFER AUTHORITY.—

(1) TRANSFERS AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Security Forces Fund to any of the following accounts and funds of the Department of Defense to accomplish the purposes provided in subsection (b):

(A) Military personnel accounts.

(B) Operation and maintenance accounts.

(C) Procurement accounts.

(D) Research, development, test, and evaluation accounts.

(E) Defense working capital funds.

(F) Overseas Humanitarian, Disaster, and Civic Aid account.

(2) ADDITIONAL AUTHORITY.—The transfer authority provided by paragraph (1) is in addition to any other transfer authority available to the Department of Defense.

(3) TRANSFERS BACK TO THE FUND.—Upon determination that all or part of the funds transferred from the Iraq Security Forces Fund under paragraph (1) are not necessary for the purpose provided, such funds may be transferred back to the Iraq Security Forces Fund.

(4) PRIOR NOTICE TO CONGRESSIONAL COMMITTEES.—Funds may not be obligated from the Iraq Security Forces Fund, or transferred under the authority provided in paragraph (1), until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the details of the proposed obligation or transfer.

(5) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

(e) CONTRIBUTIONS.—

(1) AUTHORITY TO ACCEPT CONTRIBUTIONS.—Contributions of funds for the purposes provided in subsection (b) from any person, foreign government, or international organization may

be credited to the Iraq Security Forces Fund and used for the purposes provided in subsection (b).

(2) LIMITATION.—The Secretary may not accept a contribution under this subsection if the acceptance of the contribution would compromise or appear to compromise the integrity of any program of the Department of Defense.

(3) NOTIFICATION.—The Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution. Such notice shall delineate the sources and amounts of the funds received and the specific use of such contributions.

(f) QUARTERLY REPORTS.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary shall submit to the congressional defense committees a report summarizing the details of any obligation or transfer of funds from the Iraq Security Forces Fund during the preceding quarter.

(g) DURATION OF AUTHORITY.—Amounts appropriated or contributed to the Fund are available for obligation or transfer from the Iraq Security Forces Fund until September 30, 2008.

**SEC. 1517. AFGHANISTAN SECURITY FORCES FUND.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the Afghanistan Security Forces Fund in the amount of $1,446,300,000.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds appropriated pursuant to subsection (a) shall be available to the Secretary of Defense for the purpose of allowing the Commander, Office of Security Cooperation—Afghanistan, to provide assistance to the security forces of Afghanistan.

(2) TYPES OF ASSISTANCE AUTHORIZED.—Assistance provided under this section may include the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, construction, and funding.

(3) SECRETARY OF STATE CONCURRENCE.—Assistance may be provided under this section only with the concurrence of the Secretary of State.

(c) AUTHORITY IN ADDITION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations.

(d) TRANSFER AUTHORITY.—

(1) TRANSFERS AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Afghanistan Security Forces Fund to any of the following accounts and funds of the Department of Defense to accomplish the purposes provided in subsection (b):

(A) Military personnel accounts.

(B) Operation and maintenance accounts.

(C) Procurement accounts.

(D) Research, development, test, and evaluation accounts.

(E) Defense working capital funds.

(F) Overseas Humanitarian, Disaster, and Civic Aid account.

(2) ADDITIONAL AUTHORITY.—The transfer authority provided by paragraph (1) is in addition to any other transfer authority available to the Department of Defense.

(3) TRANSFERS BACK TO THE FUND.—Upon determination that all or part of the funds transferred from the Afghanistan Security Forces Fund under paragraph (1) are not necessary for the purpose provided, such funds may be transferred back to the Afghanistan Security Forces Fund.

(4) PRIOR NOTICE TO CONGRESSIONAL COMMITTEES.—Funds may not be obligated from the Afghanistan Security Forces Fund, or transferred under the authority provided in paragraph (1), until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the details of the proposed obligation or transfer.

(5) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

(e) CONTRIBUTIONS.—

(1) AUTHORITY TO ACCEPT CONTRIBUTIONS.—Contributions of funds for the purposes provided in subsection (b) from any person, foreign government, or international organization may be credited to the Afghanistan Security Forces Fund and used for the purposes provided in subsection (b).

(2) LIMITATION.—The Secretary may not accept a contribution under this subsection if the acceptance of the contribution would compromise or appear to compromise the integrity of any program of the Department of Defense.

(3) NOTIFICATION.—The Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution. Such notice shall delineate the sources and amounts of the funds received and the specific use of such contributions.

(f) QUARTERLY REPORTS.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary shall submit to the congressional defense committees a report summarizing the details of any obligation or transfer of funds from the Afghanistan Security Forces Fund during the preceding quarter.

(g) DURATION OF AUTHORITY.—Amounts appropriated or contributed to the Fund are available for obligation or transfer from the Afghanistan Security Forces Fund until September 30, 2008.

**SEC. 1518. SUBMITTAL TO CONGRESS OF DEPARTMENT OF DEFENSE SUPPLEMENTAL AND COST OF WAR EXECUTION REPORTS.**

Section 1221(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3462; 10 U.S.C. 113 note) is amended—

(1) in the subsection caption by inserting "CONGRESS AND" after "SUBMISSION TO"; and

(2) by inserting "the congressional defense committees and" before "the Comptroller General".

**SEC. 1519. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PURPOSES RELATING TO IRAQ.**

No funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States economic control of the oil resources of Iraq.

**SEC. 1520. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.**

There is hereby authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2007 a total of $19,265,000.

Military Construction Authorization Act for Fiscal Year 2007.

# DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

**SEC. 2001. SHORT TITLE.**

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2007".

**SEC. 2002. RECOGNITION OF REPRESENTATIVE JOEL HEFLEY UPON HIS RETIREMENT FROM THE HOUSE OF REPRESENTATIVES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Representative Joel Hefley was elected to represent Colorado's 5th Congressional district in 1986 and has served in the House of Representatives since that time with distinction, class, integrity, and honor.

(2) Representative Hefley has served on the Committee on Armed Services of the House of Representatives for 18 years, including service as Chairman of the Subcommittee on Military Installations and Facilities from 1995 through 2000 and, since 2001, as Chairman of the Subcommittee on Readiness.

(3) Representative Hefley's colleagues know him to be a fair and effective lawmaker who works for the national interest while never forgetting his Western roots.

(4) Representative Hefley's efforts on the Committee on Armed Services have been instrumental to the military value of, and quality of life at, installations in the State of Colorado, including Fort Carson, Cheyenne Mountain, Peterson Air Force Base, Schriever Air Force Base, Buckley Air Force Base, and the United States Air Force Academy.

(5) Representative Hefley was a leader in efforts to retain and expand Fort Carson as an essential part of the national defense system during the Defense Base Closure and Realignment process.

(6) Representative Hefley has consistently advocated for providing members of the Armed Forces and their families with quality, safe, and affordable housing and supportive communities.

(7) As a primary architect of the Military Housing Privatization Initiative, Representative Hefley helped lead

congressional efforts to establish this initiative to eliminate inadequate housing on military installations, and the first pilot program was located at Fort Carson.

(8) Representative Hefley's leadership on the Military Housing Privatization Initiative has allowed for the privatization of more than 121,000 units of military family housing, which brought meaningful improvements to living conditions for thousands of members of the Armed Forces and their spouses and children at installations throughout the United States.

(b) RECOGNITION.—Congress recognizes and commends Representative Joel Hefley for his 20 years of service to benefit the people of Colorado, members of the Armed Forces and their families, veterans, and the United States.

# TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects
Sec. 2102. Family housing
Sec. 2103. Improvements to military family housing units
Sec. 2104. Authorization of appropriations, Army

## SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alabama | Redstone Arsenal | $24,300,000 |
| Alaska | Fort Richardson | $72,300,000 |
| | Fort Wainwright | $8,800,000 |
| | Fort Irwin | $18,200,000 |
| | Fort Carson | $30,800,000 |
| | Fort Gillem | $15,000,000 |
| | Fort Stewart/Hunter Army Air Field | $95,300,000 |
| Hawaii | Schofield Barracks | $54,500,000 |
| Kansas | Fort Leavenworth | $23,200,000 |
| | Fort Riley | $47,400,000 |
| Kentucky | Blue Grass Army Depot | $3,500,000 |
| | Fort Campbell | $135,300,000 |
| Louisiana | Fort Polk | $15,900,000 |
| Maryland | Aberdeen Proving Ground | $8,800,000 |
| | Fort Detrick | $12,400,000 |
| Michigan | Detroit Arsenal | $18,500,000 |
| Missouri | Fort Leonard Wood | $34,500,000 |
| New Jersey | Picatinny Arsenal | $9,900,000 |
| New York | Fort Drum | $218,600,000 |
| North Carolina | Fort Bragg | $96,900,000 |
| | Sunny Point Military Ocean Terminal | $46,000,000 |
| Oklahoma | McAlester Army Ammunition Plant | $3,050,000 |
| Pennsylvania | Letterkenny Depot | $7,500,000 |
| Texas | Corpus Christi Army Depot | $12,200,000 |
| | Fort Bliss | $8,200,000 |
| | Fort Hood | $93,000,000 |
| | Red River Depot | $6,000,000 |
| Utah | Dugway Proving Ground | $14,400,000 |

**Army: Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| Virginia | Fort Belvoir | $27,000,000 |

## Army: Inside the United States

| State | Installation or Location | Amount |
|---|---|---|
| Alabama | Redstone Arsenal | $24,300,000 |
| Alaska | Fort Richardson | $72,300,000 |
| | Fort Wainwright | $8,800,000 |
| California | Fort Irwin | $18,200,000 |
| Colorado | Fort Carson | $30,800,000 |
| Georgia | Fort Gillem | $15,000,000 |
| | Fort Stewart/Hunter Army Air Field. | $95,300,000 |
| Hawaii | Schofield Barracks | $54,500,000 |
| Kansas | Fort Leavenworth | $23,200,000 |
| | Fort Riley | $47,400,000 |
| Kentucky | Blue Grass Army Depot | $3,500,000 |
| | Fort Campbell | $135,300,000 |
| Louisiana | Fort Polk | $15,900,000 |
| Maryland | Aberdeen Proving Ground | $8,800,000 |
| | Fort Detrick | $12,400,000 |
| Michigan | Detroit Arsenal | $18,500,000 |
| Missouri | Fort Leonard Wood | $34,500,000 |
| New Jersey | Picatinny Arsenal | $9,900,000 |
| New York | Fort Drum | $218,600,000 |
| North Carolina | Fort Bragg | $96,900,000 |
| | Sunny Point Military Ocean Terminal. | $46,000,000 |
| Oklahoma | McAlester Army Ammunition Plant. | $3,050,000 |
| Pennsylvania | Letterkenny Depot | $7,500,000 |
| Texas | Corpus Christi Army Depot | $12,200,000 |
| | Fort Bliss | $8,200,000 |
| | Fort Hood | $93,000,000 |
| | Red River Depot | $6,000,000 |
| Utah | Dugway Proving Ground | $14,400,000 |
| Virginia | Fort Belvoir | $27,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

## Army: Outside the United States

| Country | Installation or Location | Amount |
|---|---|---|
| Germany | Grafenwoehr | $157,632,000 |
| | Vilseck | $19,000,000 |
| Italy | Vicenza | $223,000,000 |
| Japan | Camp Hansen | $7,150,000 |
| Korea | Camp Humphreys | $61,600,000 |
| | Yongpyong | $7,400,000 |
| Romania | Babadag Range | $34,800,000 |

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

**Army: Family Housing**

| State | Installation or Location | Units | Amount |
|---|---|---|---|
| Alaska | Fort Richardson | 162 | $70,000,000 |
| | Fort Wainwright | 234 | $132,000,000 |
| Arizona | Fort Huachuca | 119 | $32,000,000 |
| Arkansas | Pine Bluff Arsenal | 10 | $2,900,000 |
| Wisconsin | Fort McCoyine | 13 | $4,900,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $16,332,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $320,659,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,518,450,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,362,200,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $510,582,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $23,930,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $219,830,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $578,791,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $675,617,000.

(6) For the construction of increment 2 of a barracks complex at Fort Drum, New York, authorized by section 2101(a)

of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $16,500,000.

(7) For the construction of increment 2 of a barracks complex for the 2nd Brigade at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $31,000,000.

(8) For the construction of increment 2 of a barracks complex for the 3rd Brigade at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $50,000,000.

(9) For the construction of increment 2 of a barracks complex for divisional artillery at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $37,000,000.

(10) For the construction of increment 2 of a defense access road at Fort Belvoir, Virginia, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3486), $13,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $306,000,000 (the balance of the amount authorized under section 2101(a) for construction of a brigade complex for Fort Lewis, Washington).

# TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2004, 2005, and 2006 projects.

## SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Arizona | Marine Corps Air Station, Yuma | $5,966,000 |
| California | Marine Corps Air Station, Camp Pendleton. | $6,412,000 |

**Navy: Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| | Marine Corps Air Station, Miramar. | $2,968,000 |
| | Marine Corps Base, Camp Pendleton. | $106,142,000 |
| | Marine Corps Base, Twentynine Palms. | $27,217,000 |
| | Naval Air Station, North Island | $21,535,000 |
| | Naval Support Activity, Monterey | $7,380,000 |
| Connecticut | Naval Submarine Base, New London. | $9,580,000 |
| Florida | Cape Canaveral | $9,900,000 |
| | Naval Air Station, Pensacola | $13,486,000 |
| Georgia | Marine Corps Logistics Base, Albany. | $70,540,000 |
| | Navy/Naval Submarine Base, Kings Bay. | $20,282,000 |
| Hawaii | Naval Base, Pearl Harbor | $48,338,000 |
| | Naval Magazine, Pearl Harbor | $6,010,000 |
| | Naval Shipyard, Pearl Harbor | $22,000,000 |
| Indiana | Naval Support Activity, Crane | $6,730,000 |
| Maine | Portsmouth Naval Shipyard | $9,650,000 |
| Maryland | Naval Air Station, Patuxent River | $16,316,000 |
| | NMIC/Naval Support Activity, Suitland. | $67,939,000 |
| Mississippi | Naval Air Station, Meridian | $5,870,000 |
| Nevada | Naval Air Station, Fallon | $7,730,000 |
| North Carolina | Marine Corps Air Station, Cherry Point. | $2,790,000 |
| | Marine Corps Air Station, New River. | $21,500,000 |
| | Marine Corps Base, Camp Lejeune. | $160,904,000 |
| Rhode Island | Naval Station, Newport | $3,308,000 |
| South Carolina | Marine Corps Air Station, Beaufort. | $25,575,000 |
| Virginia | Marine Corps Base, Quantico | $30,628,000 |
| | Naval Shipyard, Norfolk | $34,952,000 |
| | Naval Special Weapons Center, Dahlgren. | $9,850,000 |
| | Naval Station, Norfolk | $12,062,000 |
| | Naval Support Activity, Norfolk | $41,712,000 |
| Washington | Naval Air Station, Whidbey Island | $67,303,000 |
| | Naval Base, Kitsap | $17,617,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Diego Garcia | Diego Garcia | $37,473,000 |
| Italy | Naval Air Station, Sigonella | $13,051,000 |

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

**Navy: Unspecified Worldwide**

| Location | Project | Amount |
|---|---|---|
| ..... | Helicopter Support Facility ..... | $12,185,000 |

**SEC. 2202. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, in the number of units, and in the amounts set forth in the following table:

**Navy: Family Housing**

| Location | Installation | Units | Amount |
|---|---|---|---|
| California ..... | Marine Corps Log. Base, Barstow. | 74 ..... | $27,851,000 |
| Guam ..... | Naval Station/Base, Guam ..... | 176 ..... | $98,174,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $2,785,000.

**SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $180,146,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,109,367,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $832,982,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,524,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2201(c), $12,185,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $8,939,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $70,861,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $308,956,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $509,126,000.

(7) For the construction of increment 2 of a reclamation and conveyance project for Marine Corps Base, Camp Pendleton, California, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), as amended by section 2205(c) of this Act, $33,290,000.

(8) For the construction of increment 2 of a helicopter hangar replacement at Naval Air Station, Jacksonville, Florida, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3489), $43,250,000.

(9) For the construction of increment 2 of recruit training barracks infrastructure upgrades at Recruit Training Command, Great Lakes, Illinois, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $23,589,000.

(10) For the construction of increment 2 of a field house at the United States Naval Academy, Annapolis, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $26,685,000.

(11) For the construction of increment 2 of the replacement of Ship Repair Pier 3 at Naval Support Activity, Norfolk Naval Shipyard, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $30,939,000.

(12) For the construction of increment 2 of an addition to Hockmuth Hall, Marine Corps Base, Quantico, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $10,159,000.

(13) For the construction of increment 2 of wharf upgrades at Naval Station Guam, Marianas Islands, authorized by section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $29,772,000.

(14) For the construction of increment 2 of wharf upgrades at Yokosuka, Japan, authorized by section 2201(b) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $44,360,000.

(15) For the construction of increment 2 of bachelor quarters at Naval Station, Everett, Washington, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $20,917,000.

(16) For the construction of increment 3 of the limited area production and storage complex at Strategic Weapons Facility Pacific, Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493, $14,274,000.

(17) For the construction of the next increment of the outlaying landing field facilities at Washington County, North Carolina, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205(a) of this Act, $7,926,000.

(18) For the construction of increment 4 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $30,633,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $56,159,000 (the balance of the amount authorized under section 2201(a) for construction of an addition to the National Maritime Intelligence Center, Suitland, Maryland).

(3) $31,153,000 (the balance of the amount authorized under section 2201(a) to recapitalize Hangar 5 at Naval Air Station, Whidbey Island, Washington).

**SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004, 2005, AND 2006 PROJECTS.**

(a) FISCAL YEAR 2004 INSIDE THE UNITED STATES PROJECT.—

(1) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3492), is amended—

(A) at the end of the items relating to North Carolina, by inserting a new item entitled "Navy Outlying Landing Field, Washington County" in the amount of "$193,260,000";

(B) by striking the item relating to Various Locations, CONUS; and

(C) by striking the amount identified as the total in the amount column and inserting "$1,489,424,000".

(2) CONFORMING AMENDMENTS.—Section 2204(b)(6) of that Act (117 Stat. 1706) is amended—

(A) by striking "$28,750,000" and inserting "$165,650,000"; and

(B) by striking "outlying landing field facilities, various locations in the continental United States" and inserting "an outlying landing field in Washington County, North Carolina".

(b) FISCAL YEAR 2005 INSIDE THE UNITED STATES PROJECT.—

(1) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493), is amended—

(A) by striking the item relating to Navy Outlying Landing Field, Washington County, North Carolina; and

(B) by striking the amount identified as the total in the amount column and inserting "$825,479,000".

(2) CONFORMING AMENDMENTS.—Section 2204 of that Act (118 Stat. 2107), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493), is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "$752,927,000" and inserting "722,927,000"; and

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

"(10) For the construction of increment 2 of the Navy outlying landing field in Washington County, North Carolina, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205(a) of the Military Construction Authorization Act for Fiscal Year 2007, $30,000,000."; and

(B) in subsection (b), by striking paragraph (3).

(c) FISCAL YEAR 2006 INSIDE THE UNITED STATES PROJECT.—

(1) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3489) is amended in the item related to Marine Corps Base, Camp Pendleton, California, by striking "$90,437,000" in the amount column and inserting "$86,006,000".

(2) CONFORMING AMENDMENTS.—Section 2204(b)(2) of that Act (119 Stat. 3492) is amended by striking "$37,721,000" and inserting "$33,290,000".

# TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Modification of authority to carry out certain fiscal year 2006 project.

## SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

| State | Installation or Location | Amount |
|---|---|---|
| Alaska | Eielson Air Force Base | $38,300,000 |
| | Elmendorf Air Force Base | $68,100,000 |
| Arizona | Davis-Monthan Air Force Base | $11,800,000 |
| Arkansas | Little Rock Air Force Base | $9,800,000 |
| California | Beale Air Force Base | $28,000,000 |
| | Travis Air Force Base | $85,800,000 |

**Air Force: Inside the United States**—Continued

| State | Installation or Location | Amount |
|---|---|---|
| Colorado | Buckley Air Force Base | $10,700,000 |
| | Peterson Air Force Base | $4,900,000 |
| | Schriever Air Force Base | $21,000,000 |
| Delaware | Dover Air Force Base | $30,400,000 |
| Florida | Eglin Air Force Base | $30,350,000 |
| | Hurlburt Field | $32,950,000 |
| | MacDill Air Force Base | $71,000,000 |
| | Tyndall Air Force Base | $8,200,000 |
| Georgia | Robins Air Force Base | $59,600,000 |
| Hawaii | Hickam Air Force Base | $28,538,000 |
| Illinois | Scott Air Force Base | $28,200,000 |
| Kansas | McConnell Air Force Base | $3,875,000 |
| Kentucky | Fort Knox | $3,500,000 |
| Maryland | Andrews Air Force Base | $29,000,000 |
| Massachusetts | Hanscom Air Force Base | $12,400,000 |
| Missouri | Whiteman Air Force Base | $3,800,000 |
| Montana | Malmstrom Air Force Base | $5,700,000 |
| Nevada | Indian Springs Auxiliary Field | $49,923,000 |
| New Jersey | McGuire Air Force Base | $28,500,000 |
| New Mexico | Kirtland Air Force Base | $11,400,000 |
| North Dakota | Minot Air Force Base | $9,000,000 |
| Oklahoma | Altus Air Force Base | $9,500,000 |
| | Tinker Air Force Base | $5,700,000 |
| South Carolina | Charleston Air Force Base | $10,200,000 |
| | Shaw Air Force Base | $31,500,000 |
| South Dakota | Ellsworth Air Force Base | $3,000,000 |
| Texas | Fort Bliss | $8,500,000 |
| | Lackland Air Force Base | $13,200,000 |
| | Laughlin Air Force Base | $12,600,000 |
| | Sheppard Air Force Base | $7,000,000 |
| Utah | Hill Air Force Base | $63,400,000 |
| Virginia | Langley Air Force Base | $57,700,000 |
| Washington | Fairchild Air Force Base | $4,250,000 |
| Wyoming | Francis E. Warren Air Force Base | $11,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

| Country | Installation or Location | Amount |
|---|---|---|
| Germany | Ramstein Air Base | $53,150,000 |
| Guam | Andersen Air Base | $65,300,000 |
| Korea | Kunsan Air Base | $37,360,000 |
| | Osan Air Base | $2,156,000 |

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

**Air Force: Unspecified Worldwide**

| Location | Installation or Location | Amount |
|---|---|---|
| Worldwide Classified ..... | Classified Project 1 ..... | $3,377,000 |
| | Classified Project 2 ..... | $4,600,000 |
| | Classified Project 3 ..... | $1,700,000 |

**SEC. 2302. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

**Air Force: Family Housing**

| State or Country | Installation or Location | Units | Amount |
|---|---|---|---|
| Alaska ..... | Eielson Air Force Base ..... | 129 .... | $87,414,000 |
| Idaho ..... | Mountain Home Air Force Base | 457 .... | $107,800,000 |
| Missouri ..... | Whiteman Air Force Base ..... | 116 .... | $39,270,000 |
| Montana ..... | Malmstrom Air Force Base ..... | 493 .... | $140,252,000 |
| North Carolina ..... | Seymour Johnson Air Force Base. | 56 ..... | $22,956,000 |
| North Dakota ..... | Minot Air Force Base ..... | 575 .... | $170,188,000 |
| Texas ..... | Dyess Air Force Base ..... | 199 .... | $49,215,000 |
| Germany ..... | Ramstein Air Base ..... | 101 .... | $59,488,000 |
| | Spangdahlem Air Base ..... | 60 ..... | $39,294,000 |
| United Kingdom ..... | Royal Air Force Lakenheath ..... | 74 ..... | $35,282,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $13,202,000.

**SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $403,777,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $3,231,442,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $962,286,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $157,966,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $9,677,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $79,004,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $1,168,138,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $755,071,000.

(7) For the construction of increment 2 of the C–17 maintenance complex at Elmendorf Air Force Base, Alaska, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), $30,000,000.

(8) For the construction of increment 2 of the main base runway at Edwards Air Force Base, California, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), $31,000,000.

(9) For the construction of increment 2 of the CENTCOM Joint Intelligence Center at MacDill Air Force Base, Florida, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), as amended by section 2305 of this Act, $23,300,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

**SEC. 2305. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2006 PROJECT.**

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494) is amended in the item relating to MacDill Air Force Base, Florida, by striking "$107,200,000" in the amount column and inserting "$101,500,000".

(b) CONFORMING AMENDMENT.—Section 2304(b)(4) of that Act (119 Stat. 3496) is amended by striking "$29,000,000" and inserting "$23,300,000".

# TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorized base closure and realignment activities funded through Department of Defense Base Closure Account 2005.
Sec. 2405. Authorization of appropriations, Defense Agencies.
Sec. 2406. Modification of authority to carry out certain fiscal year 2006 project.

**SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

**Defense Education Activity**

| State | Installation or Location | Amount |
|---|---|---|
| Kentucky | Fort Knox | $18,108,000 |

**Defense Logistics Agency**

| State | Installation or Location | Amount |
|---|---|---|
| Arizona | Marine Corps Air Station, Yuma | $8,715,000 |
| California | Beale Air Force Base | $9,000,000 |
| Pennsylvania | Defense Distribution Depot, New Cumberland | $8,900,000 |
| Viginia | Fort Belvoir | $5,500,000 |
| Washington | Naval Air Station, Whidbey Island | $26,000,000 |

**Special Operations Command**

| State | Installation or Location | Amount |
|---|---|---|
| California | Marine Corps Base, Camp Pendleton | $24,400,000 |
| Colorado | Fort Carson | $26,100,000 |
| Florida | Hurlburt Field | $14,482,000 |
| | MacDill Air Force Base | $27,300,000 |
| Kentucky | Fort Campbell | $24,500,000 |
| Mississippi | Stennis Space Center | $10,200,000 |
| North Carolina | Fort Bragg | $51,768,000 |
| | Marine Corps Base, Camp Lejeune | $51,600,000 |
| | Pope Air Force Base | $15,276,000 |
| Virginia | Naval Air Base, Little Creek | $22,000,000 |

**TRICARE Management Activity**

| State | Installation or Location | Amount |
|---|---|---|
| Alaska | Fort Richardson | $37,200,000 |
| California | Fort Irwin | $6,050,000 |
| Florida | MacDill Air Force Base | $92,000,000 |
| | Naval Hospital, Jacksonville | $16,000,000 |
| Hawaii | Naval Base, Pearl Harbor | $7,700,000 |
| Illinois | Naval Hospital, Great Lakes | $20,000,000 |
| Maryland | Fort Detrick | $550,000,000 |
| New York | Fort Drum | $9,700,000 |
| Texas | Fort Hood | $18,000,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

### Defense Education Activity

| Country | Installation or Location | Amount |
|---|---|---|
| Italy | Vicenza | $47,210,000 |
| Korea | Osan Air Base | $4,589,000 |
| Spain | Naval Station, Rota | $23,048,000 |

### Defense Logistics Agency

| Country or Possession | Installation or Location | Amount |
|---|---|---|
| Japan | Okinawa | $5,000,000 |
| Wake Island | Wake Island | $2,600,000 |

### Missile Defense Agency

| Country or Possession | Installation or Location | Amount |
|---|---|---|
| Kwajalein | Kwajalein Atoll | $7,592,000 |

### Special Operations Command

| Country | Installation or Location | Amount |
|---|---|---|
| Qatar | Al Udeid AB | $44,500,000 |

### TRICARE Management Activity

| Country | Installation or Location | Amount |
|---|---|---|
| Italy | Vicenza | $52,000,000 |

**SEC. 2402. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(9)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition and supporting facilities) at the location, in the number of units, and in the amount set forth in the following table:

### Defense Logistics Agency: Family Housing

| State | Location | Units | Amount |
|---|---|---|---|
| Virginia | Defense Supply Center, Richmond. | 25 | $7,840,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(9)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $200,000.

**SEC. 2403. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $55,000,000.

**SEC. 2404. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

(a) AUTHORIZED ACTIVITIES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $5,902,723,000.

(b) CONFORMING AMENDMENTS TO FISCAL YEAR 2006 AUTHORIZATIONS.—

(1) AUTHORIZED ACTIVITIES.—Title XXIV of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3496) is amended by adding at the end the following new section:

**"SEC. 2404. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

"Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(7), the Secretary of Defense may carry out base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $2,035,466,000.".

(2) AUTHORIZATION OF APPROPRIATIONS AND LIMITATIONS.—Section 2403 of that Act (119 Stat. 3499) is amended—

(A) in subsection (a)(7)—

(i) by striking "as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)" and inserting "authorized by section 2404 of this Act"; and

(ii) by striking "section 2906 of such Act" and inserting "section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)";

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

(C) by inserting after subsection (b) the following new subsection (c):

"(c) LIMITATION ON TOTAL COST OF BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all

base closure and realignment activities, including real property acquisition and military construction projects, carried out under section 2404 of this Act may not exceed the sum of the following:

"(1) The total amount authorized to be appropriated under subsection (a)(7).

"(2) $531,000,000 (the balance of the amount authorized under section 2404 for base closure and realignment activities).".

**SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $7,163,431,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $533,099,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $170,789,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $21,672,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $172,950,000.

(6) For energy conservation projects authorized by section 2403 of this Act, $55,000,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act, $191,220,000.

(8) For base closure and realignment activities authorized by section 2404 of this Act and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $5,236,223,000.

(9) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $8,808,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $48,506,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(10) For the construction of increment 2 of the regional security operations center at Augusta, Georgia, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), as amended by section 7016 of Public Law 109–234 (120 Stat. 485), $77,118,000.

(11) For the construction of increment 2 of the regional security operations center at Kunia, Hawaii, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), as amended by section 7017 of Public Law 109–234 (120 Stat. 485), $47,016,000.

(12) For the construction of increment 2 of the classified material conversion facility at Fort Meade, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), $11,151,000.

(13) For the construction of increment 2 of an operations building, Royal Air Force Menwith Hill Station, United Kingdom, authorized by section 2401(b) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3498), as amended by section 2406 of this Act, $46,386,000.

(14) For the construction of the second increment of certain base closure and realignment activities authorized by section 2404 of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3500), as added by section 2404(b) of this Act, $390,000,000.

(15) For the construction of increment 7 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act of 2002 (division B of Public Law 107–107; 115 Stat. 1298), and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $99,157,000.

(16) For the construction of increment 8 of a munitions demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $41,836,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $46,400,000 (the balance of the amount authorized under section 2401(a) for construction of a health clinic at MacDill Air Force Base, Florida).

(3) $521,000,000 (the balance of the amount authorized under section 2401(a) for stage 1 of the replacement of the Army Medical Research Institute of Infectious Diseases at Fort Detrick, Maryland).

(c) LIMITATION ON TOTAL COST OF BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all base closure and realignment activities, including real property acquisition and military construction projects, carried out under section 2404(a) of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a)(8).

(2) $666,500,000 (the balance of the amount authorized under section 2404(a) for base closure and realignment activities).

Deadline. Reports.

(d) CONGRESSIONAL NOTIFICATION REGARDING BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Not later than 14 days after the date on which funds appropriated pursuant to the authorization of appropriations in subsection (a)(8) are first obligated for a particular program, project, or activity, the Secretary of Defense shall submit to the congressional defense committees a report describing the program, project, or activity.

**SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2006 PROJECT.**

(a) MODIFICATION OF OUTSIDE THE UNITED STATES NATIONAL SECURITY AGENCY PROJECT.—The table relating to the National Security Agency in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3498) is amended in the item relating to Menwith Hill, United Kingdom, by striking "$86,354,000" in the amount column and inserting "$91,383,000".

(b) CONFORMING AMENDMENTS.—Section 2403(b)(5) of that Act (119 Stat. 3500) is amended by striking "$44,657,000" and inserting "$49,686,000".

# TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects
Sec. 2502. Authorization of appropriations, NATO

**SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

**SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects

for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $200,985,000.

# TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects

**SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $561,375,000; and

(B) for the Army Reserve, $190,617,000.

(2) For the Department of the Navy, for the Navy Reserve and Marine Corps Reserve, $49,998,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $294,283,000; and

(B) for the Air Force Reserve, $56,836,000.

# TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2004 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 2003 projects.
Sec. 2704. Effective date.

**SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2009; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2009; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2010 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

**SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2004 PROJECTS.**

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1716), authorizations set forth in the tables in subsection (b), as provided in section 2101, 2301, 2302, 2401, or 2601 of that Act shall remain in effect until October 1, 2007, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2008, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army: Extension of 2004 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Aviano Air Base, Italy | Joint deployment facility | $15,500,000 |
| Fort Wainwright, Alaska | Training range complex | $47,000,000 |

**Air Force: Extension of 2004 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Eglin Air Force Base, Florida | Family housing (279 units) | $32,166,000 |
| Hickam Air Force Base, Hawaii | Parking ramp | $10,102,000 |
| Travis Air Force Base, California | Family housing (56 units) | $12,723,000 |

**Defense Wide: Extension of 2004 Project Authorization**

| Installation or Location | Agency and Project | Amount |
|---|---|---|
| Hickam Air Force Base, Hawaii | DLA hydrant fuel system. | $14,100,000 |

**Army National Guard: Extension of 2004 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Albuquerque, New Mexico | Readiness center | $2,533,000 |
| Fort Indiantown Gap, Pennsylvania | Training range | $15,338,000 |
| Gary, Indiana | Aviation support facility | $15,581,000 |

**SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2003 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), authorizations set forth in the table in subsection (b), as provided in section 2302 of that

Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3502), shall remain in effect until October 1, 2007, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2008, whichever is later.

(b) TABLES.—The table referred to in subsection (a) is as follows:

**Air Force: Extension of 2003 Project Authorizations**

| Installation or Location | Project | Amount |
|---|---|---|
| Eglin Air Force Base, Florida ..... | Family housing (134 units) | $15,906,000 |
| Eglin Air Force Base, Florida ..... | Family housing office ..... | $597,000 |
| Randolph Air Force Base, Texas | Housing maintenance facility. | $447,000 |

**SEC. 2704. EFFECTIVE DATE.**

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of this Act.

# TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Increase in maximum annual amount authorized to be obligated for emergency military construction.
Sec. 2802. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
Sec. 2803. Repeal of requirement to determine availability of suitable alternative housing for acquisition in lieu of construction of new family housing.
Sec. 2804. Authority to continue to occupy leased family housing for United States Southern Command personnel.
Sec. 2805. Consideration of alternative and more efficient uses for general officer and flag officer quarters in excess of 6,000 square feet.
Sec. 2806. Modification of notification requirements related to cost variation authority.
Sec. 2807. Consideration of local comparability of floor areas in construction, acquisition, and improvement of military unaccompanied housing.
Sec. 2808. Certification required for military construction projects for facilities designed to provide training in urban operations.
Sec. 2809. Authority to carry out military construction projects in connection with industrial facility investment program.
Sec. 2810. Repeal of special requirement for military construction contracts on Guam.
Sec. 2811. Temporary expansion of authority to convey property at military installations to support military construction.
Sec. 2812. Pilot projects for acquisition or construction of military unaccompanied housing.

Subtitle B—Real Property and Facilities Administration

Sec. 2821. Congressional notice requirements, in advance of acquisition of land by condemnation for military purposes.
Sec. 2822. Consolidation of Department of Defense authorities regarding granting of easements for rights-of-way.
Sec. 2823. Authority to grant restrictive easements for conservation purposes in connection with land conveyances.
Sec. 2824. Maximum term of leases for structures and real property relating to structures in foreign countries needed for purposes other than family housing.
Sec. 2825. Consolidation of laws relating to transfer of Department of Defense real property within the Department of Defense and to other Federal agencies.

Sec. 2826. Defense access road program.
Sec. 2827. Reports on Army operational ranges.

Subtitle C—Base Closure and Realignment

Sec. 2831. Modification of deposit requirements in connection with lease proceeds received at military installations approved for closure or realignment after January 1, 2005.
Sec. 2832. Report on Air Force and Air National Guard bases affected by 2005 round of defense base closure and realignment.

Subtitle D—Land Conveyances

Sec. 2841. Conveyance of easement, Pine Bluff Arsenal, Arkansas.
Sec. 2842. Modification of land transfer authority, Potomac Annex, District of Columbia.
Sec. 2843. Land conveyance, Naval Air Station, Barbers Point, Hawaii.
Sec. 2844. Land conveyances, Omaha, Nebraska.
Sec. 2845. Land conveyance, Hopkinton, New Hampshire.
Sec. 2846. Land conveyance, North Hills Army Reserve Center, Allison Park, Pennsylvania.
Sec. 2847. Transfer of jurisdiction, Fort Jackson, South Carolina.
Sec. 2848. Sense of Congress regarding land conveyance involving Army Reserve Center, Marshall, Texas.
Sec. 2849. Modifications to land conveyance authority, Engineering Proving Ground, Fort Belvoir, Virginia.
Sec. 2850. Land conveyance, Radford Army Ammunition Plant, New River Unit, Virginia.

Subtitle E—Energy Security

Sec. 2851. Consolidation and enhancement of laws to improve Department of Defense energy efficiency and conservation.
Sec. 2852. Department of Defense goal regarding use of renewable energy to meet electricity needs.
Sec. 2853. Congressional notification of cancellation ceiling for Department of Defense energy savings performance contracts.
Sec. 2854. Use of energy efficiency products in new construction.

Subtitle F—Other Matters

Sec. 2861. Availability of research and technical assistance under Defense Economic Adjustment Program.
Sec. 2862. Availability of community planning assistance relating to encroachment of civilian communities on military facilities used for training by the Armed Forces.
Sec. 2863. Prohibitions against making certain military airfields or facilities available for use by civil aircraft.
Sec. 2864. Modification of certain transportation projects.
Sec. 2865. Availability of funds for South County Commuter Rail project, Providence, Rhode Island.
Sec. 2866. Fox Point Hurricane Barrier, Providence, Rhode Island.
Sec. 2867. Federal funding for fixed guideway projects.
Sec. 2868. Feasibility study regarding use of General Services Administration property for Fort Belvoir, Virginia, realignment.

# Subtitle A—Military Construction Program and Military Family Housing Changes

**SEC. 2801. INCREASE IN MAXIMUM ANNUAL AMOUNT AUTHORIZED TO BE OBLIGATED FOR EMERGENCY MILITARY CONSTRUCTION.**

Section 2803(c)(1) of title 10, United States Code, is amended by striking "$45,000,000" and inserting "$50,000,000".

**SEC. 2802. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.**

Section 2808(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat.

1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128) and section 2809 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3508), is further amended by striking "and 2006" and inserting "through 2007".

**SEC. 2803. REPEAL OF REQUIREMENT TO DETERMINE AVAILABILITY OF SUITABLE ALTERNATIVE HOUSING FOR ACQUISITION IN LIEU OF CONSTRUCTION OF NEW FAMILY HOUSING.**

(a) IN GENERAL.—Section 2823 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 169 of such title is amended by striking the item relating to section 2823.

**SEC. 2804. AUTHORITY TO CONTINUE TO OCCUPY LEASED FAMILY HOUSING FOR UNITED STATES SOUTHERN COMMAND PERSONNEL.**

Section 2828(b)(4) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) Until September 30, 2008, the Secretary of the Army may authorize family members of a member of the armed forces on active duty who is assigned to a family-member-restricted area and who, before such assignment, was occupying a housing unit leased under this paragraph, to remain in the leased housing unit until the member completes the assignment. Costs incurred for the leased housing unit during the assignment shall be included in the costs subject to the limitation under subparagraph (B).". Deadline.

**SEC. 2805. CONSIDERATION OF ALTERNATIVE AND MORE EFFICIENT USES FOR GENERAL OFFICER AND FLAG OFFICER QUARTERS IN EXCESS OF 6,000 SQUARE FEET.**

(a) REPORTING REQUIREMENTS.—Subsection (e)(1) of section 2831 of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end of the subparagraph;

(2) in subparagraph (B)—

(A) by striking "so identified" and inserting "identified under subparagraph (A)"; and

(B) by striking the period at the end of the subparagraph and inserting a semicolon; and

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

"(C) identifying each family housing unit in excess of 6,000 square feet used, or intended for use, as quarters for a general officer or flag officer;

"(D) for each family housing unit identified under subparagraph (C), specifying any alternative and more efficient use to which the unit could be converted (which would include any costs necessary to convert the unit) and containing an explanation of the reasons why the unit is not being converted to the alternative use; and

"(E) for each family housing unit identified under subparagraph (C) for which costs under subparagraph (A) or new construction costs are anticipated to exceed $100,000 in the next fiscal year, specifying any alternative use to which the

unit could be converted (which would include any costs necessary to convert the unit) and an estimate of the costs to demolish and rebuild the unit to private sector standards.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "ESTABLISHMENT.—" after "(a)";

(2) in subsection (b), by inserting "CREDITS TO ACCOUNT.—" after "(b)";

(3) in subsection (c), by inserting "AVAILABILITY OF AMOUNTS IN ACCOUNT.—" after "(c)"; and

(4) in subsection (d), by inserting "USE OF ACCOUNT.—" after "(d)"; and

(5) in the heading of subsection (e), by striking "COST OF";

**SEC. 2806. MODIFICATION OF NOTIFICATION REQUIREMENTS RELATED TO COST VARIATION AUTHORITY.**

Section 2853(c) of title 10, United States Code, is amended by striking "if—" and paragraphs (1), (2), and (3) and inserting the following: "if the variation in cost or reduction in the scope of work is approved by the Secretary concerned and—

"(1) in the case of a cost increase or a reduction in the scope of work—

"(A) the Secretary concerned notifies the appropriate committees of Congress in writing of the cost increase or reduction in scope and the reasons therefor, including a description of the funds proposed to be used to finance any increased costs; and

"(B) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title; or

"(2) in the case of a cost decrease, the Secretary concerned notifies the appropriate committees of Congress in writing not later than 14 days after the date funds are obligated in connection with the military construction project or military family housing project.".

**SEC. 2807. CONSIDERATION OF LOCAL COMPARABILITY OF FLOOR AREAS IN CONSTRUCTION, ACQUISITION, AND IMPROVEMENT OF MILITARY UNACCOMPANIED HOUSING.**

(a) COMPARABILITY OF FLOOR AREAS.—

(1) IN GENERAL.—Section 2856 of title 10, United States Code, is amended to read as follows:

**"§ 2856. Military unaccompanied housing: local comparability of floor areas**

"In the construction, acquisition, and improvement of military unaccompanied housing, the Secretary concerned shall ensure that the floor areas of such housing in a particular locality (as designated by the Secretary concerned for purposes of this section) do not exceed the floor areas of similar housing in the private sector in that locality.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title is

amended by striking the item relating to section 2856 and inserting the following new item:

"2856. Military unaccompanied housing: local comparability of floor areas.".

(b) CONFORMING AMENDMENTS REGARDING ALTERNATIVE ACQUISITION AND IMPROVEMENT AUTHORITY.—Section 2880(b) of such title is amended—

(1) by striking "(1) Section 2826" and inserting "Sections 2826 and 2856";

(2) by inserting "or military unaccompanied housing" after "military family housing"; and

(3) by striking paragraph (2).

**SEC. 2808. CERTIFICATION REQUIRED FOR MILITARY CONSTRUCTION PROJECTS FOR FACILITIES DESIGNED TO PROVIDE TRAINING IN URBAN OPERATIONS.**

(a) CERTIFICATION REQUIRED.—Section 2859 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) CERTIFICATION REQUIRED FOR MILITARY CONSTRUCTION PROJECTS DESIGNED TO PROVIDE TRAINING IN URBAN OPERATIONS.—(1) Except as provided in paragraph (3), the Secretary concerned may not carry out a military construction project to construct a facility designed to provide training in urban operations for members of the armed forces or personnel of the Department of Defense or other Federal agencies until—

"(A) the Secretary of Defense approves a strategy for training and facility construction for operations in urban terrain; and

"(B) the Under Secretary of Defense for Personnel and Readiness evaluates the project and certifies to the appropriate committees of Congress that the project— Evaluation.

"(i) is consistent with the strategy; and

"(ii) incorporates the appropriate capabilities for joint and interagency use in accordance with the strategy.

"(2) The Under Secretary of Defense for Personnel and Readiness shall conduct the evaluation required by paragraph (1)(B) in consultation with the Commander of the United States Joint Forces Command.

"(3) This subsection shall not apply with respect to a military construction project carried out under the authority of section 2803, 2804, or 2808 of this title or section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 2859. Construction requirements related to antiterrorism and force protection or urban-training operations".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended

by striking the item relating to section 2859 and inserting the following new item:

"2859. Construction requirements related to antiterrorism and force protection or urban-training operations.".

10 USC 2859 note.

(c) EFFECTIVE DATE.—Subsection (d) of section 2859 of title 10, United States Code, as added by subsection (a), shall apply with respect to military construction projects described in such subsection (d) for which funds are first provided for fiscal year 2007 or thereafter.

**SEC. 2809. AUTHORITY TO CARRY OUT MILITARY CONSTRUCTION PROJECTS IN CONNECTION WITH INDUSTRIAL FACILITY INVESTMENT PROGRAM.**

(a) AUTHORITY.—Subchapter III of chapter 169 of title 10, United States Code, is amended by inserting after section 2860 the following new section:

**"§ 2861. Military construction projects in connection with industrial facility investment program**

"(a) AUTHORITY.—The Secretary of Defense may carry out a military construction project, not previously authorized, for the purpose of carrying out activities under section 2474(a)(2) of this title, using funds appropriated or otherwise made available for that purpose in military construction accounts.

"(b) CREDITING OF FUNDS TO CAPITAL BUDGET.—Funds appropriated or otherwise made available in a fiscal year for the purpose of carrying out a military construction project with respect to a covered depot (as defined in subsection (e) of section 2476 of this title) may be credited to the amount required by subsection (a) of such section to be invested in the capital budgets of the covered depots in that fiscal year.

"(c) NOTICE AND WAIT REQUIREMENT.—When a decision is made to carry out a project under subsection (a), the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision and the savings estimated to be realized from the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

"(d) ANNUAL REPORT.—Not later than December 31 of each year, the Secretary shall submit to Congress a report describing actions taken under this section and the savings realized from such actions during the fiscal year ending in the year in which the report is submitted.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2860 the following new item:

"2861. Military construction projects in connection with industrial facility investment program.".

**SEC. 2810. REPEAL OF SPECIAL REQUIREMENT FOR MILITARY CONSTRUCTION CONTRACTS ON GUAM.**

(a) REPEAL.—Section 2864 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2864.

**SEC. 2811. TEMPORARY EXPANSION OF AUTHORITY TO CONVEY PROPERTY AT MILITARY INSTALLATIONS TO SUPPORT MILITARY CONSTRUCTION.**

(a) TEMPORARY INCLUSION OF ALL MILITARY INSTALLATIONS.—Subsection (a) of section 2869 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "The Secretary concerned";

(3) by striking "located on a military installation that is closed or realigned under a base closure law" and inserting "described in paragraph (2)"; and

(4) by adding at the end the following new paragraphs:

"(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned that— Applicability.

"(A) is located on a military installation that is closed or realigned under a base closure law; or

"(B) is located on a military installation not covered by subparagraph (A) and is determined to be excess to the needs of the Department of Defense.

"(3) Subparagraph (B) of paragraph (2) shall apply only during the period beginning on the date of the enactment of the John Warner National Defense Authorization Act for Fiscal Year 2007 and ending on September 30, 2008. Any conveyance of real property described in such subparagraph for which the Secretary concerned has provided the advance public notice required by subsection (d)(1) before the expiration date may be completed after that date.". Applicability.

(b) USE OF AUTHORITY TO SUPPORT AGREEMENTS TO LIMIT ENCROACHMENTS.—Subparagraph (A) of paragraph (1) of subsection (a) of such section, as redesignated and amended by subsection (a), is further amended by striking "land acquisition" and inserting "land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations".

(c) ADVANCE NOTICE OF USE OF AUTHORITY; CONTENT OF NOTICE.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking "closed or realigned under the base closure laws is to be conveyed" and inserting "is proposed for conveyance";

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

"(A) the Secretary submits to Congress notice of the conveyance, including—

"(i) a description of the real property to be conveyed by the Secretary under the agreement;

"(ii) a description of the military construction project, land acquisition, military family housing, or military unaccompanied housing to be carried out under the agreement in exchange for the conveyance of the property; and

"(iii) the amount of any payment to be made under subsection (b) or under section 2684a(d) of this title to equalize the fair market values of the property to be conveyed and the military construction project, land acquisition, military family housing, or military unaccompanied housing to be carried out under the agreement in exchange for the conveyance of the property; and

"(B) the waiting period applicable to that notice under paragraph (3) expires.

"(3) If the notice submitted under paragraph (2) deals with the conveyance of real property located on a military installation that is closed or realigned under a base closure law or the conveyance of real property under an agreement entered into under section 2684a of this title, the Secretary concerned may enter into the agreement under subsection (a) for the conveyance of the property after a period of 21 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title. In the case of other real property to be conveyed under subsection (a), the Secretary concerned may enter into the agreement only after a period of 60 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 45 days has elapsed from the date on which the electronic copy is provided.".

(d) DEPOSIT AND USE OF FUNDS.—Subsection (e) of such section is amended to read as follows:

"(e) DEPOSIT AND USE OF FUNDS.—(1) Except as provided in paragraph (2), the Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title.

"(2) During the period specified in paragraph (3) of subsection (a), the Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'.

"(3) The funds deposited under paragraph (2) shall be available, in such amounts as provided in appropriation Acts, for the purpose of paying increased costs of overseas military construction and family housing construction or improvement associated with unfavorable fluctuations in currency exchange rates. The use of such funds for this purpose does not relieve the Secretary concerned from the duty to provide advance notice to Congress under section 2853(c) of this title whenever the Secretary approves an increase in the cost of an overseas project under such section.".

(e) ANNUAL REPORTS; EFFECT OF FAILURE TO SUBMIT.—Subsection (f) of such section is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subparagraph (C), as so redesignated, by inserting before the period at the end the following: "and of excess real property at military installations";

(3) by striking "(f)" and all that follows through "the following:" and inserting the following:

"(f) ANNUAL REPORTS; EFFECT OF FAILURE TO SUBMIT.—(1) Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a report detailing the following:"; and

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

"(2) If the report for a year is not submitted to Congress by the date specified in paragraph (1), the Secretary concerned may not enter into an agreement under subsection (a) after that date for the conveyance of real property until the date on which the report is finally submitted.".

(f) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**"§ 2869. Conveyance of property at military installations to support military construction or limit encroachment".**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2869 and inserting the following new item:

"2869. Conveyance of property at military installations to support military construction or limit encroachment.".

(g) CONFORMING AMENDMENTS TO AUTHORITY TO LIMIT ENCROACHMENTS.—Subsection (d)(3) of section 2684a of such title is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(2) in subparagraph (C), as so redesignated, by striking "in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B)" and inserting "under subparagraph (A), either through the contribution of funds or excess real property, or both,"; and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) In lieu of or in addition to making a monetary contribution toward the cost of acquiring a parcel of real property, or an interest therein, pursuant to an agreement under this section, the Secretary concerned may convey, using the authority provided by section 2869 of this title, real property described in paragraph (2) of subsection (a) of such section, subject to the limitation in paragraph (3) of such subsection.".

**SEC. 2812. PILOT PROJECTS FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.**

(a) REDUCTION OF APPLICABLE NOTIFICATION PERIODS.—Section 2881a of title 10, United States Code, is amended by striking "90 days" both places it appears and inserting "30 days".

(b) EXTENSION OF AUTHORITY.—Subsection (f) of such section is amended by striking "2007" and inserting "2009".

# Subtitle B—Real Property and Facilities Administration

**SEC. 2821. CONGRESSIONAL NOTICE REQUIREMENTS, IN ADVANCE OF ACQUISITION OF LAND BY CONDEMNATION FOR MILITARY PURPOSES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense, when acquiring land for military purposes, should— 10 USC 2663 note.

(1) make every effort to acquire the land by means of purchases from willing sellers; and

(2) employ condemnation, eminent domain, or seizure procedures only as a measure of last resort in cases of compelling national security requirements or at the request of the seller.

(b) ADVANCE NOTICE OF USE OF CONDEMNATION; EXCEPTIONS.—Section 2663 of title 10, United States Code, is amended—

(1) in subsection (a)(1), "The Secretary" and inserting "Subject to subsection (f), the Secretary"; and

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

"(f) ADVANCE NOTICE OF USE OF CONDEMNATION.—(1) Before commencing any legal proceeding to acquire any interest in land under subsection (a), including acquisition for temporary use, by condemnation, eminent domain, or seizure, the Secretary of the military department concerned shall—

"(A) pursue, to the maximum extent practicable, all other available options for the acquisition or use of the land, such as the purchase of an easement or the execution of a land exchange; and

"(B) submit to the congressional defense committees a report containing—

"(i) a description of the land to be acquired;

"(ii) a certification that negotiations with the owner or owners of the land occurred, and that the Secretary tendered consideration in an amount equal to the fair market value of the land, as determined by the Secretary; and

"(iii) an explanation of the other approaches considered for acquiring use of the land, the reasons for the acquisition of the land, and the reasons why alternative acquisition strategies are inadequate.

"(2) The Secretary concerned may have proceedings brought in the name of the United States to acquire the land after the end of the 21-day period beginning on the date on which the report is received by the committees or, if over sooner, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

"(g) EXCEPTION TO ADVANCE NOTICE REQUIREMENT.—If the Secretary of a military department determines that the use of condemnation, eminent domain, or seizure to acquire an interest in land is required under subsection (a) to satisfy a requirement vital to national security, and that any delay would be detrimental to national security or the protection of health, safety, or the environment, the Secretary may have proceedings brought in the name of the United States to acquire the land in advance of submitting the report required by subsection (f)(1)(B). However, the Secretary shall submit the report not later than seven days after commencement of the legal proceedings with respect to the land.".

Reports. Deadline.

**SEC. 2822. CONSOLIDATION OF DEPARTMENT OF DEFENSE AUTHORITIES REGARDING GRANTING OF EASEMENTS FOR RIGHTS-OF-WAY.**

(a) CONSOLIDATION.—Subsection (a) of section 2668 of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "he" both places it appears and inserting "the Secretary"; and

(B) by striking "his control, to a State, Commonwealth, or possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Commonwealth, or possession," and inserting "the Secretary's control";

(2) in paragraph (2), by striking "oil pipe lines" and inserting "gas, water, sewer, and oil pipe lines"; and

(3) in paragraph (13), by striking "he considers advisable, except a purpose covered by section 2669 of this title" and inserting "the Secretary considers advisable".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "AUTHORIZED TYPES OF EASEMENTS.—" after "(a)";

(2) in subsection (b), by inserting "LIMITATION ON SIZE OF EASEMENT.—" after "(b)";

(3) in subsection (c), by inserting "TERMINATION.—" after "(c)";

(4) in subsection (d), by inserting "NOTICE TO DEPARTMENT OF THE INTERIOR.—" after "(d)"; and

(5) in subsection (e), by inserting "DISPOSITION OF CONSIDERATION.—" after "(e)".

(c) CONFORMING REPEAL.—Section 2669 of such title is repealed.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 159 of such title is amended by striking the item related to section 2669.

**SEC. 2823. AUTHORITY TO GRANT RESTRICTIVE EASEMENTS FOR CONSERVATION PURPOSES IN CONNECTION WITH LAND CONVEYANCES.**

(a) RESTRICTIVE EASEMENTS.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2668 the following new section:

**"§ 2668a. Easements: granting restrictive easements in connection with land conveyances**

"(a) AUTHORITY TO INCLUDE RESTRICTIVE EASEMENT.—In connection with the conveyance of real property by the Secretary concerned under any provision of law, the Secretary concerned may grant an easement to an entity specified in subsection (b) restricting future uses of the conveyed real property for a conservation purpose consistent with section 170(h)(4)(A)(iv) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(4)(A)(iv)).

"(b) AUTHORIZED RECIPIENTS.—An easement under subsection (a) may be granted only to—

"(1) a State or local government; or

"(2) a qualified organization, as that term is defined in section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)).

"(c) LIMITATIONS ON USE OF EASEMENT AUTHORITY.—An easement under subsection (a) may not be granted unless—

"(1) the proposed recipient of the easement consents to the receipt of the easement;

"(2) the Secretary concerned determines that the easement is in the public interest and the conservation purpose to be

promoted by the easement cannot be effectively achieved through the application of State law by the State or a local government without the grant of restrictive easements;

"(3) the jurisdiction that encompasses the property to be subject to the easement authorizes the grant of restrictive easements; and

"(4) the Secretary can give or assign to a third party the responsibility for monitoring and enforcing easements granted under this section.

"(d) CONSIDERATION.—Easements granted under this section shall be without consideration from the recipient.

"(e) ACREAGE LIMITATION.—No easement granted under this section may include more land than is necessary for the easement.

"(f) TERMS AND CONDITIONS.—The grant of an easement under this section shall be subject to such additional terms and conditions as the Secretary concerned considers appropriate to protect the interests of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2668 the following new item:

"2668a. Easements: granting restrictive easements in connection with land conveyances.".

**SEC. 2824. MAXIMUM TERM OF LEASES FOR STRUCTURES AND REAL PROPERTY RELATING TO STRUCTURES IN FOREIGN COUNTRIES NEEDED FOR PURPOSES OTHER THAN FAMILY HOUSING.**

Section 2675(a) of title 10, United States Code, is amended by striking "five years" and inserting "10 years".

**SEC. 2825. CONSOLIDATION OF LAWS RELATING TO TRANSFER OF DEPARTMENT OF DEFENSE REAL PROPERTY WITHIN THE DEPARTMENT OF DEFENSE AND TO OTHER FEDERAL AGENCIES.**

(a) INCLUSION OF TRANSFER AUTHORITY BETWEEN ARMED FORCES.—Section 2696 of title 10, United States Code, is amended—

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

(2) by inserting before subsection (b), as so redesignated, the following new subsection:

"(a) TRANSFERS BETWEEN ARMED FORCES.—If either of the Secretaries concerned requests it and the other approves, real property may be transferred, without compensation, from one armed force to another. Section 2571(d) of this title shall apply to the transfer of real property under this subsection.".

Applicability.

(b) INCLUSION OF DEPARTMENT OF JUSTICE PROGRAM TO SCREEN AND CONVEY PROPERTY FOR CORRECTIONAL FACILITIES.—The text of section 2693 of such title is amended—

(1) by redesignating paragraphs (1), (2), and (3) of subsection (a) as subparagraphs (A), (B), and (C), respectively;

(2) by redesignating paragraphs (1) and (2) of subsection (b) as subparagraphs (A) and (B), respectively, and in such subparagraph (B), as so redesignated, by striking "this section" and inserting "paragraph (1)";

(3) by striking "(a) Except as provided in subsection (b)" and inserting "(f) SCREENING AND CONVEYANCE OF PROPERTY

FOR CORRECTIONAL FACILITIES PURPOSES.—(1) Except as provided in paragraph (2)";

(4) by striking "(b) The provisions of this section" and inserting "(2) Paragraph (1)"; and

(5) by transferring the text, as so redesignated and amended, to appear as a new subsection (f) at the end of section 2696 of such title.

10 USC 2693, 2696.

(c) CONFORMING AMENDMENTS.—

(1) CONFORMING AMENDMENT TO AUTHORITY ON INTERCHANGE OF PROPERTY AND SERVICES.—Section 2571(a) of such title is amended by striking "and real estate".

(2) REPEAL OF SUPERSEDED AUTHORITY ON SCREENING AND TRANSFER FOR CORRECTIONAL PURPOSES.—Section 2693 of such title is repealed.

(3) CONFORMING AMENDMENTS TO CONSOLIDATED AUTHORITY.—Section 2696 of such title is amended—

(A) in subsection (b), as redesignated by subsection (a)(1), by striking "SCREENING REQUIREMENT.—" and inserting "SCREENING REQUIREMENTS FOR ADDITIONAL FEDERAL USE.—";

(B) in subsection (c)(1), as redesignated by subsection (a)(1), by striking "subsection (a)" in the first sentence and inserting "subsection (b)";

(C) in subsection (d), by striking "subsection (b)(1)" and inserting "subsection (c)(1)"; and

(D) in subsection (e), by striking "this section" and inserting "subsection (b)".

(d) CLERICAL AMENDMENTS.—

(1) SECTION 2571.—(A) The heading of section 2571 of such title is amended to read as follows:

**"§ 2571. Interchange of supplies and services".**

(B) The table of sections at the beginning of chapter 153 of such title is amended by striking the item relating to section 2571 and inserting the following new item:

"2571. Interchange of supplies and services.".

(2) SECTIONS 2693 AND 2696.—(A) The heading of section 2696 of such title is amended to read as follows:

**"§ 2696. Real property: transfer between armed forces and screening requirements for other Federal use".**

(B) The table of sections at the beginning of chapter 159 of such title is amended—

(i) by striking the item relating to section 2693; and

(ii) by striking the item relating to section 2696 and inserting the following new item:

"2696. Real property: transfer between armed forces and screening requirements for other Federal use.".

**SEC. 2826. DEFENSE ACCESS ROAD PROGRAM.**

Section 2837 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3522) is amended—

(1) in subsection (a)—

(A) by inserting "and transit systems" after "that roads"; and

(B) by striking "that is" and inserting "that are"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following new paragraphs:

"(2) to determine whether the existing surface transportation infrastructure, including roads and transit at each installation identified under paragraph (1) is adequate to support the increased traffic associated with the increase in the number of defense personnel described in that paragraph; and

"(3) to determine whether the defense access road program adequately considers the complete range of surface transportation options, including roads and other means of transit, necessary to support the national defense.".

**SEC. 2827. REPORTS ON ARMY OPERATIONAL RANGES.**

Colorado.

(a) REPORT ON PINON CANYON MANEUVER SITE.—

(1) REPORT REQUIRED.—Not later than November 30, 2006, the Secretary of the Army shall submit to the congressional defense committees a report containing an analysis of any potential expansion of the Pinon Canyon Maneuver Site at Fort Carson, Colorado.

(2) ELEMENTS OF REPORT.—The report required under paragraph (1) shall include the following:

(A) A description of the current and projected military requirements of the Army for training at the Pinon Canyon Maneuver Site.

(B) An analysis of the reasons for any changes in those requirements, including the extent to which the changes are the result of—

(i) an increase in military personnel using the Pinon Canyon Maneuver Site due to decisions made as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(ii) the conversion of Army brigades to a modular format;

(iii) the Integrated Global Presence and Basing Strategy;

(iv) high operational tempos; or

(v) surge requirements.

(C) A proposed plan for addressing those requirements, including a description of any proposed expansion of the existing Pinon Canyon Maneuver Site by acquiring privately held land surrounding the site and an analysis of alternative approaches that would not require expansion.

(3) ADDITIONAL ELEMENTS.—If the expansion of the Pinon Canyon Maneuver Site is recommended in the plan required by paragraph (2)(C), the report shall also include the following:

(A) An assessment of the economic impact on local communities of expanding the Pinon Canyon Maneuver Site by acquiring privately held land surrounding the site.

(B) An assessment of the environmental impact of expanding the Pinon Canyon Maneuver Site.

(C) An estimate of the costs associated with the potential expansion, including land acquisition, range improvements, installation of utilities, environmental restoration, and other environmental activities in connection with the acquisition.

(D) An assessment of options for compensating local communities for the loss of property tax revenue as a result of the expansion of the Pinon Canyon Maneuver Site.

(E) An assessment of whether the acquisition of additional land at the Pinon Canyon Maneuver Site can be carried out by the Secretary solely through transactions, including land exchanges and the lease or purchase of easements, with willing sellers of the privately held land.

(b) LIMITATION ON REAL PROPERTY ACQUISITION PENDING REPORT.—The Secretary of the Army may not carry out any acquisition of real property to expand the Pinon Canyon Maneuver Site until at least 30 days after the date on which the Secretary submits the report required under subsection (a).

(c) REPORT ON POTENTIAL EXPANSION OF ARMY OPERATIONAL RANGES.—

(1) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of the Army shall submit to the congressional defense committees a report containing an assessment of the Army operational ranges used to support range activities.

(2) CONTENT.—The report required under paragraph (1) shall include the following information:

(A) The size, description, and mission-essential tasks supported by each Army operational range during fiscal year 2003.

(B) A description of the projected changes in Army operational range requirements, including the size, characteristics, and attributes for mission-essential activities at each range and the extent to which any changes in requirements are a result of—

(i) decisions made as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(ii) the conversion of Army brigades to a modular format;

(iii) the Integrated Global Presence and Basing Strategy;

(iv) high operational tempos; or

(v) surge requirements.

(C) The projected deficit or surplus of land at each Army operational range, and a description of the Army's plan to address that projected deficit or surplus of land as well as the upgrade of range attributes at each existing Army operational range.

(D) A description of the Army's prioritization process and investment strategy to address the potential expansion or upgrade of Army operational ranges.

(E) An analysis of alternatives to the expansion of Army operational ranges, including an assessment of the

joint use of operational ranges under the jurisdiction, custody, or control of the Secretary of another military department.

(3) DEFINITIONS.—In this subsection:

(A) The term "Army operational range" has the meaning given the term "operational range" in section 101(e)(3) of title 10, United States Code, except that the term is limited to operational ranges under the jurisdiction, custody, or control of the Secretary of the Army.

(B) The term "range activities" has the meaning given that term in section 101(e)(2) of such title.

## Subtitle C—Base Closure and Realignment

### SEC. 2831. MODIFICATION OF DEPOSIT REQUIREMENTS IN CONNECTION WITH LEASE PROCEEDS RECEIVED AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE OR REALIGNMENT AFTER JANUARY 1, 2005.

Section 2667(d) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking "paragraph (4) or (5)" and inserting "paragraph (4), (5), or (6)";

(2) in paragraph (5), by inserting after "lease under subsection (f)" the following: "at a military installation approved for closure or realignment under a base closure law before January 1, 2005,"; and

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

"(6) Money rentals received by the United States from a lease under subsection (f) at a military installation approved for closure or realignment under a base closure law on or after January 1, 2005, shall be deposited into the account established under section 2906A(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

### SEC. 2832. REPORT ON AIR FORCE AND AIR NATIONAL GUARD BASES AFFECTED BY 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) REPORT.—Not later than January 1, 2007, the Secretary of the Air Force shall submit to Congress a report on planning by the Department of the Air Force for future roles and missions for each Air Force and Air National Guard installation that—

(1) will have the number of aircraft, weapon systems, or functions assigned to the installation reduced or eliminated as a result of decisions made as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); or

(2) will serve as a receiving location for the realignment of aircraft, weapons systems, or functions as a result of such decisions.

(b) ELEMENTS OF REPORT.—The report required under subsection (a) shall include the following:

(1) An assessment of the capabilities, characteristics, and capacity of the facilities, other infrastructure, and personnel at each installation described in subsection (a).

(2) A description of the planning process used by the Department of the Air Force to determine future roles and missions at each installation described in subsection (a), including an analysis of alternatives for installations to support each future role or mission.

(3) A description of the future roles and missions under consideration for each Air Force and Air National Guard installation, including installations described in subsection (a), and an explanation of the criteria and decision-making process to make final decisions about future roles and missions for each installation.

(4) A timeline for decisions on the final determination of future roles and missions for each installation described in subsection (a).

## Subtitle D—Land Conveyances

### SEC. 2841. CONVEYANCE OF EASEMENT, PINE BLUFF ARSENAL, ARKANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Jefferson County, Arkansas (in this section referred to as the "County"), all right, title, and interest of the United States in and to an easement that was acquired by the United States in 1942 for the benefit of Pine Bluff Arsenal, Arkansas, and encumbers the real property described in subsection (c) if the Secretary determines that the conveyance and subsequent use of the easement will not adversely impact the mission of Pine Bluff Arsenal. The conveyance shall include all appurtenances to the easement and any improvements thereon constructed by the United States.

(b) PURPOSE OF CONVEYANCE.—The conveyance authorized by subsection (a) is for the sole purpose of permitting the County to construct, maintain, and operate a railroad over, upon, and across the real property encumbered by the easement.

(c) DESCRIPTION OF PROPERTY ENCUMBERED BY EASEMENT.—The real property encumbered by the easement is situated in Jefferson County, Arkansas, consists of approximately 38.18 acres, and is described as PBR Tract No. 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 38–A, and 39 and includes the real property described in a Warranty Deed from C.C. Neal and Pearlee Neal dated August 14, 1942. If the Secretary determines that an additional survey is necessary to better determine the legal description of the real property encumbered by the easement, a survey satisfactory to the Secretary shall be conducted.

(d) FURTHER TRANSFER, ASSIGNMENTS, OR PERMITS.—Subject to subsection (b), the County may make such further transfer or assignments, grant such permits, or make such other arrangements with regard to the easement conveyed under subsection (a) as the County considers beneficial and appropriate for the interests of the County.

(e) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out a conveyance under subsection (a), including survey costs, related to the conveyance. If amounts are collected from

the County in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the County.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received under paragraph (1) as reimbursement for costs incurred by the Secretary to carry out a conveyance under subsection (a) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2842. MODIFICATION OF LAND TRANSFER AUTHORITY, POTOMAC ANNEX, DISTRICT OF COLUMBIA.**

Section 2831(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2795) is amended by striking "consisting of approximately 3 acres" and inserting "consisting of approximately 4 acres and containing two buildings, known as building 6 and building 7".

**SEC. 2843. LAND CONVEYANCE, NAVAL AIR STATION, BARBERS POINT, HAWAII.**

Deadline.
Contracts.

(a) CONVEYANCE OF PROPERTY.—Not later than September 30, 2008, the Secretary of the Navy shall enter into a binding agreement to convey, by sale, lease, or a combination thereof, to any public or private person or entity outside the Department of Defense certain parcels of real property, including any improvements thereon, consisting of approximately 499 acres located at the former Naval Air Station, Barbers Point, Oahu, Hawaii, that are subject to the Ford Island Master Development Agreement developed pursuant to section 2814(a)(2) of title 10, United States Code, for the purpose of promoting the beneficial development of the real property.

(b) USE OF EXISTING AUTHORITY.—To implement subsection (a), the Secretary may utilize the special conveyance and lease authorities provided to the Secretary by subsections (b) and (c) of section 2814 of title 10, United States Code, for the purpose of developing or facilitating the development of Ford Island, Hawaii.

Survey.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2844. LAND CONVEYANCES, OMAHA, NEBRASKA.**

(a) CONVEYANCES AUTHORIZED.—

(1) ARMY CONVEYANCE.—The Secretary of the Army may convey to the Metropolitan Community College Area, a public community college located in Omaha, Nebraska (in this section referred to as the "College") all right, title, and interest of

the United States in and to three parcels of real property under the control of the Army Reserve, including any improvements thereon, consisting of approximately 5.42 acres on the Fort Omaha campus at the College, for educational purposes.

(2) NAVY CONVEYANCE.—The Secretary of the Navy may convey to the College all right, title, and interest of the United States in and to a parcel of real property under the control of the Navy Reserve and Marine Corps Reserve, including any improvements thereon, consisting of approximately 6.57 acres on the Fort Omaha campus at the College, for educational purposes.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for each conveyance under subsection (a), the College shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined pursuant to an appraisal acceptable to the Secretary concerned.

(2) REDUCED TUITION RATES.—The Secretary concerned may accept as in-kind consideration under paragraph (1) reduced tuition rates for military personnel at the College.

(c) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary concerned shall require the College to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out a conveyance under subsection (a), including survey costs, related to the conveyance. If amounts are collected from the College in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the College.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received under paragraph (1) as reimbursement for costs incurred by the Secretary concerned to carry out a conveyance under subsection (a) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary concerned. Surveys.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2845. LAND CONVEYANCE, HOPKINTON, NEW HAMPSHIRE.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Town of Hopkinton, New Hampshire (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 90 acres located at a site in Hopkinton, New Hampshire, known as the "Kast Hill"

property for the purpose of permitting the Town to use the existing sand and gravel resources on the property and to ensure perpetual conservation of the property.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the Town shall, subject to paragraph (2), provide to the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined pursuant to an appraisal acceptable to the Secretary.

(2) WAIVER OF PAYMENT OF CONSIDERATION.—The Secretary may waive the requirement for consideration under paragraph (1) if the Secretary determines that the Town will not use the existing sand and gravel resources to generate revenue.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

Records.

(d) PROHIBITION ON RECONVEYANCE OF LAND.—The Town may not reconvey any of the land acquired from the United States under subsection (a) without the prior approval of the Secretary.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Town to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Town in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Town.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

Survey.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance of real property under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2846. LAND CONVEYANCE, NORTH HILLS ARMY RESERVE CENTER, ALLISON PARK, PENNSYLVANIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the North Allegheny School District (in this section referred to as the "School District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 11.15 acres and containing the North Hills Army Reserve Center in Allison Park, Pennsylvania, for the purpose of permitting the School District to use the property for educational and recreational purposes and for parking facilities related thereto.

(b) CONSIDERATION.—The Secretary may waive any requirement for consideration in connection with the conveyance under subsection (a) if the Secretary determines that, were the conveyance of the property to be made under subchapter III of chapter 5 of title 40, United States Code, for the same purpose specified in subsection (a), the conveyance could be made without consideration.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

Records.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the School District to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the School District in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the School District.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

Survey.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2847. TRANSFER OF JURISDICTION, FORT JACKSON, SOUTH CAROLINA.**

(a) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property, including any improvements thereon, consisting of approximately 600 acres and comprising a portion of Fort Jackson, South Carolina.

(b) USE OF LAND.—The Secretary of Veterans Affairs shall establish on the real property transferred under subsection (a) a national cemetery under chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

**SEC. 2848. SENSE OF CONGRESS REGARDING LAND CONVEYANCE INVOLVING ARMY RESERVE CENTER, MARSHALL, TEXAS.**

It is the sense of Congress that the Secretary of the Army should consider the feasibility of conveying the Army Reserve Center at 1209 Pinecrest Drive East in Marshall, Texas, to the Marshall-Harrison County Veterans Association for the purpose of assisting the efforts of the Association in erecting a veterans memorial, creating a park, and establishing a museum recognizing and honoring the sacrifices and accomplishments of veterans of the Armed Forces.

**SEC. 2849. MODIFICATIONS TO LAND CONVEYANCE AUTHORITY, ENGINEERING PROVING GROUND, FORT BELVOIR, VIRGINIA.**

(a) CONSTRUCTION OF SECURITY BARRIER.—Section 2836 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1314), as amended by section 2846 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3527), is further amended—

(1) in subsection (b)(4), by striking "$3,880,000" and inserting "$4,880,000"; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting after "Virginia," the following: "and the construction of a security barrier, as applicable,"; and

(B) in paragraph (2), by inserting after "Building 191" the following: "and the construction of a security barrier, as applicable".

(b) AUTHORITY TO ENTER INTO ALTERNATIVE AGREEMENT FOR DESIGN AND CONSTRUCTION OF FAIRFAX COUNTY PARKWAY PORTION.—Such section 2836 is further amended—

(1) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) except as provided in subsection (f), design and construct, at its expense and for public benefit, the portion of the Fairfax County Parkway through the Engineer Proving Ground (in this section referred to as the 'Parkway portion');"; and

(B) in paragraph (2), by inserting after "C514" the following: ", RW–214 (in this section referred to as 'Parkway project')";

(2) by redesignating subsection (f) as subsection (g);

(3) by inserting after subsection (e) the following new subsection:

"(f) ALTERNATE AGREEMENT FOR CONSTRUCTION OF ROAD.—(1) The Secretary of the Army may, in connection with the conveyance authorized under subsection (a), enter into an agreement with the Commonwealth providing for the design and construction by the Department of the Army or the United States Department of Transportation of the Parkway portion and other portions of the Fairfax County Parkway off the Engineer Proving Ground that are necessary to complete the Parkway project (in this subsection referred to as the 'alternate agreement') if the Secretary determines that the alternate agreement is in the best interests of the United States to support the permanent relocation of additional military and civilian personnel at Fort Belvoir pursuant to decisions made as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(2) If the Secretary of Defense certifies that the Parkway portion is important to the national defense pursuant to section 210 of title 23, United States Code, the Secretary of the Army may enter into an agreement with the Secretary of Transportation to carry out the alternate agreement under the Defense Access Road Program.

"(3) The Commonwealth shall pay to the Secretary of the Army the costs of the design and construction of the Parkway portion and any other portions of the Fairfax County Parkway off the Engineer Proving Ground designed and constructed under the alternate agreement. The Secretary shall apply such payment to the design and construction provided for in the alternate agreement.

"(4) Using the authorities available to the Secretary under chapter 160 of title 10, United States Code, and funds deposited in the Environmental Restoration Account, Army, established by section 2703(a) of such title and appropriated for this purpose, the Secretary may carry out environmental restoration activities on real property under the jurisdiction of the Secretary in support of the construction of the Parkway portion.

"(5) The alternate agreement shall be subject to the following conditions:

"(A) The Commonwealth shall acquire and retain all necessary right, title, and interest in any real property not under the jurisdiction of the Secretary that is necessary for construction of the Parkway portion or for construction of any other portions of the Fairfax County Parkway off the Engineer Proving Ground that will be constructed under the alternate agreement, and shall grant to the United States all necessary access to and use of such property for such construction.

"(B) The Secretary shall receive consideration from the Commonwealth as required in subsections (b)(2), (b)(3), and

(b)(4) and shall carry out the acceptance and disposition of funds in accordance with subsection (d).

"(6) The design of the Parkway portion under the alternate agreement shall be subject to the approval of the Secretary and the Commonwealth in accordance with the Virginia Department of Transportation Approved Plan, dated June 15, 2004, Project #R000–029–249, PE–108, C–514, RW–214. For each phase of the design and construction of the Parkway portion under the alternate agreement, the Secretary may—

"(A) accept funds from the Commonwealth; or

"(B) transfer funds received from the Commonwealth to the United States Department of Transportation.

"(7) Upon completion of the construction of the Parkway portion and any other portions of the Fairfax County Parkway off the Engineer Proving Ground required under the alternate agreement, the Secretary shall carry out the conveyance under subsection (a). As a condition of such conveyance carried out under the alternate agreement, the Secretary shall receive a written commitment, in a form satisfactory to the Secretary, that the Commonwealth agrees to accept all responsibility for the costs of operation and maintenance of the Parkway portion upon conveyance to the Commonwealth of such real property."; and

(4) in subsection (g), as redesignated by paragraph (2), by inserting "or the alternate agreement authorized under subsection (f)" after "conveyance under subsection (a)".

**SEC. 2850. LAND CONVEYANCE, RADFORD ARMY AMMUNITION PLANT, NEW RIVER UNIT, VIRGINIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Commonwealth of Virginia on behalf of the Virginia Department of Veterans Services (in this section referred to as the "Commonwealth") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 85 acres at the Radford Army Ammunition Plant, New River Unit, Virginia, for the purpose of permitting the Commonwealth to establish on the property a cemetery operated by the Commonwealth for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Commonwealth to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Commonwealth in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the

Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Commonwealth.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

# Subtitle E—Energy Security

**SEC. 2851. CONSOLIDATION AND ENHANCEMENT OF LAWS TO IMPROVE DEPARTMENT OF DEFENSE ENERGY EFFICIENCY AND CONSERVATION.**

(a) CREATION OF NEW CHAPTER.—

(1) REORGANIZATION OF SECTION 2865 OF TITLE 10.—Title 10, United States Code, is amended by inserting after chapter 172 the following new chapter:

## "CHAPTER 173—ENERGY SECURITY

"Subchapter
"I. Energy Security Activities ..... 2911
"II. Energy-Related Procurement ..... 2922
"III. General Provisions ..... 2925

### "SUBCHAPTER I—ENERGY SECURITY ACTIVITIES

"Sec.
" 2911. Energy performance goals and plan for Department of Defense.
" 2912. Availability and use of energy cost savings.
" 2913. Energy savings contracts and activities.
" 2914. Energy conservation construction projects.
"2915. New construction: use of renewable forms of energy and energy efficient products.
"2916. Sale of electricity from alternate energy and cogeneration production facilities.
"2917. Development of geothermal energy on military lands.
"2918. Fuel sources for heating systems; prohibition on converting certain heating facilities.

### "§ 2911. Energy performance goals and plan for Department of Defense

"(a) ENERGY PERFORMANCE GOALS.—(1) The Secretary of Defense shall submit to the congressional defense committees the energy performance goals for the Department of Defense regarding transportation systems, support systems, utilities, and infrastructure and facilities.

"(2) The energy performance goals shall be submitted annually not later than the date on which the President submits to Congress

Deadline.

the budget for the next fiscal year under section 1105 of title 31 and cover that fiscal year as well as the next five, l0, and 20 years. The Secretary shall identify changes to the energy performance goals since the previous submission.

"(b) ENERGY PERFORMANCE PLAN.—The Secretary of Defense shall develop, and update as necessary, a comprehensive plan to help achieve the energy performance goals for the Department of Defense.

"(c) SPECIAL CONSIDERATIONS.—For the purpose of developing and implementing the energy performance goals and energy performance plan, the Secretary of Defense shall consider at a minimum the following:

"(1) Opportunities to reduce the current rate of consumption of energy.

"(2) Opportunities to reduce the future demand and the requirements for the use of energy.

"(3) Opportunities to implement conservation measures to improve the efficient use of energy.

"(4) Opportunities to pursue alternative energy initiatives, including the use of alternative fuels in military vehicles and equipment.

"(5) Cost effectiveness, cost savings, and net present value of alternatives.

"(6) The value of diversification of types and sources of energy used.

"(7) The value of economies-of-scale associated with fewer energy types used.

"(8) The value of the use of renewable energy sources.

"(9) The potential for an action to serve as an incentive for members of the armed forces and civilian personnel to reduce energy consumption or adopt an improved energy performance measure.

"(d) SELECTION OF ENERGY CONSERVATION MEASURES.—(1) For the purpose of implementing the energy performance plan, the Secretary of Defense shall provide that the selection of energy conservation measures, including energy efficient maintenance, shall be limited to those measures that—

"(A) are readily available;

"(B) demonstrate an economic return on the investment;

"(C) are consistent with the energy performance goals and energy performance plan for the Department; and

"(D) are supported by the special considerations specified in subsection (c).

"(2) In this subsection, the term 'energy efficient maintenance' includes—

"(A) the repair of military vehicles, equipment, or facility and infrastructure systems, such as lighting, heating, or cooling equipment or systems, or industrial processes, by replacement with technology that—

"(i) will achieve energy savings over the life-cycle of the equipment or system being repaired; and

"(ii) will meet the same end needs as the equipment or system being repaired; and

"(B) improvements in an operation or maintenance process, such as improved training or improved controls, that result in energy savings.

**"§ 2912. Availability and use of energy cost savings**

"(a) AVAILABILITY.—An amount of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts entered into under section 2913 of this title, shall remain available for obligation under subsection (b) until expended, without additional authorization or appropriation.

"(b) USE.—The Secretary of Defense shall provide that the amount that remains available for obligation under subsection (a) and the funds made available under section 2916(b)(2) of this title shall be used as follows:

"(1) One-half of the amount shall be used for the implementation of additional energy conservation measures at buildings, facilities, or installations of the Department of Defense or related to vehicles and equipment of the Department, which are designated, in accordance with regulations prescribed by the Secretary of Defense, by the head of the department, agency, or instrumentality that realized the savings referred to in subsection (a).

"(2) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

"(A) improvements to existing military family housing units;

"(B) any unspecified minor construction project that will enhance the quality of life of personnel; or

"(C) any morale, welfare, or recreation facility or service.

"(c) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received from gas or electric utilities under section 2913 of this title shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

"(d) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this section in that fiscal year.

**"§ 2913. Energy savings contracts and activities**

"(a) SHARED ENERGY SAVINGS CONTRACTS.—(1) The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of the Department of Defense as well as the private sector.

"(2) In carrying out paragraph (1), the Secretary of Defense may—

"(A) request statements of qualifications (as prescribed by the Secretary of Defense), including financial and performance information, from firms engaged in providing shared energy savings contracting;

"(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

"(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary may also provide for the direct negotiation, by departments, agencies, and instrumentalities of the Department of Defense, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

"(b) PARTICIPATION IN GAS OR ELECTRIC UTILITY PROGRAMS.—The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation.

"(c) ACCEPTANCE OF FINANCIAL INCENTIVE, GOODS, OR SERVICES.—The Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interests of the United States and consistent with the energy performance goals for the Department of Defense.

"(d) AGREEMENTS WITH GAS OR ELECTRIC UTILITIES.—(1) The Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

"(2) If an agreement under this subsection provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repaid by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

"(3) Subject to the availability of appropriations, repayment of costs advanced under paragraph (2) shall be made from funds available to a military department for the purchase of utility services.

"(4) An agreement under this subsection shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

**"§ 2914. Energy conservation construction projects**

"(a) PROJECTS AUTHORIZED.—The Secretary of Defense may carry out a military construction project for energy conservation, not previously authorized, using funds appropriated or otherwise made available for that purpose.

"(b) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a project under this section, the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

"SUBCHAPTER II—ENERGY-RELATED PROCUREMENT

"Sec.
"2922. Liquid fuels and natural gas: contracts for storage, handling, or distribution.
"2922a. Contracts for energy or fuel for military installations.
"2922b. Procurement of energy systems using renewable forms of energy.
"2922c. Procurement of gasohol as motor vehicle fuel.
"2922d. Procurement of fuel derived from coal, oil shale, and tar sands.
"2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority.
"2922f. Preference for energy efficient electric equipment.

"SUBCHAPTER III—GENERAL PROVISIONS

"Sec.
"2925. Annual report.

**"§ 2925. Annual report**

"(a) REPORT REQUIRED.—As part of the annual submission of the energy performance goals for the Department of Defense under section 2911 of this title, the Secretary of Defense shall submit a report containing the following:

"(1) A description of the progress made to achieve the goals of the Energy Policy Act of 2005 (Public Law 109–58) and the energy performance goals for the Department of Defense during the preceding fiscal year.

"(2) A description of the actions taken to implement the energy performance plan in effect under section 2911 of this title and carry out this chapter during the preceding fiscal year.

"(3) A description of the energy savings realized from such actions.

"(4) An estimate of the types and quantities of energy consumed by the Department of Defense and members of the armed forces and civilian personnel residing or working on military installations during the preceding fiscal year, including a breakdown of energy consumption by user groups and types of energy, energy costs, and the quantities of renewable energy produced or procured by the Department.

"(5) A description of the types and amount of financial incentives received under section 2913 of this title during the preceding fiscal year and the appropriation account or accounts to which the incentives were credited.

"(b) INITIAL REPORT.—In the first report required under this section, the Secretary of Defense shall include the following:

"(1) Such recommendations for changes to this chapter as the Secretary considers appropriate to improve energy performance.

"(2) A description of how responsibility over energy performance is distributed within the Department of Defense and a discussion on whether such responsibilities should be consolidated within a single entity.

"(3) A discussion of the manner in which the Secretary intends to balance the considerations specified in subsection (c) of section 2911 of this title in developing and implementing the energy performance goals and energy performance plan.

"(4) A discussion of the extent to which non-direct energy costs are considered in making research and development, procurement, and construction decisions.".

(2) CONFORMING REPEAL.—Section 2865 of title 10, United States Code, is repealed.

(b) INCLUSION OF ADDITIONAL ENERGY-RELATED SECTIONS.—

(1) TRANSFER AND REDESIGNATION OF CHAPTER 159 AND 169 PROVISIONS.—Sections 2857, 2867, 2689, and 2690 of title 10, United States Code, are—

(A) transferred to chapter 173 of such title, as added by subsection (a)(1);

(B) inserted after section 2914; and

(C) redesignated as sections 2915, 2916, 2917, and 2918, respectively.

(2) TRANSFER AND REDESIGNATION OF CHAPTER 141 PROVISIONS.—Sections 2388, 2394, 2394a, 2398, 2398a, 2404, and 2410c of such title are—

(A) transferred to chapter 173 of such title, as added by subsection (a)(1);

(B) inserted after the table of sections of subchapter II of such chapter; and

(C) redesignated as sections 2922, 2922a, 2922b, 2922c, 2922d, 2922e, and 2922f, respectively.

(3) CONFORMING AMENDMENTS.—Chapter 173 of such title, as added by subsection (a)(1), is amended—

(A) in section 2915 (former section 2857), as transferred and redesignated by paragraph (1)—

(i) in subsection (a), by striking "would be practical and economically feasible" and inserting "is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section"; and

(ii) in subsection (b), by striking "in those cases in which use of such forms of energy has the potential for reduced energy costs";

(B) in subsection (b)(2) of section 2916 (former section 2867), as transferred and redesignated by paragraph (1), by striking "section 2865(a) of this title" and inserting "section 2911(b) of this title";

(C) in subsection (a)(1) of section 2922a (former section 2394), as transferred and redesignated by paragraph (2),

by striking "section 2689 of this title" and inserting "section 2917 of this title";

(D) in section 2922b (former section 2394a), as transferred and redesignated by paragraph (2)—

(i) in subsection (a)—

(I) by striking "possible and will be cost effective, reliable, and otherwise suited" and inserting "possible, suited"; and

(II) by striking "his jurisdiction" and inserting "the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (c) of such section";

(ii) in subsection (b)—

(I) by striking "cost effective and"; and

(II) by striking "section 2857 of this title" and inserting "section 2915 of this title"; and

(iii) by striking subsection (c); and

(E) in subsection (a) of section 2922f (former section 2410c), as transferred and redesignated by paragraph (2)—

(i) by striking "When cost effective, in" and inserting "In"; and

(ii) by striking "procurement, as the case may be." and inserting "procurement, if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section.".

(4) APPLICABILITY OF CHAPTER 169 DEFINITIONS.—Section 2801(c) of such title is amended by inserting "and chapter 173 of this title" after "chapter" in the matter preceding paragraph (1).

(c) CLERICAL AMENDMENTS.—

(1) REFERENCE TO NEW CHAPTER.—The table of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 172 the following new item:

"173. ENERGY SECURITY..... 2911".

(2) CHAPTER 141.—The table of sections at the beginning of chapter 141 of such title is amended by striking the items relating to sections 2388, 2394, 2394a, 2398, 2398a, 2404, and 2410c.

(3) CHAPTER 159.—The table of sections at the beginning of chapter 159 of such title is amended by striking the items relating to sections 2689 and 2690.

(4) CHAPTER 169.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the items relating to sections 2857, 2865, and 2867.

(d) CONFORMING AMENDMENT TO WATER CONSERVATION AUTHORITY.—Subsection (b) of section 2866 of title 10, United States Code, is amended to read as follows:

"(b) USE OF FINANCIAL INCENTIVES AND WATER COST SAVINGS.—(1) Financial incentives received from utilities for management of water demand or water conservation under subsection (a)(2) shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

"(2) Water cost savings realized under subsection (a)(3) shall be used as follows:

"(A) One-half of the amount shall be used for water conservation activities at such buildings, facilities, or installations of the Department of Defense as may be designated (in accordance with regulations prescribed by the Secretary of Defense) by the head of the department, agency, or instrumentality that realized the water cost savings.

"(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

"(i) improvements to existing military family housing units;

"(ii) any unspecified minor construction project that will enhance the quality of life of personnel; or

"(iii) any morale, welfare, or recreation facility or service.

"(3) The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this subsection in that fiscal year.".

**SEC. 2852. DEPARTMENT OF DEFENSE GOAL REGARDING USE OF RENEWABLE ENERGY TO MEET ELECTRICITY NEEDS.**

Section 2911 of title 10, United States Code, as added by section 2851 of this Act, is amended by adding at the end the following new subsection:

"(e) GOAL REGARDING USE OF RENEWABLE ENERGY TO MEET ELECTRICITY NEEDS.—It shall be the goal of the Department of Defense—

"(1) to produce or procure not less than 25 percent of the total quantity of electric energy it consumes within its facilities and in its activities during fiscal year 2025 and each fiscal year thereafter from renewable energy sources (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b))); and

"(2) to produce or procure electric energy from renewable energy sources whenever the use of such renewable energy sources is consistent with the energy performance goals and energy performance plan for the Department and supported by the special considerations specified in subsection (c).".

**SEC. 2853. CONGRESSIONAL NOTIFICATION OF CANCELLATION CEILING FOR DEPARTMENT OF DEFENSE ENERGY SAVINGS PERFORMANCE CONTRACTS.**

Section 2913 of title 10, United States Code, as added by section 2851 of this Act, is amended by adding at the end the following new subsection:

"(e) CONGRESSIONAL NOTIFICATION OF CANCELLATION CEILING FOR ENERGY SAVINGS PERFORMANCE CONTRACTS.—When a decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of $7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.".

**SEC. 2854. USE OF ENERGY EFFICIENCY PRODUCTS IN NEW CONSTRUCTION.**

(a) USE OF ENERGY EFFICIENT PRODUCTS.—Section 2915 of title 10, United States Code, as transferred, redesignated, and amended by section 2851(b) of this Act, is amended by adding at the end the following new subsection:

"(e) USE OF ENERGY EFFICIENCY PRODUCTS IN NEW CONSTRUCTION.—(1) The Secretary of Defense shall ensure, to the maximum extent practicable, that energy efficient products meeting the requirements of the Department of Defense are used in new facility construction by or for the Department carried out under chapter 169 of this title if such products are readily available and their use is consistent with the energy performance goals and energy performance plan for the Department developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section.

"(2) In determining the energy efficiency of products, the Secretary shall consider products that—

"(A) meet or exceed Energy Star specifications; or

"(B) are listed on the Federal Energy Management Program Product Energy Efficiency Recommendations product list of the Department of Energy.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) by striking the section heading and inserting the following:

**"§ 2915. New construction: use of renewable forms of energy and energy efficient products";**

(2) in subsection (a), by inserting "USE OF RENEWABLE FORMS OF ENERGY ENCOURAGED.—" after "(a)";

(3) in subsection (b), by inserting "CONSIDERATION DURING DESIGN PHASE OF PROJECTS.—" after "(b)";

(4) in subsection (c), by inserting "DETERMINATION OF COST EFFECTIVENESS.—" after "(c)"; and

(5) in subsection (d), by inserting "EXCEPTION TO SQUARE FEET AND COST PER SQUARE FOOT LIMITATIONS.—" after "(d)".

## Subtitle F—Other Matters

**SEC. 2861. AVAILABILITY OF RESEARCH AND TECHNICAL ASSISTANCE UNDER DEFENSE ECONOMIC ADJUSTMENT PROGRAM.**

Section 2391 of title 10, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) RESEARCH AND TECHNICAL ASSISTANCE.—The Secretary of Defense may make grants to, or conclude cooperative agreements or enter into contracts with, another Federal agency, a State or local government, or any private entity to conduct research and provide technical assistance in support of activities under this section or Executive Order 12788 (57 Fed. Reg. 2213), as amended by section 33 of Executive Order 13286 (68 Fed. Reg. 10625) and Executive Order 13378 (70 Fed. Reg. 28413).".

**SEC. 2862. AVAILABILITY OF COMMUNITY PLANNING ASSISTANCE RELATING TO ENCROACHMENT OF CIVILIAN COMMUNITIES ON MILITARY FACILITIES USED FOR TRAINING BY THE ARMED FORCES.**

Section 2391(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "For purposes of subsection (b)(1)(D), the term 'military installation' includes a military facility owned and operated by any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, or the Virgin Islands, even though the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the military facility is subject to significant use for training by the armed forces.".

**SEC. 2863. PROHIBITIONS AGAINST MAKING CERTAIN MILITARY AIRFIELDS OR FACILITIES AVAILABLE FOR USE BY CIVIL AIRCRAFT.**

(a) PROHIBITIONS.—With respect to each military installation specified in subsection (b), the Secretary of Defense and the Secretary of the Navy may not enter into an agreement, or authorize any other person to enter into an agreement, that would—

(1) authorize civil aircraft to regularly use an airfield or any other property at the installation; or

(2) convey any real property at the installation, including any airfield at the installation, for the purpose of permitting the use of the property by civil aircraft.

(b) COVERED INSTALLATIONS.—The prohibitions in subsection (a) apply with respect to the following military installations:

(1) Marine Corps Air Station, Camp Pendleton, California.

(2) Marine Corps Air Station, Miramar, California.

(3) Marine Corps Base, Camp Pendleton, California.

(4) Naval Air Station, North Island, California.

(c) REPEAL OF EXISTING LIMITED PROHIBITION.—Section 2894 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 592) is repealed.

**SEC. 2864. MODIFICATION OF CERTAIN TRANSPORTATION PROJECTS.**

(a) HIGH PRIORITY PROJECTS.—The table in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1256) is amended—

(1) in the item designated as project 4333 (119 Stat. 1422), by striking "Plan and construct, land acquisition, Detroit West Riverfront Greenway" in the project description column and inserting "Detroit Riverfront Conservancy, Riverfront walkway, greenway, and adjacent land planning, construction, and land acquisition from Gabriel Richard Park at the Douglas Mac Arthur Bridge to Riverside Park at the Ambassador Bridge, Detroit"; and

(2) in the item designated as project 4651 (119 Stat. 1434), by striking "Grading, paving" and all that follows through "Airport" in the project description column and inserting "Grading, paving, roads, and the transfer of rail-to-truck for the intermodal facility at Rickenbacker Airport, Columbus, Ohio".

(b) TRANSPORTATION IMPROVEMENT PROJECT.—The table in section 1934(c) of such Act (119 Stat. 1485) is amended in the item designated as project 196 (119 Stat. 1495) by striking "Detroit Riverfront Conservancy" and all that follows through "Detroit" in the project description column and inserting "Detroit Riverfront Conservancy, Riverfront walkway, greenway, and adjacent land planning, construction, and land acquisition from Gabriel Richard Park at the Douglas Mac Arthur Bridge to Riverside Park at the Ambassador Bridge, Detroit".

**SEC. 2865. AVAILABILITY OF FUNDS FOR SOUTH COUNTY COMMUTER RAIL PROJECT, PROVIDENCE, RHODE ISLAND.**

Funds available for the South County Commuter Rail project, Providence, Rhode Island, authorized by paragraphs (34) and (35) of section 3043(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1650) shall be available for the purchase of commuter rail equipment for the South County Commuter Rail project upon the receipt by the Rhode Island Department of Transportation of an approved environmental assessment for the South County Commuter Rail project.

**SEC. 2866. FOX POINT HURRICANE BARRIER, PROVIDENCE, RHODE ISLAND.**

(a) ASSUMPTION OF RESPONSIBILITY FOR BARRIER.—Not later than two years after the date of the enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall assume responsibility for the annual operation and maintenance of the Fox Point Hurricane Barrier in Providence, Rhode Island. Deadline.

(b) IDENTIFICATION AND CONVEYANCE OF REQUIRED STRUCTURES.—The City of Providence, Rhode Island, in coordination with the Secretary, shall identify any land and structures required for the continued operation and maintenance, repair, replacement, rehabilitation, and structural integrity of the Fox Point Hurricane Barrier. The City shall convey to the Secretary, by quitclaim deed and without consideration, all right, title, and interest of the City in and to the land and structures so identified.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such funds as are necessary for each fiscal year for the operation and maintenance, including repair, replacement, and rehabilitation, of the Fox Point Hurricane Barrier.

**SEC. 2867. FEDERAL FUNDING FOR FIXED GUIDEWAY PROJECTS.**

The Federal Transit Administration's Dear Colleague letter dated April 29, 2005 (C–05–05), which requires fixed guideway projects to achieve a "medium" cost-effectiveness rating for the Federal Transit Administration to recommend such projects for funding, shall not apply to the Northstar Corridor Commuter Rail Project in Minnesota.

**SEC. 2868. FEASIBILITY STUDY REGARDING USE OF GENERAL SERVICES ADMINISTRATION PROPERTY FOR FORT BELVOIR, VIRGINIA, REALIGNMENT.**

Deadline.
Reports.

(a) FEASIBILITY STUDY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report evaluating the costs, benefits, feasibility, and suitability of locating support functions for Fort Belvoir and the Engineering Proving Grounds, Virginia, on property currently occupied by General Services Administration warehouses in Springfield, Virginia.

(b) CONSULTATION.—The Secretary of the Army shall carry out this section in consultation with the Administrator of General Services.

# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

# TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Plan for transformation of National Nuclear Security Administration nuclear weapons complex.
Sec. 3112. Extension of Facilities and Infrastructure Recapitalization Program.
Sec. 3113. Utilization of contributions to Global Threat Reduction Initiative.
Sec. 3114. Utilization of contributions to Second Line of Defense program.
Sec. 3115. Two-year extension of authority for appointment of certain scientific, engineering, and technical personnel.
Sec. 3116. National Academy of Sciences study of quantification of margins and uncertainty methodology for assessing and certifying the safety and reliability of the nuclear stockpile.
Sec. 3117. Consolidation of counterintelligence programs of Department of Energy and National Nuclear Security Administration.
Sec. 3118. Notice-and-wait requirement applicable to certain third-party financing arrangements.
Sec. 3119. Extension of deadline for transfer of lands to Los Alamos County, New Mexico, and of lands in trust for the Pueblo of San Ildefonso.
Sec. 3120. Limitations on availability of funds for Waste Treatment and Immobilization Plant.
Sec. 3121. Report on Russian Surplus Fissile Materials Disposition Program.
Sec. 3122. Limitation on availability of funds for construction of MOX Fuel Fabrication Facility.
Sec. 3123. Education of future nuclear engineers.
Sec. 3124. Technical correction related to authorization of appropriations for fiscal year 2006.

# Subtitle A—National Security Programs Authorizations

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,300,811,000, to be allocated as follows:

(1) For weapons activities, $6,417,676,000.

(2) For defense nuclear nonproliferation activities, $1,701,426,000.

(3) For naval reactors, $795,133,000.

(4) For the Office of the Administrator for Nuclear Security, $386,576,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out the following new plant projects:

(1) For weapons activities:

Project 07–D–140, project engineering and design, various locations, $4,977,000.

Project 07–D–220, Radioactive Liquid Waste Treatment Facility upgrade, Los Alamos National Laboratory, Los Alamos, New Mexico, $14,828,000.

Project 07–D–253, Technical Area 1 Heating Systems Modernization, Sandia National Laboratories, Albuquerque, New Mexico, $14,500,000.

(2) For defense nuclear nonproliferation activities:

Project 07–SC–05, Physical Sciences Facility, Pacific Northwest National Laboratory, Richland, Washington, $4,220,000.

(3) For naval reactors:

Project 07–D–190, project engineering and design, Materials Research Technology Complex, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $1,485,000.

**SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of $5,435,312,000.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for other defense activities in carrying out programs necessary for national security in the amount of $717,788,000.

**SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $358,080,000.

## Subtitle B—Program Authorizations, Restrictions, and Limitations

**SEC. 3111. PLAN FOR TRANSFORMATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION NUCLEAR WEAPONS COMPLEX.**

(a) PLAN REQUIRED.—Subtitle A of title XLII of the Atomic Energy Defense Act (division D of Public Law 107–314) is amended by inserting after section 4213 (50 U.S.C. 2533) the following new section:

50 USC 2534.

**"SEC. 4214. PLAN FOR TRANSFORMATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION NUCLEAR WEAPONS COMPLEX.**

"(a) PLAN REQUIRED.—The Secretary of Energy shall develop a plan to transform the nuclear weapons complex so as to achieve a responsive infrastructure by 2030. The plan shall be designed to accomplish the following objectives:

"(1) To maintain the safety, reliability, and security of the United States nuclear weapons stockpile.

"(2) To continue Stockpile Life Extension Programs that the Nuclear Weapons Council considers necessary.

"(3) To prepare to produce replacement warheads under the Reliable Replacement Warhead program at a rate necessary to meet future stockpile requirements, commencing with a first production unit in 2012 and achieving steady-state production using modern manufacturing processes by 2025.

"(4) To eliminate, within the nuclear weapons complex, duplication of production capability except to the extent required to ensure the safety, reliability, and security of the stockpile.

"(5) To maintain the current philosophy within the national security laboratories of peer review of nuclear weapons designs while eliminating duplication of laboratory capabilities except to the extent required to ensure the safety, reliability, and security of the stockpile.

"(6) To maintain the national security mission, and in particular the science-based Stockpile Stewardship Program, as the primary mission of the national security laboratories while optimizing the work-for-others activities of those laboratories to support other national security objectives in fields such as defense, intelligence, and homeland security.

"(7) To consolidate to the maximum extent practicable, and to provide for the ultimate disposition of, special nuclear material throughout the nuclear weapons complex, with the ultimate goal of eliminating Category I and II special nuclear material from the national security laboratories no later than March 1, 2012, so as to further reduce the footprint of the nuclear weapons complex, reduce security costs, and reduce transportation costs for special nuclear material. This objective does not preclude the retention of Category I and II special nuclear materials at a national security laboratory if the transformation plan required by this subsection envisions a pit production capability (including interim pit production) at a national security laboratory.

"(8) To employ a risk-based approach to ensure compliance with Design Basis Threat security requirements.

"(9) To expeditiously dismantle inactive nuclear weapons to reduce the size of the stockpile to the lowest level required by the Nuclear Weapons Council.

"(10) To operate the nuclear weapons complex in a more cost-effective manner.

"(b) REPORT.—Not later than February 1, 2007, the Secretary of Energy shall submit to the congressional defense committees a report on the transformation plan required by subsection (a). The report shall address each of the objectives required by subsection (c) and also include each of the following:

"(1) A comprehensive list of the capabilities, facilities, and project staffing that the National Nuclear Security Administration will need to have in place at the nuclear weapons complex as of 2030 to meet the requirements of the transformation plan.

"(2) A comprehensive list of the capabilities and facilities that the National Nuclear Security Administration currently has in place at the nuclear weapons complex that will not be needed as of 2030 to meet the requirements of the transformation plan.

"(3) A plan for implementing the transformation plan, including a schedule with incremental milestones.

"(c) CONSULTATION.—The Secretary of Energy shall develop the transformation plan required by subsection (a) in consultation with the Secretary of Defense and the Nuclear Weapons Council.

"(d) DEFINITION.—In this section, the term 'national security laboratory' has the meaning given such term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).".

(b) INCLUSION IN FUTURE-YEARS NUCLEAR SECURITY PROGRAM.—Section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453) is amended in subsection (b) by adding at the end the following new paragraph:

"(5) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support the programs required to implement the plan to transform the nuclear weapons complex under section 4214 of the Atomic Energy Defense Act, together with a detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during that five-fiscal-year period will help ensure that those programs are implemented. The statement shall assume year-to-year funding profiles that account for increases only for projected inflation.".

**SEC. 3112. EXTENSION OF FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.**

Section 3114 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 50 U.S.C. 2453 note), as amended by section 3113 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2160), is amended—

(1) in subsection (a)(3)(F), by striking "2011" and inserting "2013"; and

(2) in subsection (b), by striking "2011" and inserting "2013".

**SEC. 3113. UTILIZATION OF CONTRIBUTIONS TO GLOBAL THREAT REDUCTION INITIATIVE.**

Section 3132 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108—375; 118 Stat. 2166; 50 U.S.C. 2569) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by adding after subsection (e) the following new subsection:

"(f) PARTICIPATION BY OTHER GOVERNMENTS AND ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the programs described in paragraph (2).

"(2) PROGRAMS COVERED.—The programs described in this paragraph are the following international programs within the Global Threat Reduction Initiative:

"(A) The International Radiological Threat Reduction program.

"(B) The Emerging Threats and Gap Materials program.

"(C) The Reduced Enrichment for Research and Test Reactors program.

"(D) The Russian Research Reactor Fuel Return program.

"(E) The Global Research Reactor Security program.

"(F) The Kazakhstan Spent Fuel program.

"(3) RETENTION AND USE OF AMOUNTS.—Notwithstanding section 3302 of title 31, United States Code, the Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the programs described in paragraph (2). Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

"(4) RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS.—If an amount contributed under an agreement under paragraph (1) is not used under this subsection within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

Deadline.

"(5) NOTICE TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after the receipt of an amount contributed under paragraph (1), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

"(6) ANNUAL REPORT.—Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts

under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

"(A) a statement of any amounts received under this subsection, including, for each such amount, the value of the contribution and the person who contributed it;

"(B) a statement of any amounts used under this subsection, including, for each such amount, the purposes for which the amount was used; and

"(C) a statement of the amounts retained but not used under this subsection, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

"(7) EXPIRATION.—The authority to accept, retain, and use contributions under this subsection expires on December 31, 2013.".

**SEC. 3114. UTILIZATION OF CONTRIBUTIONS TO SECOND LINE OF DEFENSE PROGRAM.**

50 USC 2301 note.

(a) IN GENERAL.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the Second Line of Defense program of the National Nuclear Security Administration.

(b) RETENTION AND USE OF AMOUNTS.—Notwithstanding section 3302 of title 31, United States Code, the Secretary of Energy may retain and use amounts contributed under an agreement under subsection (a) for purposes of the Second Line of Defense program. Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

(c) RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS.—If an amount contributed under an agreement under subsection (a) is not used under this section within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

Deadline.

(d) NOTICE TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after the receipt of an amount contributed under subsection (a), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

(e) ANNUAL REPORT.—Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this section during the preceding fiscal year. Each report for a fiscal year shall set forth—

(1) a statement of any amounts received under this section, including, for each such amount, the value of the contribution and the person who contributed it;

(2) a statement of any amounts used under this section, including, for each such amount, the purposes for which the amount was used; and

(3) a statement of the amounts retained but not used under this section, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

(f) EXPIRATION.—The authority to accept, retain, and use contributions under this section expires on December 31, 2013.

**SEC. 3115. TWO-YEAR EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.**

Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking "September 30, 2006" and inserting "September 30, 2008".

**SEC. 3116. NATIONAL ACADEMY OF SCIENCES STUDY OF QUANTIFICATION OF MARGINS AND UNCERTAINTY METHODOLOGY FOR ASSESSING AND CERTIFYING THE SAFETY AND RELIABILITY OF THE NUCLEAR STOCKPILE.**

(a) STUDY REQUIRED.—The Secretary of Energy shall, as soon as practicable and no later than 120 days after the date of the enactment of this Act, enter into an arrangement with the National Research Council of the National Academy of Sciences for the Council to carry out a study of the quantification of margins and uncertainty methodology used by the national security laboratories for assessing and certifying the safety and reliability of the nuclear stockpile.

(b) MATTERS INCLUDED.—The study required by subsection (a) shall evaluate the following:

(1) The use of the quantification of margins and uncertainty methodology by the national security laboratories, including underlying assumptions of weapons performance and the ability of modeling and simulation tools to predict nuclear explosive package characteristics.

(2) The manner in which that methodology is used to conduct the annual assessments of the nuclear weapons stockpile.

(3) How the use of that methodology compares and contrasts between the national security laboratories.

(4) Whether the application of the quantification of margins and uncertainty used for annual assessments and certification of the nuclear weapons stockpile can be applied to the planned Reliable Replacement Warhead program so as to carry out the objective of that program to reduce the likelihood of the resumption of underground testing of nuclear weapons.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date on which the arrangement required by subsection (a) is entered into, the National Research Council shall submit to the Secretary of Energy and the congressional committees specified in paragraph (2) a report on the study that addresses the matters listed in subsection (b) and any other matters considered by the National Research Council to be relevant to the use of the quantification of margins and uncertainty methodology in assessing the current or future nuclear weapons stockpile.

(2) SPECIFIED COMMITTEES.—The congressional committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services of the Senate.

(B) The Committee on Armed Services of the House of Representatives.

(d) PROVISION OF INFORMATION.—The Secretary of Energy shall, in a timely manner, make available to the National Research Council all information that the National Research Council considers necessary to carry out its responsibilities under this section.

(e) FUNDING.—Of the amounts made available to the Department of Energy pursuant to the authorization of appropriations in section 3101, $2,000,000 shall be available for carrying out the study required by this section.

**SEC. 3117. CONSOLIDATION OF COUNTERINTELLIGENCE PROGRAMS OF DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

42 USC 7144b note.

(a) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—The functions, personnel, funds, assets, and other resources of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration are transferred to the Secretary of Energy, to be administered (except to any extent otherwise directed by the Secretary) by the Director of the Office of Counterintelligence of the Department of Energy.

(2) SUNSET.—Effective September 30, 2010—

(A) the functions, personnel, funds, assets, and other resources transferred by paragraph (1) are transferred to the Administrator for Nuclear Security;

(B) subsection (e) of section 3220 of the National Nuclear Security Administration Act (50 U.S.C. 2410), as added by this section, is repealed; and

(C) section 3233 of the National Nuclear Security Administration Act (50 U.S.C. 2423) is amended—

(i) in each of subsections (a) and (b), by striking "The Secretary of Energy shall" and inserting "The Administrator shall"; and

(ii) in subsection (b), by striking "Office of Counterintelligence of the Department of Energy" and inserting "Administration".

(b) NNSA COUNTERINTELLIGENCE OFFICE ABOLISHED.—

(1) IN GENERAL.—Section 3232 of the National Nuclear Security Administration Act (50 U.S.C. 2422) is amended—

(A) by amending the heading to read as follows:

**"SEC. 3232. OFFICE OF DEFENSE NUCLEAR SECURITY.".**

(B) by striking subsection (a) and inserting the following new subsection (a):

"(a) ESTABLISHMENT.—There is within the Administration an Office of Defense Nuclear Security, headed by a Chief appointed by the Secretary of Energy. The Administrator shall recommend to the Secretary suitable candidates for such position.";

(C) by striking subsection (b); and

(D) by redesignating subsection (c) as subsection (b).

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of the National Nuclear Security Administration Act is amended by striking the item relating to section 3232 and inserting the following new item:

"Sec. 3232. Office of Defense Nuclear Security.".

(c) COUNTERINTELLIGENCE PROGRAMS AT NNSA FACILITIES.—Section 3233 of the National Nuclear Security Administration Act (50 U.S.C. 2423) is amended—

(1) in each of subsections (a) and (b), by striking "The Administrator shall" and inserting "The Secretary of Energy shall"; and

(2) in subsection (b), by striking "Office of Defense Nuclear Counterintelligence" and inserting "Office of Counterintelligence of the Department of Energy".

(d) STATUS OF NNSA INTELLIGENCE AND COUNTERINTELLIGENCE PERSONNEL.—Section 3220 of the National Nuclear Security Administration Act (50 U.S.C. 2410) is amended by adding at the end the following new subsection:

"(e) STATUS OF INTELLIGENCE AND COUNTERINTELLIGENCE PERSONNEL.—Notwithstanding the restrictions of subsections (a) and (b), each officer or employee of the Administration, or of a contractor of the Administration, who is carrying out activities related to intelligence or counterintelligence shall, in carrying out those activities, be subject to the authority, direction, and control of the Secretary of Energy or the Secretary's delegate.".

(e) NNSA INTELLIGENCE AND COUNTERINTELLIGENCE LIAISON.—Section 3218 of the National Nuclear Security Administration Act (50 U.S.C. 2408) is amended in subsection (b)—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) Liaison with the Department of Energy's Office of Intelligence and Counterintelligence.".

(f) SERVICE FROM WHICH DOE INTELLIGENCE DIRECTOR AND COUNTERINTELLIGENCE DIRECTOR APPOINTED.—Section 215(b)(1) (42 U.S.C. 7144b(b)(1)) and section 216(b)(1) (42 U.S.C. 7144c(b)(1)) of the Department of Energy Organization Act are each amended by striking "which shall be a position in the Senior Executive Service" and inserting "who shall be an employee in the Senior Executive Service, the Senior Intelligence Service, the Senior National Intelligence Service, or any other Service that the Secretary, in coordination with the Director of National Intelligence, considers appropriate".

(g) INTELLIGENCE EXECUTIVE COMMITTEE; BUDGET FOR INTELLIGENCE AND COUNTERINTELLIGENCE.—Section 214 of the Department of Energy Organization Act (42 U.S.C. 7144a) is amended—

(1) by inserting "(a)" before "The Secretary shall be responsible"; and

(2) by adding at the end the following:

Establishment.

"(b)(1) There is within the Department an Intelligence Executive Committee. The Committee shall consist of the Deputy Secretary of Energy, who shall chair the Committee, and each Under Secretary of Energy.

"(2) The Committee shall be staffed by the Director of the Office of Intelligence and the Director of the Office of Counterintelligence.

"(3) The Secretary shall use the Committee to assist in developing and promulgating the counterintelligence and intelligence policies, requirements, and priorities of the Department.

"(c) In the budget justification materials submitted to Congress in support of each budget submitted by the President to Congress under title 31, United States Code, the amounts requested for

the Department for intelligence functions and the amounts requested for the Department for counterintelligence functions shall each be specified in appropriately classified individual, dedicated program elements. Within the amounts requested for counterintelligence functions, the amounts requested for the National Nuclear Security Administration shall be specified separately from the amounts requested for other elements of the Department.".

(h) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Energy shall submit to Congress a report on the implementation of this section and of the amendments required by this section. The report shall include the Inspector General's evaluation of that implementation.

**SEC. 3118. NOTICE-AND-WAIT REQUIREMENT APPLICABLE TO CERTAIN THIRD-PARTY FINANCING ARRANGEMENTS.**

Subtitle A of title XLVIII of the Atomic Energy Defense Act (50 U.S.C. 2781 et seq.) is amended by adding at the end the following new section:

**"SEC. 4804. NOTICE-AND-WAIT REQUIREMENT APPLICABLE TO CERTAIN THIRD-PARTY FINANCING ARRANGEMENTS.** 50 USC 2784.

"(a) NOTICE-AND-WAIT REQUIREMENT.—The Secretary of Energy may not enter into an arrangement described in subsection (b) until 30 days after the date on which the Secretary notifies the congressional defense committees in writing of the proposed arrangement.

"(b) COVERED ARRANGEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an arrangement referred to in subsection (a) is any alternative financing arrangement, third-party financing arrangement, public-private partnership, privatization arrangement, private capital arrangement, or other financing arrangement that—

"(A) is entered into in connection with a project conducted using funds authorized to be appropriated to the Department of Energy to carry out programs necessary for national security; and

"(B) involves a contractor or Federal agency obtaining and charging to the Department of Energy as an allowable cost under a contract the use of office space, facilities, or other real property assets with a value of at least $5,000,000.

"(2) EXCEPTION.—An arrangement referred to in subsection (a) does not include an arrangement that—

"(A) involves the Department of Energy or a contractor acquiring or entering into a capital lease for office space, facilities, or other real property assets; or

"(B) is entered into in connection with a capital improvement project undertaken as part of an energy savings performance contract under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287).".

**SEC. 3119. EXTENSION OF DEADLINE FOR TRANSFER OF LANDS TO LOS ALAMOS COUNTY, NEW MEXICO, AND OF LANDS IN TRUST FOR THE PUEBLO OF SAN ILDEFONSO.**

Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998

(Public Law 105–119; 111 Stat. 2523; 42 U.S.C. 2391 note) is amended—

(1) in subsection (d)(2), by striking "10 years after the date of enactment of this Act" and inserting "November 26, 2012"; and

(2) in subsection (g)(3)(B), by striking "the end of the 10-year period beginning on the date of enactment of this Act" and inserting "November 26, 2012".

**SEC. 3120. LIMITATIONS ON AVAILABILITY OF FUNDS FOR WASTE TREATMENT AND IMMOBILIZATION PLANT.**

(a) LIMITATION RELATING TO EARNED VALUE MANAGEMENT SYSTEM.—

(1) IN GENERAL.—Of the amount appropriated or otherwise available for defense environmental cleanup activities and available for the Waste Treatment and Immobilization Plant, not more than 90 percent of that amount may be obligated or expended.

Certification.

(2) TERMINATION OF LIMITATION.—Paragraph (1) does not apply after the date on which the Secretary of Energy certifies to the congressional defense committees that the Defense Contract Management Agency has recommended for acceptance the earned value management system used to track and report costs of the Waste Treatment and Immobilization Plant.

(b) LIMITATION RELATING TO SEISMIC CRITERIA.—

(1) IN GENERAL.—Of the amount appropriated or otherwise available for defense environmental cleanup activities and available for the Waste Treatment and Immobilization Plant, none of that amount may be obligated or expended for construction, or for the procurement of critical equipment affected by seismic criteria, relating to the Pretreatment Facility and the High-Level Waste Facility.

(2) EXCEPTION.—Paragraph (1) does not apply to the obligation or expenditure of funds for construction that is necessary for maintenance or for activities related to maintenance.

Certification.

(3) TERMINATION OF LIMITATION.—Paragraph (1) does not apply after the date on which the Secretary of Energy certifies to the congressional defense committees that the final seismic and ground motion criteria have been approved by the Secretary and that the contracting officer of the Waste Treatment and Immobilization Plant Project has formally directed that the final criteria be used for the final design of the Pretreatment Facility and the High-Level Waste Facility.

**SEC. 3121. REPORT ON RUSSIAN SURPLUS FISSILE MATERIALS DISPOSITION PROGRAM.**

Not later than March 1, 2007, the Secretary of Energy shall submit to the congressional defense committees a report on the Russian Surplus Fissile Materials Disposition Program (in this section referred to as the "Program"). The report shall include—

(1) a description of the disposition method the Government of Russia has agreed to use under the Program;

(2) a description of the assistance the United States Government plans to provide under the Program;

(3) an estimate of the total cost and schedule of such assistance; and

(4) an explanation of how parallelism is to be defined for purposes of the Program, including projected goals for the

disposition of Russian weapons-grade plutonium under the 2000 Plutonium Disposition and Management Agreement, and whether such parallelism can be achieved if the United States mixed-oxide (MOX) plutonium disposition program continues on the current planned schedule without further delays.

**SEC. 3122. LIMITATION ON AVAILABILITY OF FUNDS FOR CONSTRUCTION OF MOX FUEL FABRICATION FACILITY.**

Of the amount appropriated under section 3101(a)(2) or otherwise available for defense nuclear nonproliferation activities for fiscal year 2007, none of that amount may be obligated for construction project 99–D–143, the Mixed-Oxide (MOX) Fuel Fabrication Facility, until 30 days after the date on which the Secretary of Energy provides to the congressional defense committees—

(1) an independent cost estimate for the United States Surplus Fissile Materials Disposition Program and facilities;

(2) a written certification that the Department of Energy intends to use the MOX Fuel Fabrication Facility for United States plutonium disposition regardless of the future direction of the Russian Surplus Fissile Materials Disposition Program; and

(3) a corrective action plan for addressing the issues raised by the Inspector General of the Department of Energy in the December 2005 report titled "The Status of the Mixed Oxide Fuel Fabrication Facility".

**SEC. 3123. EDUCATION OF FUTURE NUCLEAR ENGINEERS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense and the Department of Energy depend on the specialized expertise of nuclear engineers who support the development and sustainment of technologies including naval reactors, strategic weapons, and nuclear power plants.

(2) Experts estimate that over 25 percent of the approximately 58,000 workers in the nuclear power industry in the United States will be eligible to retire within 5 years, representing both a huge loss of institutional memory and a potential national security crisis.

(3) This shortfall of workers is exacerbated by reductions to the University Reactor Infrastructure and Education Assistance program, which trains civilian nuclear scientists and engineers. The defense and civilian nuclear industries are interdependent on a limited number of educational institutions to produce their workforce. A reduction in nuclear scientists and engineers trained in the civilian sector may result in a further loss of qualified personnel for defense-related research and engineering.

(4) The Department of Defense's successful Science, Math and Research for Transformation (SMART) scholarship-for-service program serves as a good model for a targeted scholarship or fellowship program designed to educate future scientists at the postsecondary and postgraduate levels.

(b) REPORT ON EDUCATION OF FUTURE NUCLEAR ENGINEERS.—

(1) STUDY.—The Secretary of Energy shall study the feasibility and merit of establishing a targeted scholarship or fellowship program to educate future nuclear engineers at the postsecondary and postgraduate levels.

President.

(2) REPORT REQUIRED.—The President shall submit to the congressional defense committees, at the same time that the budget for fiscal year 2008 is submitted under section 1105(a) of title 31, United States Code, a report on the study conducted by the Secretary of Energy under paragraph (1).

**SEC. 3124. TECHNICAL CORRECTION RELATED TO AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.**

Effective date.

Effective as of January 6, 2006, and as if included therein as enacted, section 3101(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3537) is amended by striking "$9,196,456" and inserting "$9,196,456,000".

# TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2007, $22,260,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

# TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

**SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2007, the National Defense Stockpile Manager may obligate up to $52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.**

(a) FISCAL YEAR 1999 DISPOSAL AUTHORITY.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108–375; 118 Stat. 2193) and section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3545), is amended—

(1) by striking "and" at the end of paragraph (5); and

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph: "(7) $1,016,000,000 by the end of fiscal year 2014.".

(b) FISCAL YEAR 1998 DISPOSAL AUTHORITY.—Section 3305(a)(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note), as amended by section 3305 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1390), is amended by striking "2006" and inserting "2008".

(c) FISCAL YEAR 1997 DISPOSAL AUTHORITY.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 98d note), as amended by section 3402(f) of the National Defense Authorization Act for Year 2000 (Public Law 106–65; 113 Stat. 973) and section 3304(c) of the National Defense Authorization Act for 2002 (Public Law 107–107; 115 Stat. 1390), is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

"(2) $720,000,000 during the 12-fiscal year period ending September 30, 2008."; and

(2) in subsection (b)(2), by striking "the 10-fiscal year period" and inserting "the period".

# TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

**SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $18,810,000 for fiscal year 2007 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

# TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2007.
Sec. 3502. Amendments relating to the Maritime Security Fleet program.

Sec. 3503. Applicability to certain Maritime Administration vessels of limitations on overhaul, repair, and maintenance of vessels in foreign shipyards.
Sec. 3504. Vessel transfer authority.
Sec. 3505. United States Merchant Marine Academy graduates: service requirements.
Sec. 3506. United States Merchant Marine Academy graduates: service obligation performance reporting requirement.
Sec. 3507. Temporary authority to transfer obsolete combatant vessels to Navy for disposal.
Sec. 3508. Qualifying Reserve duty for receipt of student incentive payments.
Sec. 3509. Large passenger ship crew requirements.
Sec. 3510. Miscellaneous Maritime Administration provisions.

**SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007.**

Funds are hereby authorized to be appropriated for fiscal year 2007, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $116,442,000.

(2) For paying reimbursement under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), $19,500,000.

(3) For assistance to small shipyards and maritime communities under section 3506 of the National Defense Authorization Act for Fiscal Year 2006 (46 U.S.C. App. 1249), $15,000,000.

(4) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, $25,740,000.

(5) For administrative expenses related to the implementation of the loan guarantee program under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), administrative expenses related implementation of the reimbursement program under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), and administrative expenses related to the implementation of the small shipyards and maritime communities assistance program under section 3506 of the National Defense Authorization Act for Fiscal Year 2006 (46 U.S.C. App. 1249), $3,317,000.

**SEC. 3502. AMENDMENTS RELATING TO THE MARITIME SECURITY FLEET PROGRAM.**

(a) LIMITATION ON TRANSFER OF OPERATING AGREEMENTS.—Section 53105(e) of title 46, United States Code, is amended—

(1) by inserting "(1) IN GENERAL.—" before the first sentence;

(2) by moving paragraph (1) (as designated by the amendment made by paragraph (1) of this subsection) so as to appear immediately below the heading for such subsection, and 2 ems to the right; and

(3) by adding at the end the following:

"(2) LIMITATION.—The Secretary of Defense may not approve under paragraph (1) transfer of an operating agreement to a person that is not a citizen of the United States under section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802), unless the Secretary of Defense determines that there is no person who is a citizen under such section and is interested

in obtaining the operating agreement for a vessel that is otherwise eligible to be included in the Fleet under section 53102(b) and meets the requirements of the Department of Defense.".

(b) MARITIME SECURITY FLEET PROGRAM TANK VESSELS.—

(1) IN GENERAL.—Section 53103(c)(4) of title 46, United States Code, is amended—

(A) in subparagraph (A)(i) by striking "(i)" and inserting "(i)(I)";

(B) in subparagraph (A) by redesignating clause (ii) as subclause (II) of clause (i);

(C) in subparagraph (A)(i)(II), as so redesignated, by striking "53102(b)." and inserting "53102(b); or";

(D) by inserting after subparagraph (A)(i)(II), as so redesignated, the following:

"(ii)(I) not later than 9 months after the first date amounts are available to carry out this chapter, the operator of the existing tank vessel enters into an agreement to charter one or more tank vessels to be built in the United States and operated as a documented vessel or documented vessels; Deadline.

"(II) the combined tonnage of the vessels required to be chartered under subclause (I) is equal to or greater than the tonnage of the existing tank vessel subject to an operating agreement;

"(III) the operator enters into an agreement with the Secretary that is substantially the same as an Emergency Preparedness Agreement under section 53107 of this title, under which the operator shall make available commercial transportation resources as provided in that section; Contracts.

"(IV) if the person that is the owner or operator of the existing tank vessel owns or operates more than one existing tank vessel subject to an operating agreement, the combined tonnage of those vessels required to be chartered under subclause (I) by that person is equal to or greater than the combined tonnage of all such existing tank vessels owned or operated by such person that are subject to operating agreements.";

(E) in subparagraph (B) by inserting "with respect to which a binding contract is entered into under subparagraph (A)(i)" after "existing tank vessel"; and

(F) by adding at the end the following:

"(C) For purpose of subparagraph (A)(ii), tonnage shall be measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

"(D) No payment under this chapter may be made for an existing tank vessel with respect to which an agreement is entered into under subparagraph (A)(ii) for any period occurring—

"(i) after the date that is 5 years after the first date that amounts became available to carry out this chapter, if the vessel or vessels required to be chartered under subparagraph (A)(ii) have not been delivered; or

"(ii) after delivery of the vessel or vessels required to be chartered under such subparagraph, if any of such vessels is not chartered by the operator of the existing tank vessel.".

(2) ASSISTANCE AUTHORITY.—Section 3543(a) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking "shall, to the extent of the availability of appropriations," and inserting "may".

(c) PRIORITY IN ALLOCATION OF AMOUNTS AVAILABLE FOR ANNUAL PAYMENTS.—Section 53106 of title 46, United States Code, is amended by adding at the end the following:

"(f) PRIORITY IN ALLOCATION OF AVAILABLE AMOUNTS.—If the amount available for a fiscal year for making payments under operating agreements under this chapter is not sufficient to pay the full amount authorized under each agreement pursuant to this section for such fiscal year, the amount available shall be allocated among such agreements in a manner that gives priority to payments for vessels that are subject to agreements under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note).".

**SEC. 3503. APPLICABILITY TO CERTAIN MARITIME ADMINISTRATION VESSELS OF LIMITATIONS ON OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN FOREIGN SHIPYARDS.**

Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) is amended by inserting after subsection (c) the following:

"(d) APPLICABILITY OF LIMITATIONS ON OVERHAUL, REPAIR, AND MAINTENANCE IN FOREIGN SHIPYARDS.—

"(1) APPLICATION OF LIMITATION.—The provisions of section 7310 of title 10, United States Code, shall apply to vessels specified in subsection (b), and to the Secretary of Transportation with respect to those vessels, in the same manner as those provisions apply to vessels specified in subsection (b) of such section, and to the Secretary of the Navy, respectively.

"(2) COVERED VESSELS.—Vessels specified in this paragraph are vessels maintained by the Secretary of Transportation in support of the Department of Defense, including any vessel assigned by the Secretary of Transportation to the Ready Reserve Force that is owned by the United States.".

49 USC 301 note.

**SEC. 3504. VESSEL TRANSFER AUTHORITY.**

The Secretary of Transportation may transfer or otherwise make available without reimbursement to any other department a vessel under the jurisdiction of the Department of Transportation, upon request by the Secretary of the department that receives the vessel.

**SEC. 3505. UNITED STATES MERCHANT MARINE ACADEMY GRADUATES: SERVICE REQUIREMENTS.**

46 USC 51306.

(a) ALTERNATE SERVICE.—Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is amended by adding at the end the following:

"(6)(A) An individual who for the 5-year period following graduation from the Academy, serves as a commissioned officer on active duty in an armed force of the United States or as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service shall be excused from the requirements of subparagraphs (C), (D), and (E) of paragraph (1).

"(B) The Secretary may modify or waive any of the terms and conditions set forth in paragraph (1) through the imposition of alternative service requirements.".

(b) APPLICATION.—Paragraph (6) of section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)), as added by this section, applies only to an individual who enrolls as a cadet at the United States Merchant Marine Academy, and signs an agreement under paragraph (1) of that section, after the date of the enactment of this Act. 46 USC 51306 note.

**SEC. 3506. UNITED STATES MERCHANT MARINE ACADEMY GRADUATES: SERVICE OBLIGATION PERFORMANCE REPORTING REQUIREMENT.**

(a) IN GENERAL.—Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is further amended by adding at the end the following: 46 USC 51306.

"(7)(A) Subject to any otherwise applicable restrictions on disclosure in section 552a of title 5, United States Code, the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating, the Administrator of the National Oceanic and Atmospheric Administration, and the Surgeon General of the Public Health Service—

"(i) shall report the status of obligated service of an individual graduate of the Academy upon request of the Secretary; and

"(ii) may, in their discretion, notify the Secretary of any failure of the graduate to perform the graduate's duties, either on active duty or in the Ready Reserve component of their respective service, or as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service, respectively.

"(B) A report or notice under subparagraph (A) shall identify any graduate determined to have failed to comply with service obligation requirements and provide all required information as to why such graduate failed to comply.

"(C) Upon receipt of such a report or notice, such graduate may be considered to be in default of the graduate's service obligations by the Secretary, and subject to all remedies the Secretary may have with respect to such a default.".

(b) APPLICATION.—The amendment made by this section does not apply with respect to an agreement entered into under section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(e)) before the date of the enactment of this Act. 46 USC 51306 note.

**SEC. 3507. TEMPORARY AUTHORITY TO TRANSFER OBSOLETE COMBATANT VESSELS TO NAVY FOR DISPOSAL.**

The Secretary of Transportation shall, subject to the availability of appropriations and consistent with section 1535 of title 31, United States Code, popularly known as the Economy Act, transfer to the Secretary of the Navy during fiscal year 2007 for disposal by the Navy, no fewer than 3 combatant vessels in the nonretention fleet of the Maritime Administration that are acceptable to the Secretary of the Navy.

**SEC. 3508. QUALIFYING RESERVE DUTY FOR RECEIPT OF STUDENT INCENTIVE PAYMENTS.**

Section 1304(g)(2) of title XIII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c(g)(2)) is amended to read as follows: 46 USC 51509.

"(2) Each agreement entered into under paragraph (1) shall require the individual to accept enlisted reserve status in the United States Naval Reserve (including the Merchant Marine Reserve,

United States Naval Reserve) or the United States Coast Guard Reserve before receiving any student incentive payments under this subsection.".

**SEC. 3509. LARGE PASSENGER SHIP CREW REQUIREMENTS.**

Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(k) CREW REQUIREMENTS FOR LARGE PASSENGER VESSELS.—

"(1) CITIZENSHIP AND NATIONALITY.—Each unlicensed seaman on a large passenger vessel shall be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence;

"(C) an alien allowed to be employed in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including an alien crewman described in section 101(a)(15)(D)(i) of that Act (8 U.S.C. 1101(a)(15)(D)(i)), who meets the requirements of paragraph (3)(A) of this subsection; or

"(D) a foreign national who is enrolled in the United States Merchant Marine Academy.

"(2) PERCENTAGE LIMITATION FOR ALIEN SEAMEN.—Not more than 25 percent of the unlicensed seamen on a vessel described in paragraph (1) of this subsection may be aliens referred to in subparagraph (B) or (C) of that paragraph.

"(3) SPECIAL RULES FOR CERTAIN UNLICENSED SEAMEN.—

"(A) QUALIFICATIONS.—An unlicensed seaman described in paragraph (1)(C) of this subsection—

"(i) shall have been employed, for a period of not less than 1 year, on a passenger vessel under the same common ownership or control as the vessel described in paragraph (1) of this subsection, as certified by the owner or managing operator of such vessel to the Secretary;

"(ii) shall have no record of material disciplinary actions during such employment, as verified in writing by the owner or managing operator of such vessel to the Secretary;

"(iii) shall have successfully completed a United States Government security check of the relevant domestic and international databases, as appropriate, or any other national security-related information or database;

"(iv) shall have successfully undergone an employer background check—

"(I) for which the owner or managing operator provides a signed report to the Secretary that describes the background checks undertaken that are reasonably and legally available to the owner or managing operator including personnel file information obtained from such seaman and from databases available to the public with respect to the seaman;

"(II) that consisted of a search of all information reasonably available to the owner or managing operator in the seaman's country of citizenship

and any other country in which the seaman receives employment referrals, or resides;

"(III) that is kept on the vessel and available for inspection by the Secretary; and

"(IV) the information derived from which is made available to the Secretary upon request; and

"(v) may not be a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.

"(B) RESTRICTIONS.—An unlicensed seaman described in paragraph (1)(C) of this subsection—

"(i) may be employed only in the steward's department of the vessel; and

"(ii) may not perform watchstanding, automated engine room duty watch, or vessel navigation functions.

"(C) STATUS, DOCUMENTATION, AND EMPLOYMENT.—An unlicensed seaman described in subparagraph (C) or (D) of paragraph (1) of this subsection—

"(i) is deemed to meet the nationality requirements necessary to qualify for a merchant mariners document notwithstanding the requirements of part 12 of title 46, Code of Federal Regulations;

"(ii) is deemed to meet the proof-of-identity requirements necessary to qualify for a merchant mariners document, as prescribed under regulations promulgated by the Secretary, if the seaman possesses—

"(I) an unexpired passport issued by the government of the country of which the seaman is a citizen or subject; and

"(II) an unexpired visa issued to the seaman, as described in paragraph (1)(C);

"(iii) shall, if eligible, be issued a merchant mariners document with an appropriate annotation reflecting the restrictions of subparagraph (B) of this paragraph; and

"(iv) may be employed for a period of service on board not to exceed 36 months in the aggregate as a nonimmigrant crewman described in section 101(a)(15)(D)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(D)(i)) on vessels engaged in domestic voyages notwithstanding the departure requirements and time limitations of such section and the regulations and rules promulgated thereunder.

"(4) MERCHANT MARINER'S DOCUMENT REQUIREMENTS NOT AFFECTED.—This subsection shall not be construed to affect any requirement under Federal law that an individual must hold a merchant mariner's document.

"(5) DEFINITIONS.—In this subsection:

"(A) STEWARD'S DEPARTMENT.—The term 'steward's department' means the department that includes entertainment personnel and all service personnel, including wait staff, housekeeping staff, and galley workers, as defined

in the vessel security plan approved by the Secretary pursuant to section 70103(c) of this title.

"(B) LARGE PASSENGER VESSEL.—The term 'large passenger vessel' means a vessel of more than 70,000 gross tons, as measured under section 14302 of this title, with capacity for at least 2,000 passengers and documented with a coastwise endorsement under chapter 121 of this title.".

**SEC. 3510. MISCELLANEOUS MARITIME ADMINISTRATION PROVISIONS.**

(a) TECHNICAL CORRECTION REGARDING WAR RISK INSURANCE FOR MERCHANT MARINE VESSELS.—

46 USC 53909.

(1) IN GENERAL.—Section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a)) is amended—

(A) by striking "Upon the request of the Secretary of Transportation, the Secretary of the Treasury may invest or reinvest all or any part of the fund in securities of the United States or in securities guaranteed as to principal and interest by the United States."; and

(B) by inserting after "to the credit of such fund." the following: "Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United States under this title shall be made from such fund through the Fiscal Service of the Department of the Treasury.".

46 USC 53909 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if enacted by section 3502 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (118 Stat. 2195).

(b) RIGHT TO USE MARITIME ADMINISTRATION DECORATION.—Section 8 of the Merchant Marine Decorations and Medals Act (46 U.S.C. App. 2007) is amended by inserting "or the Secretary of Transportation," after "Act,".

46 USC 51908.

(c) INTERMODAL CENTERS.—

(1) IN GENERAL.—Notwithstanding section 5309(m)(6)(B) of title 49, United States Code, half of the amounts appropriated or made available under subsections (b) and (c) of section 5338 of title 49, United States Code, for capital projects under section 5309(m)(6)(B) of that title for fiscal years 2006 through 2009 shall be made available and used, in accordance with section 9008(a) of Public Law 109–59, for an intermodal or marine facility comprising a component of the Hawaii Port Infrastructure Expansion Program.

(2) SUPPLEMENTARY FUNDING.—Any amount made available under paragraph (1) shall be in addition to any amounts authorized to be appropriated under subsections (b) and (c) of section 9008 of Public Law 109–59.

(d) TECHNICAL CORRECTION.—

46 USC 51701.

(1) CORRECTION.—Section 3509 of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3557) is amended by striking "Maritime Education and Training Act of 1980" and inserting "Merchant Marine Act, 1936".

(2) EFFECTIVE DATE.—This subsection shall be effective immediately after section 3509 of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3557) takes effect.

Approved October 17, 2006.

LEGISLATIVE HISTORY—H.R. 5122 (S. 2766) (S. 2767):

HOUSE REPORTS: Nos. 109–452 (Comm. on Armed Services and 109–702 (Comm. of Conference).

SENATE REPORTS: No. 109–254 accompanying S. 2766 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 152 (2006):
May 10, 11, considered and passed House.
June 22, considered and passed Senate, amended, in lieu of S. 2766.
Sept. 29, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 17, Presidential statement.

# Public Law 109–365
# 109th Congress

## An Act

Oct. 17, 2006
[H.R. 6197]

To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Older Americans Act Amendments of 2006.

42 USC 3001 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Older Americans Act Amendments of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISION

Sec. 101. Definitions.

TITLE II—ADMINISTRATION ON AGING

Sec. 201. Elder abuse prevention and services.
Sec. 202. Functions of the Assistant Secretary.
Sec. 203. Federal agency consultation.
Sec. 204. Administration.
Sec. 205. Evaluation.
Sec. 206. Reports.
Sec. 207. Contracting and grant authority; private pay relationships; appropriate use of funds.
Sec. 208. Nutrition education.
Sec. 209. Pension counseling and information programs.
Sec. 210. Authorization of appropriations.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Sec. 301. Purpose; administration.
Sec. 302. Definitions.
Sec. 303. Authorization of appropriations; uses of funds.
Sec. 304. Allotments.
Sec. 305. Organization.
Sec. 306. Area plans.
Sec. 307. State plans.
Sec. 308. Payments.
Sec. 309. Nutrition services incentive program.
Sec. 310. Consumer contributions.
Sec. 311. Supportive services and senior centers.
Sec. 312. Nutrition service.
Sec. 313. Congregate nutrition program.
Sec. 314. Home delivered nutrition services.
Sec. 315. Criteria.
Sec. 316. Nutrition.
Sec. 317. Study of nutrition projects.
Sec. 318. Sense of Congress recognizing the contribution of nutrition to the health of older adults.
Sec. 319. Improving indoor air quality in buildings where older individuals congregate.
Sec. 320. Caregiver support program definitions.

Sec. 321. Caregiver support program.
Sec. 322. National innovation.

TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY

Sec. 401. Title.
Sec. 402. Grant programs.
Sec. 403. Career preparation for the field of aging.
Sec. 404. Health care service demonstration projects in rural areas.
Sec. 405. Technical assistance and innovation to improve transportation for older individuals.
Sec. 406. Demonstration, support, and research projects for multigenerational activities and civic engagement activities.
Sec. 407. Native American programs.
Sec. 408. Multidisciplinary centers and multidisciplinary systems.
Sec. 409. Community innovations for aging in place.
Sec. 410. Responsibilities of Assistant Secretary.

TITLE V—OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

Sec. 501. Community Service Senior Opportunities Act.
Sec. 502. Effective date.

TITLE VI—NATIVE AMERICANS

Sec. 601. Clarification of maintenance requirement.
Sec. 602. Native Americans caregiver support program.

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

Sec. 701. Vulnerable elder rights protection activities.
Sec. 702. Elder abuse, neglect, and exploitation.
Sec. 703. Native American organization provisions.
Sec. 704. Elder justice programs.
Sec. 705. Rule of construction.

TITLE VIII—FEDERAL YOUTH DEVELOPMENT COUNCIL

Sec. 801. Short title.
Sec. 802. Establishment and membership.
Sec. 803. Duties of the Council.
Sec. 804. Coordination with existing interagency coordination entities.
Sec. 805. Assistance of staff.
Sec. 806. Powers of the Council.
Sec. 807. Report.
Sec. 808. Termination.
Sec. 809. Authorization of appropriations.

TITLE IX—CONFORMING AMENDMENTS

Sec. 901. Conforming amendments to other Acts.

# TITLE I—GENERAL PROVISION

**SEC. 101. DEFINITIONS.**

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) by striking paragraph (10) and inserting the following:

"(10)(A) The term 'assistive device' includes an assistive technology device.

"(B) The terms 'assistive technology', 'assistive technology device', and 'assistive technology service' have the meanings given such terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).";

(2) by striking paragraph (12)(D) and inserting the following:

"(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis,

hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition;";

(3) by striking paragraph (24) and inserting the following:

"(24)(A) The term 'exploitation' means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

"(B) In subparagraph (A), the term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an older individual.";

(4) in paragraph (29)(E)—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) older individuals at risk for institutional placement.";

(5) in paragraph (32)(D), by inserting ", including an assisted living facility," after "home";

(6) by striking paragraph (34) and inserting the following:

"(34) The term 'neglect' means—

"(A) the failure of a caregiver (as defined in paragraph (18)(B)) or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

"(B) self-neglect."; and

(7) by adding at the end the following:

"(44) The term 'Aging and Disability Resource Center' means an entity established by a State as part of the State system of long-term care, to provide a coordinated system for providing—

"(A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;

"(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

"(C) consumers access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

"(45) The term 'at risk for institutional placement' means, with respect to an older individual, that such individual is

unable to perform at least 2 activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision) and is determined by the State involved to be in need of placement in a long-term care facility.

"(46) The term 'civic engagement' means an individual or collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.

"(47) The term 'elder justice'—

"(A) used with respect to older individuals, collectively, means efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect older individuals with diminished capacity while maximizing their autonomy; and

"(B) used with respect to an individual who is an older individual, means the recognition of the individual's rights, including the right to be free of abuse, neglect, and exploitation.

"(48) The term 'fiduciary'—

"(A) means a person or entity with the legal responsibility—

"(i) to make decisions on behalf of and for the benefit of another person; and

"(ii) to act in good faith and with fairness; and

"(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

"(49) The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

"(50) The term 'long-term care' means any service, care, or item (including an assistive device), including a disease prevention and health promotion service, an in-home service, and a case management service—

"(A) intended to assist individuals in coping with, and to the extent practicable compensate for, a functional impairment in carrying out activities of daily living;

"(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and

"(C) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

"(51) The term 'self-directed care' means an approach to providing services (including programs, benefits, supports, and technology) under this Act intended to assist an individual with activities of daily living, in which—

"(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;

"(B) such individual is provided with such information and assistance as are necessary and appropriate to enable such individual to make informed decisions about the individual's care options;

"(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual's ability to direct and control the individual's receipt of such services, are assessed by the area agency on aging (or other agency designated by the area agency on aging) involved;

"(D) based on the assessment made under subparagraph (C), the area agency on aging (or other agency designated by the area agency on aging) develops together with such individual and the individual's family, caregiver (as defined in paragraph (18)(B)), or legal representative—

"(i) a plan of services for such individual that specifies which services such individual will be responsible for directing;

"(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and

"(iii) a budget for such services; and

"(E) the area agency on aging or State agency provides for oversight of such individual's self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.

"(52) The term 'self-neglect' means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

"(A) obtaining essential food, clothing, shelter, and medical care;

"(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

"(C) managing one's own financial affairs.

"(53) The term 'State system of long-term care' means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care for individuals in such State.

"(54) The term 'integrated long-term care'—

"(A) means items and services that consist of—

"(i) with respect to long-term care—

"(I) long-term care items or services provided under a State plan for medical assistance under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and

"(II) any other supports, items, or services that are available under any federally funded long-term care program; and

"(ii) with respect to other health care, items and services covered under—

"(I) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(II) the State plan for medical assistance under the Medicaid program; or

"(III) any other federally funded health care program; and

"(B) includes items or services described in subparagraph (A) that are provided under a public or private managed care plan or through any other service provider.".

(b) REDESIGNATION AND REORDERING OF DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) by redesignating paragraphs (1) through (54) as paragraphs (45), (7), (50), (39), (26), (27), (54), (13), (48), (8), (29), (14), (1), (2), (3), (5), (6), (10), (30), (37), (11), (15), (16), (18), (21), (22), (23), (24), (28), (31), (33), (35), (36), (38), (40), (41), (42), (43), (44), (51), (53), (19), (49), (4), (9), (12), (17), (20), (25), (34), (46), (47), (52), and (32), respectively; and

(2) so that paragraphs (1) through (54), as so redesignated in paragraph (1), appear in numerical order.

# TITLE II—ADMINISTRATION ON AGING

**SEC. 201. ELDER ABUSE PREVENTION AND SERVICES.**

Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(e)(1) The Assistant Secretary is authorized to designate within the Administration a person to have responsibility for elder abuse prevention and services.

Government organization.

"(2) It shall be the duty of the Assistant Secretary, acting through the person designated to have responsibility for elder abuse prevention and services—

"(A) to develop objectives, priorities, policy, and a long-term plan for—

"(i) facilitating the development, implementation, and continuous improvement of a coordinated, multidisciplinary elder justice system in the United States;

"(ii) providing Federal leadership to support State efforts in carrying out elder justice programs and activities relating to—

"(I) elder abuse prevention, detection, treatment, intervention, and response;

"(II) training of individuals regarding the matters described in subclause (I); and

"(III) the development of a State comprehensive elder justice system, as defined in section 752(b);

"(iii) establishing Federal guidelines and disseminating best practices for uniform data collection and reporting by States;

"(iv) working with States, the Department of Justice, and other Federal entities to annually collect, maintain, and disseminate data relating to elder abuse, neglect, and exploitation, to the extent practicable;

"(v) establishing an information clearinghouse to collect, maintain, and disseminate information concerning best practices and resources for training, technical assistance, and other activities to assist States and communities to carry out evidence-based programs to prevent and address elder abuse, neglect, and exploitation;

"(vi) conducting research related to elder abuse, neglect, and exploitation;

"(vii) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in title VII;

"(viii) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings; and

"(ix) promoting collaborative efforts and diminishing duplicative efforts in the development and carrying out of elder justice programs at the Federal, State and local levels; and

"(B) to assist States and other eligible entities under title VII to develop strategic plans to better coordinate elder justice activities, research, and training.

"(3) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and section 752.

"(f)(1) The Assistant Secretary may designate an officer or employee who shall be responsible for the administration of mental health services authorized under this Act.

"(2) It shall be the duty of the Assistant Secretary, acting through the individual designated under paragraph (1), to develop objectives, priorities, and a long-term plan for supporting State and local efforts involving education about and prevention, detection, and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction.".

**SEC. 202. FUNCTIONS OF THE ASSISTANT SECRETARY.**

Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting "assistive technology," after "housing,";

(B) by striking paragraph (12) and inserting the following:

"(12)(A) consult and coordinate activities with the Administrator of the Centers for Medicare & Medicaid Services and the heads of other Federal entities to implement and build awareness of programs providing benefits affecting older individuals; and

"(B) carry on a continuing evaluation of the programs and activities related to the objectives of this Act, with particular attention to the impact of the programs and activities carried out under—

"(i) titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.);

"(ii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

"(iii) the National Housing Act (12 U.S.C. 1701 et seq.) relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;";

(C) by striking paragraph (20) and inserting the following:

"(20)(A) encourage, and provide technical assistance to, States, area agencies on aging, and service providers to carry

out outreach and benefits enrollment assistance to inform and enroll older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including—

"(i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or assistance under a State plan program under such title;

"(ii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.);

"(iii) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(iv) benefits under any other applicable program; and

"(B) at the election of the Assistant Secretary and in cooperation with related Federal agency partners administering the Federal programs, make a grant to or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment, which shall—

Grants. Contracts. Establishment.

"(i) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

Website.

"(ii) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

"(iii) create and support efforts for Aging and Disability Resource Centers, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as benefits enrollment centers for the programs;

"(iv) develop and maintain an information clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals with greatest economic need in the programs for which the individuals are eligible; and

"(v) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on effective outreach, screening, enrollment, and follow-up strategies;";

(D) in paragraph (26)—

(i) in subsection (D)—

(I) by striking "gaps in"; and

(II) by inserting "(including services that would permit such individuals to receive long-term care in home and community-based settings)" after "individuals"; and

(ii) in subsection (E), by striking "and" at the end;

(E) in paragraph (27)—

(i) in subparagraph (B), by adding "and" at the end; and

(ii) by striking subparagraph (D); and

(F) by adding at the end the following:

"(28) make available to States, area agencies on aging, and service providers information and technical assistance to

support the provision of evidence-based disease prevention and health promotion services.";

(2) by striking subsections (b) and (c), and inserting the following:

"(b) To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels that enable older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, the Assistant Secretary shall, consistent with the applicable provisions of this title—

"(1) collaborate, coordinate, and consult with other Federal entities responsible for formulating and implementing programs, benefits, and services related to providing long-term care, and may make grants, contracts, and cooperative agreements with funds received from other Federal entities;

"(2) conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying State systems of long-term care to—

"(A) respond to the needs and preferences of older individuals and family caregivers; and

"(B) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

"(3) establish criteria for and promote the implementation (through area agencies on aging, service providers, and such other entities as the Assistant Secretary determines to be appropriate) of evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals;

"(4) facilitate, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, and other heads of Federal entities as appropriate, the provision of long-term care in home and community-based settings, including the provision of such care through self-directed care models that—

"(A) provide for the assessment of the needs and preferences of an individual at risk for institutional placement to help such individual avoid unnecessary institutional placement and depletion of income and assets to qualify for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) respond to the needs and preferences of such individual and provide the option—

"(i) for the individual to direct and control the receipt of supportive services provided; or

"(ii) as appropriate, for a person who was appointed by the individual, or is legally acting on the individual's behalf, in order to represent or advise the individual in financial or service coordination matters (referred to in this paragraph as a 'representative' of the individual), to direct and control the receipt of those services; and

"(C) assist an older individual (or, as appropriate, a representative of the individual) to develop a plan for long-

term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services;

"(5) provide for the Administration to play a lead role with respect to issues concerning home and community-based long-term care, including—

"(A) directing (as the Secretary or the President determines to be appropriate) or otherwise participating in departmental and interdepartmental activities concerning long-term care;

"(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care; and

"(C) making recommendations to the Secretary with respect to home and community-based long-term care, including recommendations based on findings made through projects conducted under paragraph (2);

"(6) promote, in coordination with other appropriate Federal agencies—

"(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

"(B) the availability of information and resources to assist in such planning;

"(7) ensure access to, and the dissemination of, information about all long-term care options and service providers, including the availability of integrated long-term care;

"(8) implement in all States Aging and Disability Resource Centers— Establishment.

"(A) to serve as visible and trusted sources of information on the full range of long-term care options, including both institutional and home and community-based care, which are available in the community;

"(B) to provide personalized and consumer-friendly assistance to empower individuals to make informed decisions about their care options;

"(C) to provide coordinated and streamlined access to all publicly supported long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

"(D) to help individuals to plan ahead for their future long-term care needs; and

"(E) to assist (in coordination with the entities carrying out the health insurance information, counseling, and assistance program (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4)) in the States) beneficiaries, and prospective beneficiaries, under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in understanding and accessing prescription drug and preventative health benefits under the provisions of, and amendments made by, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

"(9) establish, either directly or through grants or contracts, national technical assistance programs to assist State agencies, area agencies on aging, and community-based service providers funded under this Act in implementing— Grants. Contracts.

"(A) home and community-based long-term care systems, including evidence-based programs; and

"(B) evidence-based disease prevention and health promotion services programs;

"(10) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards and measures for use by States to determine the extent to which their State systems of long-term care fulfill the objectives described in this subsection; and

"(11) conduct such other activities as the Assistant Secretary determines to be appropriate.

"(c) The Assistant Secretary, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall—

"(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that are active in supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement programs or activities to the maximum extent feasible;

"(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs of national concern, including the engagement of older individuals in the activities of public and nonprofit organizations such as community-based organizations, including faith-based organizations; and

"(3) encourage other community capacity-building initiatives involving older individuals, with particular attention to initiatives that demonstrate effectiveness and cost savings in meeting critical needs."; and

(3) in subsection (e)(1)(A), by striking the semicolon at the end and inserting a period.

**SEC. 203. FEDERAL AGENCY CONSULTATION.**

Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(1) in subsection (a)(3)(A)—

(A) by striking "(with particular attention to low-income minority older individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) by striking "section 507" and inserting "section 518";

(2) in subsection (b)—

(A) in paragraph (17), by striking "and" at the end;

(B) in paragraph (18), by striking the period and inserting ", and"; and

(C) by adding at the end the following:

"(19) sections 4 and 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3003, 3004)."; and

(3) by adding at the end the following:

"(c)(1) The Secretary, in collaboration with the Federal officials specified in paragraph (2), shall establish an Interagency Coordinating Committee on Aging (referred to in this subsection as the

Establishment.

'Committee') focusing on the coordination of agencies with respect to aging issues.

"(2) The officials referred to in paragraph (1) shall include the Secretary of Labor and the Secretary of Housing and Urban Development, and may include, at the direction of the President, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Homeland Security, the Commissioner of Social Security, and such other Federal officials as the President may direct. An official described in this paragraph may appoint a designee to carry out the official's duties under paragraph (1).

"(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for 1 term, and the Secretary of Housing and Urban Development shall serve as the chairperson for the following term. After that following term, the Committee shall select a chairperson from among the members of the Committee, and any member may serve as the chairperson. No member may serve as the chairperson for more than 1 consecutive term.

"(4) For purposes of this subsection, a term shall be a period of 2 calendar years.

"(5) The Committee shall meet not less often than once each year.

"(6) The Committee shall—

"(A) share information with and establish an ongoing system to improve coordination among Federal agencies with responsibility for programs and services for older individuals and recommend improvements to such system with an emphasis on—

"(i) improving access to programs and services for older individuals;

"(ii) maximizing the impact of federally funded programs and services for older individuals by increasing the efficiency, effectiveness, and delivery of such programs and services;

"(iii) planning and preparing for the impact of demographic changes on programs and services for older individuals; and

"(iv) reducing or eliminating areas of overlap and duplication by Federal agencies in the provision and accessibility of such programs and services;

"(B) identify, promote, and implement (as appropriate), best practices and evidence-based program and service models to assist older individuals in meeting their housing, health care, and other supportive service needs, including—

"(i) consumer-directed care models for home and community-based care and supportive services that link housing, health care, and other supportive services and that facilitate aging in place, enabling older individuals to remain in their homes and communities as the individuals age; and

"(ii) innovations in technology applications (including assistive technology devices and assistive technology services) that give older individuals access to information on available services or that help in providing services to older individuals;

"(C) collect and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information;

"(D) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies to ensure the continued collection of data relating to the housing, health care, and other supportive service needs of older individuals and to support efforts to identify and address unmet data needs;

"(E) actively seek input from and consult with nongovernmental experts and organizations, including public health interest and research groups and foundations about the activities described in subparagraphs (A) through (F);

"(F) identify any barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of federally funded programs and services; and

"(G) work with States to better provide housing, health care, and other supportive services to older individuals by—

"(i) holding meetings with State agencies;

"(ii) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

"(iii) working with States to designate liaisons, from the State agencies, to the Committee.

Deadline.
Reports.

"(7) Not later than 90 days following the end of each term, the Committee shall prepare and submit to the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

"(A) describes the activities and accomplishments of the Committee in—

"(i) enhancing the overall coordination of federally funded programs and services for older individuals; and

"(ii) meeting the requirements of paragraph (6);

"(B) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the chairperson of the Committee determines to be appropriate), to the access and use by older individuals of programs and services administered by such agency; and

"(C) makes such recommendations as the chairman determines to be appropriate for actions to meet the needs described in paragraph (6) and for coordinating programs and services designed to meet those needs.

"(8) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.".

**SEC. 204. ADMINISTRATION.**

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (C), by adding "and" at the end;

(ii) in subparagraph (D), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (E); and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

"(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and regular physical activity for older individuals;";

(II) by amending clause (iii) to read as follows:

"(iii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), the Food Guidance System of the Department of Agriculture, and advances in nutrition science;";

(III) in clause (vii), by striking "and" at the end; and

(IV) by striking clause (viii) and inserting the following:

"(viii) disseminating guidance that describes strategies for improving the nutritional quality of meals provided under title III, including strategies for increasing the consumption of whole grains, lowfat dairy products, fruits, and vegetables;

"(ix) developing and disseminating guidelines for conducting nutrient analyses of meals provided under subparts 1 and 2 of part C of title III, including guidelines for averaging key nutrients over an appropriate period of time; and

"(x) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (ix).."; and

(ii) by amending subparagraph (C)(i) to read as follows:

"(i) have expertise in nutrition, energy balance, and meal planning; and".

**SEC. 205. EVALUATION.**

The first sentence of section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) is amended to read as follows: "From the total amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not to exceed ½ of 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or through grants or contracts.". Grants. Contracts.

**SEC. 206. REPORTS.**

Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended—

(1) in subparagraph (B), by striking "Labor" and inserting "the Workforce"; and

(2) in subparagraph (C), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions".

**SEC. 207. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.**

Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3020c) is amended to read as follows:

**"SEC. 212. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.**

"(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to prevent a recipient of a grant or a contract under this Act (other than title V) from entering into an agreement with a profitmaking organization for the recipient to provide services to individuals or entities not otherwise receiving services under this Act, provided that—

"(1) if funds provided under this Act to such recipient are initially used by the recipient to pay part or all of a cost incurred by the recipient in developing and carrying out such agreement, such agreement guarantees that the cost is reimbursed to the recipient;

"(2) if such agreement provides for the provision of 1 or more services, of the type provided under this Act by or on behalf of such recipient, to an individual or entity seeking to receive such services—

"(A) the individuals and entities may only purchase such services at their fair market rate;

"(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under paragraph (1)), are reimbursed to such recipient; and

"(C) the recipient reports the rates for providing such services under such agreement in accordance with subsection (c) and the rates are consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or area agency on aging (as applicable); and

"(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient's costs is used to provide, or support the provision of, services under this Act.

"(b) ENSURING APPROPRIATE USE OF FUNDS.—An agreement described in subsection (a) may not—

"(1) be made without the prior approval of the State agency (or, in the case of a grantee under title VI, without the prior recommendation of the Director of the Office for American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary), after timely submission of all relevant documents related to the agreement including information on all costs incurred;

"(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual or entity in an amount that exceeds the fair market value of the services subject to such agreement;

"(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older

individual with greatest economic need, or an older individual who is at risk for institutional placement; or

"(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older individuals, as determined by the Assistant Secretary.

Procedures.

"(c) MONITORING AND REPORTING.—To ensure that any agreement described in subsection (a) complies with the requirements of this section and other applicable provisions of this Act, the Assistant Secretary shall develop and implement uniform monitoring procedures and reporting requirements consistent with the provisions of subparagraphs (A) through (E) of section 306(a)(13) in consultation with the State agencies and area agencies on aging. The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements, and the costs incurred and services provided under the agreements. This report shall contain information on the number of the agreements per State, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, and the net proceeds from, and documentation of funds spent and reimbursed, under the agreements.

"(d) TIMELY REIMBURSEMENT.—All reimbursements made under this section shall be made in a timely manner, according to standards specified by the Assistant Secretary.

"(e) COST.—In this section, the term 'cost' means an expense, including an administrative expense, incurred by a recipient in developing or carrying out an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expense.".

**SEC. 208. NUTRITION EDUCATION.**

Section 214 of the Older Americans Act of 1965 (42 U.S.C. 3020e) is amended to read as follows:

**"SEC. 214. NUTRITION EDUCATION.**

"The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

"(1) are designed for older individuals; and

"(2) include—

"(A) nutrition education;

"(B) physical activity; and

"(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through nutrition education and nutrition assessment and counseling, in accordance with section 339(2)(J).".

**SEC. 209. PENSION COUNSELING AND INFORMATION PROGRAMS.**

Section 215 of the Older Americans Act of 1965 (42 U.S.C. 3020e–1) is amended—

(1) in subsection (e)(1)(J), by striking "and low income retirees" and inserting ", low-income retirees, and older individuals with limited English proficiency";

(2) in subsection (f), by striking paragraph (2) and inserting the following:

"(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency and other populations that are identified as in need of special outreach."; and

(3) in subsection (h)(2), by inserting "(including individuals with limited English proficiency)" after "individuals".

**SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

Section 216 of the Older Americans Act of 1965 (42 U.S.C. 3020f) is amended—

(1) in subsection (a), by striking "2001, 2002, 2003, 2004, and 2005" and inserting "2007, 2008, 2009, 2010, and 2011."; and

(2) in subsections (b) and (c), by striking "year" and all that follows through "years", and inserting "years 2007, 2008, 2009, 2010, and 2011".

# TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

**SEC. 301. PURPOSE; ADMINISTRATION.**

Section 301(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) organizations that have experience in providing training, placement, and stipends for volunteers or participants who are older individuals (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.".

**SEC. 302. DEFINITIONS.**

Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(1) by adding at the end the following:

"(4) The term 'family caregiver' means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction.";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (2), and (3), respectively; and

(3) by moving paragraph (4), as so redesignated, to the end of the section.

**SEC. 303. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.**

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended—

(1) in subsections (a)(1), (b), and (d), by striking "year 2001" and all that follows through "years" each place it appears, and inserting "years 2007, 2008, 2009, 2010, and 2011"; and

(2) in subsection (e)—

(A) in paragraph (1) by striking "$125,000,000" and all that follows and inserting "$160,000,000 for fiscal year 2007.";

(B) in paragraph (2), by striking "such sums" and all that follows and inserting "$166,500,000 for fiscal year 2008, $173,000,000 for fiscal year 2009, $180,000,000 for fiscal year 2010, and $187,000,000 for fiscal year 2011."; and

(C) in paragraph (3)—

(i) by striking "(2)—" and all that follows through "1 percent" and inserting "(2), not more than 1 percent";

(ii) by striking "shall" and inserting "may"; and

(iii) by striking "section 376" and inserting "section 411(a)(11)".

**SEC. 304. ALLOTMENTS.**

Section 304(a)(3)(D) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(3)(D)) is amended to read as follows:

"(D)(i) No State shall be allotted less than the total amount allotted to the State for fiscal year 2006.

"(ii) No State shall receive a percentage increase in an allotment, above the State's fiscal year 2006 allotment, that is less than—

"(I) for fiscal year 2007, 20 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

"(II) for fiscal year 2008, 15 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

"(III) for fiscal year 2009, 10 percent of the percentage increase above the fiscal year 2006 allotments for all of the States; and

"(IV) For fiscal year 2010, 5 percent of the percentage increase above the fiscal year 2006 allotments for all of the States.".

**SEC. 305. ORGANIZATION.**

Section 305(a) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)) is amended—

(1) in paragraph (1)(E)—

(A) by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" each place it appears and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) by striking "and" at the end;

(2) in paragraph (2)—

(A) in subparagraph (E), by striking ", with particular attention to low-income minority individuals and older individuals residing in rural areas" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

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

(3) by adding at the end the following:

"(3) the State agency shall, consistent with this section, promote the development and implementation of a State system of long-term care that is a comprehensive, coordinated system that enables older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of the older individuals and their family caregivers, by—

"(A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;

"(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any State rules, regulations, and policies related to long-term care;

"(C) conducting analyses and making recommendations with respect to strategies for modifying the State system of long-term care to better—

"(i) respond to the needs and preferences of older individuals and family caregivers;

"(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

"(iii) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

"(D) implementing (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

"(E) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—

"(i) the need to plan in advance for long-term care; and

"(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources.".

**SEC. 306. AREA PLANS.**

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income older individuals, including

low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)";

(ii) by striking "(with particular attention to low-income minority individuals)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(iii) by inserting "the number of older individuals at risk for institutional placement residing in such area," after "individuals) residing in such area,";

(B) in paragraph (2)(A)—

(i) by inserting after "transportation," the following: "health services (including mental health services),"; and

(ii) by inserting after "information and assistance" the following: "(which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible)";

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

"(i)(I) provide assurances that the area agency on aging will—

"(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

"(bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

"(II) include proposed methods to achieve the objectives described in items (aa) and (bb) of subclause (I);"; and

(II) in clause (ii), by inserting ", older individuals with limited English proficiency," after "low-income minority individuals" each place it appears; and

(ii) in subparagraph (B)—

(I) by moving the left margin of each of subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) of clause (i), 2 ems to the left; and

(II) in clause (i)—

(aa) in subclause (V), by striking "with limited English-speaking ability; and" and inserting "with limited English proficiency;";

(bb) in subclause (VI), by striking "or related" and inserting "and related"; and

(cc) by adding at the end the following:

"(VII) older individuals at risk for institutional placement; and";

(D) in paragraph (5), by inserting "and individuals at risk for institutional placement" after "severe disabilities";

(E) in paragraph (6)—

(i) in subparagraph (C)—

(I) in clause (i), by striking "and" at the end;

(II) in clause (ii), by adding "and" at the end; and

(III) by inserting after clause (ii) the following:

"(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;";

(ii) in subparagraph (D)—

(I) by inserting "family caregivers of such individuals," after "Act,"; and

(II) by inserting "service providers, representatives of the business community," after "individuals,"; and

(iii) by amending subparagraph (F) to read as follows:

"(F) in coordination with the State agency and with the State agency responsible for mental health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental health services (including mental health screenings) provided with funds expended by the area agency on aging with mental health services provided by community health centers and by other public agencies and nonprofit private organizations;";

(F) in paragraph (7), to read as follows:

"(7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

"(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

"(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

"(i) respond to the needs and preferences of older individuals and family caregivers;

"(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

"(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

"(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

"(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

"(i) the need to plan in advance for long-term care; and

"(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;";

(G) by striking paragraph (14) and the 2 paragraphs (15);

(H) by redesignating paragraph (16) as paragraph (14); and

(I) by adding at the end the following:

"(15) provide assurances that funds received under this title will be used—

"(A) to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and

"(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212;

"(16) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care; and

"(17) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

(3) by inserting after subsection (a) the following:

"(b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

"(2) Such assessment may include—

"(A) the projected change in the number of older individuals in the planning and service area;

"(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

"(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

"(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

"(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

"(A) health and human services;

"(B) land use;

"(C) housing;

"(D) transportation;

"(E) public safety;

"(F) workforce and economic development;

"(G) recreation;

"(H) education;

"(I) civic engagement;

"(J) emergency preparedness; and

"(K) any other service as determined by such agency.".

**SEC. 307. STATE PLANS.**

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (2)(C), by striking "section 306(b)" and inserting "section 306(c)";

(2) in paragraph (4), by striking ", with particular attention to low-income minority individuals and older individuals residing in rural areas" and inserting "(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)";

(3) by striking paragraph (15);

(4) by redesignating paragraph (14) as paragraph (15);

(5) by inserting after paragraph (13) the following:

"(14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

"(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.";

(6) in paragraph (16)(A)—

(A) in clauses (ii) and (iii), by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" each place it appears and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) in clause (vi), by striking "or related" and inserting "and related"; and

(7) by adding at the end the following:

"(27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

"(28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

"(B) Such assessment may include—

"(i) the projected change in the number of older individuals in the State;

"(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

"(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

"(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

"(29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.

"(30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.".

**SEC. 308. PAYMENTS.**

Section 309(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3029(b)(2)) is amended by striking "the non-Federal share required prior to fiscal year 1981" and inserting "10 percent of the cost of the services specified in such section 304(d)(1)(D)".

**SEC. 309. NUTRITION SERVICES INCENTIVE PROGRAM.**

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended—

(1) in subsection (b), by adding at the end the following:

"(3) State agencies that elect to make grants and enter into contracts for purposes of this section shall promptly and equitably disburse amounts received under this subsection to the recipients of the grants and contracts.";

Grants.
Contracts.

(2) in subsection (c)—

(A) in paragraph (1), by inserting "(including bonus commodities)" after "commodities";

(B) in paragraph (2), by inserting "(including bonus commodities)" after "commodities";

(C) in paragraph (3), by inserting "(including bonus commodities)" after "products"; and

(D) by adding at the end the following:

"(4) Among the commodities provided under this subsection, the Secretary of Agriculture shall give special emphasis to foods of high nutritional value to support the health of older individuals. The Secretary of Agriculture, in consultation with the Assistant Secretary, is authorized to prescribe the terms and conditions respecting the provision of commodities under this subsection.";

Commodities.

(3) in subsection (d), to read as follows:

"(d)(1) Amounts provided under subsection (b) shall be available only for the purchase, by State agencies, recipients of grants and contracts from the State agencies (as applicable), and title VI grantees, of United States agricultural commodities and other foods for their respective nutrition projects, subject to paragraph (2).

"(2) An entity specified in paragraph (1) may, at the option of such entity, use part or all of the amounts received by the entity under subsection (b) to pay a school food authority (within the meaning of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)) to obtain United States agricultural commodities for such entity's nutrition projects, in accordance with an agreement between the entity and the school food authority, under which such payments—

"(A) shall cover the cost of such commodities; and

"(B) may cover related expenses incurred by the school food authority, including the cost of transporting, distributing, processing, storing, and handling such commodities.";

(4) in subsection (e), by striking "2001" and inserting "2007"; and

(5) in subsection (f)—

(A) in the matter preceding paragraph (1), by striking "the Secretary of Agriculture and the Secretary of Health and Human Services" and inserting "the Assistant Secretary and the Secretary of Agriculture"; and

(B) by striking paragraphs (1) and (2) and inserting the following:

"(1) school food authorities participating in programs authorized under the Richard B. Russell National School Lunch Act within the geographic area served by each such State agency, area agency on aging, and provider; and

"(2) the foods available to such State agencies, area agencies on aging, and providers under subsection (c).".

**SEC. 310. CONSUMER CONTRIBUTIONS.**

Section 315 of the Older Americans Act of 1965 (42 U.S.C. 3030c–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "provided that" and inserting "if"; and

(ii) by adding at the end the following: "Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line, at contribution levels based on the actual cost of services."; and

(B) in paragraph (4)(E), by inserting "and to supplement (not supplant) funds received under this Act" after "given";

(2) in subsection (c)(2), by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(3) in subsection (d), by striking "with particular attention to low-income and minority older individuals and older individuals residing in rural areas" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)".

**SEC. 311. SUPPORTIVE SERVICES AND SENIOR CENTERS.**

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (8), by inserting "(including mental health screening)" after "screening";

(2) in paragraph (11), by striking "services" and inserting "provision of services and assistive devices (including provision of assistive technology services and assistive technology devices)";

(3) in paragraph (14)(B) by inserting "(including mental health)" after "health";

(4) in paragraph (21)—

(A) by striking "school-age children" and inserting "students"; and

(B) by inserting "services for older individuals with limited English proficiency and" after "including";

(5) in paragraph (22) by striking the period at the end and inserting a semicolon;

(6) by redesignating paragraph (23) as paragraph (25); and

(7) by inserting after paragraph (22) the following:

"(23) services designed to support States, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment;

"(24) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and".

**SEC. 312. NUTRITION SERVICE.**

After the part heading of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.), insert the following:

**"SEC. 330. PURPOSES.**

42 USC 3030d–21.

"The purposes of this part are—

"(1) to reduce hunger and food insecurity;

"(2) to promote socialization of older individuals; and

"(3) to promote the health and well-being of older individuals by assisting such individuals to gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior.".

**SEC. 313. CONGREGATE NUTRITION PROGRAM.**

Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—

(1) by striking "projects—" and inserting "projects that—";

(2) in paragraph (1), by striking "which,";

(3) in paragraph (2), by striking "which"; and

(4) by striking paragraph (3), and inserting the following:

"(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants.".

**SEC. 314. HOME DELIVERED NUTRITION SERVICES.**

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended to read as follows:

Grants.

**"SEC. 336. PROGRAM AUTHORIZED.**

"The Assistant Secretary shall establish and carry out a program to make grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals that provide—

"(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental foods and any additional meals that the recipient of a grant or contract under this subpart elects to provide; and

"(2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.".

**SEC. 315. CRITERIA.**

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended to read as follows:

**"SEC. 337. CRITERIA.**

"The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning and food service management, and aging, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336.".

**SEC. 316. NUTRITION.**

Section 339 of the Older Americans Act of 1965 (42 U.S.C. 3030g–21) is amended—

(1) in paragraph (1), to read as follows:

"(1) solicit the expertise of a dietitian or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, and"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), to read as follows:

"(i) comply with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and"; and

(ii) in clause (ii)(I), by striking "daily recommended dietary allowances as" and inserting "dietary reference intakes";

(B) in subparagraph (D), by inserting "joint" after "encourages";

(C) in subparagraph (G), to read as follows:

"(G) ensures that meal providers solicit the advice and expertise of—

"(i) a dietitian or other individual described in paragraph (1),

"(ii) meal participants, and

"(iii) other individuals knowledgeable with regard to the needs of older individuals,";

(D) in subparagraph (H), by striking "and accompany";

(E) in subparagraph (I), by striking "and" at the end; and

(F) by striking subparagraph (J) and inserting the following:

"(J) provides for nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate, and

"(K) encourages individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care professionals, such as informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals' communities.".

**SEC. 317. STUDY OF NUTRITION PROJECTS.**

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary for Aging shall use funds allocated in section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) to enter into a contract with the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, for the purpose of establishing an independent panel of experts that will conduct an evidence-based study of the nutrition projects authorized by such Act. Contracts.

(2) STUDY.—Such study shall, to the extent data are available, include—

(A) an evaluation of the effect of the nutrition projects authorized by such Act on—

(i) improvement of the health status, including nutritional status, of participants in the projects;

(ii) prevention of hunger and food insecurity of the participants; and

(iii) continuation of the ability of the participants to live independently;

(B) a cost-benefit analysis of nutrition projects authorized by such Act, including the potential to affect costs

of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(C) an analysis of how and recommendations for how nutrition projects authorized by such Act may be modified to improve the outcomes described in subparagraph (A), including recommendations for improving the nutritional quality of the meals provided through the projects and undertaking other potential strategies to improve the nutritional status of the participants.

(b) REPORTS.—

(1) REPORT TO THE ASSISTANT SECRETARY.—The panel described in subsection (a)(1) shall submit to the Assistant Secretary a report containing the results of the evidence-based study described in subsection (a), including any recommendations described in subsection (a)(2)(C).

(2) REPORT TO CONGRESS.—The Assistant Secretary shall submit a report containing the results described in paragraph (1) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

**SEC. 318. SENSE OF CONGRESS RECOGNIZING THE CONTRIBUTION OF NUTRITION TO THE HEALTH OF OLDER ADULTS.**

(a) FINDINGS.—Congress finds that—

(1) good nutrition is vital to good health, and a diet based on the Dietary Guidelines for Americans may reduce the risk of chronic diseases such as cardiovascular disease, osteoporosis, diabetes, macular degeneration, and cancer;

(2) the American Dietetic Association and the American Academy of Family Physicians have estimated that the percentage of older adults who are malnourished is estimated at 20 to 60 percent for those who are in home care and at 40 to 85 percent for those who are in nursing homes;

(3) the Institute of Medicine of the National Academy of Sciences has estimated that approximately 40 percent of community-residing persons age 65 and older have inadequate nutrient intakes;

(4) older adults are susceptible to nutrient deficiencies for a number of reasons, including a reduced capacity to absorb and utilize nutrients, difficulty chewing, and loss of appetite;

(5) while diet is the preferred source of nutrition, evidence suggests that the use of a single daily multivitamin-mineral supplement may be an effective way to address nutritional gaps that exist among the elderly population, especially the poor; and

(6) the Dietary Guidelines for Americans state that multivitamin-mineral supplements may be useful when they fill a specific identified nutrient gap that cannot be or is not otherwise being met by the individual's intake of food.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) meal programs funded by the Older Americans Act of 1965 contribute to the nutritional health of older adults;

(2) when the nutritional needs of older adults are not fully met by diet, use of a single, daily multivitamin-mineral supplement may help prevent nutrition deficiencies common in many older adults;

(3) use of a single, daily multivitamin-mineral supplement can be a safe and inexpensive strategy to help ensure the nutritional health of older adults; and

(4) nutrition service providers under the Older Americans Act of 1965 should consider whether individuals participating in congregate and home-delivered meal programs would benefit from a single, daily multivitamin-mineral supplement that is in compliance with all applicable government quality standards and provides at least ⅔ of the essential vitamins and minerals at 100 percent of the daily value levels as determined by the Commissioner of Food and Drugs.

**SEC. 319. IMPROVING INDOOR AIR QUALITY IN BUILDINGS WHERE OLDER INDIVIDUALS CONGREGATE.**

Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended by adding at the end the following:

"(c) The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.".

**SEC. 320. CAREGIVER SUPPORT PROGRAM DEFINITIONS.**

Section 372 of the National Family Caregiver Support Act (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting "or who is an individual with a disability" after "age";

(2) in paragraph (3)—

(A) by striking "a child by blood or marriage" and inserting "a child by blood, marriage, or adoption"; and

(B) by striking "60" and inserting "55";

(3) by inserting before "In this subpart" the following: "(a) IN GENERAL.—";

(4) by striking paragraph (2);

(5) by redesignating paragraph (3) as paragraph (2);

(6) by adding at the end the following:

"(b) RULE.—In providing services under this subpart—

"(1) for family caregivers who provide care for individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction, the State involved shall give priority to caregivers who provide care for older individuals with such disease or disorder; and

"(2) for grandparents or older individuals who are relative caregivers, the State involved shall give priority to caregivers who provide care for children with severe disabilities.".

**SEC. 321. CAREGIVER SUPPORT PROGRAM.**

Section 373 of the National Family Caregiver Support Act (42 U.S.C. 3030s–1) is amended—

(1) in subsection (b)(3), by striking "caregivers to assist" and all that follows through the end and inserting the following: "assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles;";

(2) in subsection (c)—

(A) in paragraph (1)(B), by striking "subparagraph (A)(i) or (B) of section 102(28)" and inserting "subparagraph (A)(i) or (B) of section 102(22)"; and

(B) by striking paragraph (2) and inserting the following:

"(2) PRIORITY.—In providing services under this subpart, the State, in addition to giving the priority described in section 372(b), shall give priority—

"(A) to caregivers who are older individuals with greatest social need, and older individuals with greatest economic need (with particular attention to low-income older individuals); and

"(B) to older individuals providing care to individuals with severe disabilities, including children with severe disabilities.";

(3) in subsection (d), to read as follows:

"(d) USE OF VOLUNTEERS.—In carrying out this subpart, each area agency on aging shall make use of trained volunteers to expand the provision of the available services described in subsection (b) and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.";

(4) in subsection (e)(3), by adding at the end the following: "The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or grandparents or older individuals who are relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities.";

Reports.

(5) in subsection (f)(1), by striking "2001 through 2005" and inserting "2007, 2008, 2009, 2010, and 2011"; and

(6) in subsection (g)(2)(C), by inserting "of a child who is not more than 18 years of age" before the period at the end.

42 USC 3030s–11, 3030s–12.

**SEC. 322. NATIONAL INNOVATION.**

Subpart 2 of part E of title III of the Older Americans Act of 1965 (42 U.S.C. 3030s–11 et seq.) is repealed.

# TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY

**SEC. 401. TITLE.**

The Older Americans Act of 1965 is amended by inserting before section 401 (42 U.S.C. 3031) the following:

# "TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY".

**SEC. 402. GRANT PROGRAMS.**

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) by redesignating paragraph (9) as paragraph (13); and

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

"(9) planning activities to prepare communities for the aging of the population, which activities may include—

"(A) efforts to assess the aging population;

"(B) activities to coordinate the activities of State and local agencies in order to meet the needs of older individuals; and

"(C) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under title VI, in engaging in community planning activities;

"(10) the development, implementation, and assessment of technology-based service models and best practices, to support the use of health monitoring and assessment technologies, communication devices, assistive technologies, and other technologies that may remotely connect family and professional caregivers to frail older individuals residing in home and community-based settings or rural areas;

"(11) conducting activities of national significance to promote quality and continuous improvement in the support provided to family and other informal caregivers of older individuals through activities that include program evaluation, training, technical assistance, and research, including—

"(A) programs addressing unique issues faced by rural caregivers;

"(B) programs focusing on the needs of older individuals with cognitive impairment such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their caregivers; and

"(C) programs supporting caregivers in the role they play in providing disease prevention and health promotion services;

"(12) building public awareness of cognitive impairments such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, depression, and mental disorders; and"; and

(2) in subsection (b), by striking "year" and all that follows through "years" and inserting "years 2007, 2008, 2009, 2010, and 2011".

**SEC. 403. CAREER PREPARATION FOR THE FIELD OF AGING.**

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032a(a)) is amended to read as follows:

"(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black colleges or universities, Hispanic-serving institutions, and Hispanic Centers of Excellence in Applied Gerontology, to provide education and training that prepares students for careers in the field of aging.". Minorities.

**SEC. 404. HEALTH CARE SERVICE DEMONSTRATION PROJECTS IN RURAL AREAS.**

Section 414 of the Older Americans Act of 1965 (42 U.S.C. 3032c) is amended—

(1) in subsection (a), by inserting "mental health services," after "care,"; and

(2) in subsection (b)(1)(B)(i), by inserting "mental health," after "health,".

**SEC. 405. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.**

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032e) is amended to read as follows:

**"SEC. 416. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.**

"(a) IN GENERAL.—The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

"(2) SPECIFIC ACTIVITIES.—In carrying out a demonstration project or providing technical assistance under paragraph (1) the organization may carry out activities that include—

"(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

"(B) preparing information on transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number;

"(C) developing models and best practices for providing comprehensive integrated transportation services for older individuals, including services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

"(D) providing special services to link older individuals to transportation services not provided under title III.

"(c) ECONOMICALLY SUSTAINABLE TRANSPORTATION.—In this section, the term 'economically sustainable transportation' means demand responsive transportation for older individuals—

"(1) that may be provided through volunteers; and

"(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.".

**SEC. 406. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.**

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

**"SEC. 417. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL AND CIVIC ENGAGEMENT ACTIVITIES.**

"(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to carry out projects to—

"(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities designed to meet critical community needs, and use the full range of time, skills, and experience of older individuals, including demonstration and support projects that—

"(A) provide support for grandparents and other older individuals who are relative caregivers raising children (such as kinship navigator programs); or

"(B) involve volunteers who are older individuals who provide support and information to families who have a child with a disability or chronic illness, or other families in need of such family support; and

"(2) coordinate multigenerational activities and civic engagement activities, promote volunteerism, and facilitate development of and participation in multigenerational activities and civic engagement activities.

"(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under this section to—

"(1) carry out a project described in subsection (a); and

"(2) evaluate the project in accordance with subsection (f).

"(c) PREFERENCE.—In awarding grants and entering into contracts to carry out a project described in subsection (a), the Assistant Secretary shall give preference to—

"(1) eligible organizations with a demonstrated record of carrying out multigenerational activities or civic engagement activities;

"(2) eligible organizations proposing multigenerational activity projects that will serve older individuals and communities with the greatest need (with particular attention to low-income minority individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

"(3) eligible organizations proposing civic engagement projects that will serve communities with the greatest need; and

"(4) eligible organizations with the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and nonprofit organizations.

"(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such

manner, and accompanied by such information as the Assistant Secretary may reasonably require.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a)—

"(1) to carry out activities described in subsection (a)(1), shall be organizations that provide opportunities for older individuals to participate in activities described in subsection (a)(1); and

"(2) to carry out activities described in subsection (a)(2), shall be organizations with the capacity to conduct the coordination, promotion, and facilitation described in subsection (a)(2), through the use of multigenerational coordinators.

"(f) LOCAL EVALUATION AND REPORT.—

"(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a project described in subsection (a) shall evaluate the multigenerational activities or civic engagement activities carried out under the project to determine—

"(A) the effectiveness of the activities involved;

"(B) the impact of such activities on the community being served and the organization providing the activities; and

"(C) the impact of such activities on older individuals involved in such project.

"(2) REPORT.—The organization shall submit a report to the Assistant Secretary containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

"(g) REPORT TO CONGRESS.—Not later than 6 months after the Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

"(1) the names or descriptive titles of the projects funded under subsection (a);

"(2) a description of the nature and operation of the projects;

"(3) the names and addresses of organizations that conducted the projects;

"(4) in the case of projects carried out under subsection (a)(1), a description of the methods and success of the projects in recruiting older individuals as employees and as volunteers to participate in the projects;

"(5) in the case of projects carried out under subsection (a)(1), a description of the success of the projects in retaining older individuals participating in the projects as employees and as volunteers;

"(6) in the case of projects carried out under subsection (a)(1), the rate of turnover of older individual employees and volunteers in the projects;

"(7) a strategy for disseminating the findings resulting from the projects described in paragraph (1); and

"(8) any policy change recommendations relating to the projects.

"(h) DEFINITIONS.—As used in this section:

"(1) MULTIGENERATIONAL ACTIVITY.—The term 'multigenerational activity' means an activity that provides an opportunity for interaction between 2 or more individuals of different generations, including activities connecting older individuals and youth in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, a before- or after-school program, a library program, or a family support program.

"(2) MULTIGENERATIONAL COORDINATOR.—The term 'multigenerational coordinator' means a person who—

"(A) builds the capacity of public and nonprofit organizations to develop meaningful roles and assignments, that use the time, skill, and experience of older individuals to serve those organizations; and

"(B) nurtures productive, sustainable working relationships between—

"(i) individuals from the generations with older individuals; and

"(ii) individuals in younger generations.".

**SEC. 407. NATIVE AMERICAN PROGRAMS.**

Section 418(a)(2)(B)(i) of the Older Americans Act of 1965 (42 U.S.C. 3032g(a)(2)(B)(i)) is amended by inserting "(including mental health)" after "health".

**SEC. 408. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.**

Section 419 of the Older Americans Act of 1965 (42 U.S.C. 3032h) is amended—

(1) by striking the title and inserting the following:

**"SEC. 419. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.";**

(2)(A) in subsection (b)(2), by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) in subsection (c)(2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively; and

(C) by aligning the margins of the clauses described in subparagraphs (A) and (B) with the margins of clause (iv) of section 418(a)(2)(A) of such Act;

(3)(A) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraph (D) of section 420(a)(1) of such Act;

(4) in subsection (a), by striking "(a)" and all that follows through "The" and inserting the following:

"(a) MULTIDISCIPLINARY CENTERS.—

"(1) PROGRAM AUTHORIZED.—The";

(5) in subsection (b)—

(A) by striking the following:

"(b) USE OF FUNDS.—" and inserting the following:

"(2) USE OF FUNDS.—"; and

(B) by striking "subsection (a)" each place it appears and inserting "paragraph (1)";

(6) in subsection (c)—

(A) by striking the following:

"(c) DATA.—" and inserting the following:

"(3) DATA.—";

(B) by striking "subsection (a)" and inserting "paragraph (1)";

(C) by striking "such subsection" and inserting "such paragraph";

(D) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(E) by striking "this section" and inserting "this subsection";

(7) in subsection (a) (as so redesignated)—

(A) in paragraph (1), by inserting "diverse populations of older individuals residing in urban communities," after "minority populations,";

(B) in paragraph (2)(B)—

(C)(i) in clause (v), by inserting ", including information about best practices in long-term care service delivery, housing, and transportation" before the semicolon at the end;

(ii) in clause (vi)—

(I) by striking "consultation and";

(II) by inserting "and other technical assistance" after "information"; and

(III) by striking "and" at the end;

(iii) in clause (vii), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(viii) provide training and technical assistance to support the provision of community-based mental health services for older individuals."; and

(8) by adding at the end the following:

"(b) MULTIDISCIPLINARY HEALTH SERVICES IN COMMUNITIES.—

Grants.

"(1) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, on a competitive basis, for the development and operation of—

"(A) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

"(B) programs to—

"(i) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

"(ii) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

"(iii) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection for a State, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

"(3) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this subsection shall allocate the funds to area agencies on aging to carry

out this subsection in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

"(A) that are medically underserved; and

"(B) in which there are large numbers of older individuals.

"(4) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this subsection, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

"(A) coordinate services described in subparagraphs (A) and (B) of paragraph (1) with such services or similar or related services of other community agencies, and voluntary organizations; and

"(B) to the greatest extent practicable, integrate outreach and educational activities with such activities of existing (as of the date of the integration) social service and health care (including mental health) providers serving older individuals in the planning and service area involved.

"(5) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this subsection shall supplement, and not supplant, any Federal, State, and local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide the services described in subparagraphs (A) and (B) of paragraph (1).

"(6) DEFINITION.—In this subsection, the term 'mental health screening and treatment services' means patient screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals, that are—

"(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals; and

"(B) coordinated and integrated with the services of social service and health care (including mental health) providers in an area in order to—

"(i) improve patient outcomes; and

"(ii) ensure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.".

**SEC. 409. COMMUNITY INNOVATIONS FOR AGING IN PLACE.**

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended by adding at the end the following:

**"SEC. 422. COMMUNITY INNOVATIONS FOR AGING IN PLACE.** 42 USC 3032k.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity'—

"(A) means a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging or other local government agency, a tribal organization, or another entity that—

"(i) the Assistant Secretary determines to be appropriate to carry out a project under this part; and

"(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals; and

"(B) does not include an entity providing housing under the congregate housing services program carried out under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) or the multifamily service coordinator program carried out under section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)).

"(2) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'Naturally Occurring Retirement Community' means a community with a concentrated population of older individuals, which may include a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood composed of age-integrated housing—

"(A) where—

"(i) 40 percent of the heads of households are older individuals; or

"(ii) a critical mass of older individuals exists, based on local factors that, taken in total, allow an organization to achieve efficiencies in the provision of health and social services to older individuals living in the community; and

"(B) that is not an institutional care or assisted living setting.

"(b) GRANTS.—

"(1) IN GENERAL.—The Assistant Secretary shall make grants, on a competitive basis, to eligible entities to develop and carry out model aging in place projects. The projects shall promote aging in place for older individuals (including such individuals who reside in Naturally Occurring Retirement Communities), in order to sustain the independence of older individuals. A recipient of a grant under this subsection shall identify innovative strategies for providing, and linking older individuals to programs and services that provide, comprehensive and coordinated health and social services to sustain the quality of life of older individuals and support aging in place.

"(2) GRANT PERIODS.—The Assistant Secretary shall make the grants for periods of 3 years.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (b) for a project, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

"(2) CONTENTS.—The application shall include—

"(A) a detailed description of the entity's experience in providing services to older individuals in age-integrated settings;

"(B) a definition of the contiguous service area and a description of the project area in which the older individuals reside or carry out activities to sustain their well-being;

"(C) the results of a needs assessment that identifies—

"(i) existing (as of the date of the assessment) community-based health and social services available to individuals residing in the project area;

"(ii) the strengths and gaps of such existing services in the project area;

"(iii) the needs of older individuals who reside in the project area; and

"(iv) services not being delivered that would promote aging in place and contribute to the well-being of older individuals residing in the project area;

"(D) a plan for the development and implementation of an innovative model for service coordination and delivery within the project area;

"(E) a description of how the plan described in subparagraph (D) will enhance existing services described in subparagraph (C)(i) and support the goal of this section to promote aging in place;

"(F) a description of proposed actions by the entity to prevent the duplication of services funded under a provision of this Act, other than this section, and a description of how the entity will cooperate, and coordinate planning and services (including any formal agreements), with agencies and organizations that provide publicly supported services for older individuals in the project area, including the State agency and area agencies on aging with planning and service areas in the project area;

"(G) an assurance that the entity will seek to establish cooperative relationships with interested local entities, including private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

"(H) a description of the entity's protocol for referral of residents who may require long-term care services, including coordination with local agencies, including area agencies on aging and Aging and Disability Resource Centers that serve as single points of entry to public services;

"(I) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

"(J) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require; and

"(K) a plan for long-term sustainability of the project.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to—

"(A) ensure access by older individuals in the project area to community-based health and social services consisting of—

"(i) case management, case assistance, and social work services;

"(ii) health care management and health care assistance, including disease prevention and health promotion services;

"(iii) education, socialization, and recreational activities; and

"(iv) volunteer opportunities for project participants;

"(B) conduct outreach to older individuals within the project area; and

"(C) develop and implement innovative, comprehensive, and cost-effective approaches for the delivery and coordination of community-based health and social services, including those identified in subparagraph (A)(iv), which may include mental health services, for eligible older individuals.

"(2) COORDINATION.—An eligible entity receiving a grant under subsection (b) for a project shall coordinate activities with organizations providing services funded under title III to support such services for or facilitate the delivery of such services to eligible older individuals served by the project.

"(3) PREFERENCE.—In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve a community of low-income individuals and operate or locate the project and services in or in close proximity to a location where a large concentration of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

"(4) SUPPLEMENT NOT SUPPLANT.—Funds made available to an eligible entity under subsection (b) shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

"(e) COMPETITIVE GRANTS FOR TECHNICAL ASSISTANCE.—

"(1) GRANTS.—The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to)—

"(A) provide technical assistance to recipients of grants under subsection (b); and

"(B) carry out other duties, as determined by the Assistant Secretary.

"(2) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization (including a partnership of nonprofit organizations), that—

"(A) has experience and expertise in providing technical assistance to a range of entities serving older individuals and experience evaluating and reporting on programs; and

"(B) has demonstrated knowledge of and expertise in community-based health and social services.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an organization (including a partnership of nonprofit organizations) shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the organization will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

"(f) REPORT.—The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

"(1) the findings resulting from the evaluations of the model projects conducted under this section;

"(2) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

"(3) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.".

**SEC. 410. RESPONSIBILITIES OF ASSISTANT SECRETARY.**

Section 432(c)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3033a(c)(2)(B)) is amended by inserting ", including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in such services, projects, and programs and in the strategic plan of the Administration" before the period at the end.

# TITLE V—OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

**SEC. 501. COMMUNITY SERVICE SENIOR OPPORTUNITIES ACT.**

Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) is amended to read as follows:

## "TITLE V—COMMUNITY SERVICE SENIOR OPPORTUNITIES ACT

Community Service Senior Opportunities Act.

**"SEC. 501. SHORT TITLE.**

42 USC 3001 note.

"This title may be cited as the 'Community Service Senior Opportunities Act'.

**"SEC. 502. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.**

42 USC 3056.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT OF PROGRAM.—To foster individual economic self-sufficiency and promote useful opportunities in community service activities (which shall include community service employment) for unemployed low-income persons who are age 55 or older, particularly persons who have poor employment prospects, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (referred to in this title as the 'Secretary') may establish an older American community service employment program.

"(2) USE OF APPROPRIATED AMOUNTS.—Amounts appropriated to carry out this title shall be used only to carry out the provisions contained in this title.

"(b) GRANT AUTHORITY.—

"(1) PROJECTS.—To carry out this title, the Secretary may make grants to public and nonprofit private agencies and organizations, agencies of a State, and tribal organizations to carry out the program established under subsection (a). Such grants may provide for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make such program effective or to supplement such program. The Secretary shall make the grants from allotments made under section 506, and in accordance with section 514. No payment shall be made by the Secretary toward the cost of any project established or administered by such an organization or agency unless the Secretary determines that such project—

"(A) will provide community service employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, and such personnel will, to the fullest extent possible, be recruited from among eligible individuals;

"(B)(i) will provide community service employment and other authorized activities for eligible individuals in the community in which such individuals reside, or in nearby communities; or

"(ii) if such project is carried out by a tribal organization that receives a grant under this subsection or receives assistance from a State that receives a grant under this subsection, will provide community service employment and other authorized activities for such individuals, including those who are Indians residing on an Indian reservation, as defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501);

"(C) will comply with an average participation cap for eligible individuals (in the aggregate) of—

"(i) 27 months; or

"(ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project area for such grantee, up to a period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 513(a)(2)(D) that justify such an extended period for the program year involved;

"(D) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by nonprofit organizations (excluding political parties exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986), but excluding projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

"(E) will contribute to the general welfare of the community, which may include support for children, youth, and families;

"(F) will provide community service employment and other authorized activities for eligible individuals;

"(G)(i) will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program;

"(ii) will not displace currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits);

"(iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

"(iv) will not employ or continue to employ any eligible individual to perform the same work or substantially the same work as that performed by any other individual who is on layoff;

"(H) will coordinate activities with training and other services provided under title I of the Workforce Investment

Act of 1998 (29 U.S.C. 2801 et seq.), including utilizing the one-stop delivery system of the local workforce investment areas involved to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project;

"(I) will include such training (such as work experience, on-the-job training, and classroom training) as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance equivalent to the wage described in subparagraph (J);

"(J) will ensure that safe and healthy employment conditions will be provided, and will ensure that participants employed in community service and other jobs assisted under this title will be paid wages that shall not be lower than whichever is the highest of—

"(i) the minimum wage that would be applicable to such a participant under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)) applied to the participant and if the participant were not exempt under section 13 of such Act (29 U.S.C. 213);

"(ii) the State or local minimum wage for the most nearly comparable covered employment; or

"(iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

"(K) will be established or administered with the advice of persons competent in the field of service in which community service employment or other authorized activities are being provided, and of persons who are knowledgeable about the needs of older individuals;

"(L) will authorize payment for necessary supportive services costs (including transportation costs) of eligible individuals that may be incurred in training in any project funded under this title, in accordance with rules issued by the Secretary;

"(M) will ensure that, to the extent feasible, such project will serve the needs of minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

"(N)(i) will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

"(ii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

"(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

"(O) will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce investment areas involved as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c));

"(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

"(i) clarifying the law with respect to political activities allowable and unallowable under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project; and

"(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

"(Q) will provide to the Secretary the description and information described in—

"(i) paragraph (8), relating to coordination with other Federal programs, of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)); and

"(ii) paragraph (14), relating to implementation of one-stop delivery systems, of section 112(b) of the Workforce Investment Act of 1998; and

"(R) will ensure that entities that carry out activities under the project (including State agencies, local entities, subgrantees, and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient.

"(2) REGULATIONS.—The Secretary may establish, issue, and amend such regulations as may be necessary to effectively carry out this title.

"(3) ASSESSMENT AND SERVICE STRATEGIES.—

"(A) PREPARED UNDER THIS ACT.—An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such

eligible individual also qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 2864(d)).

"(B) PREPARED UNDER WORKFORCE INVESTMENT ACT OF 1998.—An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) for an eligible individual may be used to comply with the requirement specified in subparagraph (A).

"(c) FEDERAL SHARE AND USE OF FUNDS.—

"(1) FEDERAL SHARE.—The Secretary may pay a Federal share not to exceed 90 percent of the cost of any project for which a grant is made under subsection (b), except that the Secretary may pay all of such cost if such project is—

"(A) an emergency or disaster project; or

"(B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

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

"(3) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Of the grant amount to be paid under this subsection by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the administrative costs of such project, except that—

"(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount if the Secretary determines, based on information submitted by the grantee under subsection (b), that such increase is necessary to carry out such project; and

"(B) if the grantee under subsection (b) demonstrates to the Secretary that—

"(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and costs associated with other operation requirements imposed by the Secretary;

"(ii) the number of community service employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available to pay the administrative costs is not increased; or

"(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the administrative costs to an amount not to exceed 15 percent of the grant amount.

"(4) ADMINISTRATIVE COSTS.—For purposes of this title, administrative costs are the costs, both personnel-related and

nonpersonnel-related and both direct and indirect, associated with the following:

"(A) The costs of performing general administrative functions and of providing for the coordination of functions, such as the costs of—

"(i) accounting, budgeting, and financial and cash management;

"(ii) procurement and purchasing;

"(iii) property management;

"(iv) personnel management;

"(v) payroll functions;

"(vi) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;

"(vii) audits;

"(viii) general legal services;

"(ix) developing systems and procedures, including information systems, required for administrative functions;

"(x) preparing administrative reports; and

"(xi) other activities necessary for the general administration of government funds and associated programs.

"(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

"(C) The costs of goods and services required for administrative functions of the project involved, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.

"(D) The travel costs incurred for official business in carrying out administrative activities or overall management.

"(E) The costs of information systems related to administrative functions (such as personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems.

"(F) The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

"(5) NON-FEDERAL SHARE OF ADMINISTRATIVE COSTS.—To the extent practicable, an entity that carries out a project under this title shall provide for the payment of the expenses described in paragraph (4) from non-Federal sources.

"(6) USE OF FUNDS FOR WAGES AND BENEFITS AND PROGRAMMATIC ACTIVITY COSTS.—

"(A) IN GENERAL.—Amounts made available for a project under this title that are not used to pay for the administrative costs shall be used to pay for the costs of programmatic activities, including the costs of—

"(i) participant wages, such benefits as are required by law (such as workers' compensation or unemployment compensation), the costs of physical examinations, compensation for scheduled work hours during which an employer's business is closed for a Federal holiday, and necessary sick leave that is not

part of an accumulated sick leave program, except that no amounts provided under this title may be used to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses;

"(ii) participant training (including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition), which may be provided prior to or subsequent to placement and which may be provided on the job, in a classroom setting, or pursuant to other appropriate arrangements;

"(iii) job placement assistance, including job development and job search assistance;

"(iv) participant supportive services to enable a participant to successfully participate in a project under this title, which may include the payment of reasonable costs of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and

"(v) outreach, recruitment and selection, intake, orientation, and assessments.

"(B) USE OF FUNDS FOR WAGES AND BENEFITS.—From the funds made available through a grant made under subsection (b), a grantee under this title—

"(i) except as provided in clause (ii), shall use not less than 75 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this title; or

"(ii) that obtains approval for a request described in subparagraph (C) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

"(C) REQUEST TO USE ADDITIONAL FUNDS FOR PROGRAMMATIC ACTIVITY COSTS.—

"(i) IN GENERAL.—A grantee may submit to the Secretary a request for approval—

"(I) to use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i);

"(II) to use the percentage of grant funds described in paragraph (3) to pay for administrative costs, as specified in that paragraph;

"(III) to use not more than 10 percent of the grant funds for individual participants to provide activities described in clauses (ii) and (iv) of subparagraph (A), in which case the grantee shall provide (from the funds described in this subclause) the subsistence allowance described in subsection (b)(1)(I) for those individual participants who are receiving training described in that subsection from the funds described in this subclause, but may not use the funds described in this subclause to pay for any administrative costs; and

"(IV) to use the remaining grant funds to provide activities described in clauses (ii) through (v) of subparagraph (A).

"(ii) CONTENTS.—In submitting the request the grantee shall include in the request—

"(I) a description of the activities for which the grantee will spend the grant funds described in subclauses (III) and (IV) of clause (i), consistent with those subclauses;

"(II) an explanation documenting how the provision of such activities will improve the effectiveness of the project, including an explanation concerning whether any displacement of eligible individuals or elimination of positions for such individuals will occur, information on the number of such individuals to be displaced and of such positions to be eliminated, and an explanation concerning how the activities will improve employment outcomes for individuals served, based on the assessment conducted under subsection (b)(1)(N); and

"(III) a proposed budget and work plan for the activities, including a detailed description of the funds to be spent on the activities described in subclauses (III) and (IV) of clause (i).

Deadlines.

"(iii) SUBMISSION.—The grantee shall submit a request described in clause (i) not later than 90 days before the proposed date of implementation contained in the request. Not later than 30 days before the proposed date of implementation, the Secretary shall approve, approve as modified, or reject the request, on the basis of the information included in the request as described in clause (ii).

"(D) REPORT.—Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantee's use of funds for activities described in clauses (i) through (v) of subparagraph (A).

Deadline.

"(d) PROJECT DESCRIPTION.—Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this title.

"(e) PILOT, DEMONSTRATION, AND EVALUATION PROJECTS.—

"(1) IN GENERAL.—The Secretary, in addition to exercising any other authority contained in this title, shall use funds reserved under section 506(a)(1) to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of the techniques and approaches, in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such agreements with States, public agencies, nonprofit private

Contracts.

organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project, for the appropriate area agency on aging to submit comments on such a project in order to ensure coordination of activities under this title.

"(2) PROJECTS.—Such projects may include—

"(A) activities linking businesses and eligible individuals, including activities providing assistance to participants transitioning from subsidized activities to private sector employment;

"(B) demonstration projects and pilot projects designed to—

"(i) attract more eligible individuals into the labor force;

"(ii) improve the provision of services to eligible individuals under one-stop delivery systems established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(iii) enhance the technological skills of eligible individuals; and

"(iv) provide incentives to grantees under this title for exemplary performance and incentives to businesses to promote their participation in the program under this title;

"(C) demonstration projects and pilot projects, as described in subparagraph (B), for workers who are older individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;

"(D) provision of training and technical assistance to support any project funded under this title;

"(E) dissemination of best practices relating to employment of eligible individuals; and

"(F) evaluation of the activities authorized under this title.

"(3) CONSULTATION.—To the extent practicable, entities carrying out projects under this subsection shall consult with appropriate area agencies on aging and with other appropriate agencies and entities to promote coordination of activities under this title.

**"SEC. 503. ADMINISTRATION.** 42 USC 3056a.

"(a) STATE PLAN.—

"(1) GOVERNOR.—For a State to be eligible to receive an allotment under section 506, the Governor of the State shall submit to the Secretary for consideration and approval, a single State plan (referred to in this title as the 'State plan') that outlines a 4-year strategy for the statewide provision of community service employment and other authorized activities for eligible individuals under this title. The plan shall contain such provisions as the Secretary may require, consistent with this title, including a description of the process used to ensure the participation of individuals described in paragraph (2). Not

less often than every 2 years, the Governor shall review the State plan and submit an update to the State plan to the Secretary for consideration and approval.

"(2) RECOMMENDATIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

"(A) individuals representing the State agency and the area agencies on aging in the State, and the State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(B) individuals representing public and nonprofit private agencies and organizations providing employment services, including each grantee operating a project under this title in the State; and

"(C) individuals representing social service organizations providing services to older individuals, grantees under title III of this Act, affected communities, unemployed older individuals, community-based organizations serving the needs of older individuals, business organizations, and labor organizations.

"(3) COMMENTS.—Any State plan submitted by the Governor in accordance with paragraph (1) shall be accompanied by copies of public comments relating to the plan received pursuant to paragraph (7), and a summary of the comments.

"(4) PLAN PROVISIONS.—The State plan shall identify and address—

"(A) the relationship that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in the State;

"(B) the relative distribution of eligible individuals residing in rural and urban areas in the State; and

"(C) the relative distribution of—

"(i) eligible individuals who are individuals with greatest economic need;

"(ii) eligible individuals who are minority individuals;

"(iii) eligible individuals who are limited English proficient; and

"(iv) eligible individuals who are individuals with greatest social need;

"(D) the current and projected employment opportunities in the State (such as by providing information available under section 15 of the Wagner-Peyser Act (29 U.S.C. 49l–2) by occupation), and the type of skills possessed by local eligible individuals;

"(E) the localities and populations for which projects of the type authorized by this title are most needed; and

"(F) plans for facilitating the coordination of activities of grantees in the State under this title with activities carried out in the State under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

"(5) GOVERNOR'S RECOMMENDATIONS.—Before a proposal for a grant under this title for any fiscal year is submitted to the Secretary, the Governor of the State in which projects are proposed to be conducted under such grant shall be afforded a reasonable opportunity to submit to the Secretary—

"(A) recommendations regarding the anticipated effect of each such proposal upon the overall distribution of enrollment positions under this title in the State (including such distribution among urban and rural areas), taking into account the total number of positions to be provided by all grantees in the State;

"(B) any recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and

"(C) in the case of any increase in funding that may be available for use in the State under this title for the fiscal year, any recommendations for distribution of newly available positions in excess of those available during the preceding year to underserved areas.

"(6) DISRUPTIONS.—In developing a plan or considering a recommendation under this subsection, the Governor shall avoid disruptions in the provision of services for participants to the greatest possible extent.

"(7) DETERMINATION; REVIEW.—

"(A) DETERMINATION.—In order to effectively carry out this title, each State shall make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

Public comment.

"(B) REVIEW.—The Secretary may review, on the Secretary's own initiative or at the request of any public or private agency or organization or of any agency of the State, the distribution of projects and services under this title in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of projects or services in a State, the Secretary shall give notice and opportunity for public comment.

Public comment.

"(8) EXEMPTION.—The grantees that serve eligible individuals who are older Indians or Pacific Island and Asian Americans with funds reserved under section 506(a)(3) may not be required to participate in the State planning processes described in this section but shall collaborate with the Secretary to develop a plan for projects and services to eligible individuals who are Indians or Pacific Island and Asian Americans, respectively.

"(b) COORDINATION WITH OTHER FEDERAL PROGRAMS.—

"(1) IN GENERAL.—The Secretary and the Assistant Secretary shall coordinate the program carried out under this title with programs carried out under other titles of this Act, to increase employment opportunities available to older individuals.

"(2) PROGRAMS.—

"(A) IN GENERAL.—The Secretary shall coordinate programs carried out under this title with the program carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), and the Domestic Volunteer Service Act

of 1973 (42 U.S.C. 4950 et seq.). The Secretary shall coordinate the administration of this title with the administration of other titles of this Act by the Assistant Secretary to increase the likelihood that eligible individuals for whom employment opportunities under this title are available and who need services under such titles receive such services.

"(B) USE OF FUNDS.—

"(i) PROHIBITION.—Funds appropriated to carry out this title may not be used to carry out any program under the Workforce Investment Act of 1998, the Community Services Block Grant Act, the Rehabilitation Act of 1973, the Carl D. Perkins Career and Technical Education Act of 2006, the National and Community Service Act of 1990, or the Domestic Volunteer Service Act of 1973.

"(ii) JOINT ACTIVITIES.—Clause (i) shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in clause (i), or from carrying out section 511.

"(3) INFORMATIONAL MATERIALS ON AGE DISCRIMINATION.—The Secretary shall distribute to grantees under this title, for distribution to program participants, and at no cost to grantees or participants, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies that the Secretary determines are designed to help participants identify age discrimination and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

"(c) USE OF SERVICES, EQUIPMENT, PERSONNEL, AND FACILITIES.—In carrying out this title, the Secretary may use the services, equipment, personnel, and facilities of Federal and other agencies, with their consent, with or without reimbursement, and on a similar basis cooperate with other public and nonprofit private agencies and organizations in the use of services, equipment, and facilities.

"(d) PAYMENTS.—Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

"(e) NO DELEGATION OF FUNCTIONS.—The Secretary shall not delegate any function of the Secretary under this title to any other Federal officer or entity.

"(f) COMPLIANCE.—

"(1) MONITORING.—The Secretary shall monitor projects for which grants are made under this title to determine whether the grantees are complying with rules and regulations issued to carry out this title (including the statewide planning, consultation, and coordination requirements of this title).

"(2) COMPLIANCE WITH UNIFORM COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS.—Each grantee that receives funds under this title shall comply with the applicable uniform cost principles and appropriate administrative requirements for grants and contracts that are applicable to the type of entity that receives funds, as issued as circulars or rules of the Office of Management and Budget.

"(3) REPORTS.—Each grantee described in paragraph (2) shall prepare and submit a report in such manner and containing such information as the Secretary may require regarding activities carried out under this title.

"(4) RECORDS.—Each grantee described in paragraph (2) shall keep records that—

"(A) are sufficient to permit the preparation of reports required by this title;

"(B) are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully; and

"(C) contain any other information that the Secretary determines to be appropriate.

"(g) EVALUATIONS.—The Secretary shall establish by rule and implement a process to evaluate, in accordance with section 513, the performance of projects carried out and services provided under this title. The Secretary shall report to Congress, and make available to the public, the results of each such evaluation and shall use such evaluation to improve services delivered by, or the operation of, projects carried out under this title.

Regulations.

Reports. Public information.

**"SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.**

42 USC 3056b.

"(a) INAPPLICABILITY OF CERTAIN PROVISIONS COVERING FEDERAL EMPLOYEES.—Eligible individuals who are participants in any project funded under this title shall not be considered to be Federal employees as a result of such participation and shall not be subject to part III of title 5, United States Code.

"(b) WORKERS' COMPENSATION.—No grant or subgrant shall be made and no contract or subcontract shall be entered into under this title with an entity who is, or whose employees are, under State law, exempted from operation of the State workers' compensation law, generally applicable to employees, unless the entity shall undertake to provide either through insurance by a recognized carrier or by self-insurance, as authorized by State law, that the persons employed under the grant, subgrant, contract, or subcontract shall enjoy workers' compensation coverage equal to that provided by law for covered employment.

**"SEC. 505. INTERAGENCY COOPERATION.**

42 USC 3056c.

"(a) CONSULTATION WITH THE ASSISTANT SECRETARY.—The Secretary shall consult with and obtain the written views of the Assistant Secretary before issuing rules and before establishing general policy in the administration of this title.

"(b) CONSULTATION WITH HEADS OF OTHER AGENCIES.—The Secretary shall consult and cooperate with the Secretary of Health and Human Services (acting through officers including the Director of the Office of Community Services), and the heads of other Federal agencies that carry out programs related to the program carried out under this title, in order to achieve optimal coordination of the program carried out under this title with such related programs. Each head of a Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

"(c) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall promote and coordinate efforts to carry out projects under this title jointly with

programs, projects, or activities carried out under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c)) of such Act (29 U.S.C. 2864(c)), that provide training and employment opportunities to eligible individuals.

"(2) COORDINATION WITH CERTAIN ACTIVITIES.—The Secretary shall consult with the Secretary of Education to promote and coordinate efforts to carry out projects under this title jointly with activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

42 USC 3056d.

**"SEC. 506. DISTRIBUTION OF ASSISTANCE.**

"(a) RESERVATIONS.—

"(1) RESERVATION FOR PILOT DEMONSTRATION AND EVALUATION PROJECTS.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary may first reserve not more than 1.5 percent to carry out demonstration projects, pilot projects, and evaluation projects under section 502(e).

"(2) RESERVATION FOR TERRITORIES.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary shall reserve 0.75 percent, of which—

"(A) Guam, American Samoa, and the United States Virgin Islands shall each receive 30 percent of the funds so reserved; and

"(B) the Commonwealth of the Northern Mariana Islands shall receive 10 percent of the funds so reserved.

"(3) RESERVATION FOR ORGANIZATIONS.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary shall reserve such amount as may be necessary to make national grants to public or nonprofit national Indian aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Indians and to national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Pacific Island and Asian Americans.

"(b) STATE ALLOTMENTS.—The allotment for each State shall be the sum of the amounts allotted for national grants in such State under subsection (d) and for the grant to such State under subsection (e).

"(c) DIVISION BETWEEN NATIONAL GRANTS AND GRANTS TO STATES.—The funds appropriated to carry out this title for any fiscal year that remain after amounts are reserved under paragraphs (1), (2), and (3) of subsection (a) shall be divided by the Secretary between national grants and grants to States as follows:

"(1) RESERVATION OF FUNDS FOR FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

"(A) IN GENERAL.—The Secretary shall reserve the amount of funds necessary to maintain the fiscal year 2000 level of activities supported by grantees that operate under this title under national grants from the Secretary, and the fiscal year 2000 level of activities supported by State grantees under this title, in proportion to their respective fiscal year 2000 levels of activities.

"(B) INSUFFICIENT APPROPRIATIONS.—If in any fiscal year the funds appropriated to carry out this title are insufficient to satisfy the requirement specified in subparagraph (A), then the amount described in subparagraph (A) shall be reduced proportionally.

"(2) FUNDING IN EXCESS OF FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

"(A) UP TO $35,000,000.—The amount of funds remaining (if any) after the application of paragraph (1), but not to exceed $35,000,000, shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

"(B) OVER $35,000,000.—The amount of funds remaining (if any) after the application of subparagraph (A) shall be divided so that 50 percent shall be provided to State grantees and 50 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

"(d) ALLOTMENTS FOR NATIONAL GRANTS.—From funds available under subsection (c) for national grants, the Secretary shall allot for public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary in each State, an amount that bears the same ratio to such funds as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

"(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

"(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

"(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for grantees that operate under this title under national grants from the Secretary in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

"(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for grantees that operate under this title under national grants from the Secretary in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

"(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

"(e) ALLOTMENTS FOR GRANTS TO STATES.—From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount that bears the same ratio to such amount as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

"(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

"(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

"(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

"(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in all of the States.

"(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

"(f) ALLOTMENT PERCENTAGE.—For purposes of subsections (d) and (e) and this subsection—

"(1) the allotment percentage of each State shall be 100 percent less that percentage that bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that—

"(A) the allotment percentage shall be not more than 75 percent and not less than 33 percent; and

"(B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent;

"(2) the number of individuals age 55 or older in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

"(3) for the purpose of determining the allotment percentage, the term 'United States' means the 50 States, and the District of Columbia.

"(g) DEFINITIONS.—In this section:

"(1) COST PER AUTHORIZED POSITION.—The term 'cost per authorized position' means the sum of—

"(A) the hourly minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), multiplied by the number of hours equal to the product of 21 hours and 52 weeks;

"(B) an amount equal to 11 percent of the amount specified under subparagraph (A), for the purpose of covering Federal payments for fringe benefits; and

"(C) an amount determined by the Secretary, for the purpose of covering Federal payments for the remainder of all other program and administrative costs.

"(2) FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—The term 'fiscal year 2000 level of activities' means—

"(A) with respect to public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary, their level of activities for fiscal year 2000; and

"(B) with respect to State grantees, their level of activities for fiscal year 2000.

"(3) GRANTS TO STATES.—The term 'grants to States' means grants made under this title by the Secretary to the States.

"(4) LEVEL OF ACTIVITIES.—The term 'level of activities' means the number of authorized positions multiplied by the cost per authorized position.

"(5) NATIONAL GRANTS.—The term 'national grants' means grants made under this title by the Secretary to public and nonprofit private agency and organization grantees that operate under this title.

"(6) STATE.—The term 'State' does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

**"SEC. 507. EQUITABLE DISTRIBUTION.**

Grants.
42 USC 3056e.

"(a) INTERSTATE ALLOCATION.—In making grants under section 502(b) from allotments made under section 506, the Secretary shall ensure, to the extent feasible, an equitable distribution of activities under such grants, in the aggregate, among the States, taking into account the needs of underserved States.

"(b) INTRASTATE ALLOCATION.—The amount allocated for projects within each State under section 506 shall be allocated among areas in the State in an equitable manner, taking into consideration the State priorities set out in the State plan in effect under section 503(a).

**"SEC. 508. REPORT.**

42 USC 3056f.

"To carry out the Secretary's responsibilities for reporting in section 503(g), the Secretary shall require the State agency for each State that receives funds under this title to prepare and submit a report at the beginning of each fiscal year on such State's compliance with section 507(b). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allocated to each such project under section 506.

**"SEC. 509. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.**

42 USC 3056g.

"Funds received by eligible individuals from projects carried out under the program established under this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other individuals, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

42 USC 3056h.

**"SEC. 510. ELIGIBILITY FOR WORKFORCE INVESTMENT ACTIVITIES.**

"Eligible individuals under this title may be considered by local workforce investment boards and one-stop operators established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) to satisfy the requirements for receiving services under such title I that are applicable to adults.

42 USC 3056i.

**"SEC. 511. COORDINATION WITH THE WORKFORCE INVESTMENT ACT OF 1998.**

"(a) PARTNERS.—Grantees under this title shall be one-stop partners as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

"(b) COORDINATION.—In local workforce investment areas where more than 1 grantee under this title provides services, the grantees shall—

"(1) coordinate their activities related to the one-stop delivery systems; and

"(2) be signatories of the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c)).

42 USC 3056j.

**"SEC. 512. TREATMENT OF ASSISTANCE.**

"Assistance provided under this title shall not be considered to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).

42 USC 3056k.

**"SEC. 513. PERFORMANCE.**

"(a) MEASURES AND INDICATORS.—

"(1) ESTABLISHMENT AND IMPLEMENTATION OF MEASURES AND INDICATORS.—The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this title, States, older individuals, area agencies on aging, and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this title. The core measures of performance and additional indicators of performance shall be applicable to each grantee under this title without regard to whether such grantee operates the program directly or through subcontracts, subgrants, or agreements with other entities.

"(2) CONTENT.—

"(A) COMPOSITION OF MEASURES AND INDICATORS.—

"(i) MEASURES.—The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

"(ii) ADDITIONAL INDICATORS.—The additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be the additional indicators of performance specified in subsection (b)(2).

"(B) CONTINUOUS IMPROVEMENT.—The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.

"(C) EXPECTED LEVELS OF PERFORMANCE.—The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance specified in subparagraph (A)(i). The agreement shall take into account the requirement of subparagraph (B) and the factors described in subparagraph (D), and other appropriate factors as determined by the Secretary, and shall be consistent with the requirements of subparagraph (E). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning the levels with all grantees, the Secretary shall make available for public review the final negotiated expected levels of performance for each grantee, including any comments submitted by the grantee regarding the grantee's satisfaction with the negotiated levels.

Public information.

"(D) ADJUSTMENT.—The expected levels of performance described in subparagraph (C) applicable to a grantee shall be adjusted after the agreement under subparagraph (C) has been reached only with respect to the following factors:

"(i) High rates of unemployment or of poverty or participation in the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in the areas served by a grantee, relative to other areas of the State involved or Nation.

"(ii) Significant downturns in the areas served by the grantee or in the national economy.

"(iii) Significant numbers or proportions of participants with 1 or more barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518, served by a grantee relative to such numbers or proportions for grantees serving other areas of the State or Nation.

"(iv) Changes in Federal, State, or local minimum wage requirements.

"(v) Limited economies of scale for the provision of community service employment and other authorized activities in the areas served by the grantee.

"(E) PLACEMENT.—

"(i) LEVEL OF PERFORMANCE.—For all grantees, the Secretary shall establish an expected level of performance of not less than the percentage specified in clause (ii) (adjusted in accordance with subparagraph (D)) for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B).

"(ii) REQUIRED PLACEMENT PERCENTAGES.—The minimum percentage for the expected level of performance for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B) is—

"(I) 21 percent for fiscal year 2007;

"(II) 22 percent for fiscal year 2008;

"(III) 23 percent for fiscal year 2009;
"(IV) 24 percent for fiscal year 2010; and
"(V) 25 percent for fiscal year 2011.

"(3) LIMITATION.—An agreement to be evaluated on the core measures of performance and to report information on the additional indicators of performance shall be a requirement for application for, and a condition of, all grants authorized by this title.

"(b) INDICATORS OF PERFORMANCE.—

"(1) CORE INDICATORS.—The core indicators of performance described in subsection (a)(2)(A)(i) shall consist of—

"(A) hours (in the aggregate) of community service employment;

"(B) entry into unsubsidized employment;

"(C) retention in unsubsidized employment for 6 months;

"(D) earnings; and

"(E) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

"(2) ADDITIONAL INDICATORS.—The additional indicators of performance described in subsection (a)(2)(A)(ii) shall consist of—

"(A) retention in unsubsidized employment for 1 year;

"(B) satisfaction of the participants, employers, and their host agencies with their experiences and the services provided;

"(C) any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

Regulations.

"(3) DEFINITIONS OF INDICATORS.—The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in paragraphs (1) and (2).

Publication. Public information.

"(c) EVALUATION.—The Secretary shall—

"(1) annually evaluate, and publish and make available for public review information on, the actual performance of each grantee with respect to the levels achieved for each of the core indicators of performance, compared to the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)); and

"(2) annually publish and make available for public review information on the actual performance of each grantee with respect to the levels achieved for each of the additional indicators of performance.

Deadlines.

"(d) TECHNICAL ASSISTANCE AND CORRECTIVE EFFORTS.—

"(1) INITIAL DETERMINATIONS.—

"(A) IN GENERAL.—As soon as practicable after July 1, 2007, the Secretary shall determine if a grantee under this title has, for program year 2006—

"(i) met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance

described in subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and

"(ii) achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B).

"(B) TECHNICAL ASSISTANCE.—If the Secretary determines that the grantee, for program year 2006—

"(i) failed to meet the expected levels of performance described in subparagraph (A)(i); or

"(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii),

the Secretary shall provide technical assistance to assist the grantee to meet the expected levels of performance and achieve the applicable percentage.

"(2) NATIONAL GRANTEES.—

"(A) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if a national grantee awarded a grant under section 502(b) in accordance with section 514 has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

"(B) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

"(i) IN GENERAL.—If the Secretary determines that a national grantee fails to meet the expected levels of performance described in subparagraph (A), the Secretary after each year of such failure, shall provide technical assistance and require such grantee to submit a corrective action plan not later than 160 days after the end of the program year.

"(ii) CONTENT.—The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

"(iii) RECOMPETITION.—Any grantee who has failed to meet the expected levels of performance for 4 consecutive years (beginning with program year 2007) shall not be allowed to compete in the subsequent grant competition under section 514 following the fourth consecutive year of failure but may compete in the next such grant competition after that subsequent competition.

"(3) STATE GRANTEES.—

"(A) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if a State grantee allotted funds under section 506(e) has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

"(B) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

"(i) IN GENERAL.—If the Secretary determines that a State fails to meet the expected levels of performance

described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

"(ii) CONTENT.—The plan submitted under clause (i) shall detail the steps the State will take to meet the expected levels of performance in the next program year.

"(iii) COMPETITION.—If the Secretary determines that the State fails to meet the expected levels of performance described in subparagraph (A) for 3 consecutive program years (beginning with program year 2007), the Secretary shall provide for the conduct by the State of a competition to award the funds allotted to the State under section 506(e) for the first full program year following the Secretary's determination.

"(4) SPECIAL RULE FOR ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement the core measures of performance and additional indicators of performance described in this section, including all required indicators described in subsection (b), not later than July 1, 2007.

Notices.

"(e) IMPACT ON GRANT COMPETITION.—The Secretary may not publish a notice announcing a grant competition under this title, and solicit proposals for grants, until the day that is the later of—

"(1) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and

"(2) January 1, 2010.

42 USC 3056*l*.

**"SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.**

"(a) PROGRAM AUTHORIZED.—

"(1) INITIAL APPROVAL OF GRANT APPLICATIONS.—From the funds available for national grants under section 506(d), the Secretary shall award grants under section 502(b) to eligible applicants, through a competitive process that emphasizes meeting performance requirements, to carry out projects under this title for a period of 4 years, except as provided in paragraph (2). The Secretary may not conduct a grant competition under this title until the day described in section 513(e).

"(2) CONTINUATION OF APPROVAL BASED ON PERFORMANCE.—If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in section 513(d)(2)(A) for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 502(b) to such recipient to continue such project beyond such 4-year period for 1 additional year without regard to such process.

"(b) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant under section 502(b) in accordance with subsections (a), (c), and (d).

"(c) CRITERIA.—For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

"(1) The applicant's ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

"(2) The applicant's ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

"(3) The applicant's ability to administer a project that moves eligible individuals into unsubsidized employment.

"(4) The applicant's prior performance, if any, in meeting core measures of performance and addressing additional indicators of performance under this title and the applicant's ability to address core indicators of performance and additional indicators of performance under this title and under other Federal or State programs in the case of an applicant that has not previously received a grant under this title.

"(5) The applicant's ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518, into unsubsidized employment.

"(6) The applicant's ability to coordinate activities with other organizations at the State and local level.

"(7) The applicant's plan for fiscal management of the project to be administered with funds received in accordance with this section.

"(8) The applicant's ability to administer a project that provides community service.

"(9) The applicant's ability to minimize disruption in services for participants and in community services provided.

"(10) Any additional criteria that the Secretary considers to be appropriate in order to minimize disruption in services for participants.

"(d) RESPONSIBILITY TESTS.—

"(1) IN GENERAL.—Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

"(2) REVIEW.—As part of the review described in paragraph (1), the Secretary may consider any information, including the applicant's history with regard to the management of other grants.

"(3) FAILURE TO SATISFY TEST.—The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

"(4) TEST.—The responsibility tests include review of the following factors:

"(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

"(B) Established fraud or criminal activity of a significant nature within the organization or agency involved.

"(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

"(D) Willful obstruction of the audit process.

"(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

"(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

"(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

"(H) Failure to submit required reports.

"(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

"(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

"(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A–133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

"(L) Failure to audit a subrecipient within the required period.

"(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious.

"(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

"(5) DETERMINATION.—Applicants that are determined to be not responsible shall not be selected as grantees.

"(6) DISALLOWED COSTS.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996, including the amendments made by that Act.

"(e) GRANTEES SERVING INDIVIDUALS WITH BARRIERS TO EMPLOYMENT.—

"(1) DEFINITION.—In this subsection, the term 'individuals with barriers to employment' means minority individuals, Indian individuals, individuals with greatest economic need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

"(2) SPECIAL CONSIDERATION.—In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

"(f) MINORITY-SERVING GRANTEES.—The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would

significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.

**"SEC. 515. REPORT ON SERVICE TO MINORITY INDIVIDUALS.** 42 USC 3056m.

"(a) IN GENERAL.—The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this title.

"(b) CONTENTS.—

"(1) ORGANIZATION AND DATA.—Such report shall present information on the levels of participation and the outcomes achieved by such minority individuals with respect to each grantee under this title, by service area, and in the aggregate, beginning with data that applies to program year 2005.

"(2) EFFORTS.—The report shall also include a description of each grantee's efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

"(3) RELATED MATTERS.—The report shall also include—

"(A) an assessment of individual grantees based on the criteria established under subsection (c);

"(B) an analysis of whether any changes in grantees have affected participation rates of such minority individuals;

"(C) information on factors affecting participation rates among such minority individuals; and

"(D) recommendations for increasing participation of minority individuals in the program.

"(c) CRITERIA.—The Secretary shall establish criteria for determining the effectiveness of grantees in serving minority individuals in accordance with the goals set forth in section 502(a)(1).

"(d) SUBMISSION.—The Secretary shall annually submit such a report to the appropriate committees of Congress.

**"SEC. 516. SENSE OF CONGRESS.** 42 USC 3056n.

"It is the sense of Congress that—

"(1) the older American community service employment program described in this title was established with the intent of placing older individuals in community service positions and providing job training; and

"(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations.

**"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.** 42 USC 3056o.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011.

"(b) OBLIGATION.—Amounts appropriated under this section for any fiscal year shall be available for obligation during the annual period that begins on July 1 of the calendar year immediately following the beginning of such fiscal year and that ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency that receives

funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency.

"(c) RECAPTURING FUNDS.—At the end of the program year, the Secretary may recapture any unexpended funds for the program year, and reobligate such funds within the 2 succeeding program years for—

"(1) incentive grants to entities that are State grantees or national grantees under section 502(b);

"(2) technical assistance; or

"(3) grants or contracts for any other activity under this title.

42 USC 3056p.

**"SEC. 518. DEFINITIONS AND RULE.**

"(a) DEFINITIONS.—For purposes of this title:

"(1) COMMUNITY SERVICE.—The term 'community service' means—

"(A) social, health, welfare, and educational services (including literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;

"(B) conservation, maintenance, or restoration of natural resources;

"(C) community betterment or beautification;

"(D) antipollution and environmental quality efforts;

"(E) weatherization activities;

"(F) economic development; and

"(G) such other services essential and necessary to the community as the Secretary determines by rule to be appropriate.

"(2) COMMUNITY SERVICE EMPLOYMENT.—The term 'community service employment' means part-time, temporary employment paid with grant funds in projects described in section 502(b)(1)(D), through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

"(3) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who is age 55 or older and who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), excluding any income that is unemployment compensation, a benefit received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), a payment made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs, or 25 percent of a benefit received under title II of the Social Security Act (42 U.S.C. 401 et seq.), subject to subsection (b).

"(B) PARTICIPATION.—

"(i) EXCLUSION.—Notwithstanding any other provision of this paragraph, the term 'eligible individual' does not include an individual who has participated in projects under this title for a period of 48 months in the aggregate (whether or not consecutive) after

July 1, 2007, unless the period was increased as described in clause (ii).

"(ii) INCREASED PERIODS OF PARTICIPATION.—The Secretary shall authorize a grantee for a project to increase the period of participation described in clause (i), pursuant to a request submitted by the grantee, for individuals who—

"(I) have a severe disability;

"(II) are frail or are age 75 or older;

"(III) meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(IV) live in an area with persistent unemployment and are individuals with severely limited employment prospects; or

"(V) have limited English proficiency or low literacy skills.

"(4) INCOME.—In this section, the term 'income' means income received during the 12-month period (or, at the option of the grantee involved, the annualized income for the 6-month period) ending on the date an eligible individual submits an application to participate in a project carried out under this title by such grantee.

"(5) PACIFIC ISLAND AND ASIAN AMERICANS.—The term 'Pacific Island and Asian Americans' means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

"(6) PROGRAM.—The term 'program' means the older American community service employment program established under this title.

"(7) SUPPORTIVE SERVICES.—The term 'supportive services' means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

"(8) UNEMPLOYED.—The term 'unemployed', used with respect to a person or individual, means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income.

"(b) RULE.—Pursuant to regulations prescribed by the Secretary, an eligible individual shall have priority for the community service employment and other authorized activities provided under this title if the individual—

"(1) is 65 years of age or older; or

"(2)(A) has a disability;

"(B) has limited English proficiency or low literacy skills;

"(C) resides in a rural area;

"(D) is a veteran;

"(E) has low employment prospects;

"(F) has failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); or

"(G) is homeless or at risk for homelessness.".

42 USC 3056 note.

**SEC. 502. EFFECTIVE DATE.**

(a) IN GENERAL.—Title V of the Older Americans Act of 1965 (as amended by section 501) takes effect July 1, 2007.

(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.—

(1) REGULATIONS.—Effective on the date of enactment of this Act, the Secretary of Labor may issue rules and regulations authorized in such title V.

(2) EXPECTED LEVELS OF PERFORMANCE.—Prior to July 1, 2007, the Secretary of Labor may carry out the activities authorized in section 513(a)(2) of the Older Americans Act of 1965 (as so amended), in preparation for program year 2007.

# TITLE VI—NATIVE AMERICANS

**SEC. 601. CLARIFICATION OF MAINTENANCE REQUIREMENT.**

(a) IN GENERAL.—Section 614A of the Older Americans Act of 1965 (42 U.S.C. 3057e–1) is amended by adding at the end the following:

"(c) CLARIFICATION.—

"(1) DEFINITION.—In this subsection, the term 'covered year' means fiscal year 2006 or a subsequent fiscal year.

"(2) CONSORTIA OF TRIBAL ORGANIZATIONS.—If a tribal organization received a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of subsections (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each covered year for which the tribal organization submits an application under this part, even if the tribal organization submits—

"(A) a separate application from the remaining members of the consortium; or

"(B) an application as 1 of the remaining members of the consortium.".

42 USC 3057e–1 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants awarded under part A of title VI of the Older Americans Act of 1965 (42 U.S.C. 3057b et seq.) during the grant period beginning April 1, 2008, and all subsequent grant periods.

**SEC. 602. NATIVE AMERICANS CAREGIVER SUPPORT PROGRAM.**

Section 643 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended—

(1) in paragraph (1), by striking "2001" and inserting "2007"; and

(2) in paragraph (2), by striking "$5,000,000" and all that follows through the period at the end and inserting "$6,500,000 for fiscal year 2007, $6,800,000 for fiscal year 2008, $7,200,000 for fiscal year 2009, $7,500,000 for fiscal year 2010, and $7,900,000 for fiscal year 2011.".

# TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

**SEC. 701. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.**

Section 702 of the Older Americans Act of 1965 (42 U.S.C. 3058a) is amended by striking "2001" each place it appears and inserting "2007".

**SEC. 702. ELDER ABUSE, NEGLECT, AND EXPLOITATION.**

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058i) is amended—

(1) in subsection (a), by striking "programs for the prevention of" and inserting "programs to address";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "programs for" and all that follows through "including—" and inserting the following: "programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation), including—";

(B) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(C) by inserting after paragraph (1) the following:

"(2) providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals;";

(D) in paragraph (8), as redesignated by subparagraph (B), by striking "and" at the end;

(E) in paragraph (9), as redesignated by subparagraph (B), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

"(10) examining various types of shelters serving older individuals (in this paragraph referred to as 'safe havens'), and testing various safe haven models for establishing safe havens (at home or elsewhere), that recognize autonomy and self-determination, and fully protect the due process rights of older individuals;

"(11) supporting multidisciplinary elder justice activities, such as—

"(A) supporting and studying team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social service, health care, public safety, and legal disciplines;

"(B) establishing a State coordinating council, which shall identify the individual State's needs and provide the Assistant Secretary with information and recommendations relating to efforts by the State to combat elder abuse, neglect, and exploitation;

"(C) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts at the State (referred to in some States as 'State Working Groups');

"(D) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of States and communities (other than the ones in which the review teams were used); and

"(E) developing best practices, for use in long-term care facilities, that reduce the risk of elder abuse for residents, including the risk of resident-to-resident abuse; and

"(12) addressing underserved populations of older individuals, such as—

"(A) older individuals living in rural locations;

"(B) older individuals in minority populations; or

"(C) low-income older individuals.";

(3) in subsection (e)(2)—

(A) by striking "subsection (b)(8)(B)(i)" and inserting "subsection (b)(9)(B)(i)"; and

(B) by striking "subsection (b)(8)(B)(ii)" and inserting "subsection (b)(9)(B)(ii)"; and

(4) by adding at the end of the section the following:

"(h) ACCOUNTABILITY MEASURES.—The Assistant Secretary shall develop accountability measures to ensure the effectiveness of the activities carried out under this section.

"(i) EVALUATING PROGRAMS.—The Assistant Secretary shall evaluate the activities carried out under this section, using funds made available under section 206(g).

"(j) COMPLIANCE WITH APPLICABLE LAWS.—In order to receive funds made available to carry out this section, an entity shall comply with all applicable laws, regulations, and guidelines.".

**SEC. 703. NATIVE AMERICAN ORGANIZATION PROVISIONS.**

Section 751 of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—

"(A) establishing a coordinating council, which shall identify the needs of an individual Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing entity of the Native American group to combat elder abuse, neglect, and exploitation;

"(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and

"(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based

on the needs of Indian tribes and other Native American groups (other than the ones in which the review teams were used).";

(2) in subsection (b), by striking "this subtitle" and inserting "this section"; and

(3) in subsection (d)—

(A) by striking "this section" and inserting "this subtitle"; and

(B) by striking "2001" and inserting "2007".

**SEC. 704. ELDER JUSTICE PROGRAMS.**

Subtitle B of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—

(1) by striking the subtitle heading and inserting the following:

## "Subtitle B—Native American Organization and Elder Justice Provisions";

and

(2) by inserting after section 751 the following:

**"SEC. 752. GRANTS TO PROMOTE COMPREHENSIVE STATE ELDER JUSTICE SYSTEMS.**

42 USC 3058aa–1.

"(a) PURPOSE AND AUTHORITY.—For each fiscal year, the Assistant Secretary may make grants to States, on a competitive basis, in accordance with this section, to promote the development and implementation, within each such State, of a comprehensive elder justice system, as defined in subsection (b).

"(b) COMPREHENSIVE ELDER JUSTICE SYSTEM DEFINED.—In this section, the term 'comprehensive elder justice system' means an integrated, multidisciplinary, and collaborative system for preventing, detecting, and addressing elder abuse, neglect, and exploitation in a manner that—

"(1) provides for widespread, convenient public access to the range of available elder justice information, programs, and services;

"(2) coordinates the efforts of public health, social service, and law enforcement authorities, as well as other appropriate public and private entities, to identify and diminish duplication and gaps in the system;

"(3) provides a uniform method for the standardization, collection, management, analysis, and reporting of data; and

"(4) provides such other elements as the Assistant Secretary determines appropriate.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section for a fiscal year, a State shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information and assurances as the Assistant Secretary determines appropriate.

"(d) AMOUNT OF GRANTS.—The amount of a grant to a State with an application approved under this section for a fiscal year shall be such amount as the Assistant Secretary determines appropriate.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—A State that receives a grant under this section shall use funds made available through such grant to promote the development and implementation of a comprehensive elder justice system by—

"(A) establishing formal working relationships among public and private providers of elder justice programs, service providers, and stakeholders in order to create a unified elder justice network across such State to coordinate programmatic efforts;

"(B) facilitating and supporting the development of a management information system and standard data elements;

"(C) providing for appropriate education (including educating the public about the range of available elder justice information, programs, and services), training, and technical assistance; and

"(D) taking such other steps as the Assistant Secretary determines appropriate.

"(2) MAINTENANCE OF EFFORT.—Funds made available to States pursuant to this section shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in paragraph (1).".

**SEC. 705. RULE OF CONSTRUCTION.**

Subtitle C of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058bb et seq.) is amended by adding at the end the following:

42 USC 3058ff.

**"SEC. 765. RULE OF CONSTRUCTION.**

"Nothing in this title shall be construed to interfere with or abridge the right of an older individual to practice the individual's religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—

"(1) is contemporaneously expressed by the older individual—

"(A) either orally or in writing;

"(B) with respect to a specific illness or injury that the older individual has at the time of the decision; and

"(C) when the older individual is competent to make the decision;

"(2) is set forth prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

"(3) may be unambiguously deduced from the older individual's life history.".

Tom Osborne Federal Youth Coordination Act.

# TITLE VIII—FEDERAL YOUTH DEVELOPMENT COUNCIL

**SEC. 801. SHORT TITLE.**

This title may be cited as the "Tom Osborne Federal Youth Coordination Act".

**SEC. 802. ESTABLISHMENT AND MEMBERSHIP.**

(a) ESTABLISHMENT.—There is established the Federal Youth Development Council (in this title referred to as the "Council").

(b) MEMBERS AND TERMS.— President.

(1) FEDERAL EMPLOYEE MEMBERS.—The members of the Council shall include the Attorney General, the Secretary of Agriculture, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Education, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Defense, the Director of National Drug Control Policy, and the Chief Executive Officer of the Corporation for National and Community Service, or a designee of each such individual who holds significant decision-making authority, and other Federal officials as directed by the President.

(2) ADDITIONAL MEMBERS.—

(A) IN GENERAL.—The members of the Council shall include any additional members as the President shall appoint from among representatives of community-based organizations, including faith-based organizations, child and youth focused foundations, institutions of higher education, non-profit organizations, youth service providers, State and local government, and youth in disadvantaged situations.

(B) CONSULTATION.—In making the appointments under this paragraph, the President, as determined appropriate by the President, shall consult with—

(i) the Speaker of the House of Representatives, who shall take into account the recommendations of the majority leader and the minority leader of the House of Representatives; and

(ii) the president pro tempore of the Senate, who shall take into account the recommendations of the majority leader and the minority leader of the Senate.

(3) LENGTH OF TERM.—Each member of the Council shall serve for the life of the Council.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) NO COMPENSATION FOR SERVICE ON COUNCIL.—Each member of the Council appointed under section 802 who is not an officer or employee of the United States shall not receive pay by reason of the member's service on the Council, and shall not be considered an employee of the Federal Government by reason of such service. Each member of the Council who is an officer or employee of the United States shall serve without compensation in addition to that received for the member's service as an officer or employee of the United States.

(2) TRAVEL AND TRANSPORTATION EXPENSES.—Each member of the Council may be allowed travel or transportation expenses in accordance with section 5703 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Council.

(d) CHAIRPERSON.—The Chairperson of the Council shall be the Secretary of Health and Human Services.

(e) MEETINGS.—The Council shall meet at the call of the Chairperson, not less frequently than 4 times each year. The first meeting shall be not less than 4 months after the date of enactment of this Act.

**SEC. 803. DUTIES OF THE COUNCIL.**

(a) IN GENERAL.—The duties of the Council shall be to provide advice and recommendations, including—

(1) ensuring communication among agencies administering programs designed to serve youth, especially those in disadvantaged situations;

(2) assessing the needs of youth, especially those in disadvantaged situations, and those who work with youth, and the quantity and quality of Federal programs offering services, supports, and opportunities to help youth in their educational, social, emotional, physical, vocational, and civic development, in coordination with the Federal Interagency Forum on Child and Family Statistics;

(3) recommending quantifiable goals and objectives for such programs;

(4) making recommendations for the allocation of resources in support of such goals and objectives;

(5) identifying possible areas of overlap or duplication in the purpose and operation of programs serving youth and recommending ways to better facilitate the coordination and consultation among, and improve the efficiency and effectiveness of, such programs;

(6) identifying target populations of youth who are disproportionately at risk and assisting agencies in focusing additional resources on such youth;

(7) developing a plan, including common indicators of youth well-being that are consistent with the indicators tracked by the Federal Interagency Forum on Child and Family Statistics, and assisting Federal agencies, at the request of 1 or more such agencies, in coordinating to achieve the goals and objectives described in paragraph (3);

(8) assisting Federal agencies, at the request of 1 or more such agencies, in collaborating on—

(A) model programs and demonstration projects focusing on special populations, including youth in foster care and migrant youth;

(B) projects to promote parental involvement; and

(C) projects that work to involve young people in service programs;

(9) soliciting and documenting ongoing input and recommendations from—

(A) youth, especially youth in disadvantaged situations;

(B) national youth development experts, researchers, parents, community-based organizations, including faith-based organizations, foundations, business leaders, youth service providers, and teachers; and

(C) State and local government agencies, particularly agencies serving children and youth; and

(10) working with Federal agencies—

(A) to promote high-quality research and evaluation, identify and replicate model programs and promising practices, and provide technical assistance relating to the needs of youth; and

(B) to coordinate the collection and dissemination of youth services-related data and research.

(b) TECHNICAL ASSISTANCE.—The Council may provide technical assistance to a State at the request of a State to support a State-funded council for coordinating State youth efforts.

**SEC. 804. COORDINATION WITH EXISTING INTERAGENCY COORDINATION ENTITIES.**

In carrying out the duties described in section 803, the Council shall coordinate the efforts of the Council with other Federal, State, and local coordinating entities in order to complement and not duplicate efforts, including the following:

(1) Coordinating with the Federal Interagency Forum on Child and Family Statistics, established under Executive Order 13045 (42 U.S.C. 4321 note; relating to protection of children from environmental health risks and safety risks), on matters pertaining to data collection.

(2) Coordinating with the United States Interagency Council on Homelessness, established under section 201 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311), on matters pertaining to homelessness.

(3) Coordinating with the Coordinating Council on Juvenile Justice and Delinquency Prevention, established under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616), on matters pertaining to programs for at-risk youth.

**SEC. 805. ASSISTANCE OF STAFF.**

(a) DESIGNATION OF INDIVIDUAL.—The Chairperson is authorized to designate an individual to have responsibility for assisting in carrying out the duties of the Council under this title.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the department or agency to the Council to assist in carrying out the Council's duties under this title.

**SEC. 806. POWERS OF THE COUNCIL.**

(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(b) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this title.

**SEC. 807. REPORT.**

(a) INTERIM REPORT.—Not later than 1 year after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress an interim report of the findings of the Council.

(b) FINAL REPORT.—Not later than 2 years after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress a final report of the Council's findings and recommendations, which report shall—

(1) include a comprehensive list of recent research and statistical reporting by various Federal agencies on the overall well-being of youth;

(2) include the assessment of the needs of youth and those who serve youth;

(3) include a summary of the plan described in section 803(a)(7);

(4) recommend ways to coordinate and improve Federal training and technical assistance, information sharing, and communication among the various Federal programs and agencies serving youth, as the Chairperson determines appropriate;

(5) include recommendations to better integrate and coordinate policies across agencies at the Federal, State, and local levels, including any recommendations the Chairperson determines appropriate, if any, for legislation and administrative actions;

(6) include a summary of actions the Council has taken at the request of Federal agencies to facilitate collaboration and coordination on youth serving programs and the results of those collaborations, if available;

(7) include a summary of the action the Council has taken at the request of States to provide technical assistance under section 803(b), if applicable; and

(8) include a summary of the input and recommendations from the groups identified in section 803(a)(9).

**SEC. 808. TERMINATION.**

The Council shall terminate 60 days after transmitting the final report under section 807(b).

**SEC. 809. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this title $1,000,000 for each of the fiscal years 2007 and 2008.

# TITLE IX—CONFORMING AMENDMENTS

**SEC. 901. CONFORMING AMENDMENTS TO OTHER ACTS.**

(a) OLDER AMERICANS ACT AMENDMENTS OF 1987.—Section 205(1) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended by striking "section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17))" and inserting "section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)".

(b) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 412(6) of the Energy Conservation and Production Act (42 U.S.C. 6862(6)) is amended by striking "paragraphs (4), (5), and (6), respectively, of section 102" and inserting "section 102".

Approved October 17, 2006.

LEGISLATIVE HISTORY—H.R. 6197 (S. 3570):

SENATE REPORTS: No. 109–366 accompanying S. 3570 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Sept. 29, considered and passed Senate.

# Public Law 109–366
# 109th Congress

## An Act

Oct. 17, 2006
[S. 3930]

To authorize trial by military commission for violations of the law of war, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Military Commissions Act of 2006.
10 USC 948a note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Military Commissions Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. Construction of Presidential authority to establish military commissions.
Sec. 3. Military commissions.
Sec. 4. Amendments to Uniform Code of Military Justice.
Sec. 5. Treaty obligations not establishing grounds for certain claims.
Sec. 6. Implementation of treaty obligations.
Sec. 7. Habeas corpus matters.
Sec. 8. Revisions to Detainee Treatment Act of 2005 relating to protection of certain United States Government personnel.
Sec. 9. Review of judgments of military commissions.
Sec. 10. Detention covered by review of decisions of Combatant Status Review Tribunals of propriety of detention.

10 USC 948a note.

**SEC. 2. CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.**

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

**SEC. 3. MILITARY COMMISSIONS.**

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

### "CHAPTER 47A—MILITARY COMMISSIONS

"Subchapter
"I. General Provisions ..... 948a
"II. Composition of Military Commissions ..... 948h
"III. Pre-Trial Procedure ..... 948q
"IV. Trial Procedure ..... 949a
"V. Sentences ..... 949s

"VI. Post-Trial Procedure and Review of Military Commissions ..... 950a
"VII. Punitive Matters ..... 950p

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"948a. Definitions.
"948b. Military commissions generally.
"948c. Persons subject to military commissions.
"948d. Jurisdiction of military commissions.
"948e. Annual report to congressional committees.

**"§ 948a. Definitions**

"In this chapter:

"(1) UNLAWFUL ENEMY COMBATANT.—(A) The term 'unlawful enemy combatant' means—

"(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

"(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

"(B) CO-BELLIGERENT.—In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

"(2) LAWFUL ENEMY COMBATANT.—The term 'lawful enemy combatant' means a person who is—

"(A) a member of the regular forces of a State party engaged in hostilities against the United States;

"(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

"(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

"(3) ALIEN.—The term 'alien' means a person who is not a citizen of the United States.

"(4) CLASSIFIED INFORMATION.—The term 'classified information' means the following:

"(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

"(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(5) GENEVA CONVENTIONS.—The term 'Geneva Conventions' means the international conventions signed at Geneva on August 12, 1949.

**"§ 948b. Military commissions generally**

"(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

President.

"(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by military commission as provided in this chapter.

"(c) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter.

"(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

"(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

"(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

"(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

Applicability.

"(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by this chapter.

"(e) TREATMENT OF RULINGS AND PRECEDENTS.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

"(f) STATUS OF COMMISSIONS UNDER COMMON ARTICLE 3.—A military commission established under this chapter is a regularly constituted court, affording all the necessary 'judicial guarantees which are recognized as indispensable by civilized peoples' for purposes of common Article 3 of the Geneva Conventions.

"(g) GENEVA CONVENTIONS NOT ESTABLISHING SOURCE OF RIGHTS.—No alien unlawful enemy combatant subject to trial by military commission under this chapter may invoke the Geneva Conventions as a source of rights.

**"§ 948c. Persons subject to military commissions**

"Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

### "§ 948d. Jurisdiction of military commissions

"(a) JURISDICTION.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

"(b) LAWFUL ENEMY COMBATANTS.—Military commissions under this chapter shall not have jurisdiction over lawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense made punishable under this chapter.

"(c) DETERMINATION OF UNLAWFUL ENEMY COMBATANT STATUS DISPOSITIVE.—A finding, whether before, on, or after the date of the enactment of the Military Commissions Act of 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense that a person is an unlawful enemy combatant is dispositive for purposes of jurisdiction for trial by military commission under this chapter.

"(d) PUNISHMENTS.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

### "§ 948e. Annual report to congressional committees

"(a) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

"(b) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

## "SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

"Sec.
"948h. Who may convene military commissions.
"948i. Who may serve on military commissions.
"948j. Military judge of a military commission.
"948k. Detail of trial counsel and defense counsel.
"948l. Detail or employment of reporters and interpreters.
"948m. Number of members; excuse of members; absent and additional members.

### "§ 948h. Who may convene military commissions

"Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

### "§ 948i. Who may serve on military commissions

"(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter.

"(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members of the commission such members of the armed forces eligible under subsection (a), as in the opinion of the convening

authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

"(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

**"§ 948j. Military judge of a military commission**

Regulations.

"(a) DETAIL OF MILITARY JUDGE.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

"(b) QUALIFICATIONS.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

"(c) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

"(d) CONSULTATION WITH MEMBERS; INELIGIBILITY TO VOTE.—A military judge detailed to a military commission under this chapter may not consult with the members of the commission except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members of the commission.

"(e) OTHER DUTIES.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

"(f) PROHIBITION ON EVALUATION OF FITNESS BY CONVENING AUTHORITY.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

**"§ 948k. Detail of trial counsel and defense counsel**

"(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

"(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

"(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the swearing of charges against the accused.

"(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such commissions.

Regulations.

"(b) TRIAL COUNSEL.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

"(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice) who—

"(A) is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

"(B) is certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member; or

"(2) a civilian who—

"(A) is a member of the bar of a Federal court or of the highest court of a State; and

"(B) is otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

"(c) MILITARY DEFENSE COUNSEL.—Subject to subsection (e), military defense counsel detailed for a military commission under this chapter must be a judge advocate (as so defined) who is—

"(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

"(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member.

"(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

"(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

"(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

### "§ 948l. Detail or employment of reporters and interpreters

"(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the commission qualified court reporters, who shall make a verbatim

recording of the proceedings of and testimony taken before the commission.

"(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the commission and, as necessary, for trial counsel and defense counsel and for the accused.

"(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the commission, who shall also be responsible for preparing the record of the proceedings.

### "§ 948m. Number of members; excuse of members; absent and additional members

"(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

"(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

"(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

"(1) as a result of challenge;

"(2) by the military judge for physical disability or other good cause; or

"(3) by order of the convening authority for good cause.

"(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

## "SUBCHAPTER III—PRE-TRIAL PROCEDURE

"Sec.
"948q. Charges and specifications.
"948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements.
"948s. Service of charges.

### "§ 948q. Charges and specifications

"(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

"(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

"(2) that they are true in fact to the best of the signer's knowledge and belief.

"(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges against him as soon as practicable.

**"§ 948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements**

"(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

"(b) EXCLUSION OF STATEMENTS OBTAINED BY TORTURE.—A statement obtained by use of torture shall not be admissible in a military commission under this chapter, except against a person accused of torture as evidence that the statement was made.

"(c) STATEMENTS OBTAINED BEFORE ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained before December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

"(2) the interests of justice would best be served by admission of the statement into evidence.

"(d) STATEMENTS OBTAINED AFTER ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained on or after December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value;

"(2) the interests of justice would best be served by admission of the statement into evidence; and

"(3) the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.

**"§ 948s. Service of charges**

"The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had. Such charges shall be served in English and, if appropriate, in another language that the accused understands. Such service shall be made sufficiently in advance of trial to prepare a defense.

"SUBCHAPTER IV—TRIAL PROCEDURE

"Sec.
"949a. Rules.
"949b. Unlawfully influencing action of military commission.
"949c. Duties of trial counsel and defense counsel.
"949d. Sessions.
"949e. Continuances.
"949f. Challenges.
"949g. Oaths.
"949h. Former jeopardy.
"949i. Pleas of the accused.
"949j. Opportunity to obtain witnesses and other evidence.
"949k. Defense of lack of mental responsibility.
"949l. Voting and rulings.

"949m. Number of votes required.
"949n. Military commission to announce action.
"949o. Record of trial.

**"§ 949a. Rules**

"(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense, in consultation with the Attorney General. Such procedures shall, so far as the Secretary considers practicable or consistent with military or intelligence activities, apply the principles of law and the rules of evidence in trial by general courts-martial. Such procedures and rules of evidence may not be contrary to or inconsistent with this chapter.

Applicability.

"(b) RULES FOR MILITARY COMMISSION.—(1) Notwithstanding any departures from the law and the rules of evidence in trial by general courts-martial authorized by subsection (a), the procedures and rules of evidence in trials by military commission under this chapter shall include the following:

"(A) The accused shall be permitted to present evidence in his defense, to cross-examine the witnesses who testify against him, and to examine and respond to evidence admitted against him on the issue of guilt or innocence and for sentencing, as provided for by this chapter.

"(B) The accused shall be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

"(C) The accused shall receive the assistance of counsel as provided for by section 948k.

"(D) The accused shall be permitted to represent himself, as provided for by paragraph (3).

"(2) In establishing procedures and rules of evidence for military commission proceedings, the Secretary of Defense may prescribe the following provisions:

"(A) Evidence shall be admissible if the military judge determines that the evidence would have probative value to a reasonable person.

"(B) Evidence shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or other authorization.

"(C) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

"(D) Evidence shall be admitted as authentic so long as—

"(i) the military judge of the military commission determines that there is sufficient basis to find that the evidence is what it is claimed to be; and

"(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

"(E)(i) Except as provided in clause (ii), hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission if the proponent of the evidence makes known to the adverse party, sufficiently in advance to provide

the adverse party with a fair opportunity to meet the evidence, the intention of the proponent to offer the evidence, and the particulars of the evidence (including information on the general circumstances under which the evidence was obtained). The disclosure of evidence under the preceding sentence is subject to the requirements and limitations applicable to the disclosure of classified information in section 949j(c) of this title.

"(ii) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial shall not be admitted in a trial by military commission if the party opposing the admission of the evidence demonstrates that the evidence is unreliable or lacking in probative value.

"(F) The military judge shall exclude any evidence the probative value of which is substantially outweighed—

"(i) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

"(ii) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"(3)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (1)(D) shall conform his deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

"(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (1)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

"(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

"(d) NOTIFICATION TO CONGRESSIONAL COMMITTEES OF CHANGES TO PROCEDURES.—Not later than 60 days before the date on which any proposed modification of the procedures in effect for military commissions under this chapter goes into effect, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the modification. Deadline.

**"§ 949b. Unlawfully influencing action of military commission**

"(a) IN GENERAL.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or his functions in the conduct of the proceedings.

"(2) No person may attempt to coerce or, by any unauthorized means, influence—

"(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

"(B) the action of any convening, approving, or reviewing authority with respect to his judicial acts; or

"(C) the exercise of professional judgment by trial counsel or defense counsel.

"(3) Paragraphs (1) and (2) do not apply with respect to—

"(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

"(B) statements and instructions given in open proceedings by a military judge or counsel.

"(b) PROHIBITION ON CONSIDERATION OF ACTIONS ON COMMISSION IN EVALUATION OF FITNESS.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

"(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

"(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

**"§ 949c. Duties of trial counsel and defense counsel**

"(a) TRIAL COUNSEL.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

"(b) DEFENSE COUNSEL.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

"(2) The accused shall be represented by military counsel detailed under section 948k of this title.

"(3) The accused may be represented by civilian counsel if retained by the accused, but only if such civilian counsel—

"(A) is a United States citizen;

"(B) is admitted to the practice of law in a State, district, or possession of the United States or before a Federal court;

"(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

"(D) has been determined to be eligible for access to classified information that is classified at the level Secret or higher; and

"(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

"(4) Civilian defense counsel shall protect any classified information received during the course of representation of the accused in accordance with all applicable law governing the protection of classified information and may not divulge such information to any person not authorized to receive it.

"(5) If the accused is represented by civilian counsel, detailed military counsel shall act as associate counsel.

"(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in that person's sole discretion, may detail additional military counsel to represent the accused.

"(7) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

**"§ 949d. Sessions**

"(a) SESSIONS WITHOUT PRESENCE OF MEMBERS.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

"(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

"(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

"(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

"(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

"(2) Except as provided in subsections (c) and (e), any proceedings under paragraph (1) shall—

"(A) be conducted in the presence of the accused, defense counsel, and trial counsel; and

"(B) be made part of the record.

"(b) PROCEEDINGS IN PRESENCE OF ACCUSED.—Except as provided in subsections (c) and (e), all proceedings of a military commission under this chapter, including any consultation of the members with the military judge or counsel, shall—

"(1) be in the presence of the accused, defense counsel, and trial counsel; and

"(2) be made a part of the record.

"(c) DELIBERATION OR VOTE OF MEMBERS.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

"(d) CLOSURE OF PROCEEDINGS.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter, but only in accordance with this subsection.

"(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

"(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

"(B) ensure the physical safety of individuals.

"(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

"(e) EXCLUSION OF ACCUSED FROM CERTAIN PROCEEDINGS.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by

the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

"(1) to ensure the physical safety of individuals; or

"(2) to prevent disruption of the proceedings by the accused.

"(f) PROTECTION OF CLASSIFIED INFORMATION.—

"(1) NATIONAL SECURITY PRIVILEGE.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. The rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.

"(B) The privilege referred to in subparagraph (A) may be claimed by the head of the executive or military department or government agency concerned based on a finding by the head of that department or agency that—

"(i) the information is properly classified; and

"(ii) disclosure of the information would be detrimental to the national security.

"(C) A person who may claim the privilege referred to in subparagraph (A) may authorize a representative, witness, or trial counsel to claim the privilege and make the finding described in subparagraph (B) on behalf of such person. The authority of the representative, witness, or trial counsel to do so is presumed in the absence of evidence to the contrary.

"(2) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(A) ALTERNATIVES TO DISCLOSURE.—To protect classified information from disclosure, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

"(i) the deletion of specified items of classified information from documents to be introduced as evidence before the military commission;

"(ii) the substitution of a portion or summary of the information for such classified documents; or

"(iii) the substitution of a statement of relevant facts that the classified information would tend to prove.

"(B) PROTECTION OF SOURCES, METHODS, OR ACTIVITIES.—The military judge, upon motion of trial counsel, shall permit trial counsel to introduce otherwise admissible evidence before the military commission, while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that (i) the sources, methods, or activities by which the United States acquired the evidence are classified, and (ii) the evidence is reliable. The military judge may require trial counsel to present to the military commission and the defense, to the extent practicable and consistent with national security, an unclassified summary of the sources, methods, or activities by which the United States acquired the evidence.

"(C) ASSERTION OF NATIONAL SECURITY PRIVILEGE AT TRIAL.—During the examination of any witness, trial counsel may object to any question, line of inquiry, or motion to admit evidence that would require the disclosure of classified information. Following such an objection, the military judge shall take suitable action to safeguard such classified information. Such action may include the review

of trial counsel's claim of privilege by the military judge in camera and on an ex parte basis, and the delay of proceedings to permit trial counsel to consult with the department or agency concerned as to whether the national security privilege should be asserted.

"(3) CONSIDERATION OF PRIVILEGE AND RELATED MATERIALS.—A claim of privilege under this subsection, and any materials submitted in support thereof, shall, upon request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

"(4) ADDITIONAL REGULATIONS.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the use and protection of classified information during proceedings of military commissions under this chapter. A report on any regulations so prescribed, or modified, shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days before the date on which such regulations or modifications, as the case may be, go into effect.

Reports. Deadline.

**"§ 949e. Continuances**

"The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

**"§ 949f. Challenges**

"(a) CHALLENGES AUTHORIZED.—The military judge and members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the commission. The military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(b) PEREMPTORY CHALLENGES.—Each accused and the trial counsel are entitled to one peremptory challenge. The military judge may not be challenged except for cause.

"(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

**"§ 949g. Oaths**

"(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

"(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide that— Regulations.

"(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any

time by any judge advocate or other person certified to be qualified or competent for the duty; and

"(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

**"§ 949h. Former jeopardy**

"(a) IN GENERAL.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

"(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

**"§ 949i. Pleas of the accused**

"(a) ENTRY OF PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

"(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

**"§ 949j. Opportunity to obtain witnesses and other evidence**

Regulations.

"(a) RIGHT OF DEFENSE COUNSEL.—Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(b) PROCESS FOR COMPULSION.—Process issued in a military commission under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

"(1) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

"(2) shall run to any place where the United States shall have jurisdiction thereof.

"(c) PROTECTION OF CLASSIFIED INFORMATION.—(1) With respect to the discovery obligations of trial counsel under this section, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

"(A) the deletion of specified items of classified information from documents to be made available to the accused;

"(B) the substitution of a portion or summary of the information for such classified documents; or

"(C) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

"(2) The military judge, upon motion of trial counsel, shall authorize trial counsel, in the course of complying with discovery obligations under this section, to protect from disclosure the sources, methods, or activities by which the United States acquired evidence if the military judge finds that the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require trial counsel to provide, to the extent practicable, an unclassified summary of the sources, methods, or activities by which the United States acquired such evidence.

"(d) EXCULPATORY EVIDENCE.—(1) As soon as practicable, trial counsel shall disclose to the defense the existence of any evidence known to trial counsel that reasonably tends to exculpate the accused. Where exculpatory evidence is classified, the accused shall be provided with an adequate substitute in accordance with the procedures under subsection (c).

"(2) In this subsection, the term 'evidence known to trial counsel', in the case of exculpatory evidence, means exculpatory evidence that the prosecution would be required to disclose in a trial by general court-martial under chapter 47 of this title.

**"§ 949k. Defense of lack of mental responsibility**

"(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members of the commission as to the defense of lack of mental responsibility under this section and shall charge them to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

"(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

**"§ 949l. Voting and rulings**

"(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

"(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

"(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

"(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

"(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

"(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

"(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

"(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

**"§ 949m. Number of votes required**

"(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

"(b) SENTENCES.—(1) No person may be sentenced by a military commission to suffer death, except insofar as—

"(A) the penalty of death is expressly authorized under this chapter or the law of war for an offense of which the accused has been found guilty;

"(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

"(C) the accused is convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

"(D) all the members present at the time the vote is taken concur in the sentence of death.

"(2) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

"(3) All other sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

"(c) NUMBER OF MEMBERS REQUIRED FOR PENALTY OF DEATH.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12.

"(2) In any case described in paragraph (1) in which 12 members are not reasonably available because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 9 members), and the military commission may be assembled, and the trial held, with not fewer than the number of members so specified. In such a case, the convening authority shall make

a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

**"§ 949n. Military commission to announce action**

"A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

**"§ 949o. Record of trial**

"(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

Regulations.

"(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

"(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall be given a redacted version of the record consistent with the requirements of section 949d of this title. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

Regulations.

"SUBCHAPTER V—SENTENCES

"Sec.
"949s. Cruel or unusual punishments prohibited.
"949t. Maximum limits.
"949u. Execution of confinement.

**"§ 949s. Cruel or unusual punishments prohibited**

"Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

**"§ 949t. Maximum limits**

"The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

**"§ 949u. Execution of confinement**

"(a) IN GENERAL.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

"(1) in any place of confinement under the control of any of the armed forces; or

"(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

"(b) TREATMENT DURING CONFINEMENT BY OTHER THAN THE ARMED FORCES.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

## "SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

"Sec.
"950a. Error of law; lesser included offense.
"950b. Review by the convening authority.
"950c. Appellate referral; waiver or withdrawal of appeal.
"950d. Appeal by the United States.
"950e. Rehearings.
"950f. Review by Court of Military Commission Review.
"950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court.
"950h. Appellate counsel.
"950i. Execution of sentence; procedures for execution of sentence of death.
"950j. Finality or proceedings, findings, and sentences.

### "§ 950a. Error of law; lesser included offense

"(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

"(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

### "§ 950b. Review by the convening authority

"(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

"(b) SUBMITTAL OF MATTERS BY ACCUSED TO CONVENING AUTHORITY.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

Deadline.

"(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of trial under section 949o(c) of this title.

"(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

"(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make

a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

"(c) ACTION BY CONVENING AUTHORITY.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

"(2)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

"(B) Subject to regulations prescribed by the Secretary of Defense, action on the sentence under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier. Regulations.

"(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

"(3) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in his sole discretion, may—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

"(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

"(d) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion, order a proceeding in revision or a rehearing.

"(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

"(i) there is an apparent error or omission in the record; or

"(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

"(B) In no case may a proceeding in revision—

"(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

"(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

"(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by

the convening authority when there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

**"§ 950c. Appellate referral; waiver or withdrawal of appeal**

"(a) AUTOMATIC REFERRAL FOR APPELLATE REVIEW.—Except as provided under subsection (b), in each case in which the final decision of a military commission (as approved by the convening authority) includes a finding of guilty, the convening authority shall refer the case to the Court of Military Commission Review. Any such referral shall be made in accordance with procedures prescribed under regulations of the Secretary.

Regulations.

"(b) WAIVER OF RIGHT OF REVIEW.—(1) In each case subject to appellate review under section 950f of this title, except a case in which the sentence as approved under section 950b of this title extends to death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review.

"(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

Deadline.

"(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice on the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

"(c) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

"(d) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

**"§ 950d. Appeal by the United States**

"(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the Court of Military Commission Review of any order or ruling of the military judge that—

"(A) terminates proceedings of the military commission with respect to a charge or specification;

"(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

"(C) relates to a matter under subsection (d), (e), or (f) of section 949d of this title or section 949j(c) of this title.

"(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

"(b) NOTICE OF APPEAL.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of such order or ruling.

"(c) APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the Court of Military Commission Review. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

"(d) APPEAL FROM ADVERSE RULING.—The United States may appeal an adverse ruling on an appeal under subsection (c) to the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in the Court of Appeals within 10 days after the date of such ruling. Review under this subsection shall be at the discretion of the Court of Appeals. Deadline.

**"§ 950e. Rehearings**

"(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

"(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

"(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

"(B) no sentence in excess of or more than the original sentence may be imposed unless—

"(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

"(ii) the sentence prescribed for the offense is mandatory.

"(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

**"§ 950f. Review by Court of Military Commission Review**

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. For the purpose of reviewing military commission decisions under this chapter, the court may sit in panels or as a whole in accordance with rules prescribed by the Secretary.

"(b) APPELLATE MILITARY JUDGES.—The Secretary shall assign appellate military judges to a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed by section 948j(b) of this title or shall be a civilian with comparable qualifications. No person may be serve as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

"(c) CASES TO BE REVIEWED.—The Court of Military Commission Review, in accordance with procedures prescribed under regulations of the Secretary, shall review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter of law raised by the accused. Regulations.

"(d) SCOPE OF REVIEW.—In a case reviewed by the Court of Military Commission Review under this section, the Court may act only with respect to matters of law.

### "§ 950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court

"(a) EXCLUSIVE APPELLATE JURISDICTION.—(1)(A) Except as provided in subparagraph (B), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority) under this chapter.

"(B) The Court of Appeals may not review the final judgment until all other appeals under this chapter have been waived or exhausted.

Deadline.
Notice.

"(2) A petition for review must be filed by the accused in the Court of Appeals not later than 20 days after the date on which—

"(A) written notice of the final decision of the Court of Military Commission Review is served on the accused or on defense counsel; or

"(B) the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the Court of Military Commission Review under section 950f of this title.

"(b) STANDARD FOR REVIEW.—In a case reviewed by it under this section, the Court of Appeals may act only with respect to matters of law.

"(c) SCOPE OF REVIEW.—The jurisdiction of the Court of Appeals on an appeal under subsection (a) shall be limited to the consideration of—

"(1) whether the final decision was consistent with the standards and procedures specified in this chapter; and

"(2) to the extent applicable, the Constitution and the laws of the United States.

"(d) SUPREME COURT.—The Supreme Court may review by writ of certiorari the final judgment of the Court of Appeals pursuant to section 1257 of title 28.

### "§ 950h. Appellate counsel

Regulations.

"(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications for counsel appearing before military commissions under this chapter.

"(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a)—

"(1) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review; and

"(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

"(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any

such civilian counsel shall meet the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

**"§ 950i. Execution of sentence; procedures for execution of sentence of death**

"(a) IN GENERAL.—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

"(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

"(c) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

"(2) A judgment as to legality of proceedings is final for purposes of paragraph (1) when—

"(A) the time for the accused to file a petition for review by the Court of Appeals for the District of Columbia Circuit has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court; or

"(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

"(i) a petition for a writ of certiorari is not timely filed;

"(ii) such a petition is denied by the Supreme Court; or

"(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(d) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

**"§ 950j. Finality or proceedings, findings, and sentences**

"(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

"(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction

to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

## "SUBCHAPTER VII—PUNITIVE MATTERS

"Sec.
"950p. Statement of substantive offenses.
"950q. Principals.
"950r. Accessory after the fact.
"950s. Conviction of lesser included offense.
"950t. Attempts.
"950u. Solicitation.
"950v. Crimes triable by military commissions.
"950w. Perjury and obstruction of justice; contempt.

### "§ 950p. Statement of substantive offenses

"(a) PURPOSE.—The provisions of this subchapter codify offenses that have traditionally been triable by military commissions. This chapter does not establish new crimes that did not exist before its enactment, but rather codifies those crimes for trial by military commission.

"(b) EFFECT.—Because the provisions of this subchapter (including provisions that incorporate definitions in other provisions of law) are declarative of existing law, they do not preclude trial for crimes that occurred before the date of the enactment of this chapter.

### "§ 950q. Principals

"Any person is punishable as a principal under this chapter who—

"(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

"(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

"(3) is a superior commander who, with regard to acts punishable under this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

### "§ 950r. Accessory after the fact

"Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

### "§ 950s. Conviction of lesser included offense

"An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

**"§ 950t. Attempts**

"(a) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

"(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

"(c) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

**"§ 950u. Solicitation**

"Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

**"§ 950v. Crimes triable by military commissions**

"(a) DEFINITIONS AND CONSTRUCTION.—In this section:

"(1) MILITARY OBJECTIVE.—The term 'military objective' means—

"(A) combatants; and

"(B) those objects during an armed conflict—

"(i) which, by their nature, location, purpose, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability; and

"(ii) the total or partial destruction, capture, or neutralization of which would constitute a definite military advantage to the attacker under the circumstances at the time of the attack.

"(2) PROTECTED PERSON.—The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including—

"(A) civilians not taking an active part in hostilities;

"(B) military personnel placed hors de combat by sickness, wounds, or detention; and

"(C) military medical or religious personnel.

"(3) PROTECTED PROPERTY.—The term 'protected property' means property specifically protected by the law of war (such as buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected), if such property is not being used for military purposes or is not otherwise a military objective. Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

"(4) CONSTRUCTION.—The intent specified for an offense under paragraph (1), (2), (3), (4), or (12) of subsection (b) precludes the applicability of such offense with regard to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(b) OFFENSES.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

"(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death

results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"(11) TORTURE.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(12) CRUEL OR INHUMAN TREATMENT.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) DEFINITIONS.—In this paragraph:

"(i) The term 'serious physical pain or suffering' means bodily injury that involves—

"(I) a substantial risk of death;

"(II) extreme physical pain;

"(III) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(IV) significant loss or impairment of the function of a bodily member, organ, or mental faculty.

"(ii) The term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(iii) The term 'serious mental pain or suffering' has the meaning given the term 'severe mental pain or suffering' in section 2340(2) of title 18, except that—

"(I) the term 'serious' shall replace the term 'severe' where it appears; and

"(II) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

"(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term 'serious bodily injury' means bodily injury which involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) protracted and obvious disfigurement; or

"(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(15) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of

the law of war shall punished as a military commission under this chapter may direct.

"(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"(20) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

"(21) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(22) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

"(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results

to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

"(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24)), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"(27) SPYING.—Any person subject to this chapter who with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(28) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

**"§ 950w. Perjury and obstruction of justice; contempt**

"(a) PERJURY AND OBSTRUCTION OF JUSTICE.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to military commissions under this chapter.

"(b) CONTEMPT.—A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.".

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of

part II of subtitle A, of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

"47A. Military Commissions ..... 948a".

(b) SUBMITTAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

Deadline. Reports. 10 USC 948a note.

**SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.**

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) APPLICABILITY TO LAWFUL ENEMY COMBATANTS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

"(13) Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war.".

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

(3) INAPPLICABILITY OF REQUIREMENTS RELATING TO REGULATIONS.—Section 836 (article 36) is amended—

(A) in subsection (a), by inserting ", except as provided in chapter 47A of this title," after "but which may not"; and

(B) in subsection (b), by inserting before the period at the end ", except insofar as applicable to military commissions established under chapter 47A of this title".

(b) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "Any person"; and

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

"(b) Any person subject to this chapter who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.".

**SEC. 5. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.**

28 USC 2241 note.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term "Geneva Conventions" means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

18 USC 2441 note.

**SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS.**

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—

(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section, constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

(3) INTERPRETATION BY THE PRESIDENT.—

(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

President. Federal Register, publication.

(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) DEFINITIONS.—In this subsection:

(A) GENEVA CONVENTIONS.—The term "Geneva Conventions" means—

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(B) THIRD GENEVA CONVENTION.—The term "Third Geneva Convention" means the international convention referred to in subparagraph (A)(iii).

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(A) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or"; and

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

"(d) COMMON ARTICLE 3 VIOLATIONS.—

"(1) PROHIBITED CONDUCT.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

"(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

"(B) CRUEL OR INHUMAN TREATMENT.—The act of a person who commits, or conspires or attempts to commit, an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control.

"(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

"(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause.

"(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause, by disfiguring the person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of his body, without any legitimate medical or dental purpose.

"(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

"(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

"(H) SEXUAL ASSAULT OR ABUSE.—The act of a person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

"(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraphs (1)(A) and (1)(B) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title;

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title;

"(D) the term 'serious physical pain or suffering' shall be applied for purposes of paragraph (1)(B) as meaning bodily injury that involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(iv) significant loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(E) the term 'serious mental pain or suffering' shall be applied for purposes of paragraph (1)(B) in accordance

with the meaning given the term 'severe mental pain or suffering' (as defined in section 2340(2) of this title), except that—

"(i) the term 'serious' shall replace the term 'severe' where it appears; and

"(ii) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) or paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.

"(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.".

(2) RETROACTIVE APPLICABILITY.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441 of title 18, United States Code, shall take effect as of November 26, 1997, as if enacted immediately after the amendments made by section 583 of Public Law 105–118 (as amended by section 4002(e)(7) of Public Law 107–273).

(c) ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.— 42 USC 2000dd–0.

(1) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) COMPLIANCE.—The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures. President. Rules. Procedures.

**SEC. 7. HABEAS CORPUS MATTERS.**

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking both the subsection (e) added by section

1005(e)(1) of Public Law 109–148 (119 Stat. 2742) and the subsection (e) added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477) and inserting the following new subsection (e):

"(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

"(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.".

28 USC 2441 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.

**SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.**

(a) COUNSEL AND INVESTIGATIONS.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1(b)) is amended—

(1) by striking "may provide" and inserting "shall provide";

(2) by inserting "or investigation" after "criminal prosecution"; and

(3) by inserting "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection".

Applicability. 42 USC 2000dd–1 note.

(b) PROTECTION OF PERSONNEL.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

**SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.**

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(1) in subparagraph (A), by striking "pursuant to Military Commission Order No. 1. dated August 31, 2005 (or any successor military order)" and inserting "by a military commission under chapter 47A of title 10, United States Code";

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(B) GRANT OF REVIEW.—Review under this paragraph shall be as of right.";

(3) in subparagraph (C)—

(A) in clause (i)—

(i) by striking "pursuant to the military order" and inserting "by a military commission"; and

(ii) by striking "at Guantanamo Bay, Cuba"; and

(B) in clause (ii), by striking "pursuant to such military order" and inserting "by the military commission"; and

(4) in subparagraph (D)(i), by striking "specified in the military order" and inserting "specified for a military commission".

**SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.**

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking "the Department of Defense at Guantanamo Bay, Cuba" and inserting "the United States".

Approved October 17, 2006.

LEGISLATIVE HISTORY—S. 3930 (H.R. 6054) (H.R. 6166):

HOUSE REPORTS: No. 109–664, Pt. 1 (Comm. on Armed Services) and Pt. 2 (Comm. on the Judiciary), both accompanying H.R. 6054.

CONGRESSIONAL RECORD, Vol. 152 (2006):

Sept. 27, 28, considered and passed Senate.

Sept. 29, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

Oct. 17, Presidential remarks.

# Public Law 109–367
# 109th Congress

## An Act

Oct. 26, 2006
[H.R. 6061]

To establish operational control over the international land and maritime borders of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Secure Fence Act of 2006.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Secure Fence Act of 2006".

8 USC 1701 note.

Deadline.

**SEC. 2. ACHIEVING OPERATIONAL CONTROL ON THE BORDER.**

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security shall take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States, to include the following—

(1) systematic surveillance of the international land and maritime borders of the United States through more effective use of personnel and technology, such as unmanned aerial vehicles, ground-based sensors, satellites, radar coverage, and cameras; and

(2) physical infrastructure enhancements to prevent unlawful entry by aliens into the United States and facilitate access to the international land and maritime borders by United States Customs and Border Protection, such as additional checkpoints, all weather access roads, and vehicle barriers.

(b) OPERATIONAL CONTROL DEFINED.—In this section, the term "operational control" means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

(c) REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report on the progress made toward achieving and maintaining operational control over the entire international land and maritime borders of the United States in accordance with this section.

**SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.**

Section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 8 U.S.C. 1103 note) is amended—

(1) in the subsection heading by striking "NEAR SAN DIEGO, CALIFORNIA"; and

(2) by amending paragraph (1) to read as follows:

"(1) SECURITY FEATURES.—

"(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall provide for least 2 layers of reinforced fencing, the installation of additional physical barriers, roads, lighting, cameras, and sensors—

"(i) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

"(ii) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

"(iii) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

"(iv) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

"(v) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

"(B) PRIORITY AREAS.—With respect to the border described— Deadlines.

"(i) in subparagraph (A)(ii), the Secretary shall ensure that an interlocking surveillance camera system is installed along such area by May 30, 2007, and that fence construction is completed by May 30, 2008; and

"(ii) in subparagraph (A)(v), the Secretary shall ensure that fence construction from 15 miles northwest of the Laredo, Texas, port of entry to 15 southeast of the Laredo, Texas, port of entry is completed by December 31, 2008.

"(C) EXCEPTION.—If the topography of a specific area has an elevation grade that exceeds 10 percent, the Secretary may use other means to secure such area, including the use of surveillance and barrier tools.".

**SEC. 4. NORTHERN BORDER STUDY.**

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a study on the feasibility of a state-of-the-art infrastructure security system along the northern international land and maritime border of the United States and shall include in the study—

(1) the necessity of implementing such a system;

(2) the feasibility of implementing such a system; and

(3) the economic impact implementing such a system will have along the northern border.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that contains the results of the study conducted under subsection (a).

**SEC. 5. EVALUATION AND REPORT RELATING TO CUSTOMS AUTHORITY TO STOP CERTAIN FLEEING VEHICLES.**

(a) EVALUATION.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) evaluate the authority of personnel of United States Customs and Border Protection to stop vehicles that enter the United States illegally and refuse to stop when ordered to do so by such personnel, compare such Customs authority with the authority of the Coast Guard to stop vessels under section 637 of title 14, United States Code, and make an assessment as to whether such Customs authority should be expanded;

(2) review the equipment and technology available to United States Customs and Border Protection personnel to stop vehicles described in paragraph (1) and make an assessment as to whether or not better equipment or technology is available or should be developed; and

(3) evaluate the training provided to United States Customs and Border Protection personnel to stop vehicles described in paragraph (1).

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that contains the results of the evaluation conducted under subsection (a).

Approved October 26, 2006.

LEGISLATIVE HISTORY—H.R. 6061:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 14, considered and passed House.
Sept. 21, 25, 26, 28, 29, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Oct. 26, Presidential remarks.

Public Law 109–368
109th Congress

# An Act

To clarify the provision of nutrition services to older Americans.

Nov. 17 2006
[H.R. 6326]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NUTRITION ASSISTANCE.**

Notwithstanding section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a), as amended by Public Law 109-365, the Secretary of Agriculture shall fulfill, and accept reimbursement from the Secretary of Health and Human Services for, commodity procurement requests for fiscal year 2007 submitted by the States (as defined in section 102 of the Older Americans Act of 1965) and tribal organizations (as defined in section 102 of such Act) before November 14, 2006, in support of the operation of the nutrition services incentive program authorized by section 311 of such Act as in effect on October 16, 2006.

Approved November 17, 2006.

LEGISLATIVE HISTORY—H.R. 6326:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 15, considered and passed House and Senate.

# Public Law 109–369
# 109th Congress

## Joint Resolution

Nov. 17, 2006
[H.J. Res. 100]

Making further continuing appropriations for the fiscal year 2007, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by striking the date specified in section 106(3) and inserting "December 8, 2006".

*Ante*, p. 1313.

Approved November 17, 2006.

LEGISLATIVE HISTORY—H.J. Res. 100:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 15, considered and passed House and Senate.

# Public Law 109–370
# 109th Congress

## An Act

To amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

Nov. 27, 2006
[S. 435]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005. Conservation. 16 USC 1271 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005".

**SEC. 2. DESIGNATION OF ADDITIONAL SEGMENT OF FARMINGTON RIVER AND SALMON BROOK IN CONNECTICUT FOR STUDY FOR POTENTIAL ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM.**

(a) DESIGNATION.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

"(139) LOWER FARMINGTON RIVER AND SALMON BROOK, CONNECTICUT.—The segment of the Farmington River downstream from the segment designated as a recreational river by section 3(a)(156) to its confluence with the Connecticut River, and the segment of the Salmon Brook including its mainstream and east and west branches.".

(b) TIME FOR SUBMISSION.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall submit to Congress a report containing the results of the study required by the amendment made by subsection (a).

Reports.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved November 27, 2006.

---

LEGISLATIVE HISTORY—S. 435:

SENATE REPORTS: No. 109–189 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): Nov. 13, considered and passed House.

# Public Law 109–371
# 109th Congress

## An Act

Nov. 27, 2006
[S. 819]

To authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pactola Reservoir Reallocation Authorization Act of 2005.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pactola Reservoir Reallocation Authorization Act of 2005".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

**SEC. 3. REALLOCATION OF COSTS OF PACTOLA DAM AND RESERVOIR, SOUTH DAKOTA.**

The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

Approved November 27, 2006.

LEGISLATIVE HISTORY—S. 819 (H.R. 3967):

HOUSE REPORTS: No. 109–431 accompanying H.R. 3967 (Comm. on Resources).
SENATE REPORTS: No. 109–168 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed Senate.
Vol. 152 (2006): Nov. 13, considered and passed House.

Public Law 109–372
109th Congress

# An Act

To authorize the exchange of certain Federal land within the State of Idaho, and for other purposes.

Nov. 27, 2006
[S. 1131]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Idaho Land Enhancement Act. Conservation.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Idaho Land Enhancement Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term "Agreement" means the agreement executed in April 2005 entitled "Agreement to Initiate, Boise Foothills—Northern Idaho Land Exchange", as modified by the agreement executed in March 2006 entitled "Amendment No. 1", and entered into by—

(A) the Bureau of Land Management;

(B) the Forest Service;

(C) the State; and

(D) the City.

(2) BUREAU OF LAND MANAGEMENT LAND.—The term "Bureau of Land Management land" means the approximately 605 acres of land administered by the Bureau of Land Management (including all appurtenances to the land) that is proposed to be acquired by the State, as identified in exhibit A2 of the Agreement and as generally depicted on the maps.

(3) BOARD.—The term "Board" means the Idaho State Board of Land Commissioners.

(4) CITY.—The term "City" means the city of Boise, Idaho.

(5) FEDERAL LAND.—The term "Federal land" means the Bureau of Land Management land and the National Forest System land.

(6) MAPS.—The term "maps" means maps 1 through 7 entitled "Parcel Identification Map: Idaho Lands Enhancement Act Land Exchange" and dated February 28, 2006.

(7) NATIONAL FOREST SYSTEM LAND.—The term "National Forest System land" means the approximately 7,220 acres of land (including all appurtenances to the land) that is—

(A) administered by the Secretary of Agriculture in the Idaho Panhandle National Forests and the Clearwater National Forest;

(B) proposed to be acquired by the State;

(C) identified in exhibit A2 of the Agreement; and

(D) generally depicted on the maps.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(9) STATE.—The term "State" means the State of Idaho, Department of Lands.

(10) STATE LAND.—The term "State land" means the approximately 11,815 acres of land (including all appurtenances to the land) administered by the State that is proposed to be acquired by the United States, as identified in exhibit A1 of the Agreement and as generally depicted on the maps.

**SEC. 3. LAND EXCHANGE.**

(a) IN GENERAL.—In accordance with the Agreement and this Act, if the State offers to convey the State land to the United States, the Secretary and the Secretary of Agriculture shall—

(1) accept the offer; and

(2) on receipt of title to the State land, simultaneously convey to the State the Federal land.

(b) VALID EXISTING RIGHTS.—The conveyance of the Federal land and State land shall be subject to all valid existing rights.

(c) EQUAL VALUE EXCHANGE.—

(1) IN GENERAL.—The value of the Federal land and State land to be exchanged under this Act—

(A) shall be equal; or

(B) shall be made equal in accordance with subsection (d).

(2) APPRAISALS.—The value of the Federal land and State land shall be determined in accordance with appraisals—

(A) conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice;

(B) reviewed by an interdepartmental review team comprised of representatives of Federal and State agencies; and

(C) approved by the Secretary or the Secretary of Agriculture, as appropriate.

Extension date.

(3) TERM OF APPROVAL.—The term of approval of the appraisals by the interdepartmental review team is extended to September 13, 2008.

(d) CASH EQUALIZATION.—

(1) IN GENERAL.—If the value of the Federal land and State land is not equal, the value may be equalized by the payment of cash to the United States or to the State, as appropriate, in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(2) DISPOSITION AND USE OF PROCEEDS.—

(A) DISPOSITION OF PROCEEDS.—Any cash equalization payments received by the United States under paragraph (1) shall be deposited in the fund established under Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(B) USE OF PROCEEDS.—Amounts deposited under subparagraph (A) shall be available to the Secretary of Agriculture, without further appropriation and until expended, for the acquisition of land and interests in land for addition to the National Forest System in the State.

(e) TIMING.—It is the intent of Congress that the land exchange authorized and directed by this Act shall be completed not later than 180 days after the date of enactment of this Act.

(f) RIGHTS-OF-WAY.—

(1) RIGHTS-OF-WAY TO NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to the State any easements or other rights-of-way to National Forest System land that are—

(A) appropriate to provide access to the National Forest System land acquired by the State; and

(B) agreed to by the Secretary of Agriculture and the State.

(2) RIGHTS-OF-WAY TO STATE LAND.—The State shall convey to the United States any easements or other rights-of-way to land owned by the State that are—

(A) appropriate to provide access to the State land acquired by the United States; and

(B) agreed to by—

(i) the Secretary or the Secretary of Agriculture; and

(ii) the State.

(g) COSTS.—The City, either directly or through a collection agreement with the Secretary and the Secretary of Agriculture, shall pay the administrative costs associated with the conveyance of the Federal land and State land, including the costs of any field inspections, environmental analyses, appraisals, title examinations, and deed and patent preparations.

**SEC. 4. MANAGEMENT OF FEDERAL LAND.**

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—There is transferred from the Secretary to the Secretary of Agriculture administrative jurisdiction over the land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is the approximately 2,110 acres of land that is administered by the Bureau of Land Management and located in Shoshone County, Idaho, as generally identified in exhibit A3 of the Agreement.

(3) WILDERNESS STUDY AREAS.—Any land designated as a Wilderness Study Area that is transferred to the Secretary of Agriculture under paragraph (1) shall be managed in a manner that preserves the suitability of land for designation as wilderness until Congress determines otherwise.

(b) ADDITIONS TO THE NATIONAL FOREST SYSTEM.—The Secretary of Agriculture shall administer any land transferred to, or conveyed to the United States for administration by, the Secretary of Agriculture in accordance with—

(1) the Act of March 1, 1911 (commonly known as the "Weeks Act") (16 U.S.C. 480 et seq.); and

(2) the laws (including regulations) applicable to the National Forest System.

(c) LAND TO BE MANAGED BY THE SECRETARY.—The Secretary shall administer any State land conveyed to the United States under this Act for administration by the Secretary in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) other applicable laws.

(d) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Idaho Panhandle National Forests and the Clearwater National Forest shall be considered to be the boundaries of the Idaho Panhandle National Forests and the Clearwater National Forest, respectively, as of January 1, 1965.

**SEC. 5. MISCELLANEOUS PROVISIONS.**

(a) LEGAL DESCRIPTIONS.—The Secretary, the Secretary of Agriculture, and the Board may modify the descriptions of land specified in the Agreement to—

(1) correct errors; or

(2) make minor adjustments to the parcels based on a survey or other means.

(b) REVOCATION OF ORDERS.—Subject to valid existing rights, any public land orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(c) WITHDRAWALS.—

(1) FEDERAL LAND.—Subject to valid existing rights, pending completion of the land exchange, the Federal land is withdrawn from—

(A) all forms of location, entry, and patent under the mining and public land laws; and

(B) disposition under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(2) STATE LAND.—Subject to valid existing rights, the land transferred to the United States under this Act is withdrawn from—

(A) all forms of location, entry, and patent under the mining and public land laws; and

(B) disposition under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(3) EFFECT.—Nothing in this section precludes the Secretary or the Secretary of Agriculture from using common varieties of mineral materials for construction and maintenance

of Federal roads and facilities on the State land acquired under this Act.

Approved November 27, 2006.

LEGISLATIVE HISTORY—S. 1131:

SENATE REPORTS: No. 109–232 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate.
Nov. 13, considered and passed House.

# Public Law 109–373
# 109th Congress

## An Act

Nov. 27, 2006
[S. 2464]

To revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—The term "Fort McDowell Water Rights Settlement Act" means the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101–628; 104 Stat. 4480).

(2) NATION.—The term "Nation" means the Fort McDowell Yavapai Nation, formerly known as the "Fort McDowell Indian Community".

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. CANCELLATION OF REPAYMENT OBLIGATION.**

(a) CANCELLATION OF OBLIGATION.—The obligation of the Nation to repay the loan made under section 408(e) of the Fort McDowell Water Rights Settlement Act (104 Stat. 4489) is cancelled.

(b) EFFECT OF ACT.—

(1) RIGHTS OF NATION UNDER FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act alters or affects any right of the Nation under the Fort McDowell Water Rights Settlement Act.

(B) EXCEPTION.—The cancellation of the repayment obligation under subsection (a) shall be considered—

(i) to fulfill all conditions required to achieve the full and final implementation of the Fort McDowell Water Rights Settlement Act; and

(ii) to relieve the Secretary of any responsibility or obligation to obtain mitigation property or develop additional farm acreage under section 410 the Fort McDowell Water Rights Settlement Act (104 Stat. 4490).

(2) ELIGIBILITY FOR SERVICES AND BENEFITS.—Nothing in this Act alters or affects the eligibility of the Nation or any member of the Nation for any service or benefit provided by the Federal Government to federally recognized Indian tribes or members of such Indian tribes.

Approved November 27, 2006.

LEGISLATIVE HISTORY—S. 2464:

SENATE REPORTS: No. 109–284 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 13, considered and passed Senate.
Sept. 28, considered and passed House.

# Public Law 109–374
# 109th Congress

## An Act

Nov. 27, 2006
[S. 3880]

To provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Animal Enterprise Terrorism Act. 18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Animal Enterprise Terrorism Act".

**SEC. 2. INCLUSION OF ECONOMIC DAMAGE TO ANIMAL ENTERPRISES AND THREATS OF DEATH AND SERIOUS BODILY INJURY TO ASSOCIATED PERSONS.**

(a) IN GENERAL.—Section 43 of title 18, United States Code, is amended to read as follows:

**"§ 43. Force, violence, and threats involving animal enterprises**

"(a) OFFENSE.—Whoever travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility of interstate or foreign commerce—

"(1) for the purpose of damaging or interfering with the operations of an animal enterprise; and

"(2) in connection with such purpose—

"(A) intentionally damages or causes the loss of any real or personal property (including animals or records) used by an animal enterprise, or any real or personal property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise;

"(B) intentionally places a person in reasonable fear of the death of, or serious bodily injury to that person, a member of the immediate family (as defined in section 115) of that person, or a spouse or intimate partner of that person by a course of conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation; or

"(C) conspires or attempts to do so;

shall be punished as provided for in subsection (b).

"(b) PENALTIES.—The punishment for a violation of section (a) or an attempt or conspiracy to violate subsection (a) shall be—

"(1) a fine under this title or imprisonment not more than 1 year, or both, if the offense does not instill in another the reasonable fear of serious bodily injury or death and—

"(A) the offense results in no economic damage or bodily injury; or

"(B) the offense results in economic damage that does not exceed $10,000;

"(2) a fine under this title or imprisonment for not more than 5 years, or both, if no bodily injury occurs and—

"(A) the offense results in economic damage exceeding $10,000 but not exceeding $100,000; or

"(B) the offense instills in another the reasonable fear of serious bodily injury or death;

"(3) a fine under this title or imprisonment for not more than 10 years, or both, if—

"(A) the offense results in economic damage exceeding $100,000; or

"(B) the offense results in substantial bodily injury to another individual;

"(4) a fine under this title or imprisonment for not more than 20 years, or both, if—

"(A) the offense results in serious bodily injury to another individual; or

"(B) the offense results in economic damage exceeding $1,000,000; and

"(5) imprisonment for life or for any terms of years, a fine under this title, or both, if the offense results in death of another individual.

"(c) RESTITUTION.—An order of restitution under section 3663 or 3663A of this title with respect to a violation of this section may also include restitution—

"(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense;

"(2) for the loss of food production or farm income reasonably attributable to the offense; and

"(3) for any other economic damage, including any losses or costs caused by economic disruption, resulting from the offense.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'animal enterprise' means—

"(A) a commercial or academic enterprise that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, or testing;

"(B) a zoo, aquarium, animal shelter, pet store, breeder, furrier, circus, or rodeo, or other lawful competitive animal event; or

"(C) any fair or similar event intended to advance agricultural arts and sciences;

"(2) the term 'course of conduct' means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose;

"(3) the term 'economic damage'—

"(A) means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, the loss of profits, or increased costs, including losses and increased costs resulting from threats, acts or vandalism, property damage, trespass, harassment, or intimidation taken against a person or entity on account of that person's or entity's connection

to, relationship with, or transactions with the animal enterprise; but

"(B) does not include any lawful economic disruption (including a lawful boycott) that results from lawful public, governmental, or business reaction to the disclosure of information about an animal enterprise;

"(4) the term 'serious bodily injury' means—

"(A) injury posing a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(5) the term 'substantial bodily injury' means—

"(A) deep cuts and serious burns or abrasions;

"(B) short-term or nonobvious disfigurement;

"(C) fractured or dislocated bones, or torn members of the body;

"(D) significant physical pain;

"(E) illness;

"(F) short-term loss or impairment of the function of a bodily member, organ, or mental faculty; or

"(G) any other significant injury to the body.

"(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

"(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, regardless of the point of view expressed, or to limit any existing legal remedies for such interference; or

"(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this action, or to preempt State or local laws that may provide such penalties or remedies.".

(b) CLERICAL AMENDMENT.—The item relating to section 43 in the table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

"43. Force, violence, and threats involving animal enterprises.".

Approved November 27, 2006.

LEGISLATIVE HISTORY—S. 3880:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate.
Nov. 13, considered and passed House.

# Public Law 109–375
## 109th Congress

## An Act

Dec. 1, 2006
[H.R. 409]

To provide for the exchange of land within the Sierra National Forest, California, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Sierra National Forest Land Exchange Act of 2006.
Conservation.
42 USC 15801 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Sierra National Forest Land Exchange Act of 2006".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COUNCIL.—The term "Council" means the Sequoia Council of the Boy Scouts of America.

(2) FEDERAL LAND.—The term "Federal land" means the parcel of land comprising 160 acres and located in E½SW¼ and W½SE¼, sec. 30, T. 9 S., R. 25 E., Mt. Diablo Meridian, California.

(3) NON-FEDERAL LAND.—The term "non-Federal land" means a parcel of land comprising approximately 80 acres and located in N½NW¼, sec. 29, T. 8 S., R. 26 E., Mt. Diablo Meridian, California.

(4) PROJECT NO. 67.—The term "Project No. 67" means the hydroelectric project licensed pursuant to the Federal Power Act (16 U.S.C. 791a et seq.) as Project No. 67.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 3. LAND EXCHANGE, SIERRA NATIONAL FOREST, CALIFORNIA.**

(a) EXCHANGE AUTHORIZED.—

(1) IN GENERAL.—If, during the 1-year period beginning on the date of enactment of this Act, the owner of the non-Federal land offers to convey to the United States title to the non-Federal land and to make a cash equalization payment of $50,000 to the United States, the Secretary shall convey to the owner of the non-Federal land, all right, title, and interest of the United States in and to the Federal land, except as provided in subsection (d), subject to valid existing rights, and under such terms and conditions as the Secretary may require.

(2) CORRECTION AND MODIFICATION OF LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—The Secretary, in consultation with the owner of the non-Federal land, may agree to make

corrections to the legal descriptions of the Federal land and non-Federal land.

(B) MODIFICATIONS.—The Secretary and the owner of the non-Federal land may agree to make minor modifications to the legal descriptions if the modifications do not affect the overall value of the exchange by more than 5 percent.

(b) VALUATION OF LAND TO BE CONVEYED.—For purposes of this section, during the period referred to in subsection (a)(1)—

(1) the value of the non-Federal land shall be considered to be $200,000; and

(2) the value of the Federal land shall be considered to be $250,000.

(c) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—On acquisition by the Secretary, the Secretary shall manage the non-Federal land in accordance with—

(1) the Act of March 1, 1911 (commonly known as the "Weeks Act") (16 U.S.C. 480 et seq.); and

(2) any other laws (including regulations) applicable to the National Forest System.

(d) CONDITIONS ON CONVEYANCE OF FEDERAL LAND.—The conveyance by the Secretary under subsection (a) shall be subject to the conditions that—

(1) the recipient of the Federal land convey all 160 acres of the Federal land to the Council not later than 120 days after the date on which the recipient receives title to the Federal land; Deadline.

(2) in accordance with section 4(a), the Secretary grant to the owner of Project No. 67 an easement; and

(3) in accordance with section 4(b), the owner of Project No. 67 has the right of first refusal regarding any reconveyance of the Federal land by the Council.

(e) DISPOSITION AND USE OF CASH EQUALIZATION FUNDS.—

(1) IN GENERAL.—The Secretary shall deposit the cash equalization payment received under subsection (a)(1) in the fund established by Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation, for the acquisition of land and any interests in land for the National Forest System in the State of California.

(f) COST COLLECTION FUNDS.—

(1) IN GENERAL.—The owner of the non-Federal land shall pay to the Secretary all direct costs associated with processing the land exchange under this section.

(2) COST COLLECTION ACCOUNT.—

(A) IN GENERAL.—Any amounts received by the Secretary under paragraph (1) shall be deposited in a cost collection account.

(B) USE.—Amounts deposited under subparagraph (A) shall be available to the Secretary until expended, without further appropriation, for the costs associated with the land exchange.

(C) REFUND.—The Secretary shall provide to the owner of the non-Federal land a refund of any amounts remaining in the cost collection account after completion of the land

exchange that are not needed to cover expenses of the land exchange.

(g) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Sierra National Forest shall be considered to be the boundaries of the Sierra National Forest as of January 1, 1965.

**SEC. 4. GRANT OF EASEMENT AND RIGHT OF FIRST REFUSAL.**

In accordance with the agreement entered into by the Forest Service, the Council, and the owner of Project No. 67 entitled the "Agreement to Convey Grant of Easement and Right of First Refusal" and executed on April 17, 2006—

(1) the Secretary shall grant an easement to the owner of Project No. 67; and

(2) the Council shall grant a right of first refusal to the owner of Project No. 67.

**SEC. 5. EXERCISE OF DISCRETION.**

In exercising any discretion necessary to carry out this Act, the Secretary shall ensure that the public interest is well served.

**SEC. 6. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, AND OTHER COMMERCIAL PURPOSES.**

Section 210(d) of the Energy Policy Act of 2005 (42 U.S.C. 15855(d)) is amended by striking "$50,000,000 for each of the fiscal years 2006 through 2016" and inserting "$50,000,000 for fiscal year 2006 and $35,000,000 for each of fiscal years 2007 through 2016".

Approved December 1, 2006.

LEGISLATIVE HISTORY—H.R. 409:

SENATE REPORTS: No. 109–243 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Sept. 20, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate, amended.
Nov. 13, House concurred in Senate amendment.

# Public Law 109–376
# 109th Congress

## An Act

To provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District, El Paso County, Texas.

Dec. 1, 2006
[H.R. 860]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF PROPERTY.**

(a) CONVEYANCE.—Subject to section 2, the Secretary of State shall execute and file in the appropriate office such instrument as may be necessary to release the reversionary interest of the United States in the land referred to in subsection (b).

(b) LAND DESCRIBED.—The land described in this subsection consists of Tracts 4–B, 5, and 7, Block 14, San Elizario Grant, County of El Paso, State of Texas.

**SEC. 2. TERMS AND CONDITIONS.**

The release under section 1 shall be made upon condition that the Clint Independent School District in the County of El Paso, State of Texas, use any proceeds received from the disposal of such land for public educational purposes.

Approved December 1, 2006.

LEGISLATIVE HISTORY—H.R. 860:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 18, considered and passed House.
Nov. 13, considered and passed Senate.

# Public Law 109–377
# 109th Congress

## An Act

Dec. 1, 2006
[H.R. 1129]

Pitkin County Land Exchange Act of 2006. Conservation.

To authorize the exchange of certain land in the State of Colorado.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pitkin County Land Exchange Act of 2006".

**SEC. 2. PURPOSE.**

The purpose of this Act is to authorize, direct, expedite, and facilitate the exchange of land between the United States, Pitkin County, Colorado, and the Aspen Valley Land Trust.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ASPEN VALLEY LAND TRUST.—

(A) IN GENERAL.—The term "Aspen Valley Land Trust" means the Aspen Valley Land Trust, a nonprofit organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.

(B) INCLUSIONS.—The term "Aspen Valley Land Trust" includes any successor, heir, or assign of the Aspen Valley Land Trust.

(2) COUNTY.—The term "County" means Pitkin County, a political subdivision of the State of Colorado.

(3) FEDERAL LAND.—The term "Federal land" means—

(A) the approximately 5.5 acres of National Forest System land located in the County, as generally depicted on the map entitled "Ryan Land Exchange-Wildwood Parcel Conveyance to Pitkin County" and dated August 2004;

(B) the 12 parcels of National Forest System land located in the County totaling approximately 5.92 acres, as generally depicted on maps 1 and 2 entitled "Ryan Land Exchange-Smuggler Mountain Patent Remnants Conveyance to Pitkin County" and dated August 2004; and

(C) the approximately 40 acres of Bureau of Land Management land located in the County, as generally depicted on the map entitled "Ryan Land Exchange-Crystal River Parcel Conveyance to Pitkin County" and dated August 2004.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means—

(A) the approximately 35 acres of non-Federal land in the County, as generally depicted on the map entitled "Ryan Land Exchange-Ryan Property Conveyance to Forest Service" and dated August 2004; and

(B) the approximately 18.2 acres of non-Federal land located on Smuggler Mountain in the County, as generally depicted on the map entitled "Ryan Land Exchange-Smuggler Mountain-Grand Turk & Pontiac Claims Conveyance to Forest Service" and dated August 2004.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 4. LAND EXCHANGE.**

(a) IN GENERAL.—If the County offers to convey to the United States title to the non-Federal land that is acceptable to the Secretary, the Secretary and the Secretary of the Interior shall—

(1) accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, simultaneously convey to the County, or at the request of the County, to the Aspen Valley Land Trust, all right, title, and interest of the United States in and to the Federal land, except as provided in section 5(d), subject to all valid existing rights and encumbrances.

(b) TIMING.—It is the intent of Congress that the land exchange directed by this Act shall be completed not later than 1 year after the date of enactment of this Act. Deadline.

**SEC. 5. EXCHANGE TERMS AND CONDITIONS.**

(a) EQUAL VALUE EXCHANGE.—The value of the Federal land and non-Federal land—

(1) shall be equal; or

(2) shall be made equal in accordance with subsection (c).

(b) APPRAISALS.—The value of the Federal land and non-Federal land shall be determined by the Secretary through appraisals conducted in accordance with—

(1) the Uniform Appraisal Standards for Federal Land Acquisitions;

(2) the Uniform Standards of Professional Appraisal Practice; and

(3) Forest Service appraisal instructions.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—If the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the County shall donate to the United States the excess value of the non-Federal land, which shall be considered to be a donation for all purposes of law.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the value of the Federal land and non-Federal land may, as the Secretary and the County determine to be appropriate, be equalized by the County—

(i) making a cash equalization payment to the Secretary;

(ii) conveying to the Secretary certain land located in the County, comprising approximately 160 acres,

as generally depicted on the map entitled "Sellar Park Parcel" and dated August 2004; or

(iii) using a combination of the methods described in clauses (i) and (ii).

(B) DISPOSITION AND USE OF PROCEEDS.—

(i) DISPOSITION OF PROCEEDS.—Any cash equalization payment received by the Secretary under clause (i) or (iii) of subparagraph (A) shall be deposited in the fund established by Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(ii) USE OF PROCEEDS.—Amounts deposited under clause (i) shall be available to the Secretary, without further appropriation, for the acquisition of land or interests in land in Colorado for addition to the National Forest System.

(d) CONDITIONS ON CERTAIN CONVEYANCES.—

(1) CONDITIONS ON CONVEYANCE OF CRYSTAL RIVER PARCEL.—

(A) IN GENERAL.—As a condition of the conveyance of the parcel of Federal land described in section 3(3)(C) to the County, the County shall agree to—

(i) provide for public access to the parcel; and

(ii) require that the parcel shall be used only for recreational, fish and wildlife conservation, and public open space purposes.

(B) REVERSION.—At the option of the Secretary of the Interior, the parcel of land described in section 3(3)(C) shall revert to the United States if the parcel is used for a purpose other than a purpose described in subparagraph (A)(ii).

(2) CONDITIONS ON CONVEYANCE OF WILDWOOD PARCEL.—In the deed of conveyance for the parcel of Federal land described in section 3(3)(A) to the County, the Secretary shall, as determined to be appropriate by the Secretary, in consultation with the County, reserve to the United States a permanent easement for the location, construction, and public use of the East of Aspen Trail.

**SEC. 6. MISCELLANEOUS PROVISIONS.**

(a) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.—

(1) IN GENERAL.—Land acquired by the Secretary under this Act shall become part of the White River National Forest.

(2) MANAGEMENT.—On acquisition, land acquired by the Secretary under this Act shall be administered in accordance with the laws (including rules and regulations) generally applicable to the National Forest System.

(3) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the White River National Forest shall be deemed to be the boundaries of the White River National Forest as of January 1, 1965.

(b) REVOCATION OF ORDERS AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL OF FEDERAL LAND.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn, subject to valid existing rights, until the date of the conveyance of the Federal land to the County.

Minerals and mining.

(3) WITHDRAWAL OF NON-FEDERAL LAND.—On acquisition of the non-Federal land by the Secretary, the non-Federal land is permanently withdrawn from all forms of appropriation and disposal under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(c) BOUNDARY ADJUSTMENTS.—The Secretary, the Secretary of the Interior, and the County may agree to—

(1) minor adjustments to the boundaries of the parcels of Federal land and non-Federal land; and

(2) modifications or deletions of parcels and mining claim remnants of Federal land or non-Federal land to be exchanged on Smuggler Mountain.

Approved December 1, 2006.

LEGISLATIVE HISTORY—H.R. 1129:

HOUSE REPORTS: No. 109–252 (Comm. on Resources).
SENATE REPORTS: No. 109–245 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 6, considered and passed House.
Vol. 152 (2006): Sept. 29, considered and passed Senate, amended.
Nov. 13, House concurred in Senate amendment.

# Public Law 109–378
## 109th Congress

## An Act

Dec. 1, 2006
[H.R. 3085]

To amend the National Trails System Act to update the feasibility and suitability study originally prepared for the Trail of Tears National Historic Trail and provide for the inclusion of new trail segments, land components, and campgrounds associated with that trail, and for other purposes.

Conservation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REVISION OF FEASIBILITY AND SUITABILITY STUDY OF TRAIL OF TEARS NATIONAL HISTORIC TRAIL.**

Section 5(a)(16) of the National Trails System Act (16 U.S.C. 1244(a)(16)) is amended—

(1) in subparagraph (B), by striking "subsections" and inserting "sections"; and

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

Deadline.

"(C) Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall complete the remaining criteria and submit to Congress a study regarding the feasibility and suitability of designating, as additional components of the Trail of Tears National Historic Trail, the following routes and land components by which the Cherokee Nation was removed to Oklahoma:

"(i) The Benge and Bell routes.

State listing.

"(ii) The land components of the designated water routes in Alabama, Arkansas, Oklahoma, and Tennessee.

State listing.

"(iii) The routes from the collection forts in Alabama, Georgia, North Carolina, and Tennessee to the emigration depots.

"(iv) The related campgrounds located along the routes and land components described in clauses (i) through (iii).

"(D) No additional funds are authorized to be appropriated to carry out subparagraph (C). The Secretary may

accept donations for the Trail from private, nonprofit, or tribal organizations.”.

Approved December 1, 2006.

LEGISLATIVE HISTORY—H.R. 3085 (S. 1970):

HOUSE REPORTS: No. 109–549 (Comm. on Resources).
SENATE REPORTS: No. 109–239 accompanying S. 1970 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 17, considered and passed House.
Sept. 29, considered and passed Senate, amended.
Nov. 13, House concurred in Senate amendment.

# Public Law 109–379
## 109th Congress

## An Act

Dec. 1, 2006
[H.R. 5842]

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) there is pending before the United States Court of Federal Claims a civil action filed by the Pueblo against the United States in which the Pueblo seeks to recover damages pursuant to the Isleta Jurisdictional Act;

(2) the Pueblo and the United States, after a diligent investigation of the Pueblo claims, have negotiated a Settlement Agreement, the validity and effectiveness of which is contingent on the enactment of enabling legislation;

(3) certain land of the Pueblo is waterlogged, and it would be to the benefit of the Pueblo and other water users to drain the land and return water to the Rio Grande River; and

(4) there is Pueblo forest land in need of remediation in order to improve timber yields, reduce the threat of fire, reduce erosion, and improve grazing conditions.

(b) PURPOSES.—The purposes of this Act are—

(1) to improve the drainage of the irrigated land, the health of the forest land, and other natural resources of the Pueblo; and

(2) to settle all claims that were raised or could have been raised by the Pueblo against the United States under the Isleta Jurisdictional Act in accordance with section 5.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ISLETA JURISDICTIONAL ACT.—The term "Isleta Jurisdictional Act" means Public Law 104–198 (110 Stat. 2418).

(2) PUEBLO.—The term "Pueblo" means the Pueblo of Isleta, a federally recognized Indian tribe.

(3) RESTORATION FUND.—The term "Restoration Fund" means the Pueblo of Isleta Natural Resources Restoration Fund established by section 4(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the Agreement of Compromise and Settlement entered into between the United States and the Pueblo, dated July 12, 2005, as modified by the Extension and Modification Agreement executed by the United States and the Pueblo on June 22, 2006, to settle the claims of the Pueblo in Docket No. 98–166L, a case pending in the United States Court of Federal Claims.

**SEC. 4. PUEBLO OF ISLETA NATURAL RESOURCES RESTORATION TRUST FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury a trust fund, to be known as the "Pueblo of Isleta Natural Resources Restoration Fund", consisting of—

(1) such amounts as are transferred to the Restoration Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Restoration Fund under subsection (d).

(b) TRANSFERS TO RESTORATION FUND.—Upon entry of the final judgment described in section 5(b), there shall be transferred to the Restoration Fund, in accordance with conditions specified in the Settlement Agreement and this Act—

(1) $32,838,750 from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code; and

(2) in addition to the amounts transferred under paragraph (1), at such times and in such amounts as are specified for that purpose in the annual budget of the Department of the Interior, authorized to be appropriated under subsection (f), and made available by an Act of appropriation, a total of $7,200,000.

(c) DISTRIBUTION OF AMOUNTS FROM RESTORATION FUND.—

(1) APPROPRIATED AMOUNTS.—

(A) IN GENERAL.—Subject to paragraph (3), upon the request of the Pueblo, the Secretary shall distribute amounts deposited in the Restoration Fund pursuant to subsection (b)(2) of this section and section V of the Settlement Agreement, in accordance with the terms and conditions of the Settlement Agreement and this Act, on the condition that before any such distribution the Secretary receives from the Pueblo such assurances as are satisfactory to the Secretary that—

(i) the Pueblo shall deliver funds in the amount of $7,100,000 toward drainage and remediation of the agricultural land and rehabilitation of forest and range land of the Pueblo in accordance with section IV(C) and IV(D) of the Settlement Agreement; and

(ii) those funds shall be available for expenditure for drainage and remediation expenses as provided in sections IV(C) and IV(D) of the Settlement Agreement on the dates on which the Secretary makes distributions, and in amounts equal to the amounts so distributed, in accordance with sections IV(A) and IV(B) of the Settlement Agreement.

(B) USE OF FUNDS.—Of the amounts distributed by the Secretary from the Restoration Fund under subparagraph (A)—

(i) $5,700,000 shall be available to the Pueblo for use in carrying out the drainage and remediation of approximately 1,081 acres of waterlogged agricultural land, as described in section IV(A) of the Settlement Agreement; and

(ii) $1,500,000 shall be available to the Pueblo for use in carrying out the rehabilitation and remediation of forest and range land, as described in section IV(B) of the Settlement Agreement.

(C) FEDERAL CONSULTATION.—Restoration work carried out using funds distributed under this paragraph shall be planned and performed in consultation with—

(i) the Bureau of Indian Affairs; and

(ii) such other Federal agencies as are necessary.

(D) UNUSED FUNDS.—Any funds, including any interest income, that are distributed under this paragraph but that are not needed to carry out this paragraph shall be available for use in accordance with paragraph (2)(A).

(2) AMOUNTS FROM JUDGMENT FUND.—

(A) IN GENERAL.—Subject to paragraph (3), the amount paid into the Restoration Fund under subsection (b)(1), and interest income resulting from investment of that amount, shall be available to the Pueblo for—

(i) the acquisition, restoration, improvement, development, and protection of land, natural resources, and cultural resources within the exterior boundaries of the Pueblo, including improvements to the water supply and sewage treatment facilities of the Pueblo; and

(ii) for the payment and reimbursement of attorney and expert witness fees and expenses incurred in connection with Docket No. 98–166L of the United States Court of Federal Claims, as provided in the Settlement Agreement.

(B) NO CONTINGENCY ON PROVISION OF FUNDS BY PUEBLO.—The receipt and use of funds by the Pueblo under this paragraph shall not be contingent upon the provision by the Pueblo of the funds described in paragraph (1)(A)(i).

(3) EXPENDITURES AND WITHDRAWAL.—

(A) TRIBAL MANAGEMENT PLAN.—

(i) IN GENERAL.—Subject to clause (ii), the Pueblo may withdraw all or part of the Restoration Fund on approval by the Secretary of a tribal management plan in accordance with section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022).

(ii) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), a tribal management plan described in clause (i) shall require that the Pueblo shall expend any funds withdrawn from the Restoration Fund under this paragraph in a manner consistent with the purposes described in the Settlement Agreement.

(B) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan described in subparagraph (A)(i) to ensure that any funds withdrawn from the Restoration Fund under this paragraph are used in accordance with this Act.

(C) LIABILITY.—If the Pueblo exercises the right to withdraw funds from the Restoration Fund under this paragraph, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the accounting, disbursement, or investment of the funds withdrawn.

(D) EXPENDITURE PLAN.—

(i) IN GENERAL.—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portion of the funds in the Restoration Fund made available under this Act that the Pueblo does not withdraw under this paragraph.

(ii) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Pueblo remaining in the Restoration Fund will be used.

(iii) APPROVAL.—On receipt of an expenditure plan under clause (i), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Settlement Agreement.

(E) ANNUAL REPORT.—The Pueblo shall submit to the Secretary an annual report that describes expenditures from the Restoration Fund during the year covered by the report.

(d) MAINTENANCE AND INVESTMENT OF RESTORATION FUND.—

(1) IN GENERAL.—The Restoration Fund and amounts in the Restoration Fund shall be maintained and invested by the Secretary of the Interior pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037, chapter 648).

(2) CREDITS TO RESTORATION FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Restoration Fund shall be credited to, and form a part of, the Restoration Fund.

(e) PROHIBITION ON PER-CAPITA PAYMENTS.—No portion of the amounts in the Restoration Fund shall be available for payment on a per capita basis to members of the Pueblo.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Restoration Fund $7,200,000.

**SEC. 5. RATIFICATION OF SETTLEMENT, DISMISSAL OF LITIGATION, AND COMPENSATION TO PUEBLO.**

(a) RATIFICATION OF SETTLEMENT AGREEMENT.—The Settlement Agreement is ratified.

Deadline.

(b) DISMISSAL.—Not later than 90 days after the date of the enactment of this Act, the Pueblo and the United States shall execute and file a joint stipulation for entry of final judgment in the case of Pueblo of Isleta v. United States, Docket 98–166L, in the United States Court of Federal Claims in such form and such manner as are acceptable to the Attorney General and the Pueblo.

(c) COMPENSATION.—After the date of the enactment of this Act, in accordance with the Settlement Agreement and upon entry of the final judgment described in subsection (b)—

(1) compensation to the Pueblo shall be paid from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, in the total amount of $32,838,750 for all monetary damages and attorney fees, interest, and any other fees and costs of any kind that were or could have been presented in connection with Docket No. 98–166L of the United States Court of Federal Claims; but

(2) the Pueblo shall retain all rights, including the right to bring civil actions based on causes of action, relating to the removal of ordnance under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Defense Environmental Restoration Program under section 2701 of title 10, United States Code; and

(C) any contract entered into by the Pueblo for the removal of ordnance.

(d) OTHER LIMITATIONS ON USE OF FUNDS.—The Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to funds distributed or withdrawn from the Restoration Fund under this Act.

(e) NO EFFECT ON LAND, RESOURCES, OR WATER RIGHTS.—Nothing in this Act affects the status of land and natural resources or any water right of the Pueblo.

Approved December 1, 2006.

LEGISLATIVE HISTORY—H.R. 5842 (S. 3648):

SENATE REPORTS: No. 109–354 accompanying S. 3648 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Nov. 13, considered and passed Senate.

Public Law 109–380
109th Congress

# An Act

To convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation.

Dec. 1, 2006
[S. 101]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF LAND TO THE TOWN OF FRANNIE, WYOMING.**

(a) CONVEYANCE.—Subject to valid existing rights, the Secretary of the Interior shall convey by quitclaim deed, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the town of Frannie, Wyoming.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of land withdrawn by the Commissioner of Reclamation—

(1) consisting of approximately 37,500 square feet;

(2) located in the town of Frannie, Wyoming; and

(3) more particularly described in the approved Plat of Survey of Frannie Townsite, Wyoming, as the North ½ of Block 26, T. 58 N, R. 97 W.

(c) RESERVATION OF MINERAL RIGHTS.—The conveyance under subsection (a) shall be subject to the reservation by the United States of any oil and gas rights.

(d) REVOCATIONS.—

(1) SPECIAL USE PERMIT.—The special use permit issued by the Commissioner of Reclamation, numbered O–LM–60–L1413, and dated April 20, 1990, is revoked with respect to the land described in subsection (b).

(2) SECRETARIAL ORDERS.—The following Secretarial Orders issued by the Commissioner of Reclamation are revoked with respect to the land described in subsection (b):

(A) The Secretarial Order for the withdrawal of land for the Shoshone Reclamation Project dated October 21, 1913, as amended.

(B) The Secretarial Order for the withdrawal of land for the Frannie Townsite Reservation dated April 19, 1920.

Approved December 1, 2006.

---

LEGISLATIVE HISTORY—S. 101:

SENATE REPORTS: No. 109–46 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 26, considered and passed Senate.
Vol. 152 (2006): Nov. 15, considered and passed House.

# Public Law 109–381
# 109th Congress

## An Act

Dec. 1, 2006
[S. 1140]

To designate the State Route 1 Bridge in the State of Delaware as the "Senator William V. Roth, Jr. Bridge".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF SENATOR WILLIAM V. ROTH, JR. BRIDGE.**

The State Route 1 Bridge over the Chesapeake and Delaware Canal in the State of Delaware is designated as the "Senator William V. Roth, Jr. Bridge".

**SEC. 2. REFERENCES.**

Any reference in a law (including regulations), map, document, paper, or other record of the United States to the bridge described in section 1 shall be considered to be a reference to the Senator William V. Roth, Jr. Bridge.

Approved December 1, 2006.

LEGISLATIVE HISTORY—S. 1140:

CONGRESSIONAL RECORD:
Vol. 151 (2005): June 15, considered and passed Senate.
Vol. 152 (2006): Nov. 13, considered and passed House.

Public Law 109–382
109th Congress

# An Act

To designate certain land in New England as wilderness for inclusion in the National Wilderness Preservation system and certain land as a National Recreation Area, and for other purposes.

Dec. 1, 2006
[S. 4001]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

New England Wilderness Act of 2006.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

16 USC 460ttt note.

(a) SHORT TITLE.—This Act may be cited as the "New England Wilderness Act of 2006".

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

Section 1. Short title; table of contents.

TITLE I—NEW HAMPSHIRE

Sec. 101. Definition of State.
Sec. 102. Designation of wilderness areas.
Sec. 103. Map and description.
Sec. 104. Administration.

TITLE II—VERMONT

Sec. 201. Definitions.

Subtitle A—Designation of Wilderness Areas

Sec. 211. Designation.
Sec. 212. Map and description.
Sec. 213. Administration.

Subtitle B—Moosalamoo National Recreation Area

Sec. 221. Designation.
Sec. 222. Map and description.
Sec. 223. Administration of National Recreation Area.

**SEC. 2. DEFINITION OF SECRETARY.**

16 USC 460ttt note.

In this Act, the term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

# TITLE I—NEW HAMPSHIRE

**SEC. 101. DEFINITION OF STATE.**

In this title, the term "State" means the State of New Hampshire.

**SEC. 102. DESIGNATION OF WILDERNESS AREAS.**

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following Federal land in the State is designated as

wilderness and as components of the National Wilderness Preservation System:

16 USC 1132 note.

(1) Certain Federal land managed by the Forest Service, comprising approximately 23,700 acres, as generally depicted on the map entitled "Proposed Wild River Wilderness—White Mountain National Forest", dated February 6, 2006, which shall be known as the "Wild River Wilderness".

16 USC 1132 note.

(2) Certain Federal land managed by the Forest Service, comprising approximately 10,800 acres, as generally depicted on the map entitled "Proposed Sandwich Range Wilderness Additions—White Mountain National Forest", dated February 6, 2006, and which are incorporated in the Sandwich Range Wilderness, as designated by the New Hampshire Wilderness Act of 1984 (Public Law 98–323; 98 Stat. 259).

**SEC. 103. MAP AND DESCRIPTION.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by section 102 with the committees of appropriate jurisdiction in the Senate and the House of Representatives.

(b) FORCE AND EFFECT.—A map and legal description filed under subsection (a) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(c) PUBLIC AVAILABILITY.—Each map and legal description filed under subsection (a) shall be filed and made available for public inspection in the Office of the Chief of the Forest Service.

**SEC. 104. ADMINISTRATION.**

(a) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated under this title shall be administered by the Secretary in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to any wilderness area designated by this title, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(c) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects any jurisdiction or responsibility of the State with respect to wildlife and fish in the State.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the wilderness areas designated by section 102 are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

# TITLE II—VERMONT

**SEC. 201. DEFINITIONS.**

16 USC 460ttt note.

In this title:

(1) MANAGEMENT PLAN.—The term "Management Plan" means the Green Mountain National Forest Land and Resource Management Plan.

(2) STATE.—The term "State" means the State of Vermont.

## Subtitle A—Designation of Wilderness Areas

**SEC. 211. DESIGNATION.**

In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Certain Federal land managed by the United States Forest Service, comprising approximately 22,425 acres, as generally depicted on the map entitled "Glastenbury Wilderness—Proposed", dated September 2006, which shall be known as the "Glastenbury Wilderness". 16 USC 1132 note.

(2) Certain Federal land managed by the United States Forest Service, comprising approximately 12,333 acres, as generally depicted on the map entitled "Joseph Battell Wilderness—Proposed", dated September 2006, which shall be known as the "Joseph Battell Wilderness". 16 USC 1132 note.

(3) Certain Federal land managed by the United States Forest Service, comprising approximately 3,757 acres, as generally depicted on the map entitled "Breadloaf Wilderness Additions—Proposed", dated September 2006, which shall be known as the "Breadloaf Wilderness". 16 USC 1132 note.

(4) Certain Federal land managed by the United States Forest Service, comprising approximately 2,338 acres, as generally depicted on the map entitled "Lye Brook Wilderness Additions—Proposed", dated September 2006, which shall be known as the "Lye Brook Wilderness". 16 USC 1132 note.

(5) Certain Federal land managed by the United States Forest Service, comprising approximately 752 acres, as generally depicted on the map entitled "Peru Peak Wilderness Additions—Proposed", dated September 2006, which shall be known as the "Peru Peak Wilderness". 16 USC 1132 note.

(6) Certain Federal land managed by the United States Forest Service, comprising approximately 47 acres, as generally depicted on the map entitled "Big Branch Wilderness Additions—Proposed", dated September 2006, which shall be known as the "Big Branch Wilderness". 16 USC 1132 note.

**SEC. 212. MAP AND DESCRIPTION.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by section 211 with—

(1) the Committee on Resources of the House of Representatives;

(2) the Committee on Agriculture of the House of Representatives; and

(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) FORCE OF LAW.—A map and legal description filed under subsection (a) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(c) PUBLIC AVAILABILITY.—Each map and legal description filed under subsection (a) shall be filed and made available for public inspection in the Office of the Chief of the Forest Service.

**SEC. 213. ADMINISTRATION.**

(a) ADMINISTRATION.—Subject to valid rights in existence on the date of enactment of this Act, each wilderness area designated under this subtitle and in the Green Mountain National Forest (as of the date of enactment of this Act) shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) FISH AND WILDLIFE.—Nothing in this subtitle affects the jurisdiction of the State with respect to wildlife and fish on the public land located in the State, including the stocking of fish in rivers and streams in the State to support the Connecticut River Atlantic Salmon Restoration Program.

(c) TRAILS.—The Forest Service shall allow the continuance of—

(1) the Appalachian National Scenic Trail;

(2) the Long Trail;

(3) the Catamount Trail; and

(4) the marking and maintenance of associated trails and trail structures of the Trails referred to in this subsection, consistent with the management direction (including objectives, standards, guidelines, and agreements with partners) established for the Appalachian National Scenic Trail, Long Trail, and Catamount Trail under the Management Plan.

## Subtitle B—Moosalamoo National Recreation Area

16 USC 460ttt.

**SEC. 221. DESIGNATION.**

Certain Federal land managed by the United States Forest Service, comprising approximately 15,857 acres, as generally depicted on the map entitled "Moosalamoo National Recreation Area—Proposed", dated September 2006, is designated as the "Moosalamoo National Recreation Area".

16 USC 460ttt–1.

**SEC. 222. MAP AND DESCRIPTION.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the national recreation area designated by section 221 with—

(1) the Committee on Resources of the House of Representatives;

(2) the Committee on Agriculture of the House of Representatives; and

(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) FORCE OF LAW.—A map and legal description filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(c) PUBLIC AVAILABILITY.—Each map and legal description filed under subsection (a) shall be filed and made available for public inspection in the Office of the Chief of the Forest Service.

**SEC. 223. ADMINISTRATION OF NATIONAL RECREATION AREA.** 16 USC 460ttt–2.

(a) IN GENERAL.—Subject to valid rights existing on the date of enactment of this Act, the Secretary shall administer the Moosalamoo National Recreation Area in accordance with—

(1) laws (including rules and regulations) applicable to units of the National Forest System; and

(2) the management direction (including objectives, standards, and guidelines) established for the Moosalamoo Recreation and Education Management Area under the Management Plan.

(b) FISH AND WILDLIFE.—Nothing in this subtitle affects the jurisdiction of the State with respect to wildlife and fish on the public land located in the State.

(c) ESCARPMENT AND ECOLOGICAL AREAS.—Nothing in this subtitle prevents the Secretary from managing the Green Mountain Escarpment Management Area and the Ecological Special Areas, as described in the Management Plan.

Approved December 1, 2006.

---

LEGISLATIVE HISTORY—S. 4001:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate.
Nov. 15, considered and passed House.

# Public Law 109–383
# 109th Congress

## Joint Resolution

Dec. 9, 2006
[H.J. Res. 102]

Making further continuing appropriations for the fiscal year 2007, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is further amended by striking the date specified in section 106(3) and inserting "February 15, 2007".

*Ante,* p. 2462.

SEC. 2. Section 102(c) of the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by adding at the end the following new paragraph:

*Ante,* p. 1313.

"(5) Activities under the 'Chemical Demilitarization Construction, Defense-Wide' account.".

SEC. 3. Section 114(b) of the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by striking "and December 1, 2006," and inserting "December 1, 2006, January 1, 2007, February 1, 2007, and March 1, 2007,".

*Ante,* p. 1314.

SEC. 4. Section 125 of the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by striking "Partner Purchases" and inserting "Partnership Purchases and International Space Station/Multi-User System Support".

*Ante,* p. 1315.

SEC. 5. Section 126 of the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by inserting "(1)" after "except that", and by inserting before the period at the end the following: ", and (2) amounts made available under section 101 for departments and agencies that have been apportioned pursuant to this section prior to November 17, 2006, may be at a rate for operations not exceeding the current rate".

*Ante,* p. 1315.

SEC. 6. Section 101 of the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by striking "as of October 1, 2006" each place it appears in subsections (b) through (e) and inserting "as of November 15, 2006".

*Ante,* p. 1311.

SEC. 7. The Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by adding after section 132 the following new sections:

*Ante,* p. 1316.

Applicability.

"SEC. 133. (a) Section 44302(f)(1) of title 49, United States Code, shall be applied by substituting the date specified in section 106(3) of this division for 'August 31, 2006, and may extend through December 31, 2006'.

"(b) Section 44303(b) of title 49, United States Code, shall be applied by substituting the date specified in section 106(3) of this division for 'December 31, 2006'.

Extension date.

"SEC. 134. The authority provided by H. Res. 135 (109th Congress), as adopted on March 14, 2005, shall continue in effect through the date specified in section 106(3) of this division.

"SEC. 135. The rule referenced in section 126 of Public Law 109–54 shall continue in effect for the 2006–2007 winter use season through the date specified in section 106(3) of this division.

Extension date.

"SEC. 136. In addition to any other transfer authority of the Department of Veterans Affairs, up to $683,970,000 of the funds made available to the Department by this division may be transferred to 'Veterans Health Administration–Medical Services' during the period covered by this division.

"SEC. 137. Notwithstanding any other provision of this division and notwithstanding section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), the percentage adjustment scheduled to take effect under such section for 2007 shall not take effect until February 16, 2007.".

Pay raise.
Effective date.

Approved December 9, 2006.

LEGISLATIVE HISTORY—H.J. Res. 102:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 8, considered and passed House and Senate.

# Public Law 109–384
# 109th Congress

## An Act

Dec. 12, 2006
[H.R. 2383]

To redesignate the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, as the "C.W. 'Bill' Jones Pumping Plant".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REDESIGNATION OF FACILITY.**

The facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, and known as the Tracy Pumping Plant, shall be known and designated as the "C.W. 'Bill' Jones Pumping Plant".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "C.W. 'Bill' Jones Pumping Plant".

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 2383:

HOUSE REPORTS: No. 109–247 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 8, considered and passed House.
Nov. 16, considered and passed Senate.

Public Law 109–385
109th Congress

# An Act

To withdraw the Valle Vidal Unit of the Carson National Forest in New Mexico from location, entry, and patent under the mining laws, and for other purposes.

Dec. 12, 2006
[H.R. 3817]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Valle Vidal Protection Act of 2005.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Valle Vidal Protection Act of 2005".

**SEC. 2. WITHDRAWAL OF VALLE VIDAL UNIT, CARSON NATIONAL FOREST, NEW MEXICO, FROM MINING LAWS.**

(a) WITHDRAWAL.—Subject to subsection (b), the Valle Vidal Unit of the Carson National Forest in New Mexico, which consists of 101,794 acres and is identified as Management Area 21 in the land and resource management plan for the Carson National Forest, is hereby withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws and mineral materials laws.

(b) TREATMENT OF EXISTING RIGHTS.—The withdrawal required by subsection (a) is subject to valid existing rights. If these existing rights are relinquished or otherwise acquired by the United States at any time after the date of the enactment of this Act, the lands

that were subject to the rights shall be immediately withdrawn as provided in subsection (a).

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 3817:

HOUSE REPORTS: No. 109–583 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 24, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–386
# 109th Congress

## An Act

To authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes.

Dec. 12, 2006
[H.R. 4000]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BOSTWICK IRRIGATION DISTRICT IN NEBRASKA; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.**

The Secretary of the Interior may revise the repayment contract with the Bostwick Irrigation District in Nebraska numbered 009D6B0121 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

**SEC. 2. KANSAS BOSTWICK IRRIGATION DISTRICT NO 2; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.**

The Secretary of the Interior may revise the repayment contract with the Kansas Bostwick Irrigation District No. 2 numbered 009D6B0120 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

**SEC. 3. FRENCHMAN-CAMBRIDGE IRRIGATION DISTRICT; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.**

The Secretary of the Interior may revise the repayment contract with the Frenchman-Cambridge Irrigation District numbered 009D6B0122 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the

distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

**SEC. 4. WEBSTER IRRIGATION DISTRICT; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.**

The Secretary of the Interior may revise the repayment contract with the Webster Irrigation District numbered 039D6B0002 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 4000:

SENATE REPORTS: No. 109–315 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 18, considered and passed House.
Vol. 152 (2006): Nov. 16, considered and passed Senate.

Public Law 109–387
109th Congress

# An Act

To provide for the conveyance of certain National Forest System land to the towns of Laona and Wabeno, Wisconsin, and for other purposes.

Dec. 12, 2006
[H.R. 4559]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF CHEQUAMEGON-NICOLET NATIONAL FOREST LAND TO TOWNS OF LAONA AND WABENO, WISCONSIN.**

(a) CONVEYANCE TO TOWN OF LAONA.—

(1) CONVEYANCE.—At the request of the town of Laona, Wisconsin (referred to in this subsection as the "town"), the Secretary of Agriculture shall convey to the town all right, title, and interest of the United States in and to the parcel of National Forest System land in Forest County, Wisconsin, consisting of approximately 176 acres, as further described in paragraph (2), for the purpose of permitting the town to use the parcel as a site for an industrial park and for other purposes.

(2) LEGAL DESCRIPTION.—The parcel of land referred to in paragraph (1) consists of the N½SW¼, SW¼NW¼, S½SE¼NW¼, and that part of the W½NE¼ lying south of the Rat River, excluding Lot #1 of Forest County Certified Survey Map #157861 and a 100-foot wide former rail road right-of-way running through the W½NE¼, all in section 6, township 35 north, range 15 east, Laona Township, Forest County, Wisconsin.

(3) CONSIDERATION.—As consideration for the conveyance under this subsection, the town shall pay to the Secretary an amount equal to $300,000, which is the appraised fair market value of the parcel of National Forest System land to be conveyed.

(b) CONVEYANCE TO TOWN OF WABENO.—

(1) CONVEYANCE.—At the request of the town of Wabeno, Wisconsin (referred to in this subsection as the "town"), the Secretary of Agriculture shall convey to the town all right, title, and interest of the United States in and to the parcel of National Forest System land in Forest County, Wisconsin, consisting of approximately 173 acres, as further described in paragraph (2), for the purpose of permitting the town to use the parcel as a site for an industrial park and for other purposes.

(2) LEGAL DESCRIPTION.—The parcel of land referred to in paragraph (1) consists of the S½NW¼, E½SW¼, and east 17.30 acres of the NW¼SW¼, excluding a 100-foot wide former

rail road right-of-way running through the NE¼SW¼ and SE¼NW¼ and a 0.02 acre parcel in the SW¼NW¼, a 0.93 acre parcel in the SE¼SW¼, and a 2.36 acre parcel in the E½SW¼ reserved for highway purposes, as described in volume 7, 276–277, Forest County Records, and all in section 7, township 34 north, range 15 east, Wabeno Township, Forest County, Wisconsin.

(3) CONSIDERATION.—As consideration for the conveyance under this subsection, the town shall pay to the Secretary an amount equal to $320,000, which is the appraised fair market value of the parcel of National Forest System land to be conveyed.

(c) SURVEY.—If necessary, the exact acreage and legal description of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of a survey shall be borne by the recipient of the land.

(d) DEPOSIT AND USE OF PROCEEDS.—

(1) DEPOSIT.—The Secretary shall deposit the proceeds from the conveyance of land under this section in the fund established under Public Law 90–171 (commonly known as the Sisk Act; 16 U.S.C. 484a).

(2) USE.—Funds deposited pursuant to paragraph (1) shall be available to the Secretary, without further appropriation and until expended—

(A) to acquire land and interests in land for inclusion in the Chequamegon-Nicolet National Forest in Wisconsin; and

(B) to reimburse costs incurred by the Secretary in carrying out the conveyances under this section, including the payment of any real estate broker commissions.

(3) ADMINISTRATION.—The lands acquired under paragraph (2)(A) shall be included in the Chequamegon-Nicolet National Forest and administered in accordance with the laws applicable to that National Forest.

(e) WITHDRAWAL.—Subject to valid existing rights, the land to be conveyed under this section is withdrawn from location, entry, and patent under the public land laws, mining laws, and mineral leasing laws, including geothermal leasing laws.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 4559:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 26, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–388
# 109th Congress

## An Act

Dec. 12, 2006
[H.R. 5061]

To direct the Secretary of the Interior to convey Paint Bank National Fish Hatchery and Wytheville National Fish Hatchery to the State of Virginia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Paint Bank and Wytheville National Fish Hatcheries Conveyance Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Paint Bank and Wytheville National Fish Hatcheries Conveyance Act".

**SEC. 2. CONVEYANCE OF PAINT BANK AND WYTHEVILLE NATIONAL FISH HATCHERIES TO THE STATE OF VIRGINIA.**

Deadline.

(a) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Virginia without reimbursement all right, title, and interest of the United States in and to the property described in subsection (b) for use by the Virginia Department of Fish and Game as part of the State of Virginia fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) consists of—

(1) the real property comprising Paint Bank National Fish Hatchery and Wytheville National Fish Hatchery, located at Paint Bank and Wytheville, Virginia, respectively, as described in the 1982 Cooperative Agreement between the United States Fish and Wildlife Service and the State of Virginia;

(2) all improvements and related personal property under the control of the Secretary that is located on that real property, including buildings, structures, and equipment; and

(3) all easements, leases, and water rights relating to the property described in paragraphs (1) and (2).

(c) REVERSIONARY INTEREST.—If any of the property conveyed to the State of Virginia under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States. The State of Virginia shall ensure

that all property reverting to the United States under this subsection is in substantially the same or better condition as at the time of transfer to the State.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 5061:

HOUSE REPORTS: No. 109–533 (Comm. on Resources).
SENATE REPORTS: No. 109–341 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 10, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–389
# 109th Congress

## An Act

Dec. 12, 2006
[H.R. 5103]

To provide for the conveyance of the former Konnarock Lutheran Girls School in Smyth County, Virginia, which is currently owned by the United States and administered by the Forest Service, to facilitate the restoration and reuse of the property, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAND CONVEYANCE, FORMER KONNAROCK LUTHERAN GIRLS SCHOOL, JEFFERSON NATIONAL FOREST, SMYTH COUNTY, VIRGINIA.**

Evangelical Lutheran Coalition for Mission in Appalachia.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the Evangelical Lutheran Coalition for Mission in Appalachia (in this section referred to as the "recipient") all right, title, and interest of the United States in and to a parcel of real property in the Mount Rogers National Recreation Area, Smyth County, Virginia, located in the vicinity of the junction of Virginia Routes 600 and 603, consisting of not more than six acres, and containing the former Konnarock Lutheran Girls School and its outbuildings, as depicted on the map entitled "Proposed Area for New Legislation or Sale–Konnarock School–Being a Portion of USA Tract J–935".

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the recipient accept the real property described in such subsection in its condition at the time of the conveyance, commonly known as conveyance "as is".

(c) DESCRIPTION OF PROPERTY.—Subject to the acreage limitation specified in subsection (a), the exact acreage and legal description of the real property to be conveyed under such subsection shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 5103:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 26, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–390
# 109th Congress

## An Act

Dec. 12, 2006
[H.R. 5585]

To improve the netting process for financial contracts, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Financial Netting Improvements Act of 2006.
11 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Financial Netting Improvements Act of 2006".

**SEC. 2. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF DEPOSITORY INSTITUTIONS.**

(a) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "mortgage loan, or" and inserting "mortgage loan,"; and

(ii) by inserting before the semicolon "(whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))";

(B) in subclause (IV)—

(i) by inserting "(including by novation)" after "the guarantee"; and

(ii) by inserting before the semicolon "(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))";

(C) in subclause (IX), by striking "or (VIII)" each place such term appears and inserting "(VIII), (IX), or (X)";

(D) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(E) by inserting after subclause (V) the following new subparagraphs:

"(VI) means any extension of credit for the clearance or settlement of securities transactions;

"(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "mortgage loan, or" and inserting "mortgage loan,"; and

(ii) by inserting before the semicolon "(whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))";

(B) in subclause (IV)—

(i) by inserting "(including by novation)" after "the guarantee"; and

(ii) by inserting before the semicolon "(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))";

(C) in subclause (IX), by striking "or (VIII)" each place such term appears and inserting "(VIII), (IX), or (X)";

(D) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(E) by inserting after subclause (V) the following new subparagraphs:

"(VI) means any extension of credit for the clearance or settlement of securities transactions;

"(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;".

(b) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)(I)) is amended by striking "transaction, reverse repurchase transaction" and inserting "or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv)(I) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)(I)) is amended by striking "transaction, reverse repurchase transaction" and inserting "or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))".

(c) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking "or precious metals" and inserting ", precious metals, or other commodity"; and

(ii) by striking "or a weather swap, weather derivative, or weather option" and inserting "weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement";

(B) in subclause (II)—

(i) by inserting "or other derivatives" after "dealings in the swap"; and

(ii) by striking "future, or option" and inserting "future, option, or spot transaction"; and

(C) by striking "the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000" and inserting "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(vi) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking "or precious metals" and inserting ", precious metals, or other commodity"; and

(ii) by striking "or a weather swap, weather derivative, or weather option" and inserting "weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement";

(B) in subclause (II)—

(i) by inserting "or other derivatives" after "dealings in the swap"; and

(ii) by striking "future, or option" and inserting "future, option, or spot transaction"; and

(C) by striking "the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000" and inserting "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act".

**SEC. 3. CLARIFYING AMENDMENTS RELATING TO DEFINITION OF PERSON.**

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS DEFINITION OF PERSON.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended by adding at the end the following:

"(ix) PERSON.—The term 'person' includes any governmental entity in addition to any entity included in the definition of such term in section 1 of title 1, United States Code.".

(b) INSURED CREDIT UNIONS DEFINITION OF PERSON.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following:

"(ix) PERSON.—The term 'person' includes any governmental entity in addition to any entity included in the definition of such term in section 1 of title 1, United States Code.".

**SEC. 4. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

(a) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) in each of subsections (a) and (f), by striking "paragraphs (8)(E), (8)(F), and (10)(B) of" each place such term appears; and

(2) in subsection (a), by inserting "terminated, liquidated, accelerated, and" after "institutions shall be".

(b) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) in each of subsections (a) and (h), by striking "paragraphs (8)(E), (8)(F), and (10)(B) of" each place such term appears; and

(2) in subsection (a), by inserting "terminated, liquidated, accelerated, and" after "organization shall be".

**SEC. 5. CONFORMING AMENDMENTS.**

(a) CLARIFYING DEFINITIONS.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (22)(A)—

(i) by striking "(domestic or foreign)" after "an entity"; and

(ii) by inserting "(whether or not a 'customer', as defined in section 741)" after "custodian for a customer";

(B) in paragraph (22A)—

(i) by striking "on any day during the previous 15-month period" each place it appears and inserting "at such time or on any day during the 15-month period preceding the date of the filing of the petition"; and

(ii) by inserting "(aggregated across counterparties)" after "principal amount outstanding";

(C) in paragraph (25)(A)—

(i) by inserting ", as defined in section 761" after "commodity contract"; and

(ii) by striking "repurchase transaction, reverse repurchase transaction," and inserting "repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in this section)";

(D) in paragraph (53B)(A)—

(i) in clause (i)—

(I) in subclause (II), by striking "or precious metals" and inserting ", precious metals, or other commodity";

(II) in subclause (VII), by striking "or" at the end;

(III) in subclause (VIII), by striking "weather derivative, or weather option" and inserting "option, future, or forward agreement"; and

(IV) by adding at the end the following:

"(IX) an emissions swap, option, future, or forward agreement; or

"(X) an inflation swap, option, future, or forward agreement;"; and

(ii) in clause (ii)—

(I) in subclause (I), by inserting "or other derivatives" after "dealings in the swap"; and

(II) in subclause (II), by striking "future, or option" and inserting "future, option, or spot transaction"; and

(E) in paragraph (53B)(B), by striking "the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000" and inserting "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act";

(2) in section 362(b)—

(A) by striking paragraphs (6) and (7) and inserting the following:

"(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;

"(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;";

(B) by striking paragraph (17) and inserting the following:

"(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement

or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;"; and

(C) by striking paragraph (27) and inserting the following:

"(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and"; and

(3) in section 741(7)(A)—

(A) in clause (i)—

(i) by striking "mortgage loan or" and inserting "mortgage loan,"; and

(ii) by inserting before the semicolon "(whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in section 101)";

(B) in clause (iii)—

(i) by inserting "(including by novation)" after "the guarantee"; and

(ii) by inserting before the semicolon "(whether or not such settlement is in connection with any agreement or transaction referred to in clauses (i) through (xi))";

(C) in clause (viii), by striking "or (vii)" each place it appears and inserting "(vii), (viii), or (ix)";

(D) by redesignating clauses (v) through (ix) as clauses (vii) through (xi), respectively; and

(E) by inserting after clause (iv) the following:

"(v) any extension of credit for the clearance or settlement of securities transactions;

"(vi) any loan transaction coupled with a securities collar transaction, any prepaid forward securities transaction, or any total return swap transaction coupled with a securities sale transaction;".

(b) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "(or for the benefit of)" before "a commodity broker"; and

(B) by inserting "or that is a transfer made by or to (or for the benefit of) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency, in connection

with a securities contract, as defined in section 741(7), commodity contract, as defined in section 761(4), or forward contract," after "securities clearing agency,";

(2) in subsection (f)—

(A) by striking "that is a margin payment, as defined in section 741 or 761 of this title, or settlement payment, as defined in section 741 of this title,"; and

(B) by inserting "(or for the benefit of)" before "a repo participant";

(3) in subsection (g), by inserting "(or for the benefit of)" before "a swap participant"; and

(4) in subsection (j), by inserting "(or for the benefit of)" after "made by or to".

(c) SIPC STAY.—Section 5(b)(2)(C)(iii) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)(C)(iii)) is amended—

(1) by inserting "a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991)," after "rule or bylaw of"; and

(2) by striking "or a securities clearance agency, a right set forth in a bylaw of a clearing organization or contract market" and inserting "a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act),".

(d) SAVINGS CLAUSE.—Title IX of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109–8, 119 Stat. 146) is amended by adding at the end the following:

Applicability.
11 USC 101 note.

**"SEC. 912. SAVINGS CLAUSE.**

"The meanings of terms used in this title are applicable for the purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

**SEC. 6. WALKAWAY CLAUSES.**

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(G)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) LIMITED SUSPENSION OF CERTAIN OBLIGATIONS.—In the case of a qualified financial contract referred to in clause (i), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time the receiver is appointed until the earlier of—

"(I) the time such party receives notice that such contract has been transferred pursuant to subparagraph (A); or

"(II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver.

"(iii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of such party's status as a nondefaulting party in connection with the insolvency of an insured depository institution that is a party to the contract or the appointment of or the exercise of rights or powers by a conservator or receiver of such depository institution, and not as a result of a party's exercise of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(G) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(G)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) LIMITED SUSPENSION OF CERTAIN OBLIGATIONS.—In the case of a qualified financial contract referred to in clause (i), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time the liquidating agent is appointed until the earlier of—

"(I) the time such party receives notice that such contract has been transferred pursuant to subparagraph (A); or

"(II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent.

"(iii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of such party's status as a nondefaulting party in connection with the insolvency of an insured credit union or the appointment of or the exercise of rights or powers by a conservator or liquidating agent of such credit union, and not as a result of a party's exercise of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.".

11 USC 101 note.

**SEC. 7. SCOPE OF APPLICATION.**

The amendments made by this Act shall not apply to any cases commenced under title 11, United States Code, or appointments made under any Federal or State law, before the date of the enactment of this Act.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 5585:

HOUSE REPORTS: No. 109–648, Pt. 1 (Comm. on Financial Services).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Sept. 29, considered and passed Senate, amended.
Nov. 15, House concurred in Senate amendments.

Public Law 109–391
109th Congress

# An Act

To adjust the boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas.

Dec. 12, 2006
[H.R. 5690]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Ouachita National Forest Boundary Adjustment Act of 2006.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ouachita National Forest Boundary Adjustment Act of 2006".

**SEC. 2. BOUNDARY ADJUSTMENT, OUACHITA NATIONAL FOREST, OKLAHOMA AND ARKANSAS.**

(a) BOUNDARY ADJUSTMENT.—The boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas are hereby modified as generally depicted on the following maps, all dated May 15, 2001, and more particularly delineated and described according to the final boundary adjustment maps and boundary descriptions filed in the Office of the Chief of the Forest Service:

(1) The map entitled "Ouachita National Forest Boundary Extension for the Broken Bow Area".

(2) The map entitled "Ouachita National Forest Boundary Extension for the Southern Tiak Area".

(3) The map entitled "Ouachita National Forest Boundary Extension for the Northern Ouachita Area".

(4) The map entitled "Ouachita National Forest Boundary Extension for the Southern Ouachita Area".

(5) The map entitled "Ouachita National Forest Boundary Extension for the Eastern Ouachita Area".

(b) AVAILABILITY AND CORRECTION.—The maps referred to in subsection (a) shall be on file and available for public inspection in the Office of the Chief of the Forest Service. The Secretary of Agriculture may make minor corrections to the maps.

(c) MANAGEMENT OF ACQUIRED LAND.—Any federally-owned lands that have been or hereafter may be acquired for National Forest System purposes within the boundaries of the Ouachita National Forest, as modified by subsection (a), shall be managed as lands acquired under the Act of March 1, 1911 (commonly known as the Weeks Act), and in accordance with the other laws and regulations pertaining to the National Forest System. Nothing in this subsection shall limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ouachita National Forest pursuant to section 11 of such Act (16 U.S.C. 521).

(d) RELATION TO LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Ouachita

National Forest, as modified by subsection (a), shall be considered to be boundaries of the Ouachita National Forest as of January 1, 1965.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 5690:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–392
# 109th Congress

## An Act

To amend the Federal Water Pollution Control Act to reauthorize a program relating to the Lake Pontchartrain Basin, and for other purposes.

Dec. 12, 2006
[H.R. 6121]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAKE PONTCHARTRAIN BASIN RESTORATION REAUTHORIZATION.**

The first section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1273) (relating to Lake Pontchartrain Basin) is amended in subsection (f) by striking "2005" and inserting "2011".

**SEC. 2. TECHNICAL CORRECTION.**

The second section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1274) (relating to wet weather watershed pilot projects) is redesignated as section 122.

Approved December 12, 2006.

LEGISLATIVE HISTORY—H.R. 6121 (S. 3630):

SENATE REPORTS: No. 109–352 accompanying S. 3630 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 13, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–393
# 109th Congress

## An Act

Dec. 13, 2006
[H.R. 4377]

To extend the time required for construction of a hydroelectric project, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ARROWROCK HYDROELECTRIC PROJECT.**

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, on request of the licensee, the Commission shall—

(1) if the license for the project is in effect on the date of the enactment of this Act, extend the period for commencing construction of project works for a period of 3 years beginning on the date of enactment of this Act; or

(2) if the license for the project has been terminated before the date of enactment of this Act, reinstate the license and extend the period for commencing construction of project works for an additional 3-year period beginning on the date of enactment of this Act.

Approved December 13, 2006.

LEGISLATIVE HISTORY—H.R. 4377 (S. 2035):

HOUSE REPORTS: No. 109–684 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 109–304 accompanying S. 2035 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 26, considered and passed House.
Nov. 16, considered and passed Senate.

Public Law 109–394
109th Congress

# An Act

To amend the Native American Programs Act of 1974 to provide for the revitalization of Native American languages through Native American language immersion programs; and for other purposes.

Dec. 14, 2006
[H.R. 4766]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Esther Martinez Native American Languages Preservation Act of 2006.
42 USC 2991 note.

**SECTION 1. ORT TITLE.**

This Act may be cited as the "Esther Martinez Native American Languages Preservation Act of 2006".

**SEC. 2. EXPANSION OF PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.**

Section 803C of the Native American Programs Act of 1974 (42 U.S.C. 2991b–3) is amended—

(1) in subsection (b)—

(A) in paragraph (5) by striking "and" at the end,

(B) in paragraph (6) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(7)(A) Native American language nests, which are site-based educational programs that—

"(i) provide instruction and child care through the use of a Native American language for at least 10 children under the age of 7 for an average of at least 500 hours per year per student;

"(ii) provide classes in a Native American language for parents (or legal guardians) of students enrolled in a Native American language nest (including Native American language-speaking parents); and

"(iii) ensure that a Native American language is the dominant medium of instruction in the Native American language nest;

"(B) Native American language survival schools, which are site-based educational programs for school-age students that—

"(i) provide an average of at least 500 hours of instruction through the use of 1 or more Native American languages for at least 15 students for whom a Native American language survival school is their principal place of instruction;

"(ii) develop instructional courses and materials for learning Native American languages and for instruction through the use of Native American languages;

"(iii) provide for teacher training;

"(iv) work toward a goal of all students achieving—

"(I) fluency in a Native American language; and

"(II) academic proficiency in mathematics, reading (or language arts), and science; and

"(v) are located in areas that have high numbers or percentages of Native American students; and

"(C) Native American language restoration programs, which are educational programs that—

"(i) operate at least 1 Native American language program for the community in which it serves;

"(ii) provide training programs for teachers of Native American languages;

"(iii) develop instructional materials for the programs;

"(iv) work toward a goal of increasing proficiency and fluency in at least 1 Native American language;

"(v) provide instruction in at least 1 Native American language; and

"(vi) may use funds received under this section for—

"(I) Native American language programs, such as Native American language immersion programs, Native American language and culture camps, Native American language programs provided in coordination and cooperation with educational entities, Native American language programs provided in coordination and cooperation with local universities and colleges, Native American language programs that use a master-apprentice model of learning languages, and Native American language programs provided through a regional program to better serve geographically dispersed students;

"(II) Native American language teacher training programs, such as training programs in Native American language translation for fluent speakers, training programs for Native American language teachers, training programs for teachers in schools to utilize Native American language materials, tools, and interactive media to teach Native American language; and

"(III) the development of Native American language materials, such as books, audio and visual tools, and interactive media programs.",

(2) in subsection (c)—

(A) in paragraph (5) by striking "and" at the end,

(B) in paragraph (6) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

Certification.

"(7) the case of an application for a grant to carry out any purpose specified in subsection (b)(7)(B), a certification by the applicant that the applicant has not less than 3 years of experience in operating and administering a Native American language survival school, a Native American language nest,

or any other educational program in which instruction is conducted in a Native American language.", and

(3) in subsection (e)(2) by inserting before the period the following: ", except that grants made under such subsection for any purpose specified in subsection (b)(7) may be made only on a 3-year basis".

**SEC. 3. DEFINITION.**

Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'average' means the aggregate number of hours of instruction through the use of a Native American language to all students enrolled in a native language immersion program during a school year divided by the total number of students enrolled in the immersion program;".

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.**

Section 816(e) of the Native American Programs Act of 1974 (42 U.S.C. 2992d(e)) is amended by striking "1999, 2000, 2001, and 2002" and inserting "2008, 2009, 2010, 2011, and 2012".

Approved December 14, 2006.

---

LEGISLATIVE HISTORY—H.R. 4766:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–395
# 109th Congress

## An Act

Dec. 14, 2006
[S. 2250]

To award a congressional gold medal to Dr. Norman E. Borlaug.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Congressional Tribute to Dr. Norman E. Borlaug Act of 2006.
31 USC 5111 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Congressional Tribute to Dr. Norman E. Borlaug Act of 2006".

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) Dr. Norman E. Borlaug, was born in Iowa where he grew up on a family farm, and received his primary and secondary education.

(2) Dr. Borlaug attended the University of Minnesota where he received his B.A. and Ph.D. degrees and was also a star NCAA wrestler.

(3) For the past 20 years, Dr. Borlaug has lived in Texas where he is a member of the faculty of Texas A&M University.

(4) Dr. Borlaug also serves as President of the Sasakawa Africa Association.

(5) Dr. Borlaug's accomplishments in terms of bringing radical change to world agriculture and uplifting humanity are without parallel.

(6) In the immediate aftermath of World War II, Dr. Borlaug spent 20 years working in the poorest areas of rural Mexico. It was there that Dr. Borlaug made his breakthrough achievement in developing a strand of wheat that could exponentially increase yields while actively resisting disease.

(7) With the active support of the governments involved, Dr. Borlaug's "green revolution" uplifted hundreds of thousands of the rural poor in Mexico and saved hundreds of millions from famine and outright starvation in India and Pakistan.

(8) Dr. Borlaug's approach to wheat production next spread throughout the Middle East. Soon thereafter his approach was adapted to rice growing, increasing the number of lives Dr. Borlaug has saved to more than a billion people.

(9) In 1970, Dr. Borlaug received the Nobel Prize, the only person working in agriculture to ever be so honored. Since then he has received numerous honors and awards including the Presidential Medal of Freedom, the Public Service Medal, the National Academy of Sciences' highest honor, and the Rotary International Award for World Understanding and Peace.

(10) At age 91, Dr. Borlaug continues to work to alleviate poverty and malnutrition. He currently serves as president of Sasakawa Global 2000 Africa Project, which seeks to extend the benefits of agricultural development to the 800,000,000 people still mired in poverty and malnutrition in sub-Saharan Africa.

(11) Dr. Borlaug continues to serve as Chairman of the Council of Advisors of the World Food Prize, an organization he created in 1986 to be the "Nobel Prize for Food and Agriculture" and which presents a $250,000 prize each October at a Ceremony in Des Moines, Iowa, to the Laureate who has made an exceptional achievement similar to Dr. Borlaug's breakthrough 40 years ago. In the almost 20 years of its existence, the World Food Prize has honored Laureates from Bangladesh, India, China, Mexico, Denmark, Sierra Leone, Switzerland, the United Kingdom, and the United States.

(12) Dr. Borlaug has saved more lives than any other person who has ever lived, and likely has saved more lives in the Islamic world than any other human being in history.

(13) Due to a lifetime of work that has led to the saving and preservation of an untold amount of lives, Dr. Norman E. Borlaug is deserving of America's highest civilian award: the congressional gold medal.

**SEC. 3. CONGRESSIONAL GOLD MEDAL.**

(a) PRESENTATION AUTHORIZED.—The President Pro Tempore of the Senate and the Speaker of the House of Representatives are authorized to make appropriate arrangements for the presentation, on behalf of Congress, of a gold medal of appropriate design, to Dr. Norman E. Borlaug, in recognition of his enduring contributions to the United States and the world.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

**SEC. 4. DUPLICATE MEDALS.**

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under section 3 at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

**SEC. 5. STATUS AS NATIONAL MEDALS.**

(a) NATIONAL MEDAL.—The medal struck under this Act is a national medal for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all duplicate medals struck under this Act shall be considered to be numismatic items.

**SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There are authorized to be charged against the United States Mint Public Enterprise Fund, such sums as may be necessary to pay for the cost of the medals struck under this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 4 shall be deposited in the United States Mint Public Enterprise Fund.

Approved December 14, 2006.

LEGISLATIVE HISTORY—S. 2250:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed Senate.
Dec. 6, considered and passed House.

Public Law 109–396
109th Congress

An Act

To provide for the sale, acquisition, conveyance, and exchange of certain real property in the District of Columbia to facilitate the utilization, development, and redevelopment of such property, and for other purposes.

Dec. 15, 2006
[H.R. 3699]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Federal and District of Columbia Government Real Property Act of 2006.
40 USC 101 note.

This Act may be cited as the "Federal and District of Columbia Government Real Property Act of 2006".

# TITLE I—REAL PROPERTY CONVEYANCES BETWEEN THE GENERAL SERVICES ADMINISTRATION AND THE DISTRICT OF COLUMBIA

**SEC. 101. EXCHANGE OF TITLE OVER RESERVATION 13 AND CERTAIN OTHER PROPERTIES.**

(a) CONVEYANCE OF PROPERTIES.—

(1) IN GENERAL.—On the date on which the District of Columbia conveys to the Administrator of General Services all right, title, and interest of the District of Columbia in the property described in subsection (c), the Administrator shall convey to the District of Columbia all right, title, and interest of the United States in—

(A) U.S. Reservation 13, subject to the conditions described in subsection (b); and

(B) Old Naval Hospital.

(2) PROPERTIES DEFINED.—In this section—

(A) the term "U.S. Reservation 13" means that parcel of land in the District of Columbia consisting of the approximately 66 acres which is bounded on the north by Independence Avenue Southeast, on the west by 19th Street Southeast, on the south by G Street Southeast, and on the east by United States Reservation 343, and being the same land described in the Federal transfer letter of October 25, 2002, from the United States to the District of Columbia, and subject to existing matters of record; and

(B) the term "Old Naval Hospital" means the property in the District of Columbia consisting of Square 948 in its entirety, together with all the improvements thereon.

(b) CONDITIONS FOR CONVEYANCE OF RESERVATION 13.—As a condition for the conveyance of U.S. Reservation 13 to the District of Columbia under this section, the District of Columbia shall agree—

(1) to set aside a portion of the property for the extension of Massachusetts Avenue Southeast and the placement of a potential commemorative work to be established pursuant to chapter 89 of title 40, United States Code, at the terminus of Massachusetts Avenue Southeast (as so extended) at the Anacostia River;

(2) to convey all right, title, and interest of the District of Columbia in the portion set aside under paragraph (1) to the Secretary of the Interior (acting through the Director of the National Park Service) at such time as the Secretary may require, if a commemorative work is established in the manner described in paragraph (1);

(3) to permit the Court Services and Offender Supervision Agency for the District of Columbia to continue to occupy a portion of the property consistent with the requirements of the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 931); and

(4) to develop the property consistent with the Anacostia Waterfront Corporation's Master Plan for Reservation 13 (also known as the Hill East Waterfront).

(c) DISTRICT OF COLUMBIA PROPERTY TO BE CONVEYED TO THE ADMINISTRATOR.—The property described in this subsection is the real property consisting of Building Nos. 16, 37, 38, 118, and 118–A and related improvements, together with the real property underlying those buildings and improvements, on the West Campus of Saint Elizabeths Hospital, as described in the quitclaim deed of September 30, 1987, by and between the United States and the District of Columbia and recorded in the Office of the Recorder of Deeds of the District of Columbia on October 7, 1987.

24 USC 225b note.

**SEC. 102. TERMINATION OF CLAIMS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the United States is not required to perform, or to reimburse the District of Columbia for the cost of performing, any of the following services:

(1) Repairs or renovations pursuant to section 4(f) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225b(f); sec. 44–903(f), D.C. Official Code).

(2) Preservation, maintenance, or repairs pursuant to a use permit executed on September 30, 1987, under which the United States (acting through the Secretary of Health and Human Services) granted permission to the District of Columbia to use and occupy portions of the Saint Elizabeths Hospital property known as the "West Campus".

(3) Mental health diagnostic and treatment services for referrals as described in section 9(b) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225g(b); sec. 44–908(b), D.C. Official Code), but only with respect to services provided on or before the date of the enactment of this Act.

(b) EFFECT ON PENDING CLAIMS.—Any claim of the District of Columbia against the United States for the failure to perform,

or to reimburse the District of Columbia for the cost of performing, any service described in subsection (a) which is pending as of the date of the enactment of this Act shall be extinguished and terminated.

# TITLE II—STREAMLINING MANAGEMENT OF PROPERTIES LOCATED IN THE DISTRICT OF COLUMBIA

**SEC. 201. TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN PROPERTIES.**

40 USC 5102 note, 8903 note.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION FROM DISTRICT OF COLUMBIA TO UNITED STATES.—

(1) IN GENERAL.—Administrative jurisdiction over each of the following properties (owned by the United States and as depicted on the Map) is hereby transferred, subject to the terms in this subsection, from the District of Columbia to the Secretary of the Interior for administration by the Director:

(A) An unimproved portion of Audubon Terrace Northwest, located east of Linnean Avenue Northwest, that is within U.S. Reservation 402 (National Park Service property).

(B) An unimproved portion of Barnaby Street Northwest, north of Aberfoyle Place Northwest, that abuts U.S. Reservation 545 (National Park Service property).

(C) A portion of Canal Street Southwest, and a portion of V Street Southwest, each of which abuts U.S. Reservation 467 (National Park Service property).

(D) Unimproved streets and alleys at Fort Circle Park located within the boundaries of U.S. Reservation 497 (National Park Service property).

(E) An unimproved portion of Western Avenue Northwest, north of Oregon Avenue Northwest, that abuts U.S. Reservation 339 (National Park Service property).

(F) An unimproved portion of 17th Street Northwest, south of Shepherd Street Northwest, that abuts U.S. Reservation 339 (National Park Service property).

(G) An unimproved portion of 30th Street Northwest, north of Broad Branch Road Northwest, that is within the boundaries of U.S. Reservation 515 (National Park Service property).

(H) Subject to paragraph (2), lands over I–395 bounded by Washington Avenue Southwest, 2nd Street Southwest, and the C Street Southwest ramps to I–295.

(I) A portion of U.S. Reservation 357 at Whitehaven Parkway Northwest, previously transferred to the District of Columbia in conjunction with the former proposal for a residence for the Mayor of the District of Columbia.

Armed forces.

(2) USE OF CERTAIN PROPERTY FOR MEMORIAL.—In the case of the property for which administrative jurisdiction is transferred under paragraph (1)(H), the property shall be used as the site for the establishment of a memorial to honor disabled veterans of the United States Armed Forces authorized to be

established by the Disabled Veterans' LIFE Memorial Foundation by Public Law 106–348 (114 Stat. 1358; 40 U.S.C. 8903 note), except that—

(A) the District of Columbia shall retain administrative jurisdiction over the subsurface area beneath the site for the tunnel, walls, footings, and related facilities;

(B) C Street Southwest shall not be connected between 2nd Street Southwest and Washington Avenue Southwest without the approval of the Architect of the Capitol; and

(C) a walkway shall be included across the site of the memorial between 2nd Street Southwest and Washington Avenue Southwest.

(3) ADDITIONAL TRANSFER.—

(A) IN GENERAL.—Administrative jurisdiction over the parcel bounded by 2nd Street Southwest, the C Street Southwest ramp to I–295, the D Street Southwest ramp to I–395, and I–295 is hereby transferred, subject to the terms in this paragraph, from the District of Columbia as follows:

(i) The northernmost .249 acres is transferred to the Secretary for administration by the Director, who (subject to the approval of the Architect of the Capitol) shall landscape the parcel or use the parcel for special needs parking for the memorial referred to in paragraph (2).

(ii) The remaining portion is transferred to the Architect of the Capitol.

(B) RETENTION OF JURISDICTION OVER SUBSURFACE AREA.—The District of Columbia shall retain administrative jurisdiction over the subsurface area beneath the parcel referred to in subparagraph (A) for the tunnel, walls, footings, and related facilities.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION FROM UNITED STATES TO DISTRICT OF COLUMBIA.—Administrative jurisdiction over the following property owned by the United States and depicted on the Map is hereby transferred from the Secretary to the District of Columbia for administration by the District of Columbia:

(1) A portion of U.S. Reservation 451.

(2) A portion of U.S. Reservation 404.

(3) U.S. Reservations 44, 45, 46, 47, 48, and 49.

(4) U.S. Reservation 251.

(5) U.S. Reservation 8.

(6) U.S. Reservations 277A and 277C.

(7) Portions of U.S. Reservation 470.

(c) EFFECTIVE DATE.—The transfers of administrative jurisdiction under this section shall take effect on the date of the enactment of this Act.

**SEC. 202. EXCHANGE OF TITLE OVER CERTAIN PROPERTIES.**

(a) CONVEYANCE OF TITLE.—

(1) IN GENERAL.—On the date on which the District of Columbia conveys to the Secretary all right, title, and interest of the District of Columbia in each of the properties described in subsection (b) for use as described in such subsection, the Secretary shall convey to the District of Columbia all right, title, and interest of the United States in each of the properties described in subsection (c).

(2) ADMINISTRATION BY NATIONAL PARK SERVICE.—The properties conveyed by the District of Columbia to the Secretary under this section shall be administered by the Director upon conveyance.

(b) PROPERTIES TO BE CONVEYED TO THE SECRETARY; USE.—The properties described in this subsection and their uses are as follows (as depicted on the Map):

(1) Lovers Lane Northwest, abutting U.S. Reservation 324, for the closure of a one-block long roadway adjacent to Montrose Park.

(2) Needwood, Niagara, and Pitt Streets Northwest, within the Chesapeake and Ohio Canal National Historical Park, for the closing of the rights-of-way now occupied by the Chesapeake and Ohio Canal.

(c) PROPERTIES TO BE CONVEYED TO THE DISTRICT OF COLUMBIA.—The properties described in this subsection are as follows (as depicted on the Map):

(1) U.S. Reservation 17A.

(2) U.S. Reservation 484.

(3) U.S. Reservations 243, 244, 245, 247, and 248.

(4) U.S. Reservations 128, 129, 130, 298, and 299.

(5) Portions of U.S. Reservations 343D and 343E.

(6) U.S. Reservations 721, 722, and 723.

**SEC. 203. CONVEYANCE OF UNITED STATES RESERVATION 174.**

(a) CONVEYANCE; USE.—If the District of Columbia enacts a final plan for the development of the former Convention Center Site which meets the requirements of subsection (b)—

(1) the Secretary shall convey all right, title, and interest of the United States in U.S. Reservation 174 (as depicted on the Map) to the District of Columbia upon the enactment of such plan; and

(2) the District shall use the property so conveyed in accordance with such plan.

(b) REQUIREMENTS FOR DEVELOPMENT PLAN.—The plan for the development of the former Convention Center Site meets the requirements of this subsection if—

(1) the plan is developed through a public process;

(2) during the process for the development of the plan, the District of Columbia considers at least one version of the plan under which U.S. Reservation 174 is set aside as public open space as of the date of the enactment of this Act and shall continue to be set aside as public open space (including a version under which facilities are built under the surface of such portion); and

(3) not less than 1¼ acres of the former Convention Center Site are set aside for public open space under the plan.

(c) FORMER CONVENTION CENTER SITE DEFINED.—In this section, the "former Convention Center Site" means the parcel of land in the District of Columbia which is bounded on the east by 9th Street Northwest, on the north by New York Avenue Northwest, on the west by 11th Street Northwest, and on the south by H Street Northwest.

**SEC. 204. CONVEYANCE TO ARCHITECT OF THE CAPITOL.**

40 USC 5102 note.

(a) IN GENERAL.—Prior to conveyance of title to U.S. Reservation 13 to the District of Columbia under this Act, the District of Columbia shall convey, with the approval of the Architect of

the Capitol and subject to subsections (b) and (c), not more than 12 acres of real property to the Architect of the Capitol.

Deadline. Notification.

(b) TITLE HELD BY SECRETARY.—If title to the real property identified for conveyance under subsection (a) is held by the Secretary, not later than 30 days after being notified by the Architect of the Capitol that property has been so identified, the Secretary shall agree or disagree to conveying the interest in such property to the Architect of the Capitol.

Effective date.

(c) REVIEW.—If the Secretary agrees to the conveyance under subsection (b), or if title to the property is held by the District of Columbia, the real property shall be conveyed after a 30-day review period beginning on the date on which notice of the conveyance is received by the Committee on Homeland Security and Governmental Affairs and the Committee on Rules of the Senate and the Committee on Government Reform and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) STUDY.—The Architect of the Capitol shall not construct a mail screening facility on any real property conveyed under this section unless each of the following conditions is satisfied:

(1) A study is completed that analyzes—

(A) whether one or more other underutilized, surplus, or excess Federal facilities exist in which such a mail screening facility could be more economically located; and

(B) whether it would be more efficient and economical for the House of Representatives and Senate to share one mail screening facility.

(2) The study is submitted to the relevant committees of Congress.

(3) No fewer than 30 days have lapsed since the date of the submission under paragraph (2).

# TITLE III—POPLAR POINT

### SEC. 301. CONVEYANCE OF POPLAR POINT TO DISTRICT OF COLUMBIA.

Certification.

(a) CONVEYANCE.—Upon certification by the Secretary of the Interior (acting through the Director) that the District of Columbia has adopted a land-use plan for Poplar Point which meets the requirements of section 302, the Director shall convey to the District of Columbia all right, title, and interest of the United States in Poplar Point, in accordance with this title.

(b) WITHHOLDING OF EXISTING FACILITIES AND PROPERTIES OF NATIONAL PARK SERVICE FROM INITIAL CONVEYANCE.—The Director shall withhold from the conveyance made under subsection (a) the facilities and related property (including necessary easements and utilities related thereto) which are occupied or otherwise used by the National Park Service until such terms for conveyance are met under section 303.

(c) DEED RESTRICTION FOR PARK PURPOSES.—The deed for the conveyance of Poplar Point provided for in subsection (a) shall include a restriction requiring that 70 acres be maintained for park purposes in perpetuity, as identified in the land use plan required under section 302. Any person (including an individual or public entity) shall have standing to enforce the restriction.

**SEC. 302. REQUIREMENTS FOR POPLAR POINT LAND-USE PLAN.**

(a) IN GENERAL.—The land-use plan for Poplar Point meets the requirements of this section if the plan includes each of the following elements:

(1) The plan provides for the reservation of a portion of Poplar Point for park purposes, in accordance with subsection (b).

(2) The plan provides for the identification of existing facilities and related properties of the National Park Service, and the relocation of the National Park Service to replacement facilities and related properties, in accordance with subsection (c).

(3) Under the plan, at least two sites within the areas designated for park purposes are set aside for the placement of potential commemorative works to be established pursuant to chapter 89 of title 40, United States Code, and the plan includes a commitment by the District of Columbia to convey back those sites to the National Park Service at the appropriate time, as determined by the Secretary.

(4) To the greatest extent practicable, the plan is consistent with the Anacostia Waterfront Framework Plan referred to in section 103 of the Anacostia Waterfront Corporation Act of 2004 (sec. 2–1223.03, D.C. Official Code).

(b) RESERVATION OF AREAS FOR PARK PURPOSES.—The plan shall identify a portion of Poplar Point consisting of not fewer than 70 acres (including wetlands) which shall be reserved for park purposes and shall require such portion to be reserved for such purposes in perpetuity.

(c) IDENTIFICATION OF EXISTING AND REPLACEMENT FACILITIES AND PROPERTIES FOR NATIONAL PARK SERVICE.—

(1) IDENTIFICATION OF EXISTING FACILITIES.—The plan shall identify the facilities and related property (including necessary easements and utilities related thereto) which are occupied or otherwise used by the National Park Service in Poplar Point prior to the adoption of the plan.

(2) RELOCATION TO REPLACEMENT FACILITIES.—

(A) IN GENERAL.—To the extent that the District of Columbia and the Director determine jointly that it is no longer appropriate for the National Park Service to occupy or otherwise use any of the facilities and related property identified under paragraph (1), the plan shall—

(i) identify other suitable facilities and related property (including necessary easements and utilities related thereto) in the District of Columbia to which the National Park Service may be relocated;

(ii) provide that the District of Columbia shall take such actions as may be required to carry out the relocation, including preparing the new facilities and properties and providing for the transfer of such fixtures and equipment as the Director may require; and

(iii) set forth a timetable for the relocation of the National Park Service to the new facilities.

(B) RESTRICTION ON USE OF PROPERTY RESERVED FOR PARK PURPOSES.—The plan may not identify any facility or property for purposes of this paragraph which is located

on any portion of Poplar Point which is reserved for park purposes in accordance with subsection (b).

(3) CONSULTATION REQUIRED.—In developing each of the elements of the plan which are required under this subsection, the District of Columbia shall consult with the Director.

**SEC. 303. CONVEYANCE OF REPLACEMENT FACILITIES AND PROPERTIES FOR NATIONAL PARK SERVICE.**

Certification.

(a) CONVEYANCE OF FACILITIES AND RELATED PROPERTIES.—Upon certification by the Director that the facilities and related property to which the National Park Service is to be relocated under the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied or used by the National Park Service—

(1) the District of Columbia shall convey to the Director all right, title, and interest at no cost in the facilities and related property (including necessary easements and utilities related thereto) to which the National Park Service is to be relocated (without regard to whether such facilities are located in Poplar Point); and

(2) the Director shall convey to the District of Columbia all right, title, and interest in the facilities and related property which were withheld from the conveyance of Poplar Point under section 301(b) and from which the National Park Service is to be relocated.

(b) RESTRICTION ON CONSTRUCTION PROJECTS PENDING CERTIFICATION OF FACILITIES.—

(1) IN GENERAL.—The District of Columbia may not initiate any construction project with respect to Poplar Point until the Director makes the certification referred to in subsection (a).

(2) EXCEPTION FOR PROJECTS REQUIRED TO PREPARE FACILITIES FOR OCCUPATION BY NATIONAL PARK SERVICE.—Paragraph (1) shall not apply with respect to any construction project required to ensure that the facilities and related property to which the National Park Service is to be relocated under the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied by the National Park Service.

**SEC. 304. POPLAR POINT DEFINED.**

In this title, "Poplar Point" means the parcel of land in the District of Columbia which is owned by the United States and which is under the administrative jurisdiction of the District of Columbia or the Director on the day before the date of enactment of this Act, and which is bounded on the north by the Anacostia River, on the northeast by and inclusive of the southeast approaches to the 11th Street bridges, on the southeast by and inclusive of Route 295, and on the northwest by and inclusive of the Frederick Douglass Memorial Bridge approaches to Suitland Parkway, as depicted on the Map.

# TITLE IV—GENERAL PROVISIONS

40 USC 5102 note.

**SEC. 401. DEFINITIONS.**

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Director" means the Director of the National Park Service.

(3) The term "Map" means the map entitled "Transfer and Conveyance of Properties in the District of Columbia", numbered 869/80460, and dated July 2005, which shall be kept on file in the appropriate office of the National Park Service.

(4) The term "park purposes" includes landscaped areas, pedestrian walkways, bicycle trails, seating, opensided shelters, natural areas, recreational use areas, and memorial sites reserved for public use.

(5) The term "Secretary" means the Secretary of the Interior.

**SEC. 402. LIMITATION ON COSTS.** 40 USC 5102 note.

The United States shall not be responsible for paying any costs and expenses, other than costs and expenses related to or associated with environmental liabilities or cleanup actions provided under law, which are incurred by the District of Columbia or any other parties at any time in connection with effecting the provisions of this Act or any amendment made by this Act.

**SEC. 403. AUTHORIZATION OF PARTIES TO ENTER INTO CONTRACTS.** 40 USC 5102 note.

An officer or employee of the United States or the District of Columbia may contract for payment of costs or expenses related to any properties which are conveyed or for which administrative jurisdiction is transferred under this Act or any amendment made by this Act.

**SEC. 404. NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.** 40 USC 5102 note.

Nothing in this Act or any amendment made by this Act may be construed to affect or limit the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

**SEC. 405. CONGRESSIONAL REPORTS.** 40 USC 5102 note.

(a) DISTRICT OF COLUMBIA.—Not later than January 31 of each year, the Mayor of the District of Columbia shall report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform, the Committee on Energy and Commerce, the Committee on Resources, and the Committee on Transportation and Infrastructure of the House of Representatives on the use and development during the previous year of land for which title is conveyed to the District of Columbia and land for which administrative jurisdiction is transferred to the District of Columbia pursuant to this Act.

(b) COMPTROLLER GENERAL.—The Comptroller General shall report periodically to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform, the Committee on Energy and Commerce, the Committee on Resources, and the Committee on Transportation and Infrastructure of the House of Representatives on—

(1) the use and development during the previous 2 years of land for which title is conveyed and land for which administrative jurisdiction is transferred pursuant to this Act; and

(2) if applicable, how such use and development complies with the Anacostia Waterfront Framework Plan referred to

in section 103 of the Anacostia Waterfront Corporation Act of 2004 (sec. 2–1223.03, D.C. Official Code).

(c) SUNSET.—This section shall expire 10 years after the date of enactment of this Act.

40 USC 5102 note.

**SEC. 406. TREATMENT AS PROPERTIES TRANSFERRED TO ARCHITECT OF THE CAPITOL AS PART OF CAPITOL BUILDINGS AND GROUNDS.**

Upon transfer to the Architect of the Capitol of title to, or administrative jurisdiction over, any property pursuant to this Act, the property shall be a part of the United States Capitol Grounds and shall be subject to sections 9, 9A, 9B, 9C, 14, and 16(b) of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes" (relating to the policing of the United States Capitol Grounds) and sections 5101 to 5107 and 5109 of title 40, United States Code (relating to prohibited acts within the United States Capitol Grounds).

40 USC 5102 note.

**SEC. 407. DEADLINE FOR PROVISION OF DEEDS AND RELATED DOCUMENTS.**

With respect to each property conveyed under this Act or any amendment made by this Act, the Mayor of the District of Columbia, the Administrator, or the Secretary (as the case may be) shall execute and deliver a quitclaim deed or prepare and record a transfer plat, as appropriate, not later than 6 months after the property is conveyed.

40 USC 524 note.

**SEC. 408. OMB REPORT.**

(a) OMB REPORT ON SURPLUS AND EXCESS PROPERTY.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report on surplus and excess government property to Congress including—

(1) the total value and amount of surplus and excess government property, provided in the aggregate, as well as totaled by agency; and

(2) a list of the 100 most eligible surplus government properties for sale and how much they are worth.

(b) DATA SHARING AMONG FEDERAL AGENCIES.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

Procedures.

(1) develop and implement procedures requiring Federal agencies to share data on surplus and excess Federal real property under the jurisdiction of each agency; and

(2) report to Congress on the development and implementation of such procedures.

Approved December 15, 2006.

LEGISLATIVE HISTORY—H.R. 3699 (S. 1838):

HOUSE REPORTS: No. 109–316, Pt. 1 (Comm. on Government Reform), Pt. 2 (Comm. on Transportation and Infrastructure), and Pt. 3 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 109–359 accompanying S. 1838 (Comm. on Homeland Security and Government Affairs).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed House.
Nov. 16, considered and passed Senate.

# Public Law 109–397
# 109th Congress

## An Act

Dec. 18, 2006
[H.R. 1472]

To designate the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the "Tito Puente Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TITO PUENTE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 167 East 124th Street in New York, New York, shall be known and designated as the "Tito Puente Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Tito Puente Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 1472:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–398
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Dr. Robert E. Price Post Office Building".

Dec. 18, 2006
[H.R. 4246]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DR. ROBERT E. PRICE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, shall be known and designated as the "Dr. Robert E. Price Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Robert E. Price Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 4246:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 19, considered and passed House.
Vol. 152 (2006): Dec. 6, considered and passed Senate.

Public Law 109–399
109th Congress

# An Act

Dec. 18, 2006
[H.R. 4720]

To designate the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the "Beverly J. Wilson Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BEVERLY J. WILSON POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, shall be known and designated as the "Beverly J. Wilson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Beverly J. Wilson Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 4720:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–400
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the "Lance Corporal Robert A. Martinez Post Office Building".

Dec. 18, 2006
[H.R. 5108]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, shall be known and designated as the "Lance Corporal Robert A. Martinez Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Lance Corporal Robert A. Martinez Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 5108:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–401
109th Congress

An Act

Dec. 18, 2006
[H.R. 5682]

To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006.

# TITLE I—UNITED STATES AND INDIA NUCLEAR COOPERATION

22 USC 8001 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006".

22 USC 8001.

**SEC. 102. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy;

(2) sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation, particularly its verification and compliance, is the keystone of United States nonproliferation policy;

(3) the NPT has been a significant success in preventing the acquisition of nuclear weapons capabilities and maintaining a stable international security situation;

(4) countries that have never become a party to the NPT and remain outside that treaty's legal regime pose a potential challenge to the achievement of the overall goals of global nonproliferation, because those countries have not undertaken the NPT obligation to prohibit the spread of nuclear weapons capabilities;

(5) it is in the interest of the United States to the fullest extent possible to ensure that those countries that are not States Party to the NPT are responsible in the disposition of any nuclear technology they develop;

(6) it is in the interest of the United States to enter into an agreement for nuclear cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) with a country that has never been a State Party to the NPT if—

(A) the country has demonstrated responsible behavior with respect to the nonproliferation of technology related to nuclear weapons and the means to deliver them;

(B) the country has a functioning and uninterrupted democratic system of government, has a foreign policy that is congruent to that of the United States, and is working with the United States on key foreign policy initiatives related to nonproliferation;

(C) such cooperation induces the country to promulgate and implement substantially improved protections against the proliferation of technology related to nuclear weapons and the means to deliver them, and to refrain from actions that would further the development of its nuclear weapons program; and

(D) such cooperation will induce the country to give greater political and material support to the achievement of United States global and regional nonproliferation objectives, especially with respect to dissuading, isolating, and, if necessary, sanctioning and containing states that sponsor terrorism and terrorist groups that are seeking to acquire a nuclear weapons capability or other weapons of mass destruction capability and the means to deliver such weapons;

(7) the United States should continue its policy of engagement, collaboration, and exchanges with and between India and Pakistan;

(8) strong bilateral relations with India are in the national interest of the United States;

(9) the United States and India share common democratic values and the potential for increasing and sustained economic engagement;

(10) commerce in civil nuclear energy with India by the United States and other countries has the potential to benefit the people of all countries;

(11) such commerce also represents a significant change in United States policy regarding commerce with countries that are not States Party to the NPT, which remains the foundation of the international nonproliferation regime;

(12) any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nuclear proliferation or regional arms races and maximizes India's adherence to international nonproliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG); and

(13) the United States should not seek to facilitate or encourage the continuation of nuclear exports to India by any other party if such exports are terminated under United States law.

**SEC. 103. STATEMENTS OF POLICY.** 22 USC 8002.

(a) IN GENERAL.—The following shall be the policies of the United States:

(1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.

(2) Encourage States Party to the NPT to interpret the right to "develop research, production and use of nuclear energy

for peaceful purposes", as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.

(3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those guidelines, and the rules and practices regarding NSG decisionmaking.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this title, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law.

(b) WITH RESPECT TO SOUTH ASIA.—The following shall be the policies of the United States with respect to South Asia:

India.
Pakistan.
People's Republic of China.

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People's Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India's—

(A) full participation in the Proliferation Security Initiative;

(B) formal commitment to the Statement of Interdiction Principles of such Initiative;

(C) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;

(D) demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and

(E) ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India's full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India's civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160 (f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.

(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the requirements set forth in subsections a.(1) and a.(3) through a.(9) of such section.

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

**SEC. 104. WAIVER AUTHORITY AND CONGRESSIONAL APPROVAL.** 22 USC 8003.

(a) IN GENERAL.—If the President makes the determination described in subsection (b), the President may—

(1) exempt a proposed agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection a.(2) of such section;

(2) waive the application of section 128 of the Atomic Energy Act of 1954 (42 U.S.C. 2157) with respect to exports to India; and

(3) waive with respect to India the application of—

(A) section 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of such Act (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

(b) DETERMINATION BY THE PRESIDENT.—The determination referred to in subsection (a) is a determination by the President that the following actions have occurred: India.

(1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.

(2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India's civil nuclear facilities.

(3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India's civil nuclear program.

(4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.

(5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.

(6) India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through—

(A) the enactment and effective enforcement of comprehensive export control legislation and regulations;

(B) harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the NSG; and

(C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence.

(7) The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

(c) SUBMISSION TO CONGRESS.—

President. Reports.

(1) IN GENERAL.—The President shall submit to the appropriate congressional committees the determination made pursuant to subsection (b), together with a report detailing the basis for the determination.

(2) INFORMATION TO BE INCLUDED.—To the fullest extent available to the United States, the report referred to in paragraph (1) shall include the following information:

(A) A summary of the plan provided by India to the United States and the IAEA to separate India's civil and military nuclear facilities, materials, and programs, and the declaration made by India to the IAEA identifying India's civil facilities to be placed under IAEA safeguards, including an analysis of the credibility of such plan and declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities as declared in the plan described

in subparagraph (A), together with a copy of the agreement, and a description of the progress toward its full implementation.

(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear-related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to fully and actively participate in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction.

(H) A description of the decision of the NSG relating to nuclear cooperation with India, including whether nuclear cooperation by the United States under an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is consistent with the decision, practices, and policies of the NSG.

(I) A description of the scope of peaceful cooperation envisioned by the United States and India that will be implemented under the agreement for nuclear cooperation, including whether such cooperation will include the provision of enrichment and reprocessing technology.

(J) A description of the steps taken to ensure that proposed United States civil nuclear cooperation with India will not in any way assist India's nuclear weapons program.

(d) RESTRICTIONS ON NUCLEAR TRANSFERS.—

(1) IN GENERAL.—Pursuant to the obligations of the United States under Article I of the NPT, nothing in this title constitutes authority to carry out any civil nuclear cooperation between the United States and a country that is not a nuclear-weapon State Party to the NPT that would in any way assist, encourage, or induce that country to manufacture or otherwise acquire nuclear weapons or nuclear explosive devices.

(2) NSG TRANSFER GUIDELINES.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, no item subject to such agreement or subject to the transfer guidelines of the NSG, or to NSG decisions related thereto, may be transferred to India if such transfer would be inconsistent with the transfer guidelines of the NSG in effect on the date of the transfer.

(3) TERMINATION OF NUCLEAR TRANSFERS TO INDIA.—

President.

(A) IN GENERAL.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, and except as provided under subparagraph (B), exports of nuclear and nuclear-related material, equipment, or technology to India shall be terminated if there is any materially significant transfer by an Indian person of—

(i) nuclear or nuclear-related material, equipment, or technology that is not consistent with NSG guidelines or decisions, or

(ii) ballistic missiles or missile-related equipment or technology that is not consistent with MTCR guidelines,

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.

(B) EXCEPTION.—The President may choose not to terminate exports of nuclear and nuclear-related material, equipment, and technology to India under subparagraph (A) if—

(i) the transfer covered under such subparagraph was made without the knowledge of the Government of India;

(ii) at the time of the transfer, either the Government of India did not own, control, or direct the Indian person that made the transfer or the Indian person that made the transfer is a natural person who acted without the knowledge of any entity described in subparagraph (B) or (C) of section 110(5); and

Certification.

(iii) the President certifies to the appropriate congressional committees that the Government of India has taken or is taking appropriate judicial or other enforcement actions against the Indian person with respect to such transfer.

(4) EXPORTS, REEXPORTS, TRANSFERS, AND RETRANSFERS TO INDIA RELATED TO ENRICHMENT, REPROCESSING, AND HEAVY WATER PRODUCTION.—

(A) IN GENERAL.—

(i) NUCLEAR REGULATORY COMMISSION.—The Nuclear Regulatory Commission may only issue licenses for the export or reexport to India of any equipment, components, or materials related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water if the requirements of subparagraph (B) are met.

(ii) SECRETARY OF ENERGY.—The Secretary of Energy may only issue authorizations for the transfer or retransfer to India of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water (including under the terms of a subsequent arrangement under section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160)) if the requirements of subparagraph (B) are met.

(B) REQUIREMENTS FOR APPROVALS.—Exports, reexports, transfers, and retransfers referred to in subparagraph (A) may only be approved if—

(i) the end user—

(I) is a multinational facility participating in an IAEA-approved program to provide alternatives to national fuel cycle capabilities; or

(II) is a facility participating in, and the export, reexport, transfer, or retransfer is associated with, a bilateral or multinational program to develop a proliferation-resistant fuel cycle;

(ii) appropriate measures are in place at any facility referred to in clause (i) to ensure that no sensitive nuclear technology, as defined in section 4(5) of the Nuclear Nonproliferation Act of 1978 (22 U.S.C. 3203(5)), will be diverted to any person, site, facility, location, or program not under IAEA safeguards; and

(iii) the President determines that the export, reexport, transfer, or retransfer will not assist in the manufacture or acquisition of nuclear explosive devices or the production of fissile material for military purposes. President.

(5) NUCLEAR EXPORT ACCOUNTABILITY PROGRAM.—

(A) IN GENERAL.—The President shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment, and technology sold, leased, exported, or reexported to India so as to ensure— President.

(i) full implementation of the protections required under section 123 a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (a)(1)); and

(ii) United States compliance with Article I of the NPT.

(B) MEASURES.—The measures taken pursuant to subparagraph (A) shall include the following:

(i) Obtaining and implementing assurances and conditions pursuant to the export licensing authorities of the Nuclear Regulatory Commission and the Department of Commerce and the authorizing authorities of the Department of Energy, including, as appropriate, conditions regarding end-use monitoring.

(ii) A detailed system of reporting and accounting for technology transfers, including any retransfers in India, authorized by the Department of Energy pursuant to section 57 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)). Such system shall be capable of providing assurances that—

(I) the identified recipients of the nuclear technology are authorized to receive the nuclear technology;

(II) the nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities and will not be used for any military or nuclear explosive purpose; and

(III) the nuclear technology identified for transfer will not be retransferred without the prior consent of the United States, and facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

(iii) In the event the IAEA is unable to implement safeguards as required by an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), appropriate assurance that arrangements will be put in place expeditiously that are consistent with the requirements of section 123 a.(1) of such Act (42 U.S.C. 2153(a)(1)) regarding the maintenance of safeguards as set forth in the agreement regardless of whether the agreement is terminated or suspended for any reason.

(C) IMPLEMENTATION.—The measures described in subparagraph (B) shall be implemented to provide reasonable assurances that the recipient is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding such exports, including those relating to the use, retransfer, safe handling, secure transit, and storage of such exports.

(e) JOINT RESOLUTION OF APPROVAL REQUIREMENT.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) is amended in the second proviso by inserting after "that subsection" the following: ", or an agreement exempted pursuant to section 104(a)(1) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006,".

(f) SUNSET.—The authority provided under subsection (a)(1) to exempt an agreement shall terminate upon the enactment of a joint resolution under section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) approving such an agreement.

(g) REPORTING TO CONGRESS.—

President.

(1) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—The President shall keep the appropriate congressional committees fully and currently informed of the facts and implications of any significant nuclear activities of India, including—

(A) any material noncompliance on the part of the Government of India with—

(i) the nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India;

(ii) the separation plan presented in the national parliament of India on March 7, 2006, and in greater detail on May 11, 2006;

(iii) a safeguards agreement between the Government of India and the IAEA;

(iv) an Additional Protocol between the Government of India and the IAEA;

(v) an agreement for cooperation between the Government of India and the United States Government arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) or any subsequent arrangement under section 131 of such Act (42 U.S.C. 2160);

(vi) the terms and conditions of any approved licenses regarding the export or reexport of nuclear material or dual-use material, equipment, or technology; and

(vii) United States laws and regulations regarding such licenses;

(B) the construction of a nuclear facility in India after the date of the enactment of this title;

(C) significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced; and

(D) changes in the purpose or operational status of any unsafeguarded nuclear fuel cycle activities in India.

President.

(2) IMPLEMENTATION AND COMPLIANCE REPORT.—Not later than 180 days after the date on which an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) enters into force, and annually thereafter, the President shall submit to the appropriate congressional committees a report including—

(A) a description of any additional nuclear facilities and nuclear materials that the Government of India has placed or intends to place under IAEA safeguards;

(B) a comprehensive listing of—

(i) all licenses that have been approved by the Nuclear Regulatory Commission and the Secretary of Energy for exports and reexports to India under parts 110 and 810 of title 10, Code of Federal Regulations;

(ii) any licenses approved by the Department of Commerce for the export or reexport to India of commodities, related technology, and software which are controlled for nuclear nonproliferation reasons on the Nuclear Referral List of the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulation, or any successor regulation;

(iii) any other United States authorizations for the export or reexport to India of nuclear materials and equipment; and

(iv) with respect to each such license or other form of authorization described in clauses (i), (ii), and (iii)—

(I) the number or other identifying information of each license or authorization;

(II) the name or names of the authorized end user or end users;

(III) the name of the site, facility, or location in India to which the export or reexport was made;

(IV) the terms and conditions included on such licenses and authorizations;

(V) any post-shipment verification procedures that will be applied to such exports or reexports; and

(VI) the term of validity of each such license or authorization;

(C) a description of any significant nuclear commerce between India and other countries, including any such trade that—

(i) is not consistent with applicable guidelines or decisions of the NSG; or

(ii) would not meet the standards applied to exports or reexports of such material, equipment, or technology of United States origin;

(D) either—

(i) an assessment that India is in full compliance with the commitments and obligations contained in the agreements and other documents referenced in clauses (i) through (vi) of paragraph (1)(A); or

(ii) an identification and analysis of all compliance issues arising with regard to the adherence by India to its commitments and obligations, including—

(I) the measures the United States Government has taken to remedy or otherwise respond to such compliance issues;

(II) the responses of the Government of India to such measures;

(III) the measures the United States Government plans to take to this end in the coming year; and

(IV) an assessment of the implications of any continued noncompliance, including whether nuclear commerce with India remains in the national security interest of the United States;

(E)(i) an assessment of whether India is fully and actively participating in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich uranium or reprocess nuclear fuel), and the means to deliver weapons of mass destruction, including a description of the specific measures that India has taken in this regard; and

(ii) if India is not assessed to be fully and actively participating in such efforts, a description of—

(I) the measures the United States Government has taken to secure India's full and active participation in such efforts;

(II) the responses of the Government of India to such measures; and

(III) the measures the United States Government plans to take in the coming year to secure India's full and active participation;

(F) an analysis of whether United States civil nuclear cooperation with India is in any way assisting India's nuclear weapons program, including through—

(i) the use of any United States equipment, technology, or nuclear material by India in an unsafeguarded nuclear facility or nuclear-weapons related complex;

(ii) the replication and subsequent use of any United States technology by India in an unsafeguarded nuclear facility or unsafeguarded nuclear weapons-related complex, or for any activity related to the research, development, testing, or manufacture of nuclear explosive devices; and

(iii) the provision of nuclear fuel in such a manner as to facilitate the increased production by India of highly enriched uranium or plutonium in unsafeguarded nuclear facilities;

(G) a detailed description of—

(i) United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, limiting, and reducing their fissile material stockpiles, including stockpiles for military purposes, pending creation of a worldwide fissile material cut-off regime, including the institution of a Fissile Material Cut-off Treaty;

(ii) the responses of India and Pakistan to such efforts; and

(iii) assistance that the United States is providing, or would be able to provide, to India and Pakistan to promote the objectives in clause (i), consistent with its obligations under international law and existing agreements;

(H) an estimate of—

(i) the amount of uranium mined and milled in India during the previous year;

(ii) the amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and

(iii) the rate of production in India of—

(I) fissile material for nuclear explosive devices; and

(II) nuclear explosive devices;

(I) an estimate of the amount of electricity India's nuclear reactors produced for civil purposes during the previous year and the proportion of such production that can be attributed to India's declared civil reactors;

(J) an analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices;

(K) a detailed description of efforts and progress made toward the achievement of India's—

(i) full participation in the Proliferation Security Initiative;

(ii) formal commitment to the Statement of Interdiction Principles of such Initiative;

(iii) public announcement of its decision to conform its export control laws, regulations, and policies with

the Australia Group and with the Guidelines, Procedures, Criteria, and Controls List of the Wassenaar Arrangement; and

(iv) effective implementation of the decision described in clause (iii); and

(L) the disposal during the previous year of spent nuclear fuel from India's civilian nuclear program, and any plans or activities relating to future disposal of such spent nuclear fuel.

(3) SUBMITTAL WITH OTHER ANNUAL REPORTS.—

(A) REPORT ON PROLIFERATION PREVENTION.—Each annual report submitted under paragraph (2) after the initial report may be submitted together with the annual report on proliferation prevention required under section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)).

(B) REPORT ON PROGRESS TOWARD REGIONAL NONPROLIFERATION.—The information required to be submitted under paragraph (2)(F) after the initial report may be submitted together with the annual report on progress toward regional nonproliferation required under section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c)).

(4) FORM.—Each report submitted under this subsection shall be submitted in unclassified form, but may contain a classified annex.

22 USC 8004.

**SEC. 105. UNITED STATES COMPLIANCE WITH ITS NUCLEAR NONPROLIFERATION TREATY OBLIGATIONS.**

Nothing in this title constitutes authority for any action in violation of an obligation of the United States under the NPT.

President.
22 USC 8005.

**SEC. 106. INOPERABILITY OF DETERMINATION AND WAIVERS.**

A determination and any waiver under section 104 shall cease to be effective if the President determines that India has detonated a nuclear explosive device after the date of the enactment of this title.

22 USC 8006.

**SEC. 107. MTCR ADHERENT STATUS.**

Congress finds that India is not an MTCR adherent for the purposes of section 73 of the Arms Export Control Act (22 U.S.C. 2797b).

**SEC. 108. TECHNICAL AMENDMENT.**

Section 1112(c)(4) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–486)) is amended—

22 USC 2652c.

(1) in subparagraph (B), by striking "and" after the semicolon at the end;

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

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

"(C) so much of the reports required under section 104 of the Henry J. Hyde United States-India Peaceful

Atomic Energy Cooperation Act of 2006 as relates to verification or compliance matters; and".

**SEC. 109. UNITED STATES-INDIA SCIENTIFIC COOPERATIVE NUCLEAR NONPROLIFERATION PROGRAM.** 22 USC 8007.

(a) ESTABLISHMENT.—The Secretary of Energy, acting through the Administrator of the National Nuclear Security Administration, is authorized to establish a cooperative nuclear nonproliferation program to pursue jointly with scientists from the United States and India a program to further common nuclear nonproliferation goals, including scientific research and development efforts, with an emphasis on nuclear safeguards (in this section referred to as "the program").

(b) CONSULTATION.—The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) NATIONAL ACADEMIES RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall enter into an agreement with the National Academies to develop recommendations for the implementation of the program. Contracts.

(2) RECOMMENDATIONS.—The agreement entered into under paragraph (1) shall provide for the preparation by qualified individuals with relevant expertise and knowledge and the communication to the Secretary of Energy each fiscal year of—

(A) recommendations for research and related programs designed to overcome existing technological barriers to nuclear nonproliferation; and

(B) an assessment of whether activities and programs funded under this section are achieving the goals of the activities and programs.

(3) PUBLIC AVAILABILITY.—The recommendations and assessments prepared under this subsection shall be made publicly available.

(d) CONSISTENCY WITH NUCLEAR NON-PROLIFERATION TREATY.—All United States activities related to the program shall be consistent with United States obligations under the Nuclear Non-Proliferation Treaty.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.

**SEC. 110. DEFINITIONS.** 22 USC 8008.

In this title:

(1) The term "Additional Protocol" means a protocol additional to a safeguards agreement with the IAEA, as negotiated between a country and the IAEA based on a Model Additional Protocol as set forth in IAEA information circular (INFCIRC) 540.

(2) The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) The term "dual-use material, equipment, or technology" means material, equipment, or technology that may be used in nuclear or nonnuclear applications.

(4) The term "IAEA safeguards" has the meaning given the term in section 830(3) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(3)).

(5) The term "Indian person" means—

(A) a natural person that is a citizen of India or is subject to the jurisdiction of the Government of India;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of India or has its principal place of business in India; and

(C) any Indian governmental entity, including any governmental entity operating as a business enterprise.

(6) The terms "Missile Technology Control Regime", "MTCR", and "MTCR adherent" have the meanings given the terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(7) The term "nuclear materials and equipment" means source material, special nuclear material, production and utilization facilities and any components thereof, and any other items or materials that are determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)).

(8) The terms "Nuclear Non-Proliferation Treaty" and "NPT" mean the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(9) The terms "Nuclear Suppliers Group" and "NSG" refer to a group, which met initially in 1975 and has met at least annually since 1992, of Participating Governments that have promulgated and agreed to adhere to Guidelines for Nuclear Transfers (currently IAEA INFCIRC/254/Rev.8/Part 1) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/Rev.7/Part 2).

(10) The terms "nuclear weapon" and "nuclear explosive device" mean any device designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(11) The term "process" includes the term "reprocess".

(12) The terms "reprocessing" and "reprocess" refer to the separation of irradiated nuclear materials and fission products from spent nuclear fuel.

(13) The term "sensitive nuclear technology" means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term "source material" has the meaning given the term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(15) The term "special nuclear material" has the meaning given the term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

(16) The term "unsafeguarded nuclear fuel-cycle activity" means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) any existing or future reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced therefrom.

# TITLE II—UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

United States Additional Protocol Implementation Act.

**SEC. 201. SHORT TITLE.**

22 USC 8101 note.

This title may be cited as the "United States Additional Protocol Implementation Act".

**SEC. 202. FINDINGS.**

22 USC 8101.

Congress makes the following findings:

(1) The proliferation of nuclear weapons and other nuclear explosive devices poses a grave threat to the national security of the United States and its vital national interests.

(2) The Nuclear Non-Proliferation Treaty has proven critical to limiting such proliferation.

(3) For the Nuclear Non-Proliferation Treaty to be effective, each of the non-nuclear-weapon State Parties must conclude a comprehensive safeguards agreement with the IAEA, and such agreements must be honored and enforced.

(4) Recent events emphasize the urgency of strengthening the effectiveness and improving the efficiency of the safeguards system. This can best be accomplished by providing IAEA inspectors with more information about, and broader access to, nuclear activities within the territory of non-nuclear-weapon State Parties.

(5) The proposed scope of such expanded information and access has been negotiated by the member states of the IAEA in the form of a Model Additional Protocol to its existing safeguards agreements, and universal acceptance of Additional Protocols by non-nuclear weapons states is essential to enhancing the effectiveness of the Nuclear Non-Proliferation Treaty.

(6) On June 12, 1998, the United States, as a nuclear-weapon State Party, signed an Additional Protocol that is based on the Model Additional Protocol, but which also contains measures, consistent with its existing safeguards agreements with its members, that protect the right of the United States to exclude the application of IAEA safeguards to locations and activities with direct national security significance or to locations or information associated with such activities.

(7) Implementation of the Additional Protocol in the United States in a manner consistent with United States obligations under the Nuclear Non-Proliferation Treaty may encourage other parties to the Nuclear Non-Proliferation Treaty, especially non-nuclear-weapon State Parties, to conclude Additional Protocols and thereby strengthen the Nuclear Non-Proliferation Treaty safeguards system and help reduce the threat of nuclear proliferation, which is of direct and substantial benefit to the United States.

(8) Implementation of the Additional Protocol by the United States is not required and is completely voluntary given its status as a nuclear-weapon State Party, but the United States has acceded to the Additional Protocol to demonstrate its commitment to the nuclear nonproliferation regime and to make United States civil nuclear activities available to the same IAEA inspections as are applied in the case of non-nuclear-weapon State Parties.

(9) In accordance with the national security exclusion contained in Article 1.b of its Additional Protocol, the United States will not allow any inspection activities, nor make any declaration of any information with respect to, locations, information, and activities of direct national security significance to the United States.

(10) Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representative to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

22 USC 8102.

**SEC. 203. DEFINITIONS.**

In this title:

(1) ADDITIONAL PROTOCOL.—The term "Additional Protocol", when used in the singular form, means the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107–7).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate and the Committee on Armed Services, the Committee on International Relations, the Committee on Science, and the Committee on Appropriations of the House of Representatives.

(3) COMPLEMENTARY ACCESS.—The term "complementary access" means the exercise of the IAEA's access rights as set forth in Articles 4 to 6 of the Additional Protocol.

(4) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(5) FACILITY.—The term "facility" has the meaning set forth in Article 18i. of the Additional Protocol.

(6) IAEA.—The term "IAEA" means the International Atomic Energy Agency.

(7) JUDGE OF THE UNITED STATES.—The term "judge of the United States" means a United States district judge, or

a United States magistrate judge appointed under the authority of chapter 43 of title 28, United States Code.

(8) LOCATION.—The term "location" means any geographic point or area declared or identified by the United States or specified by the International Atomic Energy Agency.

(9) NUCLEAR NON-PROLIFERATION TREATY.—The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(10) NUCLEAR-WEAPON STATE PARTY AND NON-NUCLEAR-WEAPON STATE PARTY.—The terms "nuclear-weapon State Party" and "non-nuclear-weapon State Party" have the meanings given such terms in the Nuclear Non-Proliferation Treaty.

(11) PERSON.—The term "person", except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality, or political subdivision of any such government or nation, or other entity located in the United States.

(12) SITE.—The term "site" has the meaning set forth in Article 18b. of the Additional Protocol.

(13) UNITED STATES.—The term "United States", when used as a geographic reference, means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) the territorial sea and the overlying airspace;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (41), respectively, of section 40102(a) of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).

(14) WIDE-AREA ENVIRONMENTAL SAMPLING.—The term "wide-area environmental sampling" has the meaning set forth in Article 18g. of the Additional Protocol.

**SEC. 204. SEVERABILITY.** 22 USC 8103.

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

## Subtitle A—General Provisions

**SEC. 211. AUTHORITY.** 22 USC 8111.

(a) IN GENERAL.—The President is authorized to implement and carry out the provisions of this title and the Additional Protocol and shall designate through Executive order which executive agency or agencies of the United States, which may include but are not President.

limited to the Department of State, the Department of Defense, the Department of Justice, the Department of Commerce, the Department of Energy, and the Nuclear Regulatory Commission, shall issue or amend and enforce regulations in order to implement this title and the provisions of the Additional Protocol.

(b) INCLUDED AUTHORITY.—For any executive agency designated under subsection (a) that does not currently possess the authority to conduct site vulnerability assessments and related activities, the authority provided in subsection (a) includes such authority.

(c) EXCEPTION.—The authority described in subsection (b) does not supersede or otherwise modify any existing authority of any Federal department or agency already having such authority.

## Subtitle B—Complementary Access

22 USC 8121.

**SEC. 221. REQUIREMENT FOR AUTHORITY TO CONDUCT COMPLEMENTARY ACCESS.**

(a) PROHIBITION.—No complementary access to any location in the United States shall take place pursuant to the Additional Protocol without the authorization of the United States Government in accordance with the requirements of this title.

(b) AUTHORITY.—

(1) IN GENERAL.—Complementary access to any location in the United States subject to access under the Additional Protocol is authorized in accordance with this title.

(2) UNITED STATES REPRESENTATIVES.—

(A) RESTRICTIONS.—In the event of complementary access to a privately owned or operated location, no employee of the Environmental Protection Agency or of the Mine Safety and Health Administration or the Occupational Safety and Health Administration of the Department of Labor may participate in the access.

(B) NUMBER.—The number of designated United States representatives accompanying IAEA inspectors shall be kept to the minimum necessary.

22 USC 8122.

**SEC. 222. PROCEDURES FOR COMPLEMENTARY ACCESS.**

(a) IN GENERAL.—Each instance of complementary access to a location in the United States under the Additional Protocol shall be conducted in accordance with this subtitle.

(b) NOTICE.—

(1) IN GENERAL.—Complementary access referred to in subsection (a) may occur only upon the issuance of an actual written notice by the United States Government to the owner, operator, occupant, or agent in charge of the location to be subject to complementary access.

(2) TIME OF NOTIFICATION.—The notice under paragraph (1) shall be submitted to such owner, operator, occupant, or agent as soon as possible after the United States Government has received notification that the IAEA seeks complementary access. Notices may be posted prominently at the location if the United States Government is unable to provide actual written notice to such owner, operator, occupant, or agent.

(3) CONTENT OF NOTICE.—

(A) IN GENERAL.—The notice required by paragraph (1) shall specify—

(i) the purpose for the complementary access;

(ii) the basis for the selection of the facility, site, or other location for the complementary access sought;

(iii) the activities that will be carried out during the complementary access;

(iv) the time and date that the complementary access is expected to begin, and the anticipated period covered by the complementary access; and

(v) the names and titles of the inspectors.

(4) SEPARATE NOTICES REQUIRED.—A separate notice shall be provided each time that complementary access is sought by the IAEA.

(c) CREDENTIALS.—The complementary access team of the IAEA and representatives or designees of the United States Government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the location before gaining entry in connection with complementary access.

(d) SCOPE.—

(1) IN GENERAL.—Except as provided in a warrant issued under section 223, and subject to the rights of the United States Government under the Additional Protocol to limit complementary access, complementary access to a location pursuant to this title may extend to all activities specifically permitted for such locations under Article 6 of the Additional Protocol.

(2) EXCEPTION.—Unless required by the Additional Protocol, no inspection under this title shall extend to—

(A) financial data (other than production data);

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) patent data;

(F) data maintained for compliance with environmental or occupational health and safety regulations; or

(G) research data.

(e) ENVIRONMENT, HEALTH, SAFETY, AND SECURITY.—In carrying out their activities, members of the IAEA complementary access team and representatives or designees of the United States Government shall observe applicable environmental, health, safety, and security regulations established at the location subject to complementary access, including those for protection of controlled environments within a facility and for personal safety.

**SEC. 223. CONSENTS, WARRANTS, AND COMPLEMENTARY ACCESS.** 22 USC 8123.

(a) IN GENERAL.—

(1) PROCEDURE.—

(A) CONSENT.—Except as provided in paragraph (2), an appropriate official of the United States Government shall seek or have the consent of the owner, operator, occupant, or agent in charge of a location prior to entering that location in connection with complementary access pursuant to sections 221 and 222. The owner, operator, occupant, or agent in charge of the location may withhold consent for any reason or no reason.

(B) ADMINISTRATIVE SEARCH WARRANT.—In the absence of consent, the United States Government may seek an administrative search warrant from a judge of the United States under subsection (b). Proceedings regarding the issuance of an administrative search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(2) EXPEDITED ACCESS.—For purposes of obtaining access to a location pursuant to Article 4b.(ii) of the Additional Protocol in order to satisfy United States obligations under the Additional Protocol when notice of two hours or less is required, the United States Government may gain entry to such location in connection with complementary access, to the extent such access is consistent with the Fourth Amendment to the United States Constitution, without obtaining either a warrant or consent.

Courts.

(b) ADMINISTRATIVE SEARCH WARRANTS FOR COMPLEMENTARY ACCESS.—

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS.—For complementary access conducted in the United States pursuant to the Additional Protocol, and for which the acquisition of a warrant is required, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to such judge all appropriate information regarding the basis for the selection of the facility, site, or other location to which complementary access is sought.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—A judge of the United States shall promptly issue an administrative search warrant authorizing the requested complementary access upon an affidavit submitted by the United States Government—

(A) stating that the Additional Protocol is in force;

(B) stating that the designated facility, site, or other location is subject to complementary access under the Additional Protocol;

(C) stating that the purpose of the complementary access is consistent with Article 4 of the Additional Protocol;

(D) stating that the requested complementary access is in accordance with Article 4 of the Additional Protocol;

(E) containing assurances that the scope of the IAEA's complementary access, as well as what it may collect, shall be limited to the access provided for in Article 6 of the Additional Protocol;

(F) listing the items, documents, and areas to be searched and seized;

(G) stating the earliest commencement and the anticipated duration of the complementary access period, as well as the expected times of day during which such complementary access will take place; and

(H) stating that the location to which entry in connection with complementary access is sought was selected either—

(i) because there is probable cause, on the basis of specific evidence, to believe that information required to be reported regarding a location pursuant

to regulations promulgated under this title is incorrect or incomplete, and that the location to be accessed contains evidence regarding that violation; or

(ii) pursuant to a reasonable general administrative plan based upon specific neutral criteria.

(3) CONTENT OF WARRANTS.—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition, each warrant shall contain the identities of the representatives of the IAEA on the complementary access team and the identities of the representatives or designees of the United States Government required to display identifying credentials under section 222(c).

**SEC. 224. PROHIBITED ACTS RELATING TO COMPLEMENTARY ACCESS.** 22 USC 8124.

It shall be unlawful for any person willfully to fail or refuse to permit, or to disrupt, delay, or otherwise impede, a complementary access authorized by this subtitle or an entry in connection with such access.

## Subtitle C—Confidentiality of Information

**SEC. 231. PROTECTION OF CONFIDENTIALITY OF INFORMATION.** 22 USC 8131.

Information reported to, or otherwise acquired by, the United States Government under this title or under the Additional Protocol shall be exempt from disclosure under section 552 of title 5, United States Code.

## Subtitle D—Enforcement

**SEC. 241. RECORDKEEPING VIOLATIONS.** 22 USC 8141.

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by any regulation prescribed under this title;

(2) to submit any report, notice, or other information to the United States Government in accordance with any regulation prescribed under this title; or

(3) to permit access to or copying of any record by the United States Government in accordance with any regulation prescribed under this title.

**SEC. 242. PENALTIES.** 22 USC 8142.

(a) CIVIL.—

(1) PENALTY AMOUNTS.—Any person that is determined, in accordance with paragraph (2), to have violated section 224 or section 241 shall be required by order to pay a civil penalty in an amount not to exceed $25,000 for each violation. For the purposes of this paragraph, each day during which a violation of section 224 continues shall constitute a separate violation of that section.

(2) NOTICE AND HEARING.—

(A) IN GENERAL.—Before imposing a penalty against a person under paragraph (1), the head of an executive agency designated under section 211(a) shall provide the person with notice of the order. If, within 15 days after receiving the notice, the person requests a hearing, the Deadline.

head of the designated executive agency shall initiate a hearing on the violation.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the order imposed by the head of the designated agency shall constitute a final agency action.

(C) ISSUANCE OF ORDERS.—If the administrative judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 224 or section 241, the administrative judge shall state the findings of fact and conclusions of law, and issue and serve on such person an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative judge or the head of the designated agency shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(E) CONTENT OF NOTICE.—For the purposes of this paragraph, notice shall be in writing and shall be verifiably served upon the person or persons subject to an order described in paragraph (1). In addition, the notice shall—

(i) set forth the time, date, and specific nature of the alleged violation or violations; and

(ii) specify the administrative and judicial remedies available to the person or persons subject to the order, including the availability of a hearing and subsequent appeal.

(3) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative judge shall be the recommended decision and order and shall be referred to the head of the designated executive agency for final decision and order. If, within 60 days, the head of the designated executive agency does not modify or vacate the decision and order, it shall become a final agency action under this subsection.

Deadline.

(4) JUDICIAL REVIEW.—A person adversely affected by a final order may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or in the Court of Appeals for the district in which the violation occurred.

Deadline.

(5) ENFORCEMENT OF FINAL ORDERS.—

(A) IN GENERAL.—If a person fails to comply with a final order issued against such person under this subsection and—

(i) the person has not filed a petition for judicial review of the order in accordance with paragraph (4), or

(ii) a court in an action brought under paragraph (4) has entered a final judgment in favor of the designated executive agency,

the head of the designated executive agency shall commence a civil action to seek compliance with the final order in any appropriate district court of the United States.

(B) NO REVIEW.—In any such civil action, the validity and appropriateness of the final order shall not be subject to review.

(C) INTEREST.—Payment of penalties assessed in a final order under this section shall include interest at currently prevailing rates calculated from the date of expiration of the 60-day period referred to in paragraph (3) or the date of such final order, as the case may be.

(b) CRIMINAL.—Any person who violates section 224 or section 241 may, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than five years, or both.

**SEC. 243. SPECIFIC ENFORCEMENT.** 22 USC 8143.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions brought by the head of an executive agency designated under section 211(a)—

(1) to restrain any conduct in violation of section 224 or section 241; or

(2) to compel the taking of any action required by or under this title or the Additional Protocol.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in paragraph (1) of such subsection, in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 224 or section 241 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in paragraph (2) of such subsection, in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) SERVICE OF PROCESS.—In any such civil action, process shall be served on a defendant wherever the defendant may reside or may be found.

# Subtitle E—Environmental Sampling

**SEC. 251. NOTIFICATION TO CONGRESS OF IAEA BOARD APPROVAL OF WIDE-AREA ENVIRONMENTAL SAMPLING.** 22 USC 8151.

(a) IN GENERAL.—Not later than 30 days after the date on which the Board of Governors of the IAEA approves wide-area environmental sampling for use as a safeguards verification tool, the President shall notify the appropriate congressional committees. Deadline. President.

(b) CONTENT.—The notification under subsection (a) shall contain—

(1) a description of the specific methods and sampling techniques approved by the Board of Governors that are to be employed for purposes of wide-area sampling;

(2) a statement as to whether or not such sampling may be conducted in the United States under the Additional Protocol; and

(3) an assessment of the ability of the approved methods and sampling techniques to detect, identify, and determine the conduct, type, and nature of nuclear activities.

22 USC 8152.

**SEC. 252. APPLICATION OF NATIONAL SECURITY EXCLUSION TO WIDE-AREA ENVIRONMENTAL SAMPLING.**

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any wide-area environmental sampling proposed by the IAEA to be conducted at a specified location in the United States under Article 9 of the Additional Protocol unless the President has determined and reported to the appropriate congressional committees with respect to that proposed use of environmental sampling that—

(1) the proposed use of wide-area environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of wide-area environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) the United States—

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving wide-area environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of wide-area environmental sampling.

President.
22 USC 8153.

**SEC. 253. APPLICATION OF NATIONAL SECURITY EXCLUSION TO LOCATION-SPECIFIC ENVIRONMENTAL SAMPLING.**

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any location-specific environmental sampling in the United States under Article 5 of the Additional Protocol unless the President has determined and reported to the appropriate congressional committees with respect to that proposed use of environmental sampling that—

(1) the proposed use of location-specific environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of location-specific environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) with respect to the proposed use of environmental sampling, the United States—

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving location-specific environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of location-specific environmental sampling.

**SEC. 254. RULE OF CONSTRUCTION.** 22 USC 8154.

As used in this subtitle, the term "necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party" shall not be construed to encompass proposed uses of environmental sampling that might assist the IAEA in detecting undeclared nuclear activities in the territory of a non-nuclear-weapon State Party by—

(1) setting a good example of cooperation in the conduct of such sampling; or

(2) facilitating the formation of a political consensus or political support for such sampling in the territory of a non-nuclear-weapon State Party.

# Subtitle F—Protection of National Security Information and Activities

**SEC. 261. PROTECTION OF CERTAIN INFORMATION.** 22 USC 8161.

(a) LOCATIONS AND FACILITIES OF DIRECT NATIONAL SECURITY SIGNIFICANCE.—No current or former Department of Defense or Department of Energy location, site, or facility of direct national security significance shall be declared or be subject to IAEA inspection under the Additional Protocol.

(b) INFORMATION OF DIRECT NATIONAL SECURITY SIGNIFICANCE.—No information of direct national security significance regarding any location, site, or facility associated with activities of the Department of Defense or the Department of Energy shall be provided under the Additional Protocol.

(c) RESTRICTED DATA.—Nothing in this title shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of restricted data controlled by the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), including in particular "Restricted Data" as defined under paragraph (1) of section 11 y. of such Act (42 U.S.C. 2014(y)).

(d) CLASSIFIED INFORMATION.—Nothing in this Act shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of national security information and other classified information.

**SEC. 262. IAEA INSPECTIONS AND VISITS.** 22 USC 8162.

(a) CERTAIN INDIVIDUALS PROHIBITED FROM OBTAINING ACCESS.—No national of a country designated by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) as a government supporting acts of international terrorism shall be permitted access to the United States to carry out an inspection activity under the Additional Protocol or a related safeguards agreement.

(b) PRESENCE OF UNITED STATES GOVERNMENT PERSONNEL.—IAEA inspectors shall be accompanied at all times by United States Government personnel when inspecting sites, locations, facilities, or activities in the United States under the Additional Protocol.

President.

(c) VULNERABILITY AND RELATED ASSESSMENTS.—The President shall conduct vulnerability, counterintelligence, and related assessments not less than every 5 years to ensure that information of direct national security significance remains protected at all sites, locations, facilities, and activities in the United States that are subject to IAEA inspection under the Additional Protocol.

President.

# Subtitle G—Reports

22 USC 8171.

**SEC. 271. REPORT ON INITIAL UNITED STATES DECLARATION.**

Not later than 60 days before submitting the initial United States declaration to the IAEA under the Additional Protocol, the President shall submit to Congress a list of the sites, locations, facilities, and activities in the United States that the President intends to declare to the IAEA, and a report thereon.

22 USC 8172.

**SEC. 272. REPORT ON REVISIONS TO INITIAL UNITED STATES DECLARATION.**

Not later than 60 days before submitting to the IAEA any revisions to the United States declaration submitted under the Additional Protocol, the President shall submit to Congress a list of any sites, locations, facilities, or activities in the United States that the President intends to add to or remove from the declaration, and a report thereon.

22 USC 8173.

**SEC. 273. CONTENT OF REPORTS ON UNITED STATES DECLARATIONS.**

The reports required under section 271 and section 272 shall present the reasons for each site, location, facility, and activity being declared or being removed from the declaration list and shall certify that—

(1) each site, location, facility, and activity included in the list has been examined by each agency with national security equities with respect to such site, location, facility, or activity; and

(2) appropriate measures have been taken to ensure that information of direct national security significance will not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

22 USC 8174.

**SEC. 274. REPORT ON EFFORTS TO PROMOTE THE IMPLEMENTATION OF ADDITIONAL PROTOCOLS.**

Not later than 180 days after the entry into force of the Additional Protocol, the President shall submit to the appropriate congressional committees a report on—

(1) measures that have been or should be taken to achieve the adoption of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties; and

(2) assistance that has been or should be provided by the United States to the IAEA in order to promote the effective implementation of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties and the verification of the compliance of such parties with IAEA obligations, with a plan for providing any needed additional funding.

**SEC. 275. NOTICE OF IAEA NOTIFICATIONS.** 22 USC 8175.

The President shall notify Congress of any notifications issued by the IAEA to the United States under Article 10 of the Additional Protocol.

## Subtitle H—Authorization of Appropriations

**SEC. 281. AUTHORIZATION OF APPROPRIATIONS.** 22 USC 8181.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

Approved December 18, 2006.

---

LEGISLATIVE HISTORY—H.R. 5682 (S. 3709):

HOUSE REPORTS: No. 109–590, Pt. 1 (Comm. on International Relations) and 109–721 (Comm. of Conference).

SENATE REPORTS: No. 109–288 accompanying S. 3709 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 26, considered and passed House.
Nov. 16, considered and passed Senate, amended, in lieu of S. 3709.
Dec. 8, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 18, Presidential remarks and statement.

# Public Law 109–402
# 109th Congress

## An Act

Dec. 18, 2006
[H.R. 5736]

To designate the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the "Vincent J. Whibbs, Sr. Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. VINCENT J. WHIBBS, SR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, shall be known and designated as the "Vincent J. Whibbs, Sr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Vincent J. Whibbs, Sr. Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 5736:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–403
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 1501 South Cherrybell Avenue in Tucson, Arizona, as the "Morris K. 'Mo' Udall Post Office Building".

Dec. 18, 2006
[H.R. 5857]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MORRIS K. "MO" UDALL POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1501 South Cherrybell Avenue in Tucson, Arizona, shall be known and designated as the "Morris K. 'Mo' Udall Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Morris K. 'Mo' Udall Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 5857:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–404
# 109th Congress

## An Act

Dec. 18, 2006
[H.R. 5923]

To designate the facility of the United States Postal Service located at 29–50 Union Street in Flushing, New York, as the "Dr. Leonard Price Stavisky Post Office".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DR. LEONARD PRICE STAVISKY POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 29–50 Union Street in Flushing, New York, shall be known and designated as the "Dr. Leonard Price Stavisky Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Leonard Price Stavisky Post Office".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 5923:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–405
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the "John J. Sinde Post Office Building".

Dec. 18, 2006
[H.R. 5989]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. JOHN J. SINDE POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, shall be known and designated as the "John J. Sinde Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John J. Sinde Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 5989:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–406
# 109th Congress

## An Act

Dec. 18, 2006
[H.R. 5990]

To designate the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the "Wallace W. Sykes Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WALLACE W. SYKES POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, shall be known and designated as the "Wallace W. Sykes Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Wallace W. Sykes Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 5990:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–407
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the "Chuck Fortenberry Post Office Building".

Dec. 18, 2006
[H.R. 6078]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHUCK FORTENBERRY POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, shall be known and designated as the "Chuck Fortenberry Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Chuck Fortenberry Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 6078:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–408
# 109th Congress

## An Act

Dec. 18, 2006
[H.R. 6102]

To designate the facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna, Virginia, as the "Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CAPTAIN CHRISTOPHER P. PETTY AND MAJOR WILLIAM F. HECKER, III POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna Virginia, shall be known and designated as the "Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 6102:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–409
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the "Hamilton H. Judson Post Office".

Dec. 18, 2006
[H.R. 6151]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HAMILTON H. JUDSON POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, shall be known and designated as the "Hamilton H. Judson Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Hamilton H. Judson Post Office".

Approved December 18, 2006.

LEGISLATIVE HISTORY—H.R. 6151:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–410
## 109th Congress

## An Act

Dec. 18, 2006
[S. 1219]

To authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TEMPORARY CONVEYANCE OF WATER RIGHTS TO DRY PRAIRIE RURAL WATER ASSOCIATION, INC.**

(a) IN GENERAL.—The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana (referred to in this section as the "Tribes") may, with the approval of the Secretary, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85–20–201) with the Dry Prairie Rural Water Association, Incorporated (or any successor non-Federal entity) for the purpose of meeting the water needs of that association, in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106–382; 114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years; and

(2)(A) the lease or conveyance may be approved by the Secretary without monetary compensation to the Tribes; and

(B) the Secretary shall not be subject to liability for any claim relating to any compensation or consideration received by the Tribes under the lease or conveyance.

(C) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes a permanent alienation of any water by the Tribes.

Approved December 18, 2006.

---

LEGISLATIVE HISTORY—S. 1219 (H.R. 2978):

HOUSE REPORTS: No. 109–419 accompanying H.R. 2978 (Comm. on Resources).
SENATE REPORTS: No. 109–213 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Feb. 1, considered and passed Senate.
Dec. 5, considered and passed House.

Public Law 109–411
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the "Dewey F. Bartlett Post Office".

Dec. 18, 2006
[S. 1820]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEWEY F. BARTLETT POST OFFICE.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, shall be known and designated as the "Dewey F. Bartlett Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dewey F. Bartlett Post Office".

Approved December 18, 2006.

LEGISLATIVE HISTORY—S. 1820 (H.R. 4054):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 3, considered and passed Senate.
Dec. 6, considered and passed House.

# Public Law 109–412
# 109th Congress

## An Act

Dec. 18, 2006
[S. 3759]

To name the Armed Forces Readiness Center in Great Falls, Montana, in honor of Captain William Wylie Galt, a recipient of the Congressional Medal of Honor.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NAMING OF ARMED FORCES READINESS CENTER IN GREAT FALLS, MONTANA, IN HONOR OF CAPTAIN WILLIAM WYLIE GALT, A RECIPIENT OF THE CONGRESSIONAL MEDAL OF HONOR.**

The Armed Forces Readiness Center in Great Falls, Montana, shall be known and designated as the "Captain William Wylie Galt Great Falls Armed Forces Readiness Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such facility shall be deemed to be a reference to the Captain William Wylie Galt Great Falls Armed Forces Readiness Center.

Approved December 18, 2006.

LEGISLATIVE HISTORY—S. 3759:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 16, considered and passed Senate.
Dec. 7, considered and passed House.

Public Law 109–413
109th Congress

# An Act

To designate the facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building".

Dec. 18, 2006
[S. 4050]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SERGEANT FIRST CLASS ROBERT LEE "BOBBY" HOLLAR, JR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, shall be known and designated as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building".

Approved December 18, 2006.

LEGISLATIVE HISTORY—S. 4050:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–414
# 109th Congress

## An Act

Dec. 18, 2006
[S. 4073]

To designate the outpatient clinic of the Department of Veterans Affairs located in Farmington, Missouri, as the "Robert Silvey Department of Veterans Affairs Outpatient Clinic".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ROBERT SILVEY DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.**

(a) DESIGNATION.—The outpatient clinic of the Department of Veterans Affairs located in Farmington, Missouri, shall be known and designated as the "Robert Silvey Department of Veterans Affairs Outpatient Clinic".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert Silvey Department of Veterans Affairs Outpatient Clinic".

Approved December 18, 2006.

LEGISLATIVE HISTORY—S. 4073:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 16, considered and passed Senate.
Dec. 6, considered and passed House.

# Public Law 109–415
# 109th Congress

## An Act

To amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.

Dec. 19, 2006
[H.R. 6143]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Ryan White HIV/AIDS Treatment Modernization Act of 2006.
42 USC 201 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Ryan White HIV/AIDS Treatment Modernization Act of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

Sec. 101. Establishment of program; general eligibility for grants.
Sec. 102. Type and distribution of grants; formula grants.
Sec. 103. Type and distribution of grants; supplemental grants.
Sec. 104. Timeframe for obligation and expenditure of grant funds.
Sec. 105. Use of amounts.
Sec. 106. Additional amendments to part A.
Sec. 107. New program in part A; transitional grants for certain areas ineligible under section 2601.
Sec. 108. Authorization of appropriations for part A.

TITLE II—CARE GRANTS

Sec. 201. General use of grants.
Sec. 202. AIDS Drug Assistance Program.
Sec. 203. Distribution of funds.
Sec. 204. Additional amendments to subpart I of part B.
Sec. 205. Supplemental grants on basis of demonstrated need.
Sec. 206. Emerging communities.
Sec. 207. Timeframe for obligation and expenditure of grant funds.
Sec. 208. Authorization of appropriations for subpart I of part B.
Sec. 209. Early diagnosis grant program.
Sec. 210. Certain partner notification programs; authorization of appropriations.

TITLE III—EARLY INTERVENTION SERVICES

Sec. 301. Establishment of program; core medical services.
Sec. 302. Eligible entities; preferences; planning and development grants.
Sec. 303. Authorization of appropriations.
Sec. 304. Confidentiality and informed consent.
Sec. 305. Provision of certain counseling services.
Sec. 306. General provisions.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

Sec. 401. Women, infants, children, and youth.
Sec. 402. GAO Report.

TITLE V—GENERAL PROVISIONS

Sec. 501. General provisions.

TITLE VI—DEMONSTRATION AND TRAINING

Sec. 601. Demonstration and training.

Sec. 602. AIDS education and training centers.
Sec. 603. Codification of minority AIDS initiative.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Hepatitis; use of funds.
Sec. 702. Certain references.
Sec. 703. Repeal.

# TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

**SEC. 101. ESTABLISHMENT OF PROGRAM; GENERAL ELIGIBILITY FOR GRANTS.**

(a) IN GENERAL.—Section 2601 of the Public Health Service Act (42 U.S.C. 300ff–11) is amended by striking subsections (b) through (d) and inserting the following:

"(b) CONTINUED STATUS AS ELIGIBLE AREA.—Notwithstanding any other provision of this section, a metropolitan area that is an eligible area for a fiscal year continues to be an eligible area until the metropolitan area fails, for three consecutive fiscal years—

"(1) to meet the requirements of subsection (a); and

"(2) to have a cumulative total of 3,000 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

"(c) BOUNDARIES.—For purposes of determining eligibility under this part—

"(1) with respect to a metropolitan area that received funding under this part in fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that were in effect for such area for fiscal year 1994; or

"(2) with respect to a metropolitan area that becomes eligible to receive funding under this part in any fiscal year after fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that are in effect for such area when such area initially receives funding under this part.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff–11(a)) is amended—

(1) by striking "through (d)" and inserting "through (c)"; and

(2) by inserting "and confirmed by" after "reported to".

(c) DEFINITION OF METROPOLITAN AREA.—Section 2607(2) of the Public Health Service Act (42 U.S.C. 300ff–17(2)) is amended—

(1) by striking "area referred" and inserting "area that is referred"; and

(2) by inserting before the period the following: ", and that has a population of 50,000 or more individuals".

**SEC. 102. TYPE AND DISTRIBUTION OF GRANTS; FORMULA GRANTS.**

(a) DISTRIBUTION PERCENTAGES.—Section 2603(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–13(a)(2)) is amended—

(1) in the first sentence—

(A) by striking "50 percent of the amount appropriated under section 2677" and inserting "66⅔ percent of the

amount made available under section 2610(b) for carrying out this subpart"; and

(B) by striking "paragraph (3)" and inserting "paragraphs (3) and (4)".

(2) by striking the last sentence.

(b) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff–13(a)(3)) is amended—

(1) in subparagraph (B), by striking "estimated living cases of acquired immune deficiency syndrome" and inserting "living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention)"; and

(2) by striking subparagraphs (C) through (E) and inserting the following:

"(C) LIVING CASES OF HIV/AIDS.—

"(i) REQUIREMENT OF NAMES-BASED REPORTING.—Except as provided in clause (ii), the number determined under this subparagraph for an eligible area for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

"(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through 2009, an eligible area is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

"(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State in which the area is located, subject to clause (viii); or

"(II) no later than the beginning of fiscal year 2008 or 2009, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State. Deadline.

"(iii) REQUIREMENTS FOR EXEMPTION FOR FISCAL YEAR 2007.—For fiscal year 2007, an exemption under clause (ii) for an eligible area applies only if, by October 1, 2006— Applicability. Deadline.

"(I)(aa) the State in which the area is located had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

"(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

"(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that

such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

Applicability. Deadline.

"(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (ii) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

"(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

"(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

"(I) IN GENERAL.—With respect to an eligible area that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as 'code-based reporting'), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

"(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for an eligible area shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the area.

Applicability.

"(vii) MULTIPLE POLITICAL JURISDICTIONS.—With respect to living non-AIDS cases of HIV, if an eligible area is not entirely within one political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

"(I) Names-based reporting under clause (i) applies in a jurisdictional portion of the area, or an exemption under clause (ii) applies in such portion (subject to applicable provisions of this subparagraph), according to whether names-based reporting or code-based reporting is used in such portion.

"(II) If under subclause (I) both names-based reporting and code-based reporting apply in the area, the number of code-based cases shall be reduced under clause (vi).

"(viii) LIST OF ELIGIBLE AREAS MEETING STANDARD REGARDING DECEMBER 31, 2005.—

"(I) IN GENERAL.—If an eligible area or portion thereof is in a State specified in subclause (II), the eligible area or portion shall be considered to meet the standard described in clause (ii)(I). No other eligible area or portion thereof may be considered to meet such standard.

"(II) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause

are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

"(ix) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

"(I) CASES OF AIDS.—With respect to an eligible area that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

"(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year 2010 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2009.

"(x) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.".

(c) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff–13(a)), as amended by subsection (b)(2) of this section, is amended by adding at the end the following subparagraph:

"(D) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT .—

Applicability.

"(i) IN GENERAL.—For each of the fiscal years 2007 through 2009, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

"(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant for the area that would have been made pursuant to this paragraph and paragraph (4) for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting '66⅔ percent' for '50 percent'; and

"(II) for each of the fiscal years 2008 and 2009, exceed by more than 5 percent the amount of the grant pursuant to this paragraph and paragraph (4) for the area for the preceding fiscal year.

"(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2009, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 2610(d)(2).".

(d) HOLD HARMLESS.—Section 2603(a) of the Public Health Service Act (42 U.S.C. 300ff–13(a)) is amended—

(1) in paragraph (3)(A)—

(A) in clause (ii), by striking the period at the end and inserting a semicolon; and

(B) by inserting after and below clause (ii) the following:

"which product shall then, as applicable, be increased under paragraph (4).".

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

"(4) INCREASES IN GRANT.—

"(A) IN GENERAL.—For each eligible area that received a grant pursuant to this subsection for fiscal year 2006, the Secretary shall, for each of the fiscal years 2007 through 2009, increase the amount of the grant made pursuant to paragraph (3) for the area to ensure that the amount of the grant for the fiscal year involved is not less than the following amount, as applicable to such fiscal year:

"(i) For fiscal year 2007, an amount equal to 95 percent of the amount of the grant that would have been made pursuant to paragraph (3) and this paragraph for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting '66⅔ percent' for '50 percent'.

"(ii) For each of the fiscal years 2008 and 2009, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2007.

"(B) SOURCE OF FUNDS FOR INCREASE.—

"(i) IN GENERAL.—From the amounts available for carrying out the single program referred to in section 2609(d)(2)(C) for a fiscal year (relating to supplemental grants), the Secretary shall make available such amounts as may be necessary to comply with subparagraph (A), subject to section 2610(d)(2).

"(ii) PRO RATA REDUCTION.—If the amounts referred to in clause (i) for a fiscal year are insufficient to fully comply with subparagraph (A) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to this subsection for the fiscal year, other than grants for eligible areas for which increases under subparagraph (A) apply. A reduction under the preceding sentence may not be made in an amount that would result in the eligible area involved becoming eligible for such an increase.

"(C) LIMITATION.—This paragraph may not be construed as having any applicability after fiscal year 2009.".

**SEC. 103. TYPE AND DISTRIBUTION OF GRANTS; SUPPLEMENTAL GRANTS.**

Section 2603(b) of the Public Health Service Act (42 U.S.C. 300ff–13(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "Not later than" and all that follows through "the Secretary shall" and inserting the following: "Subject to subsection (a)(4)(B)(i) and section 2610(d), the Secretary shall";

(B) in subparagraph (B), by striking "demonstrates the severe need in such area" and inserting "demonstrates the need in such area, on an objective and quantified basis,";

(C) by striking subparagraph (F) and inserting the following:

"(F) demonstrates the inclusiveness of affected communities and individuals with HIV/AIDS;";

(D) in subparagraph (G), by striking the period and inserting "; and"; and

(E) by adding at the end the following:

"(H) demonstrates the ability of the applicant to expend funds efficiently by not having had, for the most recent grant year under subsection (a) for which data is available, more than 2 percent of grant funds under such subsection canceled or covered by any waivers under subsection (c)(3).."; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "severe need" and inserting "demonstrated need";

(B) by striking subparagraph (B) and inserting the following:

"(B) DEMONSTRATED NEED.—The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of paragraph (1)(B) may include any or all of the following:

"(i) The unmet need for such services, as determined under section 2602(b)(4) or other community input process as defined under section 2609(d)(1)(A).

"(ii) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

"(iii) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

"(iv) The current prevalence of HIV/AIDS.

"(v) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

"(vi) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

"(vii) The prevalence of homelessness.

"(viii) The prevalence of individuals described under section 2602(b)(2)(M).

"(ix) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

"(x) The impact of a decline in the amount received pursuant to subsection (a) on services available to all individuals with HIV/AIDS identified and eligible under this title."; and

(C) by striking subparagraphs (C) and (D) and inserting the following:

"(C) PRIORITY IN MAKING GRANTS.—The Secretary shall provide funds under this subsection to an eligible area to address the decline or disruption of all EMA-provided services related to the decline in the amounts received pursuant to subsection (a) consistent with the grant award for the eligible area for fiscal year 2006, to the extent that the factor under subparagraph (B)(x) (relating to a decline in funding) applies to the eligible area.".

**SEC. 104. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.**

Section 2603 of the Public Health Service Act (42 U.S.C. 300ff–13) is amended—

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

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

Effective dates.

"(c) TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

"(1) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made pursuant to subsection (a) or (b) for a fiscal year are available for obligation by the eligible area involved through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the area (referred to in this subsection as the 'grant year for the award'), except as provided in paragraph (3)(A).

"(2) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (b) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award—

"(A) the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area; and

"(B) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under subparagraph (A) to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

"(3) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

"(A) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area, unless—

"(i) before the end of the grant year, the chief elected official of the area submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the area intends to expend the funds involved; and

"(ii) the Secretary approves the waiver.

"(B) EXPENDITURE BY END OF CARRYOVER YEAR.—With respect to a waiver under subparagraph (A) that is approved for a balance that is unobligated as of the end of a grant year for an award:

"(i) The unobligated funds are available for expenditure by the eligible area involved for the one-year period beginning upon the expiration of the grant year (referred to in this subsection as the 'carryover year').

"(ii) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area.

"(C) USE OF CANCELLED BALANCES.—In the case of any balance of a grant award that is cancelled under subparagraph (A) or (B)(ii), the grant funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such subparagraph to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

"(D) CORRESPONDING REDUCTION IN FUTURE GRANT.—

"(i) IN GENERAL.—In the case of an eligible area for which a balance from a grant award under subsection (a) is unobligated as of the end of the grant year for the award—

"(I) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

"(II) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants pursuant to subsection (b) for such first fiscal year, subject to subsection (a)(4) and section 2610(d)(2);

except that this clause does not apply to the eligible area if the amount of the unobligated balance was 2 percent or less.

"(ii) RELATION TO INCREASES IN GRANT.—A reduction under clause (i) for an eligible area for a fiscal year may not be taken into account in applying subsection (a)(4) with respect to the area for the subsequent fiscal year."; and

(3) by adding at the end the following:

"(e) REPORT ON THE AWARDING OF SUPPLEMENTAL FUNDS.—Not later than 45 days after the awarding of supplemental funds under this section, the Secretary shall submit to Congress a report concerning such funds. Such report shall include information detailing—

"(1) the total amount of supplemental funds available under this section for the year involved;

"(2) the amount of supplemental funds used in accordance with the hold harmless provisions of subsection (a)(4);

"(3) the amount of supplemental funds disbursed pursuant to subsection (b)(2)(C);

"(4) the disbursement of the remainder of the supplemental funds after taking into account the uses described in paragraphs (2) and (3); and

"(5) the rationale used for the amount of funds disbursed as described under paragraphs (2), (3), and (4).".

**SEC. 105. USE OF AMOUNTS.**

Section 2604 of the Public Health Service Act (42 U.S.C. 300ff–14) is amended to read as follows:

**"SEC. 2604. USE OF AMOUNTS.**

"(a) REQUIREMENTS.—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

"(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(4)(C), by the HIV health services planning council that serves such eligible area;

"(2) funds provided under section 2601 will be expended only for—

"(A) core medical services described in subsection (c);

"(B) support services described in subsection (d); and

"(C) administrative expenses described in subsection (h); and

"(3) the use of such funds will comply with the requirements of this section.

"(b) DIRECT FINANCIAL ASSISTANCE TO APPROPRIATE ENTITIES.—

"(1) IN GENERAL.—The chief elected official of an eligible area shall use amounts from a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

"(2) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

"(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

"(1) IN GENERAL.—With respect to a grant under section 2601 for an eligible area for a grant year, the chief elected official of the area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5)(B)(i) of subsection (h), use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

"(2) WAIVER.—

"(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

"(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

"(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

"(B) NOTIFICATION OF WAIVER STATUS.—When informing the chief elected official of an eligible area that a grant under section 2601 is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such year.

"(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term 'core medical services', with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual), means the following services:

"(A) Outpatient and ambulatory health services.

"(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

"(C) AIDS pharmaceutical assistance.

"(D) Oral health care.

"(E) Early intervention services described in subsection (e).

"(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

"(G) Home health care.

"(H) Medical nutrition therapy.

"(I) Hospice services.

"(J) Home and community-based health services as defined under section 2614(c).

"(K) Mental health services.

"(L) Substance abuse outpatient care.

"(M) Medical case management, including treatment adherence services.

"(d) SUPPORT SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'support services' means services, subject to the approval of

the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

"(2) MEDICAL OUTCOMES.—In this subsection, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

"(e) EARLY INTERVENTION SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'early intervention services' means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

Applicability.

"(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

"(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

"(B) the entity will expend funds pursuant to such paragraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

"(f) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

"(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

"(2) WAIVER.—With respect to the population involved, the Secretary may provide to the chief elected official of an eligible area a waiver of the requirement of paragraph (1) if such official demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicaid program under title XIX of the Social Security Act, the State children's health insurance program under title XXI of such Act, or other Federal or State programs.

"(g) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(1) PROVISION OF SERVICE.—Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

Contracts.

"(2) WAIVER.—

"(A) IN GENERAL.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

"(h) ADMINISTRATION.—

"(1) LIMITATION.—The chief elected official of an eligible area shall not use in excess of 10 percent of amounts received under a grant under this part for administrative expenses.

"(2) ALLOCATIONS BY CHIEF ELECTED OFFICIAL.—In the case of entities and subcontractors to which the chief elected official of an eligible area allocates amounts received by the official under a grant under this part, the official shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

"(3) ADMINISTRATIVE ACTIVITIES.—For purposes of paragraph (1), amounts may be used for administrative activities that include—

"(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the development of a clinical quality management program as described in paragraph (5), the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

"(B) all activities associated with the grantee's contract award procedures, including the activities carried out by

the HIV health services planning council as established under section 2602(b), the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

"(4) SUBCONTRACTOR ADMINISTRATIVE ACTIVITIES.—For the purposes of this subsection, subcontractor administrative activities include—

"(A) usual and recognized overhead activities, including established indirect rates for agencies;

"(B) management oversight of specific programs funded under this title; and

"(C) other types of program support such as quality assurance, quality control, and related activities.

"(5) CLINICAL QUALITY MANAGEMENT.—

"(A) REQUIREMENT.—The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—From amounts received under a grant awarded under this subpart for a fiscal year, the chief elected official of an eligible area may use for activities associated with the clinical quality management program required in subparagraph (A) not to exceed the lesser of—

"(I) 5 percent of amounts received under the grant; or

"(II) $3,000,000.

"(ii) RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.—The costs of a clinical quality management program under subparagraph (A) may not be considered administrative expenses for purposes of the limitation established in paragraph (1).

"(i) CONSTRUCTION.—A chief elected official may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.".

**SEC. 106. ADDITIONAL AMENDMENTS TO PART A.**

(a) REPORTING OF CASES.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff–11(a)) is amended by striking "for the most recent period" and inserting "during the most recent period".

(b) PLANNING COUNCIL REPRESENTATION.—Section 2602(b)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff–12(b)(2)(G)) is amended by inserting ", members of a Federally

recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C" after "disease".

(c) APPLICATION FOR GRANT.—

(1) PAYER OF LAST RESORT.—Section 2605(a)(6)(A) of the Public Health Service Act (42 U.S.C. 300ff–15(a)(6)(A)) is amended by inserting "(except for a program administered by or providing the services of the Indian Health Service)" before the semicolon.

(2) AUDITS.—Section 2605(a) of the Public Health Service Act (42 U.S.C. 300ff–15(a)) is amended—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) that the chief elected official will submit to the lead State agency under section 2617(b)(4), audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this part every 2 years and shall include necessary client-based data to compile unmet need calculations and Statewide coordinated statements of need process.".

(3) COORDINATION.—Section 2605(b) of the Public Health Service Act (42 U.S.C. 300ff–15(b)) is amended—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(5) the manner in which the expected expenditures are related to the planning process for States that receive funding under part B (including the planning process described in section 2617(b)); and

"(6) the expected expenditures and how those expenditures will improve overall client outcomes, as described under the State plan under section 2617(b), and through additional outcomes measures as identified by the HIV health services planning council under section 2602(b).".

**SEC. 107. NEW PROGRAM IN PART A; TRANSITIONAL GRANTS FOR CERTAIN AREAS INELIGIBLE UNDER SECTION 2601.**

(a) IN GENERAL.—Part A of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11) is amended—

(1) by inserting after the part heading the following:

## "Subpart I—General Grant Provisions"; and

(2) by adding at the end the following:

## "Subpart II—Transitional Grants

**"SEC. 2609. ESTABLISHMENT OF PROGRAM.** 42 USC 300ff–19.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of providing services described in section 2604 in transitional areas, subject to the same provisions regarding the allocation of grant funds as apply under subsection (c) of such section.

"(b) TRANSITIONAL AREAS.—For purposes of this section, the term 'transitional area' means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

"(c) CERTAIN ELIGIBILITY RULES.—

"(1) FISCAL YEAR 2007.—With respect to grants under subsection (a) for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

"(2) CONTINUED STATUS AS TRANSITIONAL AREA.—

"(A) IN GENERAL.—Notwithstanding subsection (b), a metropolitan area that is a transitional area for a fiscal year continues, except as provided in subparagraph (B), to be a transitional area until the metropolitan area fails, for three consecutive fiscal years—

"(i) to qualify under such subsection as a transitional area; and

"(ii) to have a cumulative total of 1,500 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

"(B) EXCEPTION REGARDING STATUS AS ELIGIBLE AREA.—Subparagraph (A) does not apply for a fiscal year if the metropolitan area involved qualifies under subpart I as an eligible area.

"(d) APPLICATION OF CERTAIN PROVISIONS OF SUBPART I.—

"(1) ADMINISTRATION; PLANNING COUNCIL.—

"(A) IN GENERAL.—The provisions of section 2602 apply with respect to a grant under subsection (a) for a transitional area to the same extent and in the same manner as such provisions apply with respect to a grant under subpart I for an eligible area, except that, subject to subparagraph (B), the chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) if the official provides documentation to the Secretary that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant under subsection (a).

"(B) EXCEPTION.—For each of the fiscal years 2007 through 2009, the exception described in subparagraph (A) does not apply if the transitional area involved received funding under subpart I for fiscal year 2006.

"(2) TYPE AND DISTRIBUTION OF GRANTS; TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

"(A) FORMULA GRANTS; SUPPLEMENTAL GRANTS.—The provisions of section 2603 apply with respect to grants under subsection (a) to the same extent and in the same

manner as such provisions apply with respect to grants under subpart I, subject to subparagraphs (B) and (C).

"(B) FORMULA GRANTS; INCREASE IN GRANT.—For purposes of subparagraph (A), section 2603(a)(4) does not apply.

"(C) SUPPLEMENTAL GRANTS; SINGLE PROGRAM WITH SUBPART I PROGRAM.—With respect to section 2603(b) as applied for purposes of subparagraph (A):

"(i) The Secretary shall combine amounts available pursuant to such subparagraph with amounts available for carrying out section 2603(b) and shall administer the two programs as a single program.

"(ii) In the single program, the Secretary has discretion in allocating amounts between eligible areas under subpart I and transitional areas under this section, subject to the eligibility criteria that apply under such section, and subject to section 2603(b)(2)(C) (relating to priority in making grants).

"(iii) Pursuant to section 2603(b)(1), amounts for the single program are subject to use under sections 2603(a)(4) and 2610(d)(1).

"(3) APPLICATION; TECHNICAL ASSISTANCE; DEFINITIONS.—The provisions of sections 2605, 2606, and 2607 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I.".

(b) CONFORMING AMENDMENTS.—Subpart I of part A of title XXVI of the Public Health Service Act, as designated by subsection (a)(1) of this section, is amended by striking "this part" each place such term appears and inserting "this subpart".

42 USC 300ff–11 *et seq.*

**SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART A.**

Part A of title XXVI of the Public Health Service Act, as amended by section 106(a), is amended by adding at the end the following:

## "Subpart III—General Provisions

**"SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 300ff–20.

"(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $604,000,000 for fiscal year 2007, $626,300,000 for fiscal year 2008, and $649,500,000 for fiscal year 2009. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

"(b) RESERVATION OF AMOUNTS.—

"(1) FISCAL YEAR 2007.—Of the amount appropriated under subsection (a) for fiscal year 2007, the Secretary shall reserve—

"(A) $458,310,000 for grants under subpart I; and

"(B) $145,690,000 for grants under section 2609.

"(2) SUBSEQUENT FISCAL YEARS.—Of the amount appropriated under subsection (a) for fiscal year 2008 and each subsequent fiscal year—

"(A) the Secretary shall reserve an amount for grants under subpart I; and

"(B) the Secretary shall reserve an amount for grants under section 2609.

"(c) TRANSFER OF CERTAIN AMOUNTS; CHANGE IN STATUS AS ELIGIBLE AREA OR TRANSITIONAL AREA.—Notwithstanding subsection (b):

"(1) If a metropolitan area is an eligible area under subpart I for a fiscal year, but for a subsequent fiscal year ceases to be an eligible area by reason of section 2601(b)—

"(A)(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for the first such subsequent year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year; and

"(ii)(I) if the metropolitan area qualifies for such first subsequent fiscal year as a transitional area under 2609, the amount reserved under paragraph (1)(B) or (2)(B) of subsection (b) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year; or

"(II) if the metropolitan area does not qualify for such first subsequent fiscal year as a transitional area under 2609, an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623; and

"(B) if a transfer under subparagraph (A)(ii)(II) is made with respect to the metropolitan area for such first subsequent fiscal year, then—

"(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for such year is deemed to be reduced by an additional $500,000; and

"(ii) an amount equal to the amount of such additional reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

"(2) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year ceases to be a transitional area by reason of section 2609(c)(2) (and does not qualify for such subsequent fiscal year as an eligible area under subpart I)—

"(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of not being a transitional area is deemed to be reduced by an amount equal to the total of—

"(i) the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

"(ii) $500,000; and

"(B) an amount equal to the amount of the reduction under subparagraph (A) for such year is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

"(3) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year qualifies as an eligible area under subpart I—

"(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of becoming an eligible area is deemed to be reduced by an amount equal to the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

"(B) the amount reserved under subsection (b)(2)(A) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year.

"(d) CERTAIN TRANSFERS; ALLOCATIONS BETWEEN PROGRAMS UNDER SUBPART I.—With respect to paragraphs (1)(B)(i) and (2)(A)(ii) of subsection (c), the Secretary shall administer any reductions under such paragraphs for a fiscal year in accordance with the following:

"(1) The reductions shall be made from amounts available for the single program referred to in section 2609(d)(2)(C) (relating to supplemental grants).

"(2) The reductions shall be made before the amounts referred to in paragraph (1) are used for purposes of section 2603(a)(4).

"(3) If the amounts referred to in paragraph (1) are not sufficient for making all the reductions, the reductions shall be reduced until the total amount of the reductions equals the total of the amounts referred to in such paragraph.

Applicability.

"(e) RULES OF CONSTRUCTION REGARDING FIRST SUBSEQUENT FISCAL YEAR.—Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year becomes an eligible area under subpart I, rather than applying to a single such series.".

# TITLE II—CARE GRANTS

**SEC. 201. GENERAL USE OF GRANTS.**

(a) IN GENERAL.—Section 2612 of the Public Health Service Act (42 U.S.C. 300ff–22) is amended to read as follows:

**"SEC. 2612. GENERAL USE OF GRANTS.**

"(a) IN GENERAL.—A State may use amounts provided under grants made under section 2611 for—

"(1) core medical services described in subsection (b);

"(2) support services described in subsection (c); and

"(3) administrative expenses described in section 2618(b)(3).

"(b) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

"(1) IN GENERAL.—With respect to a grant under section 2611 for a State for a grant year, the State shall, of the portion of the grant remaining after reserving amounts for purposes of subparagraphs (A) and (E)(ii)(I) of section 2618(b)(3), use not less than 75 percent to provide core medical services that are needed in the State for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

"(2) WAIVER.—

"(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a State for a grant year if the Secretary determines that, within the State—

"(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

"(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

"(B) NOTIFICATION OF WAIVER STATUS.—When informing a State that a grant under section 2611 is being made to the State for a fiscal year, the Secretary shall inform the State whether a waiver under subparagraph (A) is in effect for the fiscal year.

"(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term 'core medical services', with respect to an individual infected with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

"(A) Outpatient and ambulatory health services.

"(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

"(C) AIDS pharmaceutical assistance.

"(D) Oral health care.

"(E) Early intervention services described in subsection (d).

"(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

"(G) Home health care.

"(H) Medical nutrition therapy.

"(I) Hospice services.

"(J) Home and community-based health services as defined under section 2614(c).

"(K) Mental health services.

"(L) Substance abuse outpatient care.

"(M) Medical case management, including treatment adherence services.

"(c) SUPPORT SERVICES.—

"(1) IN GENERAL.—For purposes of this subsection, the term 'support services' means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

"(2) DEFINITION OF MEDICAL OUTCOMES.—In this subsection, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

"(d) EARLY INTERVENTION SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'early intervention services' means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by States, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

"(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the State involved that—

"(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

"(B) the entity will expend funds pursuant to such subparagraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

"(e) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

"(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, a State shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

"(2) WAIVER.—With respect to the population involved, the Secretary may provide to a State a waiver of the requirement of paragraph (1) if such State demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicaid program under title XIX of the Social Security Act, the State children's health insurance program under title XXI of such Act, or other Federal or State programs.

"(f) CONSTRUCTION.—A State may not use amounts received under a grant awarded under section 2611 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.".

(b) HIV CARE CONSORTIA.—Section 2613 of the Public Health Service Act (42 U.S.C. 300ff–23) is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by striking "may use" and inserting "may, subject to subsection (f), use"; and

(B) by striking "section 2612(a)(1)" and inserting "section 2612(a)"; and

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

"(f) ALLOCATION OF FUNDS; TREATMENT AS SUPPORT SERVICES.—For purposes of the requirement of section 2612(b)(1), expenditures of grants under section 2611 for or through consortia under this section are deemed to be support services, not core medical services. The preceding sentence may not be construed as having any legal effect on the provisions of subsection (a) that relate to authorized expenditures of the grant.".

(c) TECHNICAL AMENDMENTS.—Part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) is amended—

42 USC 300ff–21.

(1) in section 2611—

(A) in subsection (a), by striking the subsection designation and heading; and

(B) by striking subsection (b);

42 USC 300ff–24.

(2) in section 2614—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "section 2612(a)(2)" and inserting "section 2612(b)(3)(J)"; and

(B) in subsection (c)(2)(B), by striking "homemaker or";

42 USC 300ff–25.

(3) in section 2615(a) by striking "section 2612(a)(3)" and inserting "section 2612(b)(3)(F)"; and

42 USC 300ff–26.

(4) in section 2616(a) by striking "section 2612(a)(5)" and inserting "section 2612(b)(3)(B)".

**SEC. 202. AIDS DRUG ASSISTANCE PROGRAM.**

(a) REQUIREMENT OF MINIMUM DRUG LIST.—Section 2616 of the Public Health Service Act (42 U.S.C. 300ff–26) is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) ensure that the therapeutics included on the list of classes of core antiretroviral therapeutics established by the Secretary under subsection (e) are, at a minimum, the treatments provided by the State pursuant to this section;";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) LIST OF CLASSES OF CORE ANTIRETROVIRAL THERAPEUTICS.—For purposes of subsection (c)(1), the Secretary shall develop and maintain a list of classes of core antiretroviral therapeutics, which list shall be based on the therapeutics included in the guidelines of the Secretary known as the Clinical Practice Guidelines for Use of HIV/AIDS Drugs, relating to drugs needed to manage symptoms associated with HIV. The preceding sentence does not affect the authority of the Secretary to modify such Guidelines.".

(b) DRUG REBATE PROGRAM.—Section 2616 of the Public Health Service Act, as amended by subsection (a)(2) of this section, is amended by adding at the end the following:

"(g) DRUG REBATE PROGRAM.—A State shall ensure that any drug rebates received on drugs purchased from funds provided pursuant to this section are applied to activities supported under

this subpart, with priority given to activities described under this section.".

**SEC. 203. DISTRIBUTION OF FUNDS.**

(a) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—

(1) STATE DISTRIBUTION FACTOR.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)) is amended—

(A) in subparagraph (B), by striking "estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved" and inserting "number of living cases of HIV/AIDS in the State involved"; and

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

"(D) LIVING CASES OF HIV/AIDS.—

"(i) REQUIREMENT OF NAMES-BASED REPORTING.—Except as provided in clause (ii), the number determined under this subparagraph for a State for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS in the State that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

"(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through 2009, a State is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living non-AIDS names-based cases of HIV be reported unless—

"(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State, subject to clause (vii); or

"(II) no later than the beginning of fiscal year 2008 or 2009, the Secretary, after consultation with the chief executive of the State, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State. Deadline.

"(iii) REQUIREMENTS FOR EXEMPTION FOR FISCAL YEAR 2007.—For fiscal year 2007, an exemption under clause (ii) for a State applies only if, by October 1, 2006— Applicability. Deadline.

"(I)(aa) the State had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

"(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

"(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting

be fully sufficient with respect to accuracy and reliability throughout the area.

Applicability. Deadline.

"(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(II).

"(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009, the Secretary may terminate an exemption under clause (ii) for a State if the State submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

"(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

"(I) IN GENERAL.—With respect to a State that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as 'code-based reporting'), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the State in order to adjust for duplicative reporting in and among systems that use code-based reporting.

"(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for a State shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the State.

"(vii) LIST OF STATES MEETING STANDARD REGARDING DECEMBER 31, 2005.—

"(I) IN GENERAL.—If a State is specified in subclause (II), the State shall be considered to meet the standard described in clause (ii)(I). No other State may be considered to meet such standard.

"(II) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

"(viii) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

"(I) CASES OF AIDS.—With respect to a State that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

"(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (vii)

may not be construed as having any legal effect for fiscal year 2010 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2009.

"(ix) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.".

(2) NON-EMA DISTRIBUTION FACTOR.—Section 2618(a)(2)(C) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)(C)) is amended—

(A) in clause (i), by striking "estimated number of living cases of acquired immune deficiency syndrome" each place such term appears and inserting "number of living cases of HIV/AIDS"; and

(B) in clause (ii), by amending such clause to read as follows:

"(ii) a number equal to the sum of—

"(I) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subpart I of part A for the fiscal year involved, which individual number for an area is the number that applies under section 2601 for the area for such fiscal year; and

"(II) the total number of such cases that are within areas in such State that are transitional areas under section 2609 for such fiscal year, which individual number for an area is the number that applies under such section for the fiscal year.".

(b) FORMULA AMENDMENTS GENERALLY.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "The amount referred to" in the matter preceding clause (i) and all that follows through the end of clause (i) and inserting the following: "For purposes of paragraph (1), the amount referred to in this paragraph for a State (including a territory) for a fiscal year is, subject to subparagraphs (E) and (F)—

"(i) an amount equal to the amount made available under section 2623 for the fiscal year involved for grants pursuant to paragraph (1), subject to subparagraph (G); and"; and

(B) in clause (ii)—

(i) in subclause (I)—

(I) by striking ".80" and inserting "0.75"; and

(II) by striking "and" at the end;

(ii) in subclause (II)—

(I) by inserting "non-EMA" after "respective"; and

(II) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(III) if the State does not for such fiscal year contain any area that is an eligible area under subpart I of part A or any area that is a transitional area under section 2609 (referred to in this subclause as a 'no-EMA State'), the product of 0.05 and the ratio of the number of cases that applies for the State under subparagraph (D) to the sum of the respective numbers of cases that so apply for all no-EMA States.";

(2) by striking subparagraphs (E) through (H);

(3) by inserting after subparagraph (D) the following subparagraphs:

"(E) CODE-BASED STATES; LIMITATION ON INCREASE IN GRANT.—

Applicability.

"(i) IN GENERAL.—For each of the fiscal years 2007 through 2009, if code-based reporting (within the meaning of subparagraph (D)(vi)) applies in a State as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to paragraph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to this paragraph for the State for the preceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year that is less than the minimum amount that applies to the State under such paragraph for such fiscal year.

"(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2009, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to section 2620, subject to subparagraph (H).."; and

(4) by redesignating subparagraph (I) as subparagraph (F).

(c) SEPARATE ADAP GRANTS.—Section 2618(a)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)(G)), as redesignated by subsection (b)(4) of this section, is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking "section 2677" and inserting "section 2623";

(B) in subclause (II), by striking the period at the end and inserting a semicolon; and

(C) by adding after and below subclause (II) the following:

"which product shall then, as applicable, be increased under subparagraph (H).";

(2) in clause (ii)—

(A) by striking subclauses (I) through (III) and inserting the following:

"(I) IN GENERAL.—From amounts made available under subclause (V), the Secretary shall award supplemental grants to States described in subclause (II) to enable such States to purchase and distribute to eligible individuals under section 2616(b) pharmaceutical therapeutics described under subsections (c)(2) and (e) of such section.

"(II) ELIGIBLE STATES.—For purposes of subclause (I), a State shall be an eligible State if the State did not have unobligated funds subject to reallocation under section 2618(d) in the previous fiscal year and, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under this clause. For purposes of determining severe need, the Secretary shall consider eligibility standards, formulary composition, the number of eligible individuals to whom a State is unable to provide therapeutics described in section 2616(a), and an unanticipated increase of eligible individuals with HIV/AIDS.

"(III) STATE REQUIREMENTS.—The Secretary may not make a grant to a State under this clause unless the State agrees that the State will make available (directly or through donations of public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to $1 for each $4 of Federal funds provided in the grant, except that the Secretary may waive this subclause if the State has otherwise fully complied with section 2617(d) with respect to the grant year involved. The provisions of this subclause shall apply to States that are not required to comply with such section 2617(d).".

(B) in subclause (IV), by moving the subclause two ems to the left;

(C) in subclause (V), by striking "3 percent" and inserting "5 percent"; and

(D) by striking subclause (VI); and

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

"(iii) CODE-BASED STATES; LIMITATION ON INCREASE IN FORMULA GRANT.—The limitation under subparagraph (E)(i) applies to grants pursuant to clause (i) of this subparagraph to the same extent and in the same manner as such limitation applies to grants pursuant to paragraph (1), except that the reference to minimum grants does not apply for purposes of this clause. Amounts available as a result of the limitation under the preceding sentence shall be made available by the Secretary as additional amounts for grants under clause (ii) of this subparagraph.". Applicability.

(d) HOLD HARMLESS.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)), as amended by subsection (b)(4) of this section, is amended by adding at the end the following subparagraph:

"(H) INCREASE IN FORMULA GRANTS.—

"(i) ASSURANCE OF AMOUNT.—

"(I) GENERAL RULE.—For fiscal year 2007, the Secretary shall ensure, subject to clauses (ii) through (iv), that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (G) is not less than 95 percent of such total for the State for fiscal year 2006.

Applicability.

"(II) RULE OF CONSTRUCTION.—With respect to the application of subclause (I), the 95 percent requirement under such subclause shall apply with respect to each grant awarded under paragraph (1) and with respect to each grant awarded under subparagraph (G).

"(ii) FISCAL YEAR 2007.—For purposes of clause (i) as applied for fiscal year 2007, the references in such clause to subparagraph (G) are deemed to be references to subparagraph (I) as such subparagraph was in effect for fiscal year 2006.

"(iii) FISCAL YEARS 2008 AND 2009.—For each of the fiscal years 2008 and 2009, the Secretary shall ensure that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (G) is not less than 100 percent of such total for the State for fiscal year 2007.

"(iv) SOURCE OF FUNDS FOR INCREASE.—

"(I) IN GENERAL.—From the amount reserved under section 2623(b)(2) for a fiscal year, and from amounts available for such section pursuant to subsection (d) of this section, the Secretary shall make available such amounts as may be necessary to comply with clause (i).

"(II) PRO RATA REDUCTION.—If the amounts referred to in subclause (I) for a fiscal year are insufficient to fully comply with clause (i) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to paragraph (1) for the fiscal year, other than grants for States for which increases under clause (i) apply and other than States described in paragraph (1)(A)(i)(I). A reduction under the preceding sentence may not be made in an amount that would result in the State involved becoming eligible for such an increase.

"(v) APPLICABILITY.—This paragraph may not be construed as having any applicability after fiscal year 2009.".

(e) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT.—Section 2618(b) of the Public Health Service Act (42 U.S.C. 300ff–28(b)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6);

(2) in paragraph (2) (as so redesignated)—

(A) by striking "paragraph (5)" and inserting "paragraph (4)"; and

(B) by striking "paragraph (6)" and inserting "paragraph (5)";

(3) in paragraph (3) (as so redesignated)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Subject to paragraph (4), and except as provided in paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under section 2611 for administration.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

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

"(B) ALLOCATIONS.—In the case of entities and subcontractors to which a State allocates amounts received by the State under a grant under section 2611, the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).";

(D) in subparagraph (C) (as so redesignated), by inserting before the period the following: ", including a clinical quality management program under subparagraph (E)"; and

(E) by adding at the end the following:

"(E) CLINICAL QUALITY MANAGEMENT.—

"(i) REQUIREMENT.—Each State that receives a grant under section 2611 shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(ii) USE OF FUNDS.—

"(I) IN GENERAL.—From amounts received under a grant awarded under section 2611 for a fiscal year, a State may use for activities associated with the clinical quality management program required in clause (i) not to exceed the lesser of—

"(aa) 5 percent of amounts received under the grant; or

"(bb) $3,000,000.

"(II) RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.—The costs of a clinical quality management program under clause (i) may not be considered administrative expenses for purposes of the limitation established in subparagraph (A).";

(4) in paragraph (4) (as so redesignated)—

(A) by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (2) and (3)"; and

(5) in paragraph (5) (as so redesignated), by striking "paragraphs (3)" and all that follows through "(5)," and inserting the following: "paragraphs (2) and (3), may, notwithstanding paragraphs (2) through (4),".

(f) REALLOCATION FOR SUPPLEMENTAL GRANTS.—Section 2618(d) of the Public Health Service Act (42 U.S.C. 300ff–28(d)) is amended to read as follows:

"(d) REALLOCATION.—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated

as described in subsection (c) ceases to be available to the State and shall be made available by the Secretary for grants under section 2620, in addition to amounts made available for such grants under section 2623(b)(2).".

(g) DEFINITIONS; OTHER TECHNICAL AMENDMENTS.—Section 2618(a) of the Public Health Service Act (42 U.S.C. 300ff–28(a)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "section 2677" and inserting "section 2623";

(2) in paragraph (1)(A)—

(A) in the matter preceding clause (i), by striking "each of the several States and the District of Columbia" and inserting "each of the 50 States, the District of Columbia, Guam, and the Virgin Islands (referred to in this paragraph as a 'covered State')"; and

(B) in clause (i)—

(i) in subclause (I), by striking "State or District" and inserting "covered State"; and

(ii) in subclause (II)—

(I) by striking "State or District" and inserting "covered State"; and

(II) by inserting "and" after the semicolon; and

(3) in paragraph (1)(B), by striking "each territory of the United States, as defined in paragraph (3)," and inserting "each territory other than Guam and the Virgin Islands";

(4) in paragraph (2)(C)(i), by striking "or territory"; and

(5) by striking paragraph (3).

**SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART I OF PART B.**

(a) REFERENCES TO PART B.—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) is amended by striking "this part" each place such term appears and inserting "section 2611".

(b) HEPATITIS.—Section 2614(a)(3) of the Public Health Service Act (42 U.S.C. 300ff–24(a)(3)) is amended by inserting ", including specialty care and vaccinations for hepatitis co-infection," after "health services".

(c) APPLICATION FOR GRANT.—

(1) COORDINATION.—Section 2617(b) of the Public Health Service Act (42 U.S.C. 300ff–27(b)) is amended—

(A) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(B) by inserting after paragraph (3), the following:

"(4) the designation of a lead State agency that shall—

"(A) administer all assistance received under this part;

"(B) conduct the needs assessment and prepare the State plan under paragraph (3);

"(C) prepare all applications for assistance under this part;

"(D) receive notices with respect to programs under this title;

Deadline.
Audits.

"(E) every 2 years, collect and submit to the Secretary all audits, consistent with Office of Management and Budget circular A133, from grantees within the State, including audits regarding funds expended in accordance with this part; and

"(F) carry out any other duties determined appropriate by the Secretary to facilitate the coordination of programs under this title.";

(C) in paragraph (5) (as so redesignated)—

(i) in subparagraph (E), by striking "and" at the end; and

(ii) by inserting after subparagraph (F) the following:

"(G) includes key outcomes to be measured by all entities in the State receiving assistance under this title; and"; and

(D) in paragraph (7) (as so redesignated), in subparagraph (A)—

(i) by striking "paragraph (5)" and inserting "paragraph (6)"; and

(ii) by striking "paragraph (4)" and inserting "paragraph (5)".

(2) NATIVE AMERICAN REPRESENTATION.—Section 2617(b)(6) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before "representatives of grantees" the following: "members of a Federally recognized Indian tribe as represented in the State,".

(3) PAYER OF LAST RESORT.—Section 2617(b)(7)(F)(ii) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before the semicolon the following: "(except for a program administered by or providing the services of the Indian Health Service)".

(d) MATCHING FUNDS; APPLICABILITY OF REQUIREMENT.—Section 2617(d)(3) of the Public Health Service Act (42 U.S.C. 300ff–27(d)(3)) is amended—

(1) in subparagraph (A), by striking "acquired immune deficiency syndrome" and inserting "HIV/AIDS"; and

(2) in subparagraph (C), by striking "acquired immune deficiency syndrome" and inserting "HIV/AIDS".

**SEC. 205. SUPPLEMENTAL GRANTS ON BASIS OF DEMONSTRATED NEED.**

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) is amended—

(1) by redesignating section 2620 as section 2621; and

42 USC 300ff–30.

(2) by inserting after section 2619 the following:

**"SEC. 2620. SUPPLEMENTAL GRANTS.**

42 USC 300ff–29a.

"(a) IN GENERAL.—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States—

"(1) whose applications under section 2617 have demonstrated the need in the State, on an objective and quantified basis, for supplemental financial assistance to provide such services; and

"(2) that did not, for the most recent grant year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) for which data is available, have more than 2 percent of grant funds under such sections canceled or covered by any waivers under section 2622(c).

"(b) DEMONSTRATED NEED.—The factors considered by the Secretary in determining whether an eligible area has a demonstrated

need for purposes of subsection (a)(1) may include any or all of the following:

"(1) The unmet need for such services, as determined under section 2617(b).

"(2) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

"(3) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

"(4) The current prevalence of HIV/AIDS.

"(5) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

"(6) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

"(7) The prevalence of homelessness.

"(8) The prevalence of individuals described under section 2602(b)(2)(M).

"(9) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

"(10) The impact of a decline in the amount received pursuant to section 2618 on services available to all individuals with HIV/AIDS identified and eligible under this title.

"(c) PRIORITY IN MAKING GRANTS.—The Secretary shall provide funds under this section to a State to address the decline in services related to the decline in the amounts received pursuant to section 2618 consistent with the grant award to the State for fiscal year 2006, to the extent that the factor under subsection (b)(10) (relating to a decline in funding) applies to the State.

"(d) REPORT ON THE AWARDING OF SUPPLEMENTAL FUNDS.—Not later than 45 days after the awarding of supplemental funds under this section, the Secretary shall submit to Congress a report concerning such funds. Such report shall include information detailing—

"(1) the total amount of supplemental funds available under this section for the year involved;

"(2) the amount of supplemental funds used in accordance with the hold harmless provisions of section 2618(a)(2);

"(3) the amount of supplemental funds disbursed pursuant to subsection (c);

"(4) the disbursement of the remainder of the supplemental funds after taking into account the uses described in paragraphs (2) and (3); and

"(5) the rationale used for the amount of funds disbursed as described under paragraphs (2), (3), and (4).

"(e) CORE MEDICAL SERVICES.—The provisions of section 2612(b) apply with respect to a grant under this section to the same extent and in the same manner as such provisions apply with respect to a grant made pursuant to section 2618(a)(1).

"(f) APPLICABILITY OF GRANT AUTHORITY.—The authority to make grants under this section applies beginning with the first fiscal year for which amounts are made available for such grants under section 2623(b)(1).".

**SEC. 206. EMERGING COMMUNITIES.**

Section 2621 of the Public Health Service Act, as redesignated by section 205(1) of this Act, is amended—

(1) in the heading for the section, by striking "**SUPPLEMENTAL GRANTS**" and inserting "**EMERGING COMMUNITIES**";

(2) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

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

"(3) agree that the grant will be used to provide funds directly to emerging communities in the State, separately from other funds under this title that are provided by the State to such communities; and".

(3) by striking subsections (d) and (e) and inserting the following:

"(d) DEFINITIONS OF EMERGING COMMUNITY.—For purposes of this section, the term 'emerging community' means a metropolitan area (as defined in section 2607) for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

"(e) CONTINUED STATUS AS EMERGING COMMUNITY.—Notwithstanding any other provision of this section, a metropolitan area that is an emerging community for a fiscal year continues to be an emerging community until the metropolitan area fails, for three consecutive fiscal years—

"(1) to meet the requirements of subsection (d); and

"(2) to have a cumulative total of 750 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

"(f) DISTRIBUTION.—The amount of a grant under subsection (a) for a State for a fiscal year shall be an amount equal to the product of—

"(1) the amount available under section 2623(b)(1) for the fiscal year; and

"(2) a percentage equal to the ratio constituted by the number of living cases of HIV/AIDS in emerging communities in the State to the sum of the respective numbers of such cases in such communities for all States.".

**SEC. 207. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.**

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.), as amended by section 205, is further amended by adding at the end the following:

**"SEC. 2622. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.**

Effective date. 42 USC 300ff–31a.

"(a) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G), or under section 2620 or 2621, are available for obligation by the State through the end of the one-year period

beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the 'grant year for the award'), except as provided in subsection (c)(1).

"(b) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(2)(G)(ii), or under section 2620 or 2621, has an unobligated balance as of the end of the grant year for the award—

"(1) the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State; and

"(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under paragraph (1) to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

"(c) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

"(1) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State, unless—

"(A) before the end of the grant year, the State submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the State intends to expend the funds involved; and

"(B) the Secretary approves the waiver.

"(2) EXPENDITURE BY END OF CARRYOVER YEAR.—With respect to a waiver under paragraph (1) that is approved for a balance that is unobligated as of the end of a grant year for an award:

"(A) The unobligated funds are available for expenditure by the State involved for the one-year period beginning upon the expiration of the grant year (referred to in this section as the 'carryover year').

"(B) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State.

"(3) USE OF CANCELLED BALANCES.—In the case of any balance of a grant award that is cancelled under paragraph (1) or (2)(B), the grant funds involved shall be made available by the Secretary as additional amounts for grants under section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such paragraph

to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

"(4) CORRESPONDING REDUCTION IN FUTURE GRANT.—

"(A) IN GENERAL.—In the case of a State for which a balance from a grant award made pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) is unobligated as of the end of the grant year for the award—

"(i) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such section for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under paragraph (1) has been approved with respect to such balance); and

"(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants under section 2620 for such first fiscal year, subject to section 2618(a)(2)(H);

except that this subparagraph does not apply to the State if the amount of the unobligated balance was 2 percent or less.

"(B) RELATION TO INCREASES IN GRANT.—A reduction under subparagraph (A) for a State for a fiscal year may not be taken into account in applying section 2618(a)(2)(H) with respect to the State for the subsequent fiscal year.

"(d) TREATMENT OF DRUG REBATES.—For purposes of this section, funds that are drug rebates referred to in section 2616(g) may not be considered part of any grant award referred to in subsection (a).".

**SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR SUBPART I OF PART B.**

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.), as amended by section 207, is further amended by adding at the end the following:

**"SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 300ff–31b.

"(a) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated $1,195,500,000 for fiscal year 2007, $1,239,500,000 for fiscal year 2008, and $1,285,200,000 for fiscal year 2009. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

"(b) RESERVATION OF AMOUNTS.—

"(1) EMERGING COMMUNITIES.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve $5,000,000 for grants under section 2621.

"(2) SUPPLEMENTAL GRANTS.—

"(A) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve ⅓ for grants under section 2620, except that the availability of the reserved funds for such grants is subject to section 2618(a)(2)(H) as applied for such year, and except that any amount appropriated exclusively for carrying out section 2616 (and,

accordingly, distributed under section 2618(a)(2)(G)) is not subject to this subparagraph.

"(B) 2006 ADJUSTED AMOUNT.—For purposes of subparagraph (A), the term '2006 adjusted amount' means the amount appropriated for fiscal year 2006 under section 2677(b) (as such section was in effect for such fiscal year), excluding any amount appropriated for such year exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(I), as so in effect).".

**SEC. 209. EARLY DIAGNOSIS GRANT PROGRAM.**

Section 2625 of the Public Health Service Act (42 U.S.C. 300ff–33) is amended to read as follows:

**"SEC. 2625. EARLY DIAGNOSIS GRANT PROGRAM.**

"(a) IN GENERAL.—In the case of States whose laws or regulations are in accordance with subsection (b), the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (c).

"(b) DESCRIPTION OF COMPLIANT STATES.—For purposes of subsection (a), the laws or regulations of a State are in accordance with this subsection if, under such laws or regulations (including programs carried out pursuant to the discretion of State officials), both of the policies described in paragraph (1) are in effect, or both of the policies described in paragraph (2) are in effect, as follows:

"(1)(A) Voluntary opt-out testing of pregnant women.

"(B) Universal testing of newborns.

"(2)(A) Voluntary opt-out testing of clients at sexually transmitted disease clinics.

"(B) Voluntary opt-out testing of clients at substance abuse treatment centers.

The Secretary shall periodically ensure that the applicable policies are being carried out and recertify compliance.

"(c) USE OF FUNDS.—A State may use funds provided under subsection (a) for HIV/AIDS testing (including rapid testing), prevention counseling, treatment of newborns exposed to HIV/AIDS, treatment of mothers infected with HIV/AIDS, and costs associated with linking those diagnosed with HIV/AIDS to care and treatment for HIV/AIDS.

"(d) APPLICATION.—A State that is eligible for the grant under subsection (a) shall submit an application to the Secretary, in such form, in such manner, and containing such information as the Secretary may require.

"(e) LIMITATION ON AMOUNT OF GRANT.—A grant under subsection (a) to a State for a fiscal year may not be made in an amount exceeding $10,000,000.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to pre-empt State laws regarding HIV/AIDS counseling and testing.

"(g) DEFINITIONS.—In this section:

"(1) The term 'voluntary opt-out testing' means HIV/AIDS testing—

"(A) that is administered to an individual seeking other health care services; and

"(B) in which—

"(i) pre-test counseling is not required but the individual is informed that the individual will receive an HIV/AIDS test and the individual may opt out of such testing; and

"(ii) for those individuals with a positive test result, post-test counseling (including referrals for care) is provided and confidentiality is protected.

"(2) The term 'universal testing of newborns' means HIV/AIDS testing that is administered within 48 hours of delivery to—

"(A) all infants born in the State; or

"(B) all infants born in the State whose mother's HIV/AIDS status is unknown at the time of delivery.

"(h) AUTHORIZATION OF APPROPRIATIONS.—Of the funds appropriated annually to the Centers for Disease Control and Prevention for HIV/AIDS prevention activities, $30,000,000 shall be made available for each of the fiscal years 2007 through 2009 for grants under subsection (a), of which $20,000,000 shall be made available for grants to States with the policies described in subsection (b)(1), and $10,000,000 shall be made available for grants to States with the policies described in subsection (b)(2). Funds provided under this section are available until expended.".

**SEC. 210. CERTAIN PARTNER NOTIFICATION PROGRAMS; AUTHORIZATION OF APPROPRIATIONS.**

Section 2631(d) of the Public Health Service Act (42 U.S.C. 300ff–38(d)) is amended by striking "there are" and all that follows and inserting the following: "there is authorized to be appropriated $10,000,000 for each of the fiscal years 2007 through 2009.".

# TITLE III—EARLY INTERVENTION SERVICES

**SEC. 301. ESTABLISHMENT OF PROGRAM; CORE MEDICAL SERVICES.**

(a) IN GENERAL.—Section 2651 of the Public Health Service Act (42 U.S.C. 300ff–51) is amended to read as follows:

**"SEC. 2651. ESTABLISHMENT OF A PROGRAM.**

"(a) IN GENERAL.—For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a).

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant only for—

"(A) core medical services described in subsection (c);

"(B) support services described in subsection (d); and

"(C) administrative expenses as described in section 2664(g)(3).

"(2) EARLY INTERVENTION SERVICES.—An applicant for a grant under subsection (a) shall expend not less than 50 percent of the amount received under the grant for the services described in subparagraphs (B) through (E) of subsection (e)(1) for individuals with HIV/AIDS.

"(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

"(1) IN GENERAL.—With respect to a grant under subsection (a) to an applicant for a fiscal year, the applicant shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (3) and (5) of section 2664(g), use not less than 75 percent to provide core medical services that are needed in the area involved for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

"(2) WAIVER.—

"(A) The Secretary shall waive the application of paragraph (1) with respect to an applicant for a grant if the Secretary determines that, within the service area of the applicant—

"(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

"(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

"(B) NOTIFICATION OF WAIVER STATUS.—When informing an applicant that a grant under subsection (a) is being made for a fiscal year, the Secretary shall inform the applicant whether a waiver under subparagraph (A) is in effect for the fiscal year.

"(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term 'core medical services', with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

"(A) Outpatient and ambulatory health services.

"(B) AIDS Drug Assistance Program treatments under section 2616.

"(C) AIDS pharmaceutical assistance.

"(D) Oral health care.

"(E) Early intervention services described in subsection (e).

"(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

"(G) Home health care.

"(H) Medical nutrition therapy.

"(I) Hospice services.

"(J) Home and community-based health services as defined under section 2614(c).

"(K) Mental health services.

"(L) Substance abuse outpatient care.

"(M) Medical case management, including treatment adherence services.

"(d) SUPPORT SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'support services' means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

"(2) DEFINITION OF MEDICAL OUTCOMES.—In this section, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

"(e) SPECIFICATION OF EARLY INTERVENTION SERVICES.—

"(1) IN GENERAL.—The early intervention services referred to in this section are—

"(A) counseling individuals with respect to HIV/AIDS in accordance with section 2662;

"(B) testing individuals with respect to HIV/AIDS, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;

"(C) referrals described in paragraph (2);

"(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

"(E) providing the therapeutic measures described in subparagraph (B).

"(2) REFERRALS.—The services referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

"(A) to entities receiving amounts under part A or B for the provision of such services;

"(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

"(C) to grantees under section 2671, in the case of a pregnant woman.

"(3) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—

"(A) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

"(B) OTHER REQUIREMENTS.—Grantees described in—

"(i) subparagraphs (A), (D), (E), and (F) of section 2652(a)(1) shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (1) directly and on-site or at sites where other primary care services are rendered; and

"(ii) subparagraphs (B) and (C) of section 2652(a)(1) shall ensure the availability of early intervention services through a system of linkages to

community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (1)(C), and for follow-up concerning such referrals.".

(b) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT PROGRAM.—Section 2664(g) of the Public Health Service Act (42 U.S.C. 300ff–64(g)) is amended—

(1) in paragraph (3), by amending the paragraph to read as follows:

"(3) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant, including planning and evaluation, except that the costs of a clinical quality management program under paragraph (5) may not be considered administrative expenses for purposes of such limitation;"; and

(2) in paragraph (5), by inserting "clinical" before "quality management".

**SEC. 302. ELIGIBLE ENTITIES; PREFERENCES; PLANNING AND DEVELOPMENT GRANTS.**

(a) MINIMUM QUALIFICATION OF GRANTEES.—Section 2652(a) of the Public Health Service Act (42 U.S.C. 300ff–52(a)) is amended to read as follows:

"(a) ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—The entities referred to in section 2651(a) are public entities and nonprofit private entities that are—

"(A) federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(B) grantees under section 1001 (regarding family planning) other than States;

"(C) comprehensive hemophilia diagnostic and treatment centers;

"(D) rural health clinics;

"(E) health facilities operated by or pursuant to a contract with the Indian Health Service;

"(F) community-based organizations, clinics, hospitals and other health facilities that provide early intervention services to those persons infected with HIV/AIDS through intravenous drug use; or

"(G) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV/AIDS, including faith-based and community-based organizations.

"(2) UNDERSERVED POPULATIONS.—Entities described in paragraph (1) shall serve underserved populations which may include minority populations and Native American populations, ex-offenders, individuals with comorbidities including hepatitis B or C, mental illness, or substance abuse, low-income populations, inner city populations, and rural populations.".

(b) PREFERENCES IN MAKING GRANTS.—Section 2653 of the Public Health Service Act (42 U.S.C. 300ff–53) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking "acquired immune deficiency syndrome" and inserting "HIV/AIDS"; and

(B) in subparagraph (D), by inserting before the semicolon the following: "and the number of cases of individuals co-infected with HIV/AIDS and hepatitis B or C"; and

(2) in subsection (d)(2), by striking "special consideration" and inserting "preference".

(c) PLANNING AND DEVELOPMENT GRANTS.—Section 2654(c) of the Public Health Service Act (42 U.S.C. 300ff–54(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "HIV"; and

(B) in subparagraph (B), by striking "HIV" and inserting "HIV/AIDS"; and

(2) in paragraph (3), by striking "or underserved communities" and inserting "areas or to underserved populations".

**SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

Section 2655 of the Public Health Service Act (42 U.S.C. 300ff–55) is amended by striking "such sums" and all that follows through "2005" and inserting ", $218,600,000 for fiscal year 2007, $226,700,000 for fiscal year 2008, and $235,100,000 for fiscal year 2009".

**SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.**

Section 2661 of the Public Health Service Act (42 U.S.C. 300ff–61) is amended to read as follows:

**"SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.**

"(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part unless, in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

"(b) INFORMED CONSENT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV/AIDS, the applicant will test an individual only after the individual confirms that the decision of the individual with respect to undergoing such testing is voluntarily made.".

**SEC. 305. PROVISION OF CERTAIN COUNSELING SERVICES.**

Section 2662 of the Public Health Service Act (42 U.S.C. 300ff–62) is amended to read as follows:

**"SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.**

"(a) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV/AIDS indicate that an individual does not have such condition, the applicant will provide the individual information, including—

"(1) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, hepatitis C, and other sexually transmitted diseases;

"(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

"(3) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

"(4) the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases;

"(5) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

"(6) information regarding the availability of hepatitis B vaccine and information about hepatitis treatments.

"(b) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV/AIDS indicate that the individual has such condition, the applicant will provide to the individual appropriate counseling regarding the condition, including—

"(1) information regarding—

"(A) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, and hepatitis C;

"(B) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C; and

"(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

"(3) providing counseling—

"(A) on the availability, through the applicant, of early intervention services;

"(B) on the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

"(C)(i) that explains the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis C and any individual whom the infected individual may have exposed to HIV/AIDS, hepatitis B, or hepatitis C; and

"(ii) that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on the manner in which such disclosures can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV/AIDS, hepatitis B, or hepatitis C; and

"(D) on the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C);

"(4) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

"(5) information regarding the availability of hepatitis B vaccine.

"(c) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

"(d) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV/AIDS, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

"(e) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV/AIDS as a result of the grantee or the individual determining that such testing of the individual is not appropriate.".

**SEC. 306. GENERAL PROVISIONS.**

(a) APPLICABILITY OF CERTAIN REQUIREMENTS.—Section 2663 of the Public Health Service Act (42 U.S.C. 300ff–63) is amended by striking "will, without" and all that follows through "be carried" and inserting "with funds appropriated through this Act will be carried".

(b) ADDITIONAL REQUIRED AGREEMENTS.—Section 2664(a) of the Public Health Service Act (42 U.S.C. 300ff–64(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking "and" at the end; and

(C) by adding at the end the following:

"(C) information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 2602) and for States funded under part B (including the planning process described in section 2617(b)); and

"(D) a specification of the expected expenditures and how those expenditures will improve overall client outcomes, as described in the State plan under section 2617(b);";

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

(3) by adding at the end the following:

"(3) the applicant agrees to provide additional documentation to the Secretary regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

"(4) the applicant agrees to submit, every 2 years, to the lead State agency under section 2617(b)(4) audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this title and shall include necessary client level data to complete unmet need calculations and Statewide coordinated statements of need process.".

(c) PAYER OF LAST RESORT.—Section 2664(f)(1)(A) of the Public Health Service Act (42 U.S.C. 300ff–64(f)(1)(A)) is amended by inserting "(except for a program administered by or providing the services of the Indian Health Service)" before the semicolon.

# TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

**SEC. 401. WOMEN, INFANTS, CHILDREN, AND YOUTH.**

Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–71 et seq.) is amended to read as follows:

## "PART D—WOMEN, INFANTS, CHILDREN, AND YOUTH

42 USC 300ff–71.

**"SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.**

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to public and nonprofit private entities (including a health facility operated by or pursuant to a contract with the Indian Health Service) for the purpose of providing family-centered care involving outpatient or ambulatory care (directly or through contracts) for women, infants, children, and youth with HIV/AIDS.

"(b) ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.—Funds provided under grants awarded under subsection (a) may be used for the following support services:

"(1) Family-centered care including case management.

"(2) Referrals for additional services including—

"(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(B) referrals for other social and support services, as appropriate.

"(3) Additional services necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection including services designed to recruit and retain youth with HIV.

"(4) The provision of information and education on opportunities to participate in HIV/AIDS-related clinical research.

"(c) COORDINATION WITH OTHER ENTITIES.—A grant awarded under subsection (a) may be made only if the applicant provides an agreement that includes the following:

"(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act, including programs promoting the reduction and elimination of risk of HIV/AIDS for youth.

"(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

Deadline.
Audits.

"(3) The applicant will every 2 years submit to the lead State agency under section 2617(b)(4) audits regarding funds expended in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need process.

"(d) ADMINISTRATION; APPLICATION.—A grant may only be awarded to an entity under subsection (a) if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section. Such application shall include the following:

"(1) Information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process outlined in section 2602) and for States funded under part B (including the planning process outlined in section 2617(b)).

"(2) A specification of the expected expenditures and how those expenditures will improve overall patient outcomes, as outlined as part of the State plan (under section 2617(b)) or through additional outcome measures.

"(e) ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.—

"(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following: Deadline.

"(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

"(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

"(2) EVALUATIONS.——The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a). Contracts.

"(f) ADMINISTRATIVE EXPENSES.—

"(1) LIMITATION.—A grantee may not use more than 10 percent of amounts received under a grant awarded under this section for administrative expenses.

"(2) CLINICAL QUALITY MANAGEMENT PROGRAM.—A grantee under this section shall implement a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(g) TRAINING AND TECHNICAL ASSISTANCE.—From the amounts appropriated under subsection (i) for a fiscal year, the Secretary may use not more than 5 percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

"(h) DEFINITIONS.—In this section:

"(1) ADMINISTRATIVE EXPENSES.—The term 'administrative expenses' means funds that are to be used by grantees for grant management and monitoring activities, including costs related to any staff or activity unrelated to services or indirect costs.

"(2) INDIRECT COSTS.—The term 'indirect costs' means costs included in a Federally negotiated indirect rate.

"(3) SERVICES.—The term 'services' means—

"(A) services that are provided to clients to meet the goals and objectives of the program under this section, including the provision of professional, diagnostic, and therapeutic services by a primary care provider or a referral to and provision of specialty care; and

"(B) services that sustain program activity and contribute to or help improve services under subparagraph (A).

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated, $71,800,000 for each of the fiscal years 2007 through 2009.".

**SEC. 402. GAO REPORT.**

Not later than 24 months after the date of enactment of this Act, the Comptroller General of the Government Accountability Office shall conduct an evaluation, and submit to Congress a report, concerning the funding provided for under part D of title XXVI of the Public Health Service Act to determine—

(1) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, for individuals with HIV/AIDS;

(2) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, to family members of women, infants, children, and youth infected with HIV/AIDS;

(3) how funds are used to provide family-centered care involving outpatient or ambulatory care authorized under section 2671(a) of such title;

(4) how funds are used to provide additional services authorized under section 2671(b) of such title; and

(5) how funds are used to help identify HIV-positive pregnant women and their children who are exposed to HIV and connect them with care that can improve their health and prevent perinatal transmission.

# TITLE V—GENERAL PROVISIONS

**SEC. 501. GENERAL PROVISIONS.**

Part E of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–80 et seq.) is amended to read as follows:

## "PART E—GENERAL PROVISIONS

42 USC 300ff–81.

**"SEC. 2681. COORDINATION.**

"(a) REQUIREMENT.—The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and the Centers for Medicare & Medicaid

Services coordinate the planning, funding, and implementation of Federal HIV programs (including all minority AIDS initiatives of the Public Health Service, including under section 2693) to enhance the continuity of care and prevention services for individuals with HIV/AIDS or those at risk of such disease. The Secretary shall consult with other Federal agencies, including the Department of Veterans Affairs, as needed and utilize planning information submitted to such agencies by the States and entities eligible for assistance under this title.

"(b) REPORT.—The Secretary shall biennially prepare and submit to the appropriate committees of the Congress a report concerning the coordination efforts at the Federal, State, and local levels described in this section, including a description of Federal barriers to HIV program integration and a strategy for eliminating such barriers and enhancing the continuity of care and prevention services for individuals with HIV/AIDS or those at risk of such disease.

"(c) INTEGRATION BY STATE.—As a condition of receipt of funds under this title, a State shall provide assurances to the Secretary that health support services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV/AIDS is enhanced.

"(d) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.—As a condition of receipt of funds under this title, a local government or private nonprofit entity shall provide assurances to the Secretary that services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV is enhanced.

**"SEC. 2682. AUDITS.** 42 USC 300ff–82.

"(a) IN GENERAL.—For fiscal year 2009, and each subsequent fiscal year, the Secretary may reduce the amounts of grants under this title to a State or political subdivision of a State for a fiscal year if, with respect to such grants for the second preceding fiscal year, the State or subdivision fails to prepare audits in accordance with the procedures of section 7502 of title 31, United States Code. The Secretary shall annually select representative samples of such audits, prepare summaries of the selected audits, and submit the summaries to the Congress. Effective date.

"(b) POSTING ON THE INTERNET.—All audits that the Secretary receives from the State lead agency under section 2617(b)(4) shall be posted, in their entirety, on the Internet website of the Health Resources and Services Administration.

**"SEC. 2683. PUBLIC HEALTH EMERGENCY.** 42 USC 300ff–83.

"(a) IN GENERAL.—In an emergency area and during an emergency period, the Secretary shall have the authority to waive such requirements of this title to improve the health and safety of those receiving care under this title and the general public, except that the Secretary may not expend more than 5 percent of the funds allocated under this title for sections 2620 and section 2603(b).

"(b) EMERGENCY AREA AND EMERGENCY PERIOD.—In this section:

"(1) EMERGENCY AREA.—The term 'emergency area' means a geographic area in which there exists—

"(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

"(B) a public health emergency declared by the Secretary pursuant to section 319.

"(2) EMERGENCY PERIOD.—The term 'emergency period' means the period in which there exists—

"(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

"(B) a public health emergency declared by the Secretary pursuant to section 319.

"(c) UNOBLIGATED FUNDS.—If funds under a grant under this section are not expended for an emergency in the fiscal year in which the emergency is declared, such funds shall be returned to the Secretary for reallocation under sections 2603(b) and 2620.

42 USC 300ff–84.

**"SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.**

"None of the funds appropriated under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical treatment and support services for individuals with HIV.

42 USC 300ff–85.

**"SEC. 2685. PRIVACY PROTECTIONS.**

"(a) IN GENERAL.—The Secretary shall ensure that any information submitted to, or collected by, the Secretary under this title excludes any personally identifiable information.

"(b) DEFINITION.—In this section, the term 'personally identifiable information' has the meaning given such term under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

42 USC 300ff–86.

**"SEC. 2686. GAO REPORT.**

"The Comptroller General of the Government Accountability Office shall biennially submit to the appropriate committees of Congress a report that includes a description of Federal, State, and local barriers to HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommendations for enhancing the continuity of care and the provision of prevention services for individuals with HIV/AIDS or those at risk for such disease. Such report shall include a demonstration of the manner in which funds under this subpart are being expended and to what extent the services provided with such funds increase access to prevention and care services for individuals with HIV/AIDS and build stronger community linkages to address HIV prevention and care for racial and ethnic minority communities.

42 USC 300ff–87.

**"SEC. 2687. SEVERITY OF NEED INDEX.**

Deadline.

"(a) DEVELOPMENT OF INDEX.—Not later than September 30, 2008, the Secretary shall develop and submit to the appropriate committees of Congress a severity of need index in accordance with subsection (c).

"(b) DEFINITION OF SEVERITY OF NEED INDEX.—In this section, the term 'severity of need index' means the index of the relative needs of individuals within a State or area, as identified by a number of different factors, and is a factor or set of factors that is multiplied by the number of living HIV/AIDS cases in a State or area, providing different weights to those cases based on needs. Such factors or set of factors may be different for different components of the provisions under this title.

"(c) REQUIREMENTS FOR SECRETARIAL SUBMISSION.—When the Secretary submits to the appropriate committees of Congress the severity of need index under subsection (a), the Secretary shall provide the following:

"(1) Methodology for and rationale behind developing the severity of need index, including information related to the field testing of the severity of need index.

"(2) An independent contractor analysis of activities carried out under paragraph (1).

"(3) Information regarding the process by which the Secretary received community input regarding the application and development of the severity of need index.

"(d) ANNUAL REPORTS.—If the Secretary fails to submit the severity of need index under subsection (a) in either of fiscal years 2007 or 2008, the Secretary shall prepare and submit to the appropriate committees of Congress a report for such fiscal year—

"(1) that updates progress toward having client level data;

"(2) that updates the progress toward having a severity of need index, including information related to the methodology and process for obtaining community input; and

"(3) that, as applicable, states whether the Secretary could develop a severity of need index before fiscal year 2009.

**"SEC. 2688. DEFINITIONS.** 42 USC 300ff–88.

"For purposes of this title:

"(1) AIDS.—The term 'AIDS' means acquired immune deficiency syndrome.

"(2) CO-OCCURRING CONDITIONS.—The term 'co-occurring conditions' means one or more adverse health conditions in an individual with HIV/AIDS, without regard to whether the individual has AIDS and without regard to whether the conditions arise from HIV.

"(3) COUNSELING.—The term 'counseling' means such counseling provided by an individual trained to provide such counseling.

"(4) FAMILY-CENTERED CARE.—The term 'family-centered care' means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV/AIDS.

"(5) FAMILIES WITH HIV/AIDS.—The term 'families with HIV/AIDS' means families in which one or more members have HIV/AIDS.

"(6) HIV.—The term 'HIV' means infection with the human immunodeficiency virus.

"(7) HIV/AIDS.—

"(A) IN GENERAL.—The term 'HIV/AIDS' means HIV, and includes AIDS and any condition arising from AIDS.

"(B) COUNTING OF CASES.—The term 'living cases of HIV/AIDS', with respect to the counting of cases in a geographic area during a period of time, means the sum of—

"(i) the number of living non-AIDS cases of HIV in the area; and

"(ii) the number of living cases of AIDS in the area.

"(C) NON-AIDS CASES.—The term 'non-AIDS', with respect to a case of HIV, means that the individual involved has HIV but does not have AIDS.

"(8) HUMAN IMMUNODEFICIENCY VIRUS.—The term 'human immunodeficiency virus' means the etiologic agent for AIDS.

"(9) OFFICIAL POVERTY LINE.—The term 'official poverty line' means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(10) PERSON.—The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(11) STATE.—

"(A) IN GENERAL.—The term 'State' means each of the 50 States, the District of Columbia, and each of the territories.

"(B) TERRITORIES.—The term 'territory' means each of American Samoa, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

"(12) YOUTH WITH HIV.—The term 'youth with HIV' means individuals who are 13 through 24 years old and who have HIV/AIDS.".

# TITLE VI—DEMONSTRATION AND TRAINING

**SEC. 601. DEMONSTRATION AND TRAINING.**

Subpart I of part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended to read as follows:

## "Subpart I—Special Projects of National Significance

42 USC 300ff–101.

**"SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.**

"(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, C, and D for each fiscal year, the Secretary shall use the greater of $20,000,000 or an amount equal to 3 percent

of such amount appropriated under each such part, but not to exceed $25,000,000, to administer special projects of national significance to—

"(1) quickly respond to emerging needs of individuals receiving assistance under this title; and

"(2) to fund special programs to develop a standard electronic client information data system to improve the ability of grantees under this title to report client-level data to the Secretary.

"(b) GRANTS.—The Secretary shall award grants under subsection (a) to entities eligible for funding under parts A, B, C, and D based on—

"(1) whether the funding will promote obtaining client level data as it relates to the creation of a severity of need index, including funds to facilitate the purchase and enhance the utilization of qualified health information technology systems;

"(2) demonstrated ability to create and maintain a qualified health information technology system;

"(3) the potential replicability of the proposed activity in other similar localities or nationally;

"(4) the demonstrated reliability of the proposed qualified health information technology system across a variety of providers, geographic regions, and clients; and

"(5) the demonstrated ability to maintain a safe and secure qualified health information system; or

"(6) newly emerging needs of individuals receiving assistance under this title.

"(c) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

"(d) PRIVACY PROTECTION.—The Secretary may not make a grant under this section for the development of a qualified health information technology system unless the applicant provides assurances to the Secretary that the system will, at a minimum, comply with the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"(e) REPLICATION.—The Secretary shall make information concerning successful models or programs developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance for grantees funded under this part.".

**SEC. 602. AIDS EDUCATION AND TRAINING CENTERS.**

(a) AMENDMENTS REGARDING SCHOOLS AND CENTERS.—Section 2692(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–111(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "and Native Americans" after "minority individuals"; and

(B) by striking "and" at the end;

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

(3) by adding at the end the following:

"(C) train or result in the training of health professionals and allied health professionals to provide treatment for hepatitis B or C co-infected individuals.".

(b) AUTHORIZATIONS OF APPROPRIATIONS FOR SCHOOLS, CENTERS, AND DENTAL PROGRAMS.—Section 2692(c) of the Public Health Service Act (42 U.S.C. 300ff–111(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SCHOOLS; CENTERS.—For the purpose of awarding grants under subsection (a), there is authorized to be appropriated $34,700,000 for each of the fiscal years 2007 through 2009.

"(2) DENTAL SCHOOLS.—For the purpose of awarding grants under subsection (b), there is authorized to be appropriated $13,000,000 for each of the fiscal years 2007 through 2009.".

**SEC. 603. CODIFICATION OF MINORITY AIDS INITIATIVE.**

Part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended by adding at the end the following:

## "Subpart III—Minority AIDS Initiative

42 USC 300ff–121.

**"SEC. 2693. MINORITY AIDS INITIATIVE.**

"(a) IN GENERAL.—For the purpose of carrying out activities under this section to evaluate and address the disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, Alaska Natives, Latinos, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), there are authorized to be appropriated $131,200,000 for fiscal year 2007, $135,100,000 for fiscal year 2008, and $139,100,000 for fiscal year 2009.

"(b) CERTAIN ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the purpose described in subsection (a), the Secretary shall provide for—

"(A) emergency assistance under part A;

"(B) care grants under part B;

"(C) early intervention services under part C;

"(D) services through projects for HIV-related care under part D; and

"(E) activities through education and training centers under section 2692.

"(2) ALLOCATIONS AMONG ACTIVITIES.—Activities under paragraph (1) shall be carried out by the Secretary in accordance with the following:

"(A) For competitive, supplemental grants to improve HIV-related health outcomes to reduce existing racial and ethnic health disparities, the Secretary shall, of the amount appropriated under subsection (a) for a fiscal year, reserve the following, as applicable:

"(i) For fiscal year 2007, $43,800,000.

"(ii) For fiscal year 2008, $45,400,000.

"(iii) For fiscal year 2009, $47,100,000.

"(B) For competitive grants used for supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to treatment through the program under section

2616 for therapeutics, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

"(i) For fiscal year 2007, $7,000,000.

"(ii) For fiscal year 2008, $7,300,000.

"(iii) For fiscal year 2009, $7,500,000.

"(C) For planning grants, capacity-building grants, and services grants to health care providers who have a history of providing culturally and linguistically appropriate care and services to racial and ethnic minorities, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

"(i) For fiscal year 2007, $53,400,000.

"(ii) For fiscal year 2008, $55,400,000.

"(iii) For fiscal year 2009, $57,400,000.

"(D) For eliminating racial and ethnic disparities in the delivery of comprehensive, culturally and linguistically appropriate care services for HIV disease for women, infants, children, and youth, the Secretary shall, of the amount appropriated under subsection (a), reserve $18,500,000 for each of the fiscal years 2007 through 2009.

"(E) For increasing the training capacity of centers to expand the number of health care professionals with treatment expertise and knowledge about the most appropriate standards of HIV disease-related treatments and medical care for racial and ethnic minority adults, adolescents, and children with HIV disease, the Secretary shall, of the amount appropriated under subsection (a), reserve $8,500,000 for each of the fiscal years 2007 through 2009.

"(c) CONSISTENCY WITH PRIOR PROGRAM.—With respect to the purpose described in subsection (a), the Secretary shall carry out this section consistent with the activities carried out under this title by the Secretary pursuant to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116).".

# TITLE VII—MISCELLANEOUS PROVISIONS

**SEC. 701. HEPATITIS; USE OF FUNDS.**

Section 2667 of the Public Health Service Act (42 U.S.C. 300ff–67) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) shall provide information on the transmission and prevention of hepatitis A, B, and C, including education about the availability of hepatitis A and B vaccines and assisting patients in identifying vaccination sites.".

**SEC. 702. CERTAIN REFERENCES.**

Title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is amended—

42 USC 300ff–11, 300ff–28.

(1) by striking "acquired immune deficiency syndrome" each place such term appears, other than in section 2687(1) (as added by section 501 of this Act), and inserting "AIDS";

(2) by striking "such syndrome" and inserting "AIDS"; and

42 USC 300ff–12 *et seq*.

(3) by striking "HIV disease" each place such term appears and inserting "HIV/AIDS".

42 USC 300ff–11 *et seq*.
Effective date.

**SEC. 703. REPEAL.**

Effective on October 1, 2009, title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is repealed.

Approved December 19, 2006.

---

LEGISLATIVE HISTORY—H.R. 6143:

HOUSE REPORTS: No. 109–695 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 28, considered and passed House.
Dec. 6, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendment.

Public Law 109–416
109th Congress

# An Act

To amend the Public Health Service Act to combat autism through research, screening, intervention and education.

Dec. 19, 2006
[S. 843]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Combating Autism Act of 2006.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Combating Autism Act of 2006".

**SEC. 2. CENTERS OF EXCELLENCE; IMPROVING AUTISM-RELATED RESEARCH.**

(a) CENTERS OF EXCELLENCE REGARDING RESEARCH ON AUTISM.—Section 409C of the Public Health Service Act (42 U.S.C.284g) is amended—

(1) in the section heading, by striking "AUTISM" and inserting "AUTISM SPECTRUM DISORDER";

(2) by striking the term "autism" each place such term appears (other than the section heading) and inserting "autism spectrum disorder"; and

(3) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by striking paragraph (1) and inserting the following:

"(1) EXPANSION OF ACTIVITIES.—The Director of NIH (in this section referred to as the 'Director') shall, subject to the availability of appropriations, expand, intensify, and coordinate the activities of the National Institutes of Health with respect to research on autism spectrum disorder, including basic and clinical research in fields including pathology, developmental neurobiology, genetics, epigenetics, pharmacology, nutrition, immunology, neuroimmunology, neurobehavioral development, endocrinology, gastroenterology, and toxicology. Such research shall investigate the cause (including possible environmental causes), diagnosis or rule out, early detection, prevention, services, supports, intervention, and treatment of autism spectrum disorder.

"(2) CONSOLIDATION.—The Director may consolidate program activities under this section if such consolidation would improve program efficiencies and outcomes.".

(b) CENTERS OF EXCELLENCE GENERALLY.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

42 USC 283j.

**"SEC. 404H. REVIEW OF CENTERS OF EXCELLENCE.**

Deadline.
Reports.

"(a) IN GENERAL.—Not later than April 1, 2008, and periodically thereafter, the Secretary, acting through the Director of NIH, shall conduct a review and submit a report to the appropriate committees of the Congress on the centers of excellence.

"(b) REPORT CONTENTS.—Each report under subsection (a) shall include the following:

"(1) Evaluation of the performance and research outcomes of each center of excellence.

"(2) Recommendations for promoting coordination of information among centers of excellence.

"(3) Recommendations for improving the effectiveness, efficiency, and outcomes of the centers of excellence.

"(c) DEFINITION.—In this section, the term 'center of excellence' means an entity receiving funding under this title in its capacity as a center of excellence.".

**SEC. 3. DEVELOPMENTAL DISABILITIES SURVEILLANCE AND RESEARCH PROGRAM.**

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

## "PART R—PROGRAMS RELATING TO AUTISM

42 USC 280i.

**"SEC. 399AA. DEVELOPMENTAL DISABILITIES SURVEILLANCE AND RESEARCH PROGRAM.**

"(a) AUTISM SPECTRUM DISORDER AND OTHER DEVELOPMENTAL DISABILITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants or cooperative agreements to eligible entities for the collection, analysis, and reporting of State epidemiological data on autism spectrum disorder and other developmental disabilities. An eligible entity shall assist with the development and coordination of State autism spectrum disorder and other developmental disability surveillance efforts within a region. In making such awards, the Secretary may provide direct technical assistance in lieu of cash.

"(2) DATA STANDARDS.—In submitting epidemiological data to the Secretary pursuant to paragraph (1), an eligible entity shall report data according to guidelines prescribed by the Director of the Centers for Disease Control and Prevention, after consultation with relevant State and local public health officials, private sector developmental disability researchers, and advocates for individuals with autism spectrum disorder or other developmental disabilities.

"(3) ELIGIBILITY.—To be eligible to receive an award under paragraph (1), an entity shall be a public or nonprofit private entity (including a health department of a State or a political subdivision of a State, a university, or any other educational institution), and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(b) CENTERS OF EXCELLENCE IN AUTISM SPECTRUM DISORDER EPIDEMIOLOGY.—

Grants.
Contracts.

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, subject to the availability of appropriations, award grants or cooperative agreements for the establishment of regional centers of excellence in autism spectrum disorder and other developmental disabilities epidemiology for the purpose of collecting and analyzing information on the number, incidence, correlates, and causes of autism spectrum disorder and other developmental disabilities.

"(2) REQUIREMENTS.—To be eligible to receive a grant or cooperative agreement under paragraph (1), an entity shall submit to the Secretary an application containing such agreements and information as the Secretary may require, including an agreement that the center to be established under the grant or cooperative agreement shall operate in accordance with the following:

"(A) The center will collect, analyze, and report autism spectrum disorder and other developmental disability data according to guidelines prescribed by the Director of the Centers for Disease Control and Prevention, after consultation with relevant State and local public health officials, private sector developmental disability researchers, and advocates for individuals with developmental disabilities.

"(B) The center will develop or extend an area of special research expertise (including genetics, epigenetics, and epidemiological research related to environmental exposures), immunology, and other relevant research specialty areas.

"(C) The center will identify eligible cases and controls through its surveillance system and conduct research into factors which may cause or increase the risk of autism spectrum disorder and other developmental disabilities.

"(c) FEDERAL RESPONSE.—The Secretary shall coordinate the Federal response to requests for assistance from State health, mental health, and education department officials regarding potential or alleged autism spectrum disorder or developmental disability clusters.

"(d) DEFINITIONS.—In this part:

"(1) OTHER DEVELOPMENTAL DISABILITIES.—The term 'other developmental disabilities' has the meaning given the term 'developmental disability' in section 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002(8)).

"(2) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(e) SUNSET.—This section shall not apply after September 30, 2011.

**"SEC. 399BB. AUTISM EDUCATION, EARLY DETECTION, AND INTERVENTION.**

42 USC 280i–1.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to increase awareness, reduce barriers to screening and diagnosis, promote evidence-based interventions for individuals with autism spectrum disorder or other developmental

disabilities, and train professionals to utilize valid and reliable screening tools to diagnose or rule out and provide evidence-based interventions for children with autism spectrum disorder and other developmental disabilities; and

"(2) to conduct activities under this section with a focus on an interdisciplinary approach (as defined in programs developed under section 501(a)(2) of the Social Security Act) that will also focus on specific issues for children who are not receiving an early diagnosis and subsequent interventions.

"(b) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, establish and evaluate activities to—

"(1) provide information and education on autism spectrum disorder and other developmental disabilities to increase public awareness of developmental milestones;

"(2) promote research into the development and validation of reliable screening tools for autism spectrum disorder and other developmental disabilities and disseminate information regarding those screening tools;

"(3) promote early screening of individuals at higher risk for autism spectrum disorder and other developmental disabilities as early as practicable, given evidence-based screening techniques and interventions;

"(4) increase the number of individuals who are able to confirm or rule out a diagnosis of autism spectrum disorder and other developmental disabilities;

"(5) increase the number of individuals able to provide evidence-based interventions for individuals diagnosed with autism spectrum disorder or other developmental disabilities; and

"(6) promote the use of evidence-based interventions for individuals at higher risk for autism spectrum disorder and other developmental disabilities as early as practicable.

"(c) INFORMATION AND EDUCATION.—

"(1) IN GENERAL.—In carrying out subsection (b)(1), the Secretary, in collaboration with the Secretary of Education and the Secretary of Agriculture, shall, subject to the availability of appropriations, provide culturally competent information regarding autism spectrum disorder and other developmental disabilities, risk factors, characteristics, identification, diagnosis or rule out, and evidence-based interventions to meet the needs of individuals with autism spectrum disorder or other developmental disabilities and their families through—

"(A) Federal programs, including—

"(i) the Head Start program;

"(ii) the Early Start program;

"(iii) the Healthy Start program;

"(iv) programs under the Child Care and Development Block Grant Act of 1990;

"(v) programs under title XIX of the Social Security Act (particularly the Medicaid Early and Periodic Screening, Diagnosis and Treatment Program);

"(vi) the program under title XXI of the Social Security Act (the State Children's Health Insurance Program);

"(vii) the program under title V of the Social Security Act (the Maternal and Child Health Block Grant Program);

"(viii) the program under parts B and C of the Individuals with Disabilities Education Act;

"(ix) the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(x) the State grant program under the Rehabilitation Act of 1973.

"(B) State licensed child care facilities; and

"(C) other community-based organizations or points of entry for individuals with autism spectrum disorder and other developmental disabilities to receive services.

"(2) LEAD AGENCY.—

"(A) DESIGNATION.—As a condition on the provision of assistance or the conduct of activities under this section with respect to a State, the Secretary may require the Governor of the State—

"(i) to designate a public agency as a lead agency to coordinate the activities provided for under paragraph (1) in the State at the State level; and

"(ii) acting through such lead agency, to make available to individuals and their family members, guardians, advocates, or authorized representatives; providers; and other appropriate individuals in the State, comprehensive culturally competent information about State and local resources regarding autism spectrum disorder and other developmental disabilities, risk factors, characteristics, identification, diagnosis or rule out, available services and supports, and evidence-based interventions.

"(B) REQUIREMENTS OF AGENCY.—In designating the lead agency under subparagraph (A)(i), the Governor shall—

"(i) select an agency that has demonstrated experience and expertise in—

"(I) autism spectrum disorder and other developmental disability issues; and

"(II) developing, implementing, conducting, and administering programs and delivering education, information, and referral services (including technology-based curriculum-development services) to individuals with developmental disabilities and their family members, guardians, advocates or authorized representatives, providers, and other appropriate individuals locally and across the State; and

"(ii) consider input from individuals with developmental disabilities and their family members, guardians, advocates or authorized representatives, providers, and other appropriate individuals.

"(C) INFORMATION.—Information under subparagraph (A)(ii) shall be provided through—

Communications and telecommunications. Websites.

"(i) toll-free telephone numbers;

"(ii) Internet websites;

"(iii) mailings; or

"(iv) such other means as the Governor may require.

"(d) TOOLS.—

"(1) IN GENERAL.—To promote the use of valid and reliable screening tools for autism spectrum disorder and other developmental disabilities, the Secretary shall develop a curriculum for continuing education to assist individuals in recognizing the need for valid and reliable screening tools and the use of such tools.

"(2) COLLECTION, STORAGE, COORDINATION, AND AVAILABILITY.—The Secretary, in collaboration with the Secretary of Education, shall provide for the collection, storage, coordination, and public availability of tools described in paragraph (1), educational materials and other products that are used by the Federal programs referred to in subsection (c)(1)(A), as well as—

"(A) programs authorized under the Developmental Disabilities Assistance and Bill of Rights Act of 2000;

"(B) early intervention programs or interagency coordinating councils authorized under part C of the Individuals with Disabilities Education Act; and

"(C) children with special health care needs programs authorized under title V of the Social Security Act.

"(3) REQUIRED SHARING.—In establishing mechanisms and entities under this subsection, the Secretary, and the Secretary of Education, shall ensure the sharing of tools, materials, and products developed under this subsection among entities receiving funding under this section.

"(e) DIAGNOSIS.—

"(1) TRAINING.—The Secretary, in coordination with activities conducted under title V of the Social Security Act, shall, subject to the availability of appropriations, expand existing interdisciplinary training opportunities or opportunities to increase the number of sites able to diagnose or rule out individuals with autism spectrum disorder or other developmental disabilities and ensure that—

Grants.
Contracts.

"(A) competitive grants or cooperative agreements are awarded to public or nonprofit agencies, including institutions of higher education, to expand existing or develop new maternal and child health interdisciplinary leadership education in neurodevelopmental and related disabilities programs (similar to the programs developed under section 501(a)(2) of the Social Security Act) in States that do not have such a program;

"(B) trainees under such training programs—

"(i) receive an appropriate balance of academic, clinical, and community opportunities;

"(ii) are culturally competent;

"(iii) are ethnically diverse;

"(iv) demonstrate a capacity to evaluate, diagnose or rule out, develop, and provide evidence-based interventions to individuals with autism spectrum disorder and other developmental disabilities; and

"(v) demonstrate an ability to use a family-centered approach; and

"(C) program sites provide culturally competent services.

"(2) TECHNICAL ASSISTANCE.—The Secretary may award one or more grants under this section to provide technical

assistance to the network of interdisciplinary training programs.

"(3) BEST PRACTICES.—The Secretary shall promote research into additional valid and reliable tools for shortening the time required to confirm or rule out a diagnosis of autism spectrum disorder or other developmental disabilities and detecting individuals with autism spectrum disorder or other developmental disabilities at an earlier age.

"(f) INTERVENTION.—The Secretary shall promote research, through grants or contracts, to determine the evidence-based practices for interventions for individuals with autism spectrum disorder or other developmental disabilities, develop guidelines for those interventions, and disseminate information related to such research and guidelines.

Grants.
Contracts.

"(g) SUNSET.—This section shall not apply after September 30, 2011.

**"SEC. 399CC. INTERAGENCY AUTISM COORDINATING COMMITTEE.**

42 USC 280i–2.

"(a) ESTABLISHMENT.—The Secretary shall establish a committee, to be known as the 'Interagency Autism Coordinating Committee' (in this section referred to as the 'Committee'), to coordinate all efforts within the Department of Health and Human Services concerning autism spectrum disorder.

"(b) RESPONSIBILITIES.—In carrying out its duties under this section, the Committee shall—

"(1) develop and annually update a summary of advances in autism spectrum disorder research related to causes, prevention, treatment, early screening, diagnosis or rule out, intervention, and access to services and supports for individuals with autism spectrum disorder;

"(2) monitor Federal activities with respect to autism spectrum disorder;

"(3) make recommendations to the Secretary regarding any appropriate changes to such activities, including recommendations to the Director of NIH with respect to the strategic plan developed under paragraph (5);

"(4) make recommendations to the Secretary regarding public participation in decisions relating to autism spectrum disorder;

"(5) develop and annually update a strategic plan for the conduct of, and support for, autism spectrum disorder research, including proposed budgetary requirements; and

"(6) submit to the Congress such strategic plan and any updates to such plan.

Strategic plan.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Committee shall be composed of—

"(A) the Director of the Centers for Disease Control and Prevention;

"(B) the Director of the National Institutes of Health, and the Directors of such national research institutes of the National Institutes of Health as the Secretary determines appropriate;

"(C) the heads of such other agencies as the Secretary determines appropriate;

"(D) representatives of other Federal Governmental agencies that serve individuals with autism spectrum disorder such as the Department of Education; and

"(E) the additional members appointed under paragraph (2).

"(2) ADDITIONAL MEMBERS.—Not fewer than 6 members of the Committee, or 1/3 of the total membership of the Committee, whichever is greater, shall be composed of non-Federal public members to be appointed by the Secretary, of which—

"(A) at least one such member shall be an individual with a diagnosis of autism spectrum disorder;

"(B) at least one such member shall be a parent or legal guardian of an individual with an autism spectrum disorder; and

"(C) at least one such member shall be a representative of leading research, advocacy, and service organizations for individuals with autism spectrum disorder.

Applicability.

"(d) ADMINISTRATIVE SUPPORT; TERMS OF SERVICE; OTHER PROVISIONS.—The following provisions shall apply with respect to the Committee:

"(1) The Committee shall receive necessary and appropriate administrative support from the Secretary.

"(2) Members of the Committee appointed under subsection (c)(2) shall serve for a term of 4 years, and may be reappointed for one or more additional 4 year term. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(3) The Committee shall meet at the call of the chairperson or upon the request of the Secretary. The Committee shall meet not fewer than 2 times each year.

"(4) All meetings of the Committee shall be public and shall include appropriate time periods for questions and presentations by the public.

"(e) SUBCOMMITTEES; ESTABLISHMENT AND MEMBERSHIP.—In carrying out its functions, the Committee may establish subcommittees and convene workshops and conferences. Such subcommittees shall be composed of Committee members and may hold such meetings as are necessary to enable the subcommittees to carry out their duties.

"(f) SUNSET.—This section shall not apply after September 30, 2011, and the Committee shall be terminated on such date.

42 USC 280i–3.

**"SEC. 399DD. REPORT TO CONGRESS.**

"(a) IN GENERAL.—Not later than 4 years after the date of enactment of the Combating Autism Act of 2006, the Secretary, in coordination with the Secretary of Education, shall prepare and submit to the Health, Education, Labor, and Pensions Committee of the Senate and the Energy and Commerce Committee of the House of Representatives a progress report on activities related to autism spectrum disorder and other developmental disabilities.

"(b) CONTENTS.—The report submitted under subsection (a) shall contain—

"(1) a description of the progress made in implementing the provisions of the Combating Autism Act of 2006;

"(2) a description of the amounts expended on the implementation of the particular provisions of Combating Autism Act of 2006;

"(3) information on the incidence of autism spectrum disorder and trend data of such incidence since the date of enactment of the Combating Autism Act of 2006;

"(4) information on the average age of diagnosis for children with autism spectrum disorder and other disabilities, including how that age may have changed over the 4-year period beginning on the date of enactment of this Act;

"(5) information on the average age for intervention for individuals diagnosed with autism spectrum disorder and other developmental disabilities, including how that age may have changed over the 4-year period beginning on the date of enactment of this Act;

"(6) information on the average time between initial screening and then diagnosis or rule out for individuals with autism spectrum disorder or other developmental disabilities, as well as information on the average time between diagnosis and evidence-based intervention for individuals with autism spectrum disorder or other developmental disabilities;

"(7) information on the effectiveness and outcomes of interventions for individuals diagnosed with autism spectrum disorder, including by various subtypes, and other developmental disabilities and how the age of the child may affect such effectiveness;

"(8) information on the effectiveness and outcomes of innovative and newly developed intervention strategies for individuals with autism spectrum disorder or other developmental disabilities; and

"(9) information on services and supports provided to individuals with autism spectrum disorder and other developmental disabilities who have reached the age of majority (as defined for purposes of section 615(m) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(m)).".

(b) REPEALS.—The following sections of the Children's Health Act of 2000 (Public Law 106–310) are repealed:

(1) Section 102 (42 U.S.C. 247b–4b), relating to the Developmental Disabilities Surveillance and Research Program.

(2) Section 103 (42 U.S.C. 247b–4c), relating to information and education.

(3) Section 104 (42 U.S.C. 247b–4d), relating to the Inter-Agency Autism Coordinating Committee.

(4) Section 105 (42 U.S.C. 247b–4e), relating to reports.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Part R of title III of the Public Health Service Act, as added by section 3, is amended by adding at the end the following:

**"SEC. 399EE. AUTHORIZATION OF APPROPRIATIONS.** 42 USC 280i–4.

"(a) DEVELOPMENTAL DISABILITIES SURVEILLANCE AND RESEARCH PROGRAM.—To carry out section 399AA, there are authorized to be appropriated the following:

"(1) For fiscal year 2007, $15,000,000.

"(2) For fiscal year 2008, $16,500,000.

"(3) For fiscal year 2009, $18,000,000.

"(4) For fiscal year 2010, $19,500,000.

"(5) For fiscal year 2011, $21,000,000.

"(b) AUTISM EDUCATION, EARLY DETECTION, AND INTERVENTION.—To carry out section 399BB, there are authorized to be appropriated the following:

"(1) For fiscal year 2007, $32,000,000.
"(2) For fiscal year 2008, $37,000,000.
"(3) For fiscal year 2009, $42,000,000.
"(4) For fiscal year 2010, $47,000,000.
"(5) For fiscal year 2011, $52,000,000.

"(c) INTERAGENCY AUTISM COORDINATING COMMITTEE; CERTAIN OTHER PROGRAMS.—To carry out section 399CC, 409C, and section 404H, there are authorized to be appropriated the following:

"(1) For fiscal year 2007, $100,000,000.
"(2) For fiscal year 2008, $114,500,000.
"(3) For fiscal year 2009, $129,000,000.
"(4) For fiscal year 2010, $143,500,000.
"(5) For fiscal year 2011, $158,000,000.".

(b) CONFORMING AMENDMENT.—Section 409C of the Public Health Service Act (42 U.S.C. 284g) is amended by striking subsection (e) (relating to funding).

Approved December 19, 2006.

---

LEGISLATIVE HISTORY—S. 843:

SENATE REPORTS: No. 109–318 (Comm. on Health, Education, Labor, and Pensions).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Aug. 3, considered and passed Senate.
Dec. 6, considered and passed House, amended.
Dec. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 19, Presidential statement.

# Public Law 109–417
# 109th Congress

## An Act

To amend the Public Health Service Act with respect to public health security and all-hazards preparedness and response, and for other purposes.

Dec. 19, 2006
[S. 3678]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pandemic and All-Hazards Preparedness Act.
42 USC 201 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Pandemic and All-Hazards Preparedness Act".

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL PREPAREDNESS AND RESPONSE, LEADERSHIP, ORGANIZATION, AND PLANNING

Sec. 101. Public health and medical preparedness and response functions of the Secretary of Health and Human Services.
Sec. 102. Assistant Secretary for Preparedness and Response.
Sec. 103. National Health Security Strategy.

TITLE II—PUBLIC HEALTH SECURITY PREPAREDNESS

Sec. 201. Improving State and local public health security.
Sec. 202. Using information technology to improve situational awareness in public health emergencies.
Sec. 203. Public health workforce enhancements.
Sec. 204. Vaccine tracking and distribution.
Sec. 205. National Science Advisory Board for Biosecurity.
Sec. 206. Revitalization of Commissioned Corps.

TITLE III—ALL-HAZARDS MEDICAL SURGE CAPACITY

Sec. 301. National disaster medical system.
Sec. 302. Enhancing medical surge capacity.
Sec. 303. Encouraging health professional volunteers.
Sec. 304. Core education and training.
Sec. 305. Partnerships for State and regional hospital preparedness to improve surge capacity.
Sec. 306. Enhancing the role of the Department of Veterans Affairs.

TITLE IV—PANDEMIC AND BIODEFENSE VACCINE AND DRUG DEVELOPMENT

Sec. 401. Biomedical Advanced Research and Development Authority.
Sec. 402. National Biodefense Science Board.
Sec. 403. Clarification of countermeasures covered by Project BioShield.
Sec. 404. Technical assistance.
Sec. 405. Collaboration and coordination.
Sec. 406. Procurement.

# TITLE I—NATIONAL PREPAREDNESS AND RESPONSE, LEADERSHIP, ORGANIZATION, AND PLANNING

**SEC. 101. PUBLIC HEALTH AND MEDICAL PREPAREDNESS AND RESPONSE FUNCTIONS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.**

Title XXVIII of the Public Health Service Act (42 U.S.C. 300hh–11 et seq.) is amended—

(1) by striking the title heading and inserting the following:

# "TITLE XXVIII—NATIONAL ALL-HAZARDS PREPAREDNESS FOR PUBLIC HEALTH EMERGENCIES";

and

(2) by amending subtitle A to read as follows:

# "Subtitle A—National All-Hazards Preparedness and Response Planning, Coordinating, and Reporting

42 USC 300hh.

**"SEC. 2801. PUBLIC HEALTH AND MEDICAL PREPAREDNESS AND RESPONSE FUNCTIONS.**

"(a) IN GENERAL.—The Secretary of Health and Human Services shall lead all Federal public health and medical response to public health emergencies and incidents covered by the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002, or any successor plan.

"(b) INTERAGENCY AGREEMENT.—The Secretary, in collaboration with the Secretary of Veterans Affairs, the Secretary of Transportation, the Secretary of Defense, the Secretary of Homeland Security, and the head of any other relevant Federal agency, shall establish an interagency agreement, consistent with the National Response Plan or any successor plan, under which agreement the Secretary of Health and Human Services shall assume operational control of emergency public health and medical response assets, as necessary, in the event of a public health emergency, except that members of the armed forces under the authority of the Secretary of Defense shall remain under the command and control of the Secretary of Defense, as shall any associated assets of the Department of Defense.".

**SEC. 102. ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE.**

(a) ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE.—Subtitle B of title XXVIII of the Public Health Service Act (42 U.S.C. 300hh–11 et seq.) is amended—

(1) in the subtitle heading, by inserting "All-Hazards" before "Emergency Preparedness";

42 USC 300hh–11.

(2) by redesignating section 2811 as section 2812;

(3) by inserting after the subtitle heading the following new section:

**"SEC. 2811. COORDINATION OF PREPAREDNESS FOR AND RESPONSE TO ALL-HAZARDS PUBLIC HEALTH EMERGENCIES.**

42 USC 300hh–10.

"(a) IN GENERAL.—There is established within the Department of Health and Human Services the position of the Assistant Secretary for Preparedness and Response. The President, with the advice and consent of the Senate, shall appoint an individual to serve in such position. Such Assistant Secretary shall report to the Secretary.

Government organization.

President.

"(b) DUTIES.—Subject to the authority of the Secretary, the Assistant Secretary for Preparedness and Response shall carry out the following functions:

"(1) LEADERSHIP.—Serve as the principal advisor to the Secretary on all matters related to Federal public health and medical preparedness and response for public health emergencies.

"(2) PERSONNEL.—Register, credential, organize, train, equip, and have the authority to deploy Federal public health and medical personnel under the authority of the Secretary, including the National Disaster Medical System, and coordinate such personnel with the Medical Reserve Corps and the Emergency System for Advance Registration of Volunteer Health Professionals.

"(3) COUNTERMEASURES.—Oversee advanced research, development, and procurement of qualified countermeasures (as defined in section 319F–1) and qualified pandemic or epidemic products (as defined in section 319F–3).

"(4) COORDINATION.—

"(A) FEDERAL INTEGRATION.—Coordinate with relevant Federal officials to ensure integration of Federal preparedness and response activities for public health emergencies.

"(B) STATE, LOCAL, AND TRIBAL INTEGRATION.—Coordinate with State, local, and tribal public health officials, the Emergency Management Assistance Compact, health care systems, and emergency medical service systems to ensure effective integration of Federal public health and medical assets during a public health emergency.

"(C) EMERGENCY MEDICAL SERVICES.—Promote improved emergency medical services medical direction, system integration, research, and uniformity of data collection, treatment protocols, and policies with regard to public health emergencies.

"(5) LOGISTICS.—In coordination with the Secretary of Veterans Affairs, the Secretary of Homeland Security, the General Services Administration, and other public and private entities, provide logistical support for medical and public health aspects of Federal responses to public health emergencies.

"(6) LEADERSHIP.—Provide leadership in international programs, initiatives, and policies that deal with public health and medical emergency preparedness and response.

"(c) FUNCTIONS.—The Assistant Secretary for Preparedness and Response shall—

"(1) have authority over and responsibility for—

"(A) the National Disaster Medical System (in accordance with section 301 of the Pandemic and All-Hazards Preparedness Act); and

"(B) the Hospital Preparedness Cooperative Agreement Program pursuant to section 319C–2;

"(2) exercise the responsibilities and authorities of the Secretary with respect to the coordination of—

"(A) the Medical Reserve Corps pursuant to section 2813;

"(B) the Emergency System for Advance Registration of Volunteer Health Professionals pursuant to section 319I;

"(C) the Strategic National Stockpile; and

"(D) the Cities Readiness Initiative; and

"(3) assume other duties as determined appropriate by the Secretary."; and

42 USC 300hh–11.

(4) by striking "Assistant Secretary for Public Health Emergency Preparedness" each place it appears and inserting "Assistant Secretary for Preparedness and Response".

42 USC 300hh–10 note.

(b) TRANSFER OF FUNCTIONS; REFERENCES.—

(1) TRANSFER OF FUNCTIONS.—There shall be transferred to the Office of the Assistant Secretary for Preparedness and Response the functions, personnel, assets, and liabilities of the Assistant Secretary for Public Health Emergency Preparedness as in effect on the day before the date of enactment of this Act.

(2) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Assistant Secretary for Public Health Emergency Preparedness as in effect the day before the date of enactment of this Act, shall be deemed to be a reference to the Assistant Secretary for Preparedness and Response.

(c) STOCKPILE.—Section 319F–2(a)(1) of the Public Health Service Act (42 U.S.C. 247d–6b(a)(1)) is amended by—

(1) inserting "in collaboration with the Director of the Centers for Disease Control and Prevention, and" after "Secretary,"; and

(2) inserting at the end the following: "The Secretary shall conduct an annual review (taking into account at-risk individuals) of the contents of the stockpile, including non-pharmaceutical supplies, and make necessary additions or modifications to the contents based on such review.".

(d) AT-RISK INDIVIDUALS.—Title XXVIII of the Public Health Service Act (42 U.S.C. 300hh et seq.), as amended by section 303 of this Act, is amended by inserting after section 2813 the following:

42 USC 300hh–16.

**"SEC. 2814. AT-RISK INDIVIDUALS.**

"The Secretary, acting through such employee of the Department of Health and Human Services as determined by the Secretary and designated publicly (which may, at the discretion of the Secretary, involve the appointment or designation of an individual as the Director of At-Risk Individuals), shall—

"(1) oversee the implementation of the National Preparedness goal of taking into account the public health and medical needs of at-risk individuals in the event of a public health emergency, as described in section 2802(b)(4);

"(2) assist other Federal agencies responsible for planning for, responding to, and recovering from public health emergencies in addressing the needs of at-risk individuals;

"(3) provide guidance to and ensure that recipients of State and local public health grants include preparedness and response strategies and capabilities that take into account the medical and public health needs of at-risk individuals in the event of a public health emergency, as described in section 319C–1(b)(2)(A)(iii);

"(4) ensure that the contents of the strategic national stockpile take into account at-risk populations as described in section 2811(b)(3)(B);

"(5) oversee the progress of the Advisory Committee on At-Risk Individuals and Public Health Emergencies established under section 319F(b)(2) and make recommendations with a focus on opportunities for action based on the work of the Committee;

"(6) oversee curriculum development for the public health and medical response training program on medical management of casualties, as it concerns at-risk individuals as described in subparagraphs (A) through (C) of section 319F(a)(2);

"(7) disseminate novel and best practices of outreach to and care of at-risk individuals before, during, and following public health emergencies; and

"(8) not later than one year after the date of enactment of the Pandemic and All-Hazards Preparedness Act, prepare and submit to Congress a report describing the progress made on implementing the duties described in this section.". Deadline. Reports.

**SEC. 103. NATIONAL HEALTH SECURITY STRATEGY.**

Title XXVIII of the Public Health Service Act (300hh–11 et seq.), as amended by section 101, is amended by inserting after section 2801 the following:

**"SEC. 2802. NATIONAL HEALTH SECURITY STRATEGY.** 42 USC 300hh–1.

"(a) IN GENERAL.—

"(1) PREPAREDNESS AND RESPONSE REGARDING PUBLIC HEALTH EMERGENCIES.—Beginning in 2009 and every four years thereafter, the Secretary shall prepare and submit to the relevant committees of Congress a coordinated strategy (to be known as the National Health Security Strategy) and any revisions thereof, and an accompanying implementation plan for public health emergency preparedness and response. Such National Health Security Strategy shall identify the process for achieving the preparedness goals described in subsection (b) and shall be consistent with the National Preparedness Goal, the National Incident Management System, and the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002, or any successor plan. Effective date. Deadline.

"(2) EVALUATION OF PROGRESS.—The National Health Security Strategy shall include an evaluation of the progress made by Federal, State, local, and tribal entities, based on the evidence-based benchmarks and objective standards that measure levels of preparedness established pursuant to section 319C–1(g). Such evaluation shall include aggregate and State-specific breakdowns of obligated funding spent by major category (as defined by the Secretary) for activities funded through awards pursuant to sections 319C–1 and 319C–2.

"(3) PUBLIC HEALTH WORKFORCE.—In 2009, the National Health Security Strategy shall include a national strategy for establishing an effective and prepared public health workforce, including defining the functions, capabilities, and gaps in such workforce, and identifying strategies to recruit, retain, and protect such workforce from workplace exposures during public health emergencies.

"(b) PREPAREDNESS GOALS.—The National Health Security Strategy shall include provisions in furtherance of the following:

"(1) INTEGRATION.—Integrating public health and public and private medical capabilities with other first responder systems, including through—

"(A) the periodic evaluation of Federal, State, local, and tribal preparedness and response capabilities through drills and exercises; and

"(B) integrating public and private sector public health and medical donations and volunteers.

"(2) PUBLIC HEALTH.—Developing and sustaining Federal, State, local, and tribal essential public health security capabilities, including the following:

"(A) Disease situational awareness domestically and abroad, including detection, identification, and investigation.

"(B) Disease containment including capabilities for isolation, quarantine, social distancing, and decontamination.

"(C) Risk communication and public preparedness.

"(D) Rapid distribution and administration of medical countermeasures.

"(3) MEDICAL.—Increasing the preparedness, response capabilities, and surge capacity of hospitals, other health care facilities (including mental health facilities), and trauma care and emergency medical service systems, with respect to public health emergencies, which shall include developing plans for the following:

"(A) Strengthening public health emergency medical management and treatment capabilities.

"(B) Medical evacuation and fatality management.

"(C) Rapid distribution and administration of medical countermeasures.

"(D) Effective utilization of any available public and private mobile medical assets and integration of other Federal assets.

"(E) Protecting health care workers and health care first responders from workplace exposures during a public health emergency.

"(4) AT-RISK INDIVIDUALS.—

"(A) Taking into account the public health and medical needs of at-risk individuals in the event of a public health emergency.

"(B) For purpose of this section and sections 319C–1, 319F, and 319L, the term 'at-risk individuals' means children, pregnant women, senior citizens and other individuals who have special needs in the event of a public health emergency, as determined by the Secretary.

"(5) COORDINATION.—Minimizing duplication of, and ensuring coordination between, Federal, State, local, and tribal planning, preparedness, and response activities (including the

State Emergency Management Assistance Compact). Such planning shall be consistent with the National Response Plan, or any successor plan, and National Incident Management System and the National Preparedness Goal.

"(6) CONTINUITY OF OPERATIONS.—Maintaining vital public health and medical services to allow for optimal Federal, State, local, and tribal operations in the event of a public health emergency.".

# TITLE II—PUBLIC HEALTH SECURITY PREPAREDNESS

**SEC. 201. IMPROVING STATE AND LOCAL PUBLIC HEALTH SECURITY.**

Section 319C–1 of the Public Health Service Act (42 U.S.C. 247d–3a) is amended—

(1) by amending the heading to read as follows: "**IMPROVING STATE AND LOCAL PUBLIC HEALTH SECURITY.**";

(2) by striking subsections (a) through (i) and inserting the following:

"(a) IN GENERAL.—To enhance the security of the United States with respect to public health emergencies, the Secretary shall award cooperative agreements to eligible entities to enable such entities to conduct the activities described in subsection (d). Contracts.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive an award under subsection (a), an entity shall—

"(1)(A) be a State;

"(B) be a political subdivision determined by the Secretary to be eligible for an award under this section (based on criteria described in subsection (i)(4)); or

"(C) be a consortium of entities described in subparagraph (A); and

"(2) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require, including—

"(A) an All-Hazards Public Health Emergency Preparedness and Response Plan which shall include—

"(i) a description of the activities such entity will carry out under the agreement to meet the goals identified under section 2802;

"(ii) a pandemic influenza plan consistent with the requirements of paragraphs (2) and (5) of subsection (g);

"(iii) preparedness and response strategies and capabilities that take into account the medical and public health needs of at-risk individuals in the event of a public health emergency;

"(iv) a description of the mechanism the entity will implement to utilize the Emergency Management Assistance Compact or other mutual aid agreements for medical and public health mutual aid; and

"(v) a description of how the entity will include the State Unit on Aging in public health emergency preparedness;

"(B) an assurance that the entity will report to the Secretary on an annual basis (or more frequently as determined by the Secretary) on the evidence-based benchmarks

and objective standards established by the Secretary to evaluate the preparedness and response capabilities of such entity under subsection (g);

"(C) an assurance that the entity will conduct, on at least an annual basis, an exercise or drill that meets any criteria established by the Secretary to test the preparedness and response capabilities of such entity, and that the entity will report back to the Secretary within the application of the following year on the strengths and weaknesses identified through such exercise or drill, and corrective actions taken to address material weaknesses;

"(D) an assurance that the entity will provide to the Secretary the data described under section 319D(d)(3) as determined feasible by the Secretary;

"(E) an assurance that the entity will conduct activities to inform and educate the hospitals within the jurisdiction of such entity on the role of such hospitals in the plan required under subparagraph (A);

"(F) an assurance that the entity, with respect to the plan described under subparagraph (A), has developed and will implement an accountability system to ensure that such entity make satisfactory annual improvement and describe such system in the plan under subparagraph (A);

"(G) a description of the means by which to obtain public comment and input on the plan described in subparagraph (A) and on the implementation of such plan, that shall include an advisory committee or other similar mechanism for obtaining comment from the public and from other State, local, and tribal stakeholders; and

"(H) as relevant, a description of the process used by the entity to consult with local departments of public health to reach consensus, approval, or concurrence on the relative distribution of amounts received under this section.

Effective date.

"(c) LIMITATION.—Beginning in fiscal year 2009, the Secretary may not award a cooperative agreement to a State unless such State is a participant in the Emergency System for Advance Registration of Volunteer Health Professionals described in section 319I.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—An award under subsection (a) shall be expended for activities to achieve the preparedness goals described under paragraphs (1), (2), (4), (5), and (6) of section 2802(b).

"(2) EFFECT OF SECTION.—Nothing in this subsection may be construed as establishing new regulatory authority or as modifying any existing regulatory authority.

"(e) COORDINATION WITH LOCAL RESPONSE CAPABILITIES.—An entity shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities of relevant Metropolitan Medical Response Systems, local public health departments, the Cities Readiness Initiative, and local emergency plans.

"(f) CONSULTATION WITH HOMELAND SECURITY.—In making awards under subsection (a), the Secretary shall consult with the Secretary of Homeland Security to—

"(1) ensure maximum coordination of public health and medical preparedness and response activities with the Metropolitan Medical Response System, and other relevant activities;

"(2) minimize duplicative funding of programs and activities;

"(3) analyze activities, including exercises and drills, conducted under this section to develop recommendations and guidance on best practices for such activities; and

"(4) disseminate such recommendations and guidance, including through expanding existing lessons learned information systems to create a single Internet-based point of access for sharing and distributing medical and public health best practices and lessons learned from drills, exercises, disasters, and other emergencies. Website.

"(g) ACHIEVEMENT OF MEASURABLE EVIDENCE-BASED BENCHMARKS AND OBJECTIVE STANDARDS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary shall develop or where appropriate adopt, and require the application of, measurable evidence-based benchmarks and objective standards that measure levels of preparedness with respect to the activities described in this section and with respect to activities described in section 319C–2. In developing such benchmarks and standards, the Secretary shall consult with and seek comments from State, local, and tribal officials and private entities, as appropriate. Where appropriate, the Secretary shall incorporate existing objective standards. Such benchmarks and standards shall— Deadline.

"(A) include outcome goals representing operational achievement of the National Preparedness Goals developed under section 2802(b); and

"(B) at a minimum, require entities to—

"(i) measure progress toward achieving the outcome goals; and

"(ii) at least annually, test, exercise, and rigorously evaluate the public health and medical emergency preparedness and response capabilities of the entity, and report to the Secretary on such measured and tested capabilities and measured and tested progress toward achieving outcome goals, based on criteria established by the Secretary.

"(2) CRITERIA FOR PANDEMIC INFLUENZA PLANS.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary shall develop and disseminate to the chief executive officer of each State criteria for an effective State plan for responding to pandemic influenza. Deadline.

"(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the development of criteria or standards, without regard to whether such efforts were carried out prior to or after the date of enactment of this section.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall, as determined appropriate by the Secretary, provide to a State, upon request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in

the development of high-quality assessments, the setting of State objectives and assessment methods, the development of measures of satisfactory annual improvement that are valid and reliable, and other relevant areas.

"(4) NOTIFICATION OF FAILURES.—The Secretary shall develop and implement a process to notify entities that are determined by the Secretary to have failed to meet the requirements of paragraph (1) or (2). Such process shall provide such entities with the opportunity to correct such noncompliance. An entity that fails to correct such noncompliance shall be subject to paragraph (5).

Effective date.
Deadline.

"(5) WITHHOLDING OF AMOUNTS FROM ENTITIES THAT FAIL TO ACHIEVE BENCHMARKS OR SUBMIT INFLUENZA PLAN.—Beginning with fiscal year 2009, and in each succeeding fiscal year, the Secretary shall—

"(A) withhold from each entity that has failed substantially to meet the benchmarks and performance measures described in paragraph (1) for the immediately preceding fiscal year (beginning with fiscal year 2008), pursuant to the process developed under paragraph (4), the amount described in paragraph (6); and

"(B) withhold from each entity that has failed to submit to the Secretary a plan for responding to pandemic influenza that meets the criteria developed under paragraph (2), the amount described in paragraph (6).

"(6) AMOUNTS DESCRIBED.—

"(A) IN GENERAL.—The amounts described in this paragraph are the following amounts that are payable to an entity for activities described in section 319C–1 or 319C–2:

"(i) For the fiscal year immediately following a fiscal year in which an entity experienced a failure described in subparagraph (A) or (B) of paragraph (5) by the entity, an amount equal to 10 percent of the amount the entity was eligible to receive for such fiscal year.

"(ii) For the fiscal year immediately following two consecutive fiscal years in which an entity experienced such a failure, an amount equal to 15 percent of the amount the entity was eligible to receive for such fiscal year, taking into account the withholding of funds for the immediately preceding fiscal year under clause (i).

"(iii) For the fiscal year immediately following three consecutive fiscal years in which an entity experienced such a failure, an amount equal to 20 percent of the amount the entity was eligible to receive for such fiscal year, taking into account the withholding of funds for the immediately preceding fiscal years under clauses (i) and (ii).

"(iv) For the fiscal year immediately following four consecutive fiscal years in which an entity experienced such a failure, an amount equal to 25 percent of the amount the entity was eligible to receive for such a fiscal year, taking into account the withholding of funds for the immediately preceding fiscal years under clauses (i), (ii), and (iii).

"(B) SEPARATE ACCOUNTING.—Each failure described in subparagraph (A) or (B) of paragraph (5) shall be treated as a separate failure for purposes of calculating amounts withheld under subparagraph (A).

"(7) REALLOCATION OF AMOUNTS WITHHELD.—

"(A) IN GENERAL.—The Secretary shall make amounts withheld under paragraph (6) available for making awards under section 319C–2 to entities described in subsection (b)(1) of such section.

"(B) PREFERENCE IN REALLOCATION.—In making awards under section 319C–2 with amounts described in subparagraph (A), the Secretary shall give preference to eligible entities (as described in section 319C–2(b)(1)) that are located in whole or in part in States from which amounts have been withheld under paragraph (6).

"(8) WAIVE OR REDUCE WITHHOLDING.—The Secretary may waive or reduce the withholding described in paragraph (6), for a single entity or for all entities in a fiscal year, if the Secretary determines that mitigating conditions exist that justify the waiver or reduction.

"(h) GRANTS FOR REAL-TIME DISEASE DETECTION IMPROVEMENT.—

"(1) IN GENERAL.—The Secretary may award grants to eligible entities to carry out projects described under paragraph (4).

"(2) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' means an entity that is—

"(A)(i) a hospital, clinical laboratory, university; or

"(ii) a poison control center or professional organization in the field of poison control; and

"(B) a participant in the network established under subsection 319D(d).

"(3) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—An eligible entity described in paragraph (2)(A)(i) that receives a grant under this subsection shall use the funds awarded pursuant to such grant to carry out a pilot demonstration project to purchase and implement the use of advanced diagnostic medical equipment to analyze real-time clinical specimens for pathogens of public health or bioterrorism significance and report any results from such project to State, local, and tribal public health entities and the network established under section 319D(d).

"(B) OTHER ENTITIES.—An eligible entity described in paragraph (2)(A)(ii) that receives a grant under this section shall use the funds awarded pursuant to such grant to—

"(i) improve the early detection, surveillance, and investigative capabilities of poison control centers for chemical, biological, radiological, and nuclear events by training poison information personnel to improve

the accuracy of surveillance data, improving the definitions used by the poison control centers for surveillance, and enhancing timely and efficient investigation of data anomalies;

"(ii) improve the capabilities of poison control centers to provide information to health care providers and the public with regard to chemical, biological, radiological, or nuclear threats or exposures, in consultation with the appropriate State, local, and tribal public health entities; or

"(iii) provide surge capacity in the event of a chemical, biological, radiological, or nuclear event through the establishment of alternative poison control center worksites and the training of nontraditional personnel.";

(3) by redesignating subsection (j) as subsection (i);

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

(A) by striking paragraphs (1) through (3)(A) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $824,000,000 for fiscal year 2007, of which $35,000,000 shall be used to carry out subsection (h), for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)), and such sums as may be necessary for each of fiscal years 2008 through 2011.

"(B) COORDINATION.—There are authorized to be appropriated, $10,000,000 for fiscal year 2007 to carry out subsection (f)(4) of this section and section 2814.

Effective date.

"(C) REQUIREMENT FOR STATE MATCHING FUNDS.—Beginning in fiscal year 2009, in the case of any State or consortium of two or more States, the Secretary may not award a cooperative agreement under this section unless the State or consortium of States agree that, with respect to the amount of the cooperative agreement awarded by the Secretary, the State or consortium of States will make available (directly or through donations from public or private entities) non-Federal contributions in an amount equal to—

"(i) for the first fiscal year of the cooperative agreement, not less than 5 percent of such costs ($1 for each $20 of Federal funds provided in the cooperative agreement); and

"(ii) for any second fiscal year of the cooperative agreement, and for any subsequent fiscal year of such cooperative agreement, not less than 10 percent of such costs ($1 for each $10 of Federal funds provided in the cooperative agreement).

"(D) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTIONS.—As determined by the Secretary, non-Federal contributions required in subparagraph (C) may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment or services. Amounts provided

by the Federal government, or services assisted or subsidized to any significant extent by the Federal government, may not be included in determining the amount of such non-Federal contributions.

"(2) MAINTAINING STATE FUNDING.—

"(A) IN GENERAL.—An entity that receives an award under this section shall maintain expenditures for public health security at a level that is not less than the average level of such expenditures maintained by the entity for the preceding 2 year period.

"(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of awards under this section to pay salary and related expenses of public health and other professionals employed by State, local, or tribal public health agencies who are carrying out activities supported by such awards (regardless of whether the primary assignment of such personnel is to carry out such activities).

"(3) DETERMINATION OF AMOUNT.—

"(A) IN GENERAL.—The Secretary shall award cooperative agreements under subsection (a) to each State or consortium of 2 or more States that submits to the Secretary an application that meets the criteria of the Secretary for the receipt of such an award and that meets other implementation conditions established by the Secretary for such awards.";

Contracts.

(B) in paragraph (4)(A)—

(i) by striking "2003" and inserting "2007"; and

(ii) by striking "(A)(i)(I)";

(C) in paragraph (4)(D), by striking "2002" and inserting "2006";

(D) in paragraph (5)—

(i) by striking "2003" and inserting "2007"; and

(ii) by striking "(A)(i)(I)"; and

(E) by striking paragraph (6) and inserting the following:

"(6) FUNDING OF LOCAL ENTITIES.—The Secretary shall, in making awards under this section, ensure that with respect to the cooperative agreement awarded, the entity make available appropriate portions of such award to political subdivisions and local departments of public health through a process involving the consensus, approval or concurrence with such local entities."; and

(5) by adding at the end the following:

"(j) ADMINISTRATIVE AND FISCAL RESPONSIBILITY.—

"(1) ANNUAL REPORTING REQUIREMENTS.—Each entity shall prepare and submit to the Secretary annual reports on its activities under this section and section 319C–2. Each such report shall be prepared by, or in consultation with, the health department. In order to properly evaluate and compare the performance of different entities assisted under this section and section 319C–2 and to assure the proper expenditure of funds under this section and section 319C–2, such reports shall be in such standardized form and contain such information as the Secretary determines and describes within 180 days of the date of enactment of the Pandemic and All-Hazards

Preparedness Act (after consultation with the States) to be necessary to—

"(A) secure an accurate description of those activities;

"(B) secure a complete record of the purposes for which funds were spent, and of the recipients of such funds;

"(C) describe the extent to which the entity has met the goals and objectives it set forth under this section or section 319C–2;

"(D) determine the extent to which funds were expended consistent with the entity's application transmitted under this section or section 319C–2; and

Publication.
Website.

"(E) publish such information on a Federal Internet website consistent with subsection (k).

"(2) AUDITS; IMPLEMENTATION.—

"(A) IN GENERAL.—Each entity receiving funds under this section or section 319C–2 shall, not less often than once every 2 years, audit its expenditures from amounts received under this section or section 319C–2. Such audits shall be conducted by an entity independent of the agency administering a program funded under this section or section 319C–2 in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the entity shall submit a copy of that audit report to the Secretary.

Deadline.

"(B) REPAYMENT.—Each entity shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the entity, not to have been expended in accordance with this section or section 319C–2 and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the entity is or may become entitled under this section or section 319C–2 or may otherwise recover such amounts.

"(C) WITHHOLDING OF PAYMENT.—The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any entity which is not using its allotment under this section or section 319C–2 in accordance with such section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

"(3) MAXIMUM CARRYOVER AMOUNT.—

"(A) IN GENERAL.—For each fiscal year, the Secretary, in consultation with the States and political subdivisions, shall determine the maximum percentage amount of an award under this section that an entity may carryover to the succeeding fiscal year.

"(B) AMOUNT EXCEEDED.—For each fiscal year, if the percentage amount of an award under this section unexpended by an entity exceeds the maximum percentage permitted by the Secretary under subparagraph (A), the entity shall return to the Secretary the portion of the unexpended amount that exceeds the maximum amount permitted to be carried over by the Secretary.

"(C) ACTION BY SECRETARY.—The Secretary shall make amounts returned to the Secretary under subparagraph (B) available for awards under section 319C–2(b)(1). In making awards under section 319C–2(b)(1) with amounts collected under this paragraph the Secretary shall give preference to entities that are located in whole or in part in States from which amounts have been returned under subparagraph (B).

"(D) WAIVER.—An entity may apply to the Secretary for a waiver of the maximum percentage amount under subparagraph (A). Such an application for a waiver shall include an explanation why such requirement should not apply to the entity and the steps taken by such entity to ensure that all funds under an award under this section will be expended appropriately.

"(E) WAIVE OR REDUCE WITHHOLDING.—The Secretary may waive the application of subparagraph (B), or reduce the amount determined under such subparagraph, for a single entity pursuant to subparagraph (D) or for all entities in a fiscal year, if the Secretary determines that mitigating conditions exist that justify the waiver or reduction.

"(k) COMPILATION AND AVAILABILITY OF DATA.—The Secretary shall compile the data submitted under this section and make such data available in a timely manner on an appropriate Internet website in a format that is useful to the public and to other entities and that provides information on what activities are best contributing to the achievement of the outcome goals described in subsection (g).". Website.

**SEC. 202. USING INFORMATION TECHNOLOGY TO IMPROVE SITUATIONAL AWARENESS IN PUBLIC HEALTH EMERGENCIES.**

Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended—

(1) in subsection (a)(1), by inserting "domestically and abroad" after "public health threats"; and

(2) by adding at the end the following:

"(d) PUBLIC HEALTH SITUATIONAL AWARENESS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary, in collaboration with State, local, and tribal public health officials, shall establish a near real-time electronic nationwide public health situational awareness capability through an interoperable network of systems to share data and information to enhance early detection of rapid response to, and management of, potentially catastrophic infectious disease outbreaks and other public health emergencies that originate domestically or abroad. Such network shall be built on existing State situational awareness systems or enhanced systems that enable such connectivity. Deadline.

"(2) STRATEGIC PLAN.—Not later than 180 days after the date of enactment the Pandemic and All-Hazards Preparedness Act, the Secretary shall submit to the appropriate committees of Congress, a strategic plan that demonstrates the steps the Secretary will undertake to develop, implement, and evaluate the network described in paragraph (1), utilizing the elements described in paragraph (3). Deadline.

"(3) ELEMENTS.—The network described in paragraph (1) shall include data and information transmitted in a standardized format from—

"(A) State, local, and tribal public health entities, including public health laboratories;

"(B) Federal health agencies;

"(C) zoonotic disease monitoring systems;

"(D) public and private sector health care entities, hospitals, pharmacies, poison control centers or professional organizations in the field of poison control, and clinical laboratories, to the extent practicable and provided that such data are voluntarily provided simultaneously to the Secretary and appropriate State, local, and tribal public health agencies; and

"(E) such other sources as the Secretary may deem appropriate.

"(4) RULE OF CONSTRUCTION.—Paragraph (3) shall not be construed as requiring separate reporting of data and information from each source listed.

"(5) REQUIRED ACTIVITIES.—In establishing and operating the network described in paragraph (1), the Secretary shall—

"(A) utilize applicable interoperability standards as determined by the Secretary through a joint public and private sector process;

"(B) define minimal data elements for such network;

"(C) in collaboration with State, local, and tribal public health officials, integrate and build upon existing State, local, and tribal capabilities, ensuring simultaneous sharing of data, information, and analyses from the network described in paragraph (1) with State, local, and tribal public health agencies; and

"(D) in collaboration with State, local, and tribal public health officials, develop procedures and standards for the collection, analysis, and interpretation of data that States, regions, or other entities collect and report to the network described in paragraph (1).

"(e) STATE AND REGIONAL SYSTEMS TO ENHANCE SITUATIONAL AWARENESS IN PUBLIC HEALTH EMERGENCIES.—

"(1) IN GENERAL.—To implement the network described in subsection (d), the Secretary may award grants to States or consortia of States to enhance the ability of such States or consortia of States to establish or operate a coordinated public health situational awareness system for regional or Statewide early detection of, rapid response to, and management of potentially catastrophic infectious disease outbreaks and public health emergencies, in collaboration with appropriate public health agencies, sentinel hospitals, clinical laboratories, pharmacies, poison control centers, other health care organizations, and animal health organizations within such States.

Reports.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), the State or consortium of States shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the State or consortium of States will submit to the Secretary—

"(A) reports of such data, information, and metrics as the Secretary may require;

"(B) a report on the effectiveness of the systems funded under the grant; and

"(C) a description of the manner in which grant funds will be used to enhance the timelines and comprehensiveness of efforts to detect, respond to, and manage potentially catastrophic infectious disease outbreaks and public health emergencies.

"(3) USE OF FUNDS.—A State or consortium of States that receives an award under this subsection—

"(A) shall establish, enhance, or operate a coordinated public health situational awareness system for regional or Statewide early detection of, rapid response to, and management of potentially catastrophic infectious disease outbreaks and public health emergencies;

"(B) may award grants or contracts to entities described in paragraph (1) within or serving such State to assist such entities in improving the operation of information technology systems, facilitating the secure exchange of data and information, and training personnel to enhance the operation of the system described in subparagraph (A); and

"(C) may conduct a pilot program for the development of multi-State telehealth network test beds that build on, enhance, and securely link existing State and local telehealth programs to prepare for, monitor, respond to, and manage the events of public health emergencies, facilitate coordination and communication among medical, public health, and emergency response agencies, and provide medical services through telehealth initiatives within the States that are involved in such a multi-State telehealth network test bed.

"(4) LIMITATION.—Information technology systems acquired or implemented using grants awarded under this section must be compliant with—

"(A) interoperability and other technological standards, as determined by the Secretary; and

"(B) data collection and reporting requirements for the network described in subsection (d).

"(5) INDEPENDENT EVALUATION.—Not later than 4 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Government Accountability Office shall conduct an independent evaluation, and submit to the Secretary and the appropriate committees of Congress a report concerning the activities conducted under this subsection and subsection (d). Deadline. Reports.

"(f) TELEHEALTH ENHANCEMENTS FOR EMERGENCY RESPONSE.—

"(1) EVALUATION.—The Secretary, in consultation with the Federal Communications Commission and other relevant Federal agencies, shall—

"(A) conduct an inventory of telehealth initiatives in existence on the date of enactment of the Pandemic and All-Hazards Preparedness Act, including—

"(i) the specific location of network components;

"(ii) the medical, technological, and communications capabilities of such components;

"(iii) the functionality of such components; and

"(iv) the capacity and ability of such components to handle increased volume during the response to a public health emergency;

"(B) identify methods to expand and interconnect the regional health information networks funded by the Secretary, the State and regional broadband networks funded through the rural health care support mechanism pilot program funded by the Federal Communications Commission, and other telehealth networks;

"(C) evaluate ways to prepare for, monitor, respond rapidly to, or manage the events of, a public health emergency through the enhanced use of telehealth technologies, including mechanisms for payment or reimbursement for use of such technologies and personnel during public health emergencies;

"(D) identify methods for reducing legal barriers that deter health care professionals from providing telemedicine services, such as by utilizing State emergency health care professional credentialing verification systems, encouraging States to establish and implement mechanisms to improve interstate medical licensure cooperation, facilitating the exchange of information among States regarding investigations and adverse actions, and encouraging States to waive the application of licensing requirements during a public health emergency;

"(E) evaluate ways to integrate the practice of telemedicine within the National Disaster Medical System; and

"(F) promote greater coordination among existing Federal interagency telemedicine and health information technology initiatives.

"(2) REPORT.—Not later than 12 months after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary shall prepare and submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding the findings and recommendations pursuant to subparagraphs (A) through (F) of paragraph (1).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary in each of fiscal years 2007 through 2011.".

**SEC. 203. PUBLIC HEALTH WORKFORCE ENHANCEMENTS.**

(a) DEMONSTRATION PROJECT.—Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l) is amended by adding at the end the following:

42 USC 254u.

**"SEC. 338M. PUBLIC HEALTH DEPARTMENTS.**

"(a) IN GENERAL.—To the extent that funds are appropriated under subsection (e), the Secretary shall establish a demonstration project to provide for the participation of individuals who are eligible for the Loan Repayment Program described in section 338B and who agree to complete their service obligation in a State health department that provides a significant amount of service to health professional shortage areas or areas at risk of a public health emergency, as determined by the Secretary, or in a local or tribal

health department that serves a health professional shortage area or an area at risk of a public health emergency.

"(b) PROCEDURE.—To be eligible to receive assistance under subsection (a), with respect to the program described in section 338B, an individual shall—

"(1) comply with all rules and requirements described in such section (other than section 338B(f)(1)(B)(iv)); and

"(2) agree to serve for a time period equal to 2 years, or such longer period as the individual may agree to, in a State, local, or tribal health department, described in subsection (a).

"(c) DESIGNATIONS.—The demonstration project described in subsection (a), and any healthcare providers who are selected to participate in such project, shall not be considered by the Secretary in the designation of health professional shortage areas under section 332 during fiscal years 2007 through 2010.

"(d) REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report to the relevant committees of Congress that evaluates the participation of individuals in the demonstration project under subsection (a), the impact of such participation on State, local, and tribal health departments, and the benefit and feasibility of permanently allowing such placements in the Loan Repayment Program.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 through 2010.".

(b) GRANTS FOR LOAN REPAYMENT PROGRAM.—Section 338I of the Public Health Service Act (42 U.S.C. 254q–1) is amended by adding at the end the following:

"(j) PUBLIC HEALTH LOAN REPAYMENT.—

"(1) IN GENERAL.—The Secretary may award grants to States for the purpose of assisting such States in operating loan repayment programs under which such States enter into contracts to repay all or part of the eligible loans borrowed by, or on behalf of, individuals who agree to serve in State, local, or tribal health departments that serve health professional shortage areas or other areas at risk of a public health emergency, as designated by the Secretary.

"(2) LOANS ELIGIBLE FOR REPAYMENT.—To be eligible for repayment under this subsection, a loan shall be a loan made, insured, or guaranteed by the Federal Government that is borrowed by, or on behalf of, an individual to pay the cost of attendance for a program of education leading to a degree appropriate for serving in a State, local, or tribal health department as determined by the Secretary and the chief executive officer of the State in which the grant is administered, at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965), including principal, interest, and related expenses on such loan.

"(3) APPLICABILITY OF EXISTING REQUIREMENTS.—With respect to awards made under paragraph (1)—

"(A) the requirements of subsections (b), (f), and (g) shall apply to such awards; and

"(B) the requirements of subsection (c) shall apply to such awards except that with respect to paragraph (1) of such subsection, the State involved may assign an individual only to public and nonprofit private entities that

serve health professional shortage areas or areas at risk of a public health emergency, as determined by the Secretary.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2007 through 2010.".

**SEC. 204. VACCINE TRACKING AND DISTRIBUTION.**

(a) IN GENERAL.—Section 319A of the Public Health Service Act (42 U.S.C. 247d–1) is amended to read as follows:

**"SEC. 319A. VACCINE TRACKING AND DISTRIBUTION.**

"(a) TRACKING.—The Secretary, together with relevant manufacturers, wholesalers, and distributors as may agree to cooperate, may track the initial distribution of federally purchased influenza vaccine in an influenza pandemic. Such tracking information shall be used to inform Federal, State, local, and tribal decision makers during an influenza pandemic.

"(b) DISTRIBUTION.—The Secretary shall promote communication between State, local, and tribal public health officials and such manufacturers, wholesalers, and distributors as agree to participate, regarding the effective distribution of seasonal influenza vaccine. Such communication shall include estimates of high priority populations, as determined by the Secretary, in State, local, and tribal jurisdictions in order to inform Federal, State, local, and tribal decision makers during vaccine shortages and supply disruptions.

"(c) CONFIDENTIALITY.—The information submitted to the Secretary or its contractors, if any, under this section or under any other section of this Act related to vaccine distribution information shall remain confidential in accordance with the exception from the public disclosure of trade secrets, commercial or financial information, and information obtained from an individual that is privileged and confidential, as provided for in section 552(b)(4) of title 5, United States Code, and subject to the penalties and exceptions under sections 1832 and 1833 of title 18, United States Code, relating to the protection and theft of trade secrets, and subject to privacy protections that are consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996. None of such information provided by a manufacturer, wholesaler, or distributor shall be disclosed without its consent to another manufacturer, wholesaler, or distributor, or shall be used in any manner to give a manufacturer, wholesaler, or distributor a proprietary advantage.

"(d) GUIDELINES.—The Secretary, in order to maintain the confidentiality of relevant information and ensure that none of the information contained in the systems involved may be used to provide proprietary advantage within the vaccine market, while allowing State, local, and tribal health officials access to such information to maximize the delivery and availability of vaccines to high priority populations, during times of influenza pandemics, vaccine shortages, and supply disruptions, in consultation with manufacturers, distributors, wholesalers and State, local, and tribal health departments, shall develop guidelines for subsections (a) and (b).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums for each of fiscal years 2007 through 2011.

"(f) REPORT TO CONGRESS.—As part of the National Health Security Strategy described in section 2802, the Secretary shall provide an update on the implementation of subsections (a) through (d).".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking sections 319B and 319C.

42 USC 247d–2, 247d–3.

(2) TECHNICAL AMENDMENT.—Section 319D(a)(3) of the Public Health Service Act (42 U.S.C. 247d–4(a)(3)) is amended by striking ", taking into account evaluations under section 319B(a),".

**SEC. 205. NATIONAL SCIENCE ADVISORY BOARD FOR BIOSECURITY.**

42 USC 262a note.

The National Science Advisory Board for Biosecurity shall, when requested by the Secretary of Health and Human Services, provide to relevant Federal departments and agencies, advice, guidance, or recommendations concerning—

(1) a core curriculum and training requirements for workers in maximum containment biological laboratories; and

(2) periodic evaluations of maximum containment biological laboratory capacity nationwide and assessments of the future need for increased laboratory capacity.

**SEC. 206. REVITALIZATION OF COMMISSIONED CORPS.**

42 USC 204a note.

(a) PURPOSE.—It is the purpose of this section to improve the force management and readiness of the Commissioned Corps to accomplish the following objectives:

(1) To ensure the Corps is ready to respond rapidly to urgent or emergency public health care needs and challenges.

(2) To ensure the availability of the Corps for assignments that address clinical and public health needs in isolated, hardship, and hazardous duty positions, and, when required, to address needs related to the well-being, security, and defense of the United States.

(3) To establish the Corps as a resource available to Federal and State Government agencies for assistance in meeting public health leadership and service roles.

(b) COMMISSIONED CORPS READINESS.—Title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by inserting after section 203 the following:

**"SEC. 203A. DEPLOYMENT READINESS.**

42 USC 204a.

"(a) READINESS REQUIREMENTS FOR COMMISSIONED CORPS OFFICERS.—

"(1) IN GENERAL.—The Secretary, with respect to members of the following Corps components, shall establish requirements, including training and medical examinations, to ensure the readiness of such components to respond to urgent or emergency public health care needs that cannot otherwise be met at the Federal, State, and local levels:

"(A) Active duty Regular Corps.

"(B) Active Reserves.

"(2) ANNUAL ASSESSMENT OF MEMBERS.—The Secretary shall annually determine whether each member of the Corps

meets the applicable readiness requirements established under paragraph (1).

"(3) FAILURE TO MEET REQUIREMENTS.—A member of the Corps who fails to meet or maintain the readiness requirements established under paragraph (1) or who fails to comply with orders to respond to an urgent or emergency public health care need shall, except as provided in paragraph (4), in accordance with procedures established by the Secretary, be subject to disciplinary action as prescribed by the Secretary.

"(4) WAIVER OF REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may waive one or more of the requirements established under paragraph (1) for an individual who is not able to meet such requirements because of—

"(i) a disability;

"(ii) a temporary medical condition; or

"(iii) any other extraordinary limitation as determined by the Secretary.

"(B) REGULATIONS.—The Secretary shall promulgate regulations under which a waiver described in subparagraph (A) may be granted.

"(5) URGENT OR EMERGENCY PUBLIC HEALTH CARE NEED.—For purposes of this section and section 214, the term 'urgent or emergency public health care need' means a health care need, as determined by the Secretary, arising as the result of—

"(A) a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.);

"(B) an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

"(C) a public health emergency declared by the Secretary under section 319 of this Act; or

"(D) any emergency that, in the judgment of the Secretary, is appropriate for the deployment of members of the Corps.

"(b) CORPS MANAGEMENT FOR DEPLOYMENT.—The Secretary shall—

"(1) organize members of the Corps into units for rapid deployment by the Secretary to respond to urgent or emergency public health care needs;

Procedures.

"(2) establish appropriate procedures for the command and control of units or individual members of the Corps that are deployed at the direction of the President or the Secretary in response to an urgent or emergency public health care need of national, State or local significance;

"(3) ensure that members of the Corps are trained, equipped and otherwise prepared to fulfill their public health and emergency response roles; and

"(4) ensure that deployment planning takes into account—

"(A) any deployment exemptions that may be granted by the Secretary based on the unique requirements of an agency and an individual's functional role in such agency; and

"(B) the nature of the urgent or emergency public health care need.

"(c) DEPLOYMENT OF DETAILED OR ASSIGNED OFFICERS.—For purposes of pay, allowances, and benefits of a Commissioned Corps officer who is detailed or assigned to a Federal entity, the deployment of such officer by the Secretary in response to an urgent or emergency public health care need shall be deemed to be an authorized activity of the Federal entity to which the officer is detailed or assigned.".

(c) PERSONNEL DEPLOYMENT AUTHORITY.—

(1) PERSONNEL DETAILED.—Section 214 of the Public Health Service Act (42 U.S.C. 215) is amended by adding at the end the following:

"(e) Except with respect to the United States Coast Guard and the Department of Defense, and except as provided in agreements negotiated with officials at agencies where officers of the Commissioned Corps may be assigned, the Secretary shall have the sole authority to deploy any Commissioned Corps officer assigned under this section to an entity outside of the Department of Health and Human Services for service under the Secretary's direction in response to an urgent or emergency public health care need (as defined in section 203A(a)(5)).".

(2) NATIONAL HEALTH SERVICE CORPS.—Section 331(f) of the Public Health Service Act (42 U.S.C. 254d(f)(1)) is amended by inserting before the period the following: ", except when such members are Commissioned Corps officers who entered into a contract with Secretary under section 338A or 338B after December 31, 2006 and when the Secretary determines that exercising the authority provided under section 214 or 216 with respect to any such officer to would not cause unreasonable disruption to health care services provided in the community in which such officer is providing health care services".

# TITLE III—ALL-HAZARDS MEDICAL SURGE CAPACITY

**SEC. 301. NATIONAL DISASTER MEDICAL SYSTEM.**

(a) NATIONAL DISASTER MEDICAL SYSTEM.—Section 2812 of subtitle B of title XXVIII of the Public Health Service Act (42 U.S.C. 300hh–11 et seq.), as redesignated by section 102, is amended—

(1) by striking the section heading and inserting "**NATIONAL DISASTER MEDICAL SYSTEM**";

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (h) as subsections (a) through (g);

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

(A) in paragraph (2)(B), by striking "Federal Emergency Management Agency" and inserting "Department of Homeland Security"; and

(B) in paragraph (3)(C), by striking "Public Health Security and Bioterrorism Preparedness and Response Act of 2002" and inserting "Pandemic and All-Hazards Preparedness Act";

(5) in subsection (b), as so redesignated, by—

(A) striking the subsection heading and inserting "MODIFICATIONS";

(B) redesignating paragraph (2) as paragraph (3); and

(C) striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Taking into account the findings from the joint review described under paragraph (2), the Secretary shall modify the policies of the National Disaster Medical System as necessary.

Deadline.

"(2) JOINT REVIEW AND MEDICAL SURGE CAPACITY STRATEGIC PLAN.—Not later than 180 days after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary, in coordination with the Secretary of Homeland Security, the Secretary of Defense, and the Secretary of Veterans Affairs, shall conduct a joint review of the National Disaster Medical System. Such review shall include an evaluation of medical surge capacity, as described by section 2803(a). As part of the National Health Security Strategy under section 2802, the Secretary shall update the findings from such review and further modify the policies of the National Disaster Medical System as necessary.";

(6) by striking "subsection (b)" each place it appears and inserting "subsection (a)";

(7) by striking "subsection (d)" each place it appears and inserting "subsection (c)"; and

(8) in subsection (g), as so redesignated, by striking "2002 through 2006" and inserting "2007 through 2011".

42 USC 300hh–11 note.

(b) TRANSFER OF NATIONAL DISASTER MEDICAL SYSTEM TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—There shall be transferred to the Secretary of Health and Human Services the functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Homeland Security, including the functions of the Secretary of Homeland Security and the Under Secretary for Emergency Preparedness and Response relating thereto.

(c) CONFORMING AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (6 U.S.C. 312(3)(B), 313(5)) is amended—

6 USC 314.

(1) in section 502(3)(B), by striking ", the National Disaster Medical System,"; and

6 USC 313.

(2) in section 503(5), by striking ", the National Disaster Medical System".

(d) UPDATE OF CERTAIN PROVISION.—Section 319F(b)(2) of the Public Health Service Act (42 U.S.C. 247d–6(b)(2)) is amended—

(1) in the paragraph heading, by striking "CHILDREN AND TERRORISM" and inserting "AT-RISK INDIVIDUALS AND PUBLIC HEALTH EMERGENCIES";

(2) in subparagraph (A), by striking "Children and Terrorism" and inserting "At-Risk Individuals and Public Health Emergencies";

(3) in subparagraph (B)—

(A) in clause (i), by striking "bioterrorism as it relates to children" and inserting "public health emergencies as they relate to at-risk individuals";

(B) in clause (ii), by striking "children" and inserting "at-risk individuals"; and

(C) in clause (iii), by striking "children" and inserting "at-risk individuals";

(4) in subparagraph (C), by striking "children" and all that follows through the period and inserting "at-risk populations."; and

(5) in subparagraph (D), by striking "one year" and inserting "six years".

(e) CONFORMING AMENDMENT.—Section 319F(b)(3)(B) of the Public Health Service Act (42 U.S.C. 247d–6(b)(3)(B)) is amended by striking "and the working group under subsection (a)".

(f) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall take effect on January 1, 2007. 6 USC 313 note.

**SEC. 302. ENHANCING MEDICAL SURGE CAPACITY.**

(a) IN GENERAL.—Title XXVIII of the Public Health Service Act (300hh–11 et seq.), as amended by section 103, is amended by inserting after section 2802 the following:

**"SEC. 2803. ENHANCING MEDICAL SURGE CAPACITY.** 42 USC 300hh–2.

"(a) STUDY OF ENHANCING MEDICAL SURGE CAPACITY.—As part of the joint review described in section 2812(b), the Secretary shall evaluate the benefits and feasibility of improving the capacity of the Department of Health and Human Services to provide additional medical surge capacity to local communities in the event of a public health emergency. Such study shall include an assessment of the need for and feasibility of improving surge capacity through—

"(1) acquisition and operation of mobile medical assets by the Secretary to be deployed, on a contingency basis, to a community in the event of a public health emergency;

"(2) integrating the practice of telemedicine within the National Disaster Medical System; and

"(3) other strategies to improve such capacity as determined appropriate by the Secretary.

"(b) AUTHORITY TO ACQUIRE AND OPERATE MOBILE MEDICAL ASSETS.—In addition to any other authority to acquire, deploy, and operate mobile medical assets, the Secretary may acquire, deploy, and operate mobile medical assets if, taking into consideration the evaluation conducted under subsection (a), such acquisition, deployment, and operation is determined to be beneficial and feasible in improving the capacity of the Department of Health and Human Services to provide additional medical surge capacity to local communities in the event of a public health emergency.

"(c) USING FEDERAL FACILITIES TO ENHANCE MEDICAL SURGE CAPACITY.—

"(1) ANALYSIS.—The Secretary shall conduct an analysis of whether there are Federal facilities which, in the event of a public health emergency, could practicably be used as facilities in which to provide health care.

"(2) MEMORANDA OF UNDERSTANDING.—If, based on the analysis conducted under paragraph (1), the Secretary determines that there are Federal facilities which, in the event of a public health emergency, could be used as facilities in which to provide health care, the Secretary shall, with respect to each such facility, seek to conclude a memorandum of understanding with the head of the Department or agency that operates such facility that permits the use of such facility to provide health care in the event of a public health emergency.".

(b) EMTALA.—

(1) IN GENERAL.—Section 1135(b) of the Social Security Act (42 U.S.C. 1320b–5(b)) is amended—

(A) in paragraph (3), by striking subparagraph (B) and inserting the following:

"(B) the direction or relocation of an individual to receive medical screening in an alternative location—

"(i) pursuant to an appropriate State emergency preparedness plan; or

"(ii) in the case of a public health emergency described in subsection (g)(1)(B) that involves a pandemic infectious disease, pursuant to a State pandemic preparedness plan or a plan referred to in clause (i), whichever is applicable in the State;";

Applicability.

(B) in the third sentence, by striking "and shall be limited to" and inserting "and, except in the case of a waiver or modification to which the fifth sentence of this subsection applies, shall be limited to"; and

Applicability.

(C) by adding at the end the following: "If a public health emergency described in subsection (g)(1)(B) involves a pandemic infectious disease (such as pandemic influenza), the duration of a waiver or modification under paragraph (3) shall be determined in accordance with subsection (e) as such subsection applies to public health emergencies.".

42 USC 1320b–5 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to public health emergencies declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) on or after such date.

**SEC. 303. ENCOURAGING HEALTH PROFESSIONAL VOLUNTEERS.**

(a) VOLUNTEER MEDICAL RESERVE CORPS.—Title XXVIII of the Public Health Service Act (42 U.S.C. 300hh–11 et seq.), as amended by this Act, is amended by inserting after section 2812 the following:

Establishment. 42 USC 300hh–15. Deadline.

**"SEC. 2813. VOLUNTEER MEDICAL RESERVE CORPS.**

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary, in collaboration with State, local, and tribal officials, shall build on State, local, and tribal programs in existence on the date of enactment of such Act to establish and maintain a Medical Reserve Corps (referred to in this section as the 'Corps') to provide for an adequate supply of volunteers in the case of a Federal, State, local, or tribal public health emergency. The Corps shall be headed by a Director who shall be appointed by the Secretary and shall oversee the activities of the Corps chapters that exist at the State, local, and tribal levels.

"(b) STATE, LOCAL, AND TRIBAL COORDINATION.—The Corps shall be established using existing State, local, and tribal teams and shall not alter such teams.

"(c) COMPOSITION.—The Corps shall be composed of individuals who—

"(1)(A) are health professionals who have appropriate professional training and expertise as determined appropriate by the Director of the Corps; or

"(B) are non-health professionals who have an interest in serving in an auxiliary or support capacity to facilitate access to health care services in a public health emergency;

"(2) are certified in accordance with the certification program developed under subsection (d);

"(3) are geographically diverse in residence;

"(4) have registered and carry out training exercises with a local chapter of the Medical Reserve Corps; and

"(5) indicate whether they are willing to be deployed outside the area in which they reside in the event of a public health emergency.

"(d) CERTIFICATION; DRILLS.—

"(1) CERTIFICATION.—The Director, in collaboration with State, local, and tribal officials, shall establish a process for the periodic certification of individuals who volunteer for the Corps, as determined by the Secretary, which shall include the completion by each individual of the core training programs developed under section 319F, as required by the Director. Such certification shall not supercede State licensing or credentialing requirements.

"(2) DRILLS.—In conjunction with the core training programs referred to in paragraph (1), and in order to facilitate the integration of trained volunteers into the health care system at the local level, Corps members shall engage in periodic training exercises to be carried out at the local level.

"(e) DEPLOYMENT.—During a public health emergency, the Secretary shall have the authority to activate and deploy willing members of the Corps to areas of need, taking into consideration the public health and medical expertise required, with the concurrence of the State, local, or tribal officials from the area where the members reside.

"(f) EXPENSES AND TRANSPORTATION.—While engaged in performing duties as a member of the Corps pursuant to an assignment by the Secretary (including periods of travel to facilitate such assignment), members of the Corps who are not otherwise employed by the Federal Government shall be allowed travel or transportation expenses, including per diem in lieu of subsistence.

"(g) IDENTIFICATION.—The Secretary, in cooperation and consultation with the States, shall develop a Medical Reserve Corps Identification Card that describes the licensure and certification information of Corps members, as well as other identifying information determined necessary by the Secretary.

"(h) INTERMITTENT DISASTER-RESPONSE PERSONNEL.—

"(1) IN GENERAL.—For the purpose of assisting the Corps in carrying out duties under this section, during a public health emergency, the Secretary may appoint selected individuals to serve as intermittent personnel of such Corps in accordance with applicable civil service laws and regulations. In all other cases, members of the Corps are subject to the laws of the State in which the activities of the Corps are undertaken.

"(2) APPLICABLE PROTECTIONS.—Subsections (c)(2), (d), and (e) of section 2812 shall apply to an individual appointed under paragraph (1) in the same manner as such subsections apply to an individual appointed under section 2812(c).

"(3) LIMITATION.—State, local, and tribal officials shall have no authority to designate a member of the Corps as Federal intermittent disaster-response personnel, but may request the services of such members.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $22,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.".

(b) ENCOURAGING HEALTH PROFESSIONS VOLUNTEERS.—Section 319I of the Public Health Service Act (42 U.S.C. 247d–7b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (j) and (k), respectively;

(2) by striking subsections (a) and (b) and inserting the following:

Deadline.

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary shall link existing State verification systems to maintain a single national interoperable network of systems, each system being maintained by a State or group of States, for the purpose of verifying the credentials and licenses of health care professionals who volunteer to provide health services during a public health emergency.

"(b) REQUIREMENTS.—The interoperable network of systems established under subsection (a) (referred to in this section as the 'verification network') shall include—

"(1) with respect to each volunteer health professional included in the verification network—

"(A) information necessary for the rapid identification of, and communication with, such professionals; and

"(B) the credentials, certifications, licenses, and relevant training of such individuals; and

"(2) the name of each member of the Medical Reserve Corps, the National Disaster Medical System, and any other relevant federally-sponsored or administered programs determined necessary by the Secretary.";

(3) in subsection (c), strike "system" and insert "network"; and

(4) by striking subsection (d) and inserting the following:

"(d) ACCESSIBILITY.—The Secretary shall ensure that the verification network is electronically accessible by State, local, and tribal health departments and can be linked with the identification cards under section 2813.

"(e) CONFIDENTIALITY.—The Secretary shall establish and require the application of and compliance with measures to ensure the effective security of, integrity of, and access to the data included in the verification network.

"(f) COORDINATION.—The Secretary shall coordinate with the Secretary of Veterans Affairs and the Secretary of Homeland Security to assess the feasibility of integrating the verification network under this section with the VetPro system of the Department of Veterans Affairs and the National Emergency Responder Credentialing System of the Department of Homeland Security. The Secretary shall, if feasible, integrate the verification network under this section with such VetPro system and the National Emergency Responder Credentialing System.

"(g) UPDATING OF INFORMATION.—The States that are participants in the verification network shall, on at least a quarterly basis, work with the Director to provide for the updating of the information contained in the verification network.

"(h) CLARIFICATION.—Inclusion of a health professional in the verification network shall not constitute appointment of such individual as a Federal employee for any purpose, either under section 2812(c) or otherwise. Such appointment may only be made under section 2812 or 2813.

"(i) HEALTH CARE PROVIDER LICENSES.—The Secretary shall encourage States to establish and implement mechanisms to waive

the application of licensing requirements applicable to health professionals, who are seeking to provide medical services (within their scope of practice), during a national, State, local, or tribal public health emergency upon verification that such health professionals are licensed and in good standing in another State and have not been disciplined by any State health licensing or disciplinary board."; and

(5) in subsection (k) (as so redesignated), by striking "2006" and inserting "2011".

**SEC. 304. CORE EDUCATION AND TRAINING.**

Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ALL-HAZARDS PUBLIC HEALTH AND MEDICAL RESPONSE CURRICULA AND TRAINING.—

"(1) IN GENERAL.—The Secretary, in collaboration with the Secretary of Defense, and in consultation with relevant public and private entities, shall develop core health and medical response curricula and trainings by adapting applicable existing curricula and training programs to improve responses to public health emergencies.

"(2) CURRICULUM.—The public health and medical response training program may include course work related to—

"(A) medical management of casualties, taking into account the needs of at-risk individuals;

"(B) public health aspects of public health emergencies;

"(C) mental health aspects of public health emergencies;

"(D) national incident management, including coordination among Federal, State, local, tribal, international agencies, and other entities; and

"(E) protecting health care workers and health care first responders from workplace exposures during a public health emergency.

"(3) PEER REVIEW.—On a periodic basis, products prepared as part of the program shall be rigorously tested and peer-reviewed by experts in the relevant fields.

"(4) CREDIT.—The Secretary and the Secretary of Defense shall—

"(A) take into account continuing professional education requirements of public health and healthcare professions; and

"(B) cooperate with State, local, and tribal accrediting agencies and with professional associations in arranging for students enrolled in the program to obtain continuing professional education credit for program courses.

"(5) DISSEMINATION AND TRAINING.—

"(A) IN GENERAL.—The Secretary may provide for the dissemination and teaching of the materials described in paragraphs (1) and (2) by appropriate means, as determined by the Secretary.

"(B) CERTAIN ENTITIES.—The education and training activities described in subparagraph (A) may be carried out by Federal public health or medical entities, appropriate educational entities, professional organizations and

societies, private accrediting organizations, and other nonprofit institutions or entities meeting criteria established by the Secretary.

"(C) GRANTS AND CONTRACTS.—In carrying out this subsection, the Secretary may carry out activities directly or through the award of grants and contracts, and may enter into interagency agreements with other Federal agencies.".

(2) by striking subsections (c) through (g) and inserting the following:

"(c) EXPANSION OF EPIDEMIC INTELLIGENCE SERVICE PROGRAM.—The Secretary may establish 20 officer positions in the Epidemic Intelligence Service Program, in addition to the number of the officer positions offered under such Program in 2006, for individuals who agree to participate, for a period of not less than 2 years, in the Career Epidemiology Field Officer program in a State, local, or tribal health department that serves a health professional shortage area (as defined under section 332(a)), a medically underserved population (as defined under section 330(b)(3)), or a medically underserved area or area at high risk of a public health emergency as designated by the Secretary.

"(d) CENTERS FOR PUBLIC HEALTH PREPAREDNESS; CORE CURRICULA AND TRAINING.—

"(1) IN GENERAL.—The Secretary may establish at accredited schools of public health, Centers for Public Health Preparedness (hereafter referred to in this section as the 'Centers').

"(2) ELIGIBILITY.—To be eligible to receive an award under this subsection to establish a Center, an accredited school of public health shall agree to conduct activities consistent with the requirements of this subsection.

"(3) CORE CURRICULA.—The Secretary, in collaboration with the Centers and other public or private entities shall establish core curricula based on established competencies leading to a 4-year bachelor's degree, a graduate degree, a combined bachelor and master's degree, or a certificate program, for use by each Center. The Secretary shall disseminate such curricula to other accredited schools of public health and other health professions schools determined appropriate by the Secretary, for voluntary use by such schools.

"(4) CORE COMPETENCY-BASED TRAINING PROGRAM.—The Secretary, in collaboration with the Centers and other public or private entities shall facilitate the development of a competency-based training program to train public health practitioners. The Centers shall use such training program to train public health practitioners. The Secretary shall disseminate such training program to other accredited schools of public health, health professions schools, and other public or private entities as determined by the Secretary, for voluntary use by such entities.

"(5) CONTENT OF CORE CURRICULA AND TRAINING PROGRAM.—The Secretary shall ensure that the core curricula and training program established pursuant to this subsection respond to the needs of State, local, and tribal public health authorities and integrate and emphasize essential public health security capabilities consistent with section 2802(b)(2).

"(6) ACADEMIC-WORKFORCE COMMUNICATION.—As a condition of receiving funding from the Secretary under this subsection, a Center shall collaborate with a State, local, or tribal public health department to—

"(A) define the public health preparedness and response needs of the community involved;

"(B) assess the extent to which such needs are fulfilled by existing preparedness and response activities of such school or health department, and how such activities may be improved;

"(C) prior to developing new materials or trainings, evaluate and utilize relevant materials and trainings developed by others Centers; and

"(D) evaluate community impact and the effectiveness of any newly developed materials or trainings.

"(7) PUBLIC HEALTH SYSTEMS RESEARCH.—In consultation with relevant public and private entities, the Secretary shall define the existing knowledge base for public health preparedness and response systems, and establish a research agenda based on Federal, State, local, and tribal public health preparedness priorities. As a condition of receiving funding from the Secretary under this subsection, a Center shall conduct public health systems research that is consistent with the agenda described under this paragraph.";

(3) by redesignating subsection (h) as subsection (e);

(4) by inserting after subsection (e) (as so redesignated), the following:

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 2007.—There are authorized to be appropriated to carry out this section for fiscal year 2007—

"(A) to carry out subsection (a)—

"(i) $5,000,000 to carry out paragraphs (1) through (4); and

"(ii) $7,000,000 to carry out paragraph (5);

"(B) to carry out subsection (c), $3,000,000; and

"(C) to carry out subsection (d), $31,000,000, of which $5,000,000 shall be used to carry out paragraphs (3) through (5) of such subsection.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2008 and each subsequent fiscal year."; and

(5) by striking subsections (i) and (j).

**SEC. 305. PARTNERSHIPS FOR STATE AND REGIONAL HOSPITAL PREPAREDNESS TO IMPROVE SURGE CAPACITY.**

Section 319C–2 of the Public Health Service Act (42 U.S.C. 247d–3b) is amended to read as follows:

**"SEC. 319C–2. PARTNERSHIPS FOR STATE AND REGIONAL HOSPITAL PREPAREDNESS TO IMPROVE SURGE CAPACITY.**

Grants. Contracts.

"(a) IN GENERAL.—The Secretary shall award competitive grants or cooperative agreements to eligible entities to enable such entities to improve surge capacity and enhance community and hospital preparedness for public health emergencies.

"(b) ELIGIBILITY.—To be eligible for an award under subsection (a), an entity shall—

"(1)(A) be a partnership consisting of—

"(i) one or more hospitals, at least one of which shall be a designated trauma center, consistent with section 1213(c);

"(ii) one or more other local health care facilities, including clinics, health centers, primary care facilities, mental health centers, mobile medical assets, or nursing homes; and

"(iii)(I) one or more political subdivisions;

"(II) one or more States; or

"(III) one or more States and one or more political subdivisions; and

"(B) prepare, in consultation with the Chief Executive Officer and the lead health officials of the State, District, or territory in which the hospital and health care facilities described in subparagraph (A) are located, and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require; or

"(2)(A) be an entity described in section 319C–1(b)(1); and

"(B) submit an application at such time, in such manner, and containing such information as the Secretary may require, including the information or assurances required under section 319C–1(b)(2) and an assurance that the State will adhere to any applicable guidelines established by the Secretary.

"(c) USE OF FUNDS.—An award under subsection (a) shall be expended for activities to achieve the preparedness goals described under paragraphs (1), (3), (4), (5), and (6) of section 2802(b).

"(d) PREFERENCES.—

"(1) REGIONAL COORDINATION.—In making awards under subsection (a), the Secretary shall give preference to eligible entities that submit applications that, in the determination of the Secretary—

"(A) will enhance coordination—

"(i) among the entities described in subsection (b)(1)(A)(i); and

"(ii) between such entities and the entities described in subsection (b)(1)(A)(ii); and

"(B) include, in the partnership described in subsection (b)(1)(A), a significant percentage of the hospitals and health care facilities within the geographic area served by such partnership.

"(2) OTHER PREFERENCES.—In making awards under subsection (a), the Secretary shall give preference to eligible entities that, in the determination of the Secretary—

"(A) include one or more hospitals that are participants in the National Disaster Medical System;

"(B) are located in a geographic area that faces a high degree of risk, as determined by the Secretary in consultation with the Secretary of Homeland Security; or

"(C) have a significant need for funds to achieve the medical preparedness goals described in section 2802(b)(3).

"(e) CONSISTENCY OF PLANNED ACTIVITIES.—The Secretary may not award a cooperative agreement to an eligible entity described in subsection (b)(1) unless the application submitted by the entity is coordinated and consistent with an applicable State All-Hazards Public Health Emergency Preparedness and Response Plan and relevant local plans, as determined by the Secretary in consultation with relevant State health officials.

"(f) LIMITATION ON AWARDS.—A political subdivision shall not participate in more than one partnership described in subsection (b)(1).

"(g) COORDINATION WITH LOCAL RESPONSE CAPABILITIES.—An eligible entity shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities of relevant local Metropolitan Medical Response Systems, local Medical Reserve Corps, the Cities Readiness Initiative, and local emergency plans.

"(h) MAINTENANCE OF FUNDING.—

"(1) IN GENERAL.—An entity that receives an award under this section shall maintain expenditures for health care preparedness at a level that is not less than the average level of such expenditures maintained by the entity for the preceding 2 year period.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of awards under this section to pay salary and related expenses of public health and other professionals employed by State, local, or tribal agencies who are carrying out activities supported by such awards (regardless of whether the primary assignment of such personnel is to carry out such activities).

Applicability.

"(i) PERFORMANCE AND ACCOUNTABILITY.—The requirements of section 319C–1(g), (j), and (k) shall apply to entities receiving awards under this section (regardless of whether such entities are described under subsection (b)(1)(A) or (b)(2)(A)) in the same manner as such requirements apply to entities under section 319C–1. An entity described in subsection (b)(1)(A) shall make such reports available to the lead health official of the State in which such partnership is located.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there is authorized to be appropriated $474,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011.

"(2) RESERVATION OF AMOUNTS FOR PARTNERSHIPS.—Prior to making awards described in paragraph (3), the Secretary may reserve from the amount appropriated under paragraph (1) for a fiscal year, an amount determined appropriate by the Secretary for making awards to entities described in subsection (b)(1)(A).

"(3) AWARDS TO STATES AND POLITICAL SUBDIVISIONS.—

"(A) IN GENERAL.—From amounts appropriated for a fiscal year under paragraph (1) and not reserved under paragraph (2), the Secretary shall make awards to entities described in subsection (b)(2)(A) that have completed an application as described in subsection (b)(2)(B).

"(B) AMOUNT.—The Secretary shall determine the amount of an award to each entity described in subparagraph (A) in the same manner as such amounts are determined under section 319C–1(h).".

**SEC. 306. ENHANCING THE ROLE OF THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Section 8117 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by—

(i) striking "chemical or biological attack" and inserting "a public health emergency (as defined in section 2801 of the Public Health Service Act)";

(ii) striking "an attack" and inserting "such an emergency"; and

(iii) striking "public health emergencies" and inserting "such emergencies"; and

(B) in paragraph (2)—

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

(ii) in subparagraph (B), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

"(C) organizing, training, and equipping the staff of such centers to support the activities carried out by the Secretary of Health and Human Services under section 2801 of the Public Health Service Act in the event of a public health emergency and incidents covered by the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002, or any successor plan; and

"(D) providing medical logistical support to the National Disaster Medical System and the Secretary of Health and Human Services as necessary, on a reimbursable basis, and in coordination with other designated Federal agencies.";

(2) in subsection (c), by striking "a chemical or biological attack or other terrorist attack." and inserting "a public health emergency. The Secretary shall, through existing medical procurement contracts, and on a reimbursable basis, make available as necessary, medical supplies, equipment, and pharmaceuticals in response to a public health emergency in support of the Secretary of Health and Human Services.";

(3) in subsection (d), by—

(A) striking "develop and";

(B) striking "biological, chemical, or radiological attacks" and inserting "public health emergencies"; and

(C) by inserting "consistent with section 319F(a) of the Public Health Service Act" before the period; and

(4) in subsection (e)—

(A) in paragraph (1), by striking "2811(b)" and inserting "2812"; and

(B) in paragraph (2)—

(i) by striking "bioterrorism and other"; and

(ii) by striking "319F(a)" and inserting "319F".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 8117 of title 38, United States Code, is amended by adding at the end the following:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.".

# TITLE IV—PANDEMIC AND BIODEFENSE VACCINE AND DRUG DEVELOPMENT

**SEC. 401. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 319K the following:

**"SEC. 319L. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.** 42 USC 247d–7e.

"(a) DEFINITIONS.—In this section:

"(1) BARDA.—The term 'BARDA' means the Biomedical Advanced Research and Development Authority.

"(2) FUND.—The term 'Fund' means the Biodefense Medical Countermeasure Development Fund established under subsection (d).

"(3) OTHER TRANSACTIONS.—The term 'other transactions' means transactions, other than procurement contracts, grants, and cooperative agreements, such as the Secretary of Defense may enter into under section 2371 of title 10, United States Code.

"(4) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' has the meaning given such term in section 319F–1.

"(5) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—The term 'qualified pandemic or epidemic product' has the meaning given the term in section 319F–3.

"(6) ADVANCED RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—The term 'advanced research and development' means, with respect to a product that is or may become a qualified countermeasure or a qualified pandemic or epidemic product, activities that predominantly—

"(i) are conducted after basic research and preclinical development of the product; and

"(ii) are related to manufacturing the product on a commercial scale and in a form that satisfies the regulatory requirements under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act.

"(B) ACTIVITIES INCLUDED.—The term under subparagraph (A) includes—

"(i) testing of the product to determine whether the product may be approved, cleared, or licensed under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act for a use that is or may be the basis for such product becoming a qualified countermeasure or qualified pandemic or epidemic product, or to help obtain such approval, clearance, or license;

"(ii) design and development of tests or models, including animal models, for such testing;

"(iii) activities to facilitate manufacture of the product on a commercial scale with consistently high quality, as well as to improve and make available new technologies to increase manufacturing surge capacity;

"(iv) activities to improve the shelf-life of the product or technologies for administering the product; and

"(v) such other activities as are part of the advanced stages of testing, refinement, improvement, or preparation of the product for such use and as are specified by the Secretary.

"(7) SECURITY COUNTERMEASURE.—The term 'security countermeasure' has the meaning given such term in section 319F–2.

"(8) RESEARCH TOOL.—The term 'research tool' means a device, technology, biological material (including a cell line or an antibody), reagent, animal model, computer system, computer software, or analytical technique that is developed to assist in the discovery, development, or manufacture of qualified countermeasures or qualified pandemic or epidemic products.

"(9) PROGRAM MANAGER.—The term 'program manager' means an individual appointed to carry out functions under this section and authorized to provide project oversight and management of strategic initiatives.

"(10) PERSON.—The term 'person' includes an individual, partnership, corporation, association, entity, or public or private corporation, and a Federal, State, or local government agency or department.

"(b) STRATEGIC PLAN FOR COUNTERMEASURE RESEARCH, DEVELOPMENT, AND PROCUREMENT.—

Deadline. Public information.

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary shall develop and make public a strategic plan to integrate biodefense and emerging infectious disease requirements with the advanced research and development, strategic initiatives for innovation, and the procurement of qualified countermeasures and qualified pandemic or epidemic products. The Secretary shall carry out such activities as may be practicable to disseminate the information contained in such plan to persons who may have the capacity to substantially contribute to the activities described in such strategic plan. The Secretary shall update and incorporate such plan as part of the National Health Security Strategy described in section 2802.

"(2) CONTENT.—The strategic plan under paragraph (1) shall guide—

"(A) research and development, conducted or supported by the Department of Health and Human Services, of qualified countermeasures and qualified pandemic or epidemic products against possible biological, chemical, radiological, and nuclear agents and to emerging infectious diseases;

"(B) innovation in technologies that may assist advanced research and development of qualified countermeasures and qualified pandemic or epidemic products (such research and development referred to in this section as 'countermeasure and product advanced research and development'); and

"(C) procurement of such qualified countermeasures and qualified pandemic or epidemic products by such Department.

"(c) BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.—

"(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Biomedical Advanced Research and Development Authority.

"(2) IN GENERAL.—Based upon the strategic plan described in subsection (b), the Secretary shall coordinate the acceleration of countermeasure and product advanced research and development by—

"(A) facilitating collaboration between the Department of Health and Human Services and other Federal agencies, relevant industries, academia, and other persons, with respect to such advanced research and development;

"(B) promoting countermeasure and product advanced research and development;

"(C) facilitating contacts between interested persons and the offices or employees authorized by the Secretary to advise such persons regarding requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act; and

"(D) promoting innovation to reduce the time and cost of countermeasure and product advanced research and development.

"(3) DIRECTOR.—The BARDA shall be headed by a Director (referred to in this section as the 'Director') who shall be appointed by the Secretary and to whom the Secretary shall delegate such functions and authorities as necessary to implement this section.

"(4) DUTIES.—

"(A) COLLABORATION.—To carry out the purpose described in paragraph (2)(A), the Secretary shall—

"(i) facilitate and increase the expeditious and direct communication between the Department of Health and Human Services and relevant persons with respect to countermeasure and product advanced research and development, including by—

"(I) facilitating such communication regarding the processes for procuring such advanced research and development with respect to qualified countermeasures and qualified pandemic or epidemic products of interest; and

"(II) soliciting information about and data from research on potential qualified countermeasures and qualified pandemic or epidemic products and related technologies;

"(ii) at least annually—

"(I) convene meetings with representatives from relevant industries, academia, other Federal agencies, international agencies as appropriate, and other interested persons;

"(II) sponsor opportunities to demonstrate the operation and effectiveness of relevant biodefense countermeasure technologies; and

"(III) convene such working groups on countermeasure and product advanced research and development as the Secretary may determine are necessary to carry out this section; and

"(iii) carry out the activities described in section 405 of the Pandemic and All-Hazards Preparedness Act.

"(B) SUPPORT ADVANCED RESEARCH AND DEVELOPMENT.—To carry out the purpose described in paragraph (2)(B), the Secretary shall—

"(i) conduct ongoing searches for, and support calls for, potential qualified countermeasures and qualified pandemic or epidemic products;

"(ii) direct and coordinate the countermeasure and product advanced research and development activities of the Department of Health and Human Services;

"(iii) establish strategic initiatives to accelerate countermeasure and product advanced research and development and innovation in such areas as the Secretary may identify as priority unmet need areas; and

"(iv) award contracts, grants, cooperative agreements, and enter into other transactions, for countermeasure and product advanced research and development.

"(C) FACILITATING ADVICE.—To carry out the purpose described in paragraph (2)(C) the Secretary shall—

"(i) connect interested persons with the offices or employees authorized by the Secretary to advise such persons regarding the regulatory requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act related to the approval, clearance, or licensure of qualified countermeasures or qualified pandemic or epidemic products; and

"(ii) with respect to persons performing countermeasure and product advanced research and development funded under this section, enable such offices or employees to provide to the extent practicable such advice in a manner that is ongoing and that is otherwise designed to facilitate expeditious development of qualified countermeasures and qualified pandemic or epidemic products that may achieve such approval, clearance, or licensure.

"(D) SUPPORTING INNOVATION.—To carry out the purpose described in paragraph (2)(D), the Secretary may award contracts, grants, and cooperative agreements, or enter into other transactions, such as prize payments, to promote—

"(i) innovation in technologies that may assist countermeasure and product advanced research and development;

"(ii) research on and development of research tools and other devices and technologies; and

"(iii) research to promote strategic initiatives, such as rapid diagnostics, broad spectrum antimicrobials, and vaccine manufacturing technologies.

"(5) TRANSACTION AUTHORITIES.—

"(A) OTHER TRANSACTIONS.—

"(i) IN GENERAL.—The Secretary shall have the authority to enter into other transactions under this subsection in the same manner as the Secretary of

Defense enters into such transactions under section 2371 of title 10, United States Code.

"(ii) LIMITATIONS ON AUTHORITY.—

"(I) IN GENERAL.—Subsections (b), (c), and (h) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) shall apply to other transactions under this subparagraph as if such transactions were for prototype projects described by subsection (a) of such section 845. Applicability.

"(II) WRITTEN DETERMINATIONS REQUIRED.—The authority of this subparagraph may be exercised for a project that is expected to cost the Department of Health and Human Services in excess of $20,000,000 only upon a written determination by the senior procurement executive for the Department (as designated for purpose of section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))), that the use of such authority is essential to promoting the success of the project. The authority of the senior procurement executive under this subclause may not be delegated.

"(iii) GUIDELINES.—The Secretary shall establish guidelines regarding the use of the authority under clause (i). Such guidelines shall include auditing requirements.

"(B) EXPEDITED AUTHORITIES.—

"(i) IN GENERAL.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have the expedited procurement authorities, the authority to expedite peer review, and the authority for personal services contracts, supplied by subsections (b), (c), and (d) of section 319F–1.

"(ii) APPLICATION OF PROVISIONS.—Provisions in such section 319F–1 that apply to such authorities and that require institution of internal controls, limit review, provide for Federal Tort Claims Act coverage of personal services contractors, and commit decisions to the discretion of the Secretary shall apply to the authorities as exercised pursuant to this paragraph.

"(iii) AUTHORITY TO LIMIT COMPETITION.—For purposes of applying section 319F–1(b)(1)(D) to this paragraph, the phrase 'BioShield Program under the Project BioShield Act of 2004' shall be deemed to mean the countermeasure and product advanced research and development program under this section. Applicability.

"(iv) AVAILABILITY OF DATA.—The Secretary shall require that, as a condition of being awarded a contract, grant, cooperative agreement, or other transaction under subparagraph (B) or (D) of paragraph (4), a person make available to the Secretary on an

ongoing basis, and submit upon request to the Secretary, all data related to or resulting from countermeasure and product advanced research and development carried out pursuant to this section.

"(C) ADVANCE PAYMENTS; ADVERTISING.—The Secretary may waive the requirements of section 3324(a) of title 31, United States Code, or section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) upon the determination by the Secretary that such waiver is necessary to obtain countermeasures or products under this section.

"(D) MILESTONE-BASED PAYMENTS ALLOWED.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions, under this section, the Secretary may use milestone-based awards and payments.

"(E) FOREIGN NATIONALS ELIGIBLE.—The Secretary may under this section award contracts, grants, and cooperative agreements to, and may enter into other transactions with, highly qualified foreign national persons outside the United States, alone or in collaboration with American participants, when such transactions may inure to the benefit of the American people.

"(F) ESTABLISHMENT OF RESEARCH CENTERS.—The Secretary may assess the feasibility and appropriateness of establishing, through contract, grant, cooperative agreement, or other transaction, an arrangement with an existing research center in order to achieve the goals of this section. If such an agreement is not feasible and appropriate, the Secretary may establish one or more federally-funded research and development centers, or university-affiliated research centers, in accordance with section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)).

"(6) AT-RISK INDIVIDUALS.—In carrying out the functions under this section, the Secretary may give priority to the advanced research and development of qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to children, pregnant women, elderly, and other at-risk individuals.

"(7) PERSONNEL AUTHORITIES.—

"(A) SPECIALLY QUALIFIED SCIENTIFIC AND PROFESSIONAL PERSONNEL.—

"(i) IN GENERAL.—In addition to any other personnel authorities, the Secretary may—

"(I) without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, appoint highly qualified individuals to scientific or professional positions in BARDA, such as program managers, to carry out this section; and

"(II) compensate them in the same manner and subject to the same terms and conditions in which individuals appointed under section 9903 of such title are compensated, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(ii) MANNER OF EXERCISE OF AUTHORITY.—The authority provided for in this subparagraph shall be exercised subject to the same limitations described in section 319F–1(e)(2).

Applicability.

"(iii) TERM OF APPOINTMENT.—The term limitations described in section 9903(c) of title 5, United States Code, shall apply to appointments under this subparagraph, except that the references to the 'Secretary' and to the 'Department of Defense's national security missions' shall be deemed to be to the Secretary of Health and Human Services and to the mission of the Department of Health and Human Services under this section.

"(B) SPECIAL CONSULTANTS.—In carrying out this section, the Secretary may appoint special consultants pursuant to section 207(f).

"(C) LIMITATION.—

"(i) IN GENERAL.—The Secretary may hire up to 100 highly qualified individuals, or up to 50 percent of the total number of employees, whichever is less, under the authorities provided for in subparagraphs (A) and (B).

"(ii) REPORT.—The Secretary shall report to Congress on a biennial basis on the implementation of this subparagraph.

"(d) FUND.—

"(1) ESTABLISHMENT.—There is established the Biodefense Medical Countermeasure Development Fund, which shall be available to carry out this section in addition to such amounts as are otherwise available for this purpose.

"(2) FUNDING.—To carry out the purposes of this section, there are authorized to be appropriated to the Fund—

"(A) $1,070,000,000 for fiscal years 2006 through 2008, the amounts to remain available until expended; and

"(B) such sums as may be necessary for subsequent fiscal years, the amounts to remain available until expended.

"(e) INAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) DISCLOSURE.—

"(A) IN GENERAL.—The Secretary shall withhold from disclosure under section 552 of title 5, United States Code, specific technical data or scientific information that is created or obtained during the countermeasure and product advanced research and development carried out under subsection (c) that reveals significant and not otherwise publicly known vulnerabilities of existing medical or public health defenses against biological, chemical, nuclear, or radiological threats. Such information shall be deemed to be information described in section 552(b)(3) of title 5, United States Code.

"(B) REVIEW.—Information subject to nondisclosure under subparagraph (A) shall be reviewed by the Secretary every 5 years, or more frequently as determined necessary by the Secretary, to determine the relevance or necessity of continued nondisclosure.

"(C) SUNSET.—This paragraph shall cease to have force or effect on the date that is 7 years after the date of

enactment of the Pandemic and All-Hazards Preparedness Act.

Termination date.

"(2) REVIEW.—Notwithstanding section 14 of the Federal Advisory Committee Act, a working group of BARDA under this section and the National Biodefense Science Board under section 319M shall each terminate on the date that is 5 years after the date on which each such group or Board, as applicable, was established. Such 5-year period may be extended by the Secretary for one or more additional 5-year periods if the Secretary determines that any such extension is appropriate.".

**SEC. 402. NATIONAL BIODEFENSE SCIENCE BOARD.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 401, is further amended by inserting after section 319L the following:

42 USC 247d–7f.

**"SEC. 319M. NATIONAL BIODEFENSE SCIENCE BOARD AND WORKING GROUPS.**

"(a) IN GENERAL.—

"(1) ESTABLISHMENT AND FUNCTION.—The Secretary shall establish the National Biodefense Science Board (referred to in this section as the 'Board') to provide expert advice and guidance to the Secretary on scientific, technical and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

"(2) MEMBERSHIP.—The membership of the Board shall be comprised of individuals who represent the Nation's preeminent scientific, public health, and medical experts, as follows—

"(A) such Federal officials as the Secretary may determine are necessary to support the functions of the Board;

"(B) four individuals representing the pharmaceutical, biotechnology, and device industries;

"(C) four individuals representing academia; and

"(D) five other members as determined appropriate by the Secretary, of whom—

"(i) one such member shall be a practicing healthcare professional; and

"(ii) one such member shall be an individual from an organization representing healthcare consumers.

"(3) TERM OF APPOINTMENT.—A member of the Board described in subparagraph (B), (C), or (D) of paragraph (2) shall serve for a term of 3 years, except that the Secretary may adjust the terms of the initial Board appointees in order to provide for a staggered term of appointment for all members.

"(4) CONSECUTIVE APPOINTMENTS; MAXIMUM TERMS.—A member may be appointed to serve not more than 3 terms on the Board and may serve not more than 2 consecutive terms.

"(5) DUTIES.—The Board shall—

"(A) advise the Secretary on current and future trends, challenges, and opportunities presented by advances in biological and life sciences, biotechnology, and genetic engineering with respect to threats posed by naturally occurring infectious diseases and chemical, biological, radiological, and nuclear agents;

"(B) at the request of the Secretary, review and consider any information and findings received from the working groups established under subsection (b); and

"(C) at the request of the Secretary, provide recommendations and findings for expanded, intensified, and coordinated biodefense research and development activities.

"(6) MEETINGS.—

"(A) INITIAL MEETING.—Not later than one year after the date of enactment of the Pandemic and All-Hazards Preparedness Act, the Secretary shall hold the first meeting of the Board. Deadline.

"(B) SUBSEQUENT MEETINGS.—The Board shall meet at the call of the Secretary, but in no case less than twice annually.

"(7) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(8) CHAIRPERSON.—The Secretary shall appoint a chairperson from among the members of the Board.

"(9) POWERS.—

"(A) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subsection.

"(B) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(10) PERSONNEL.—

"(A) EMPLOYEES OF THE FEDERAL GOVERNMENT.—A member of the Board that is an employee of the Federal Government may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

"(B) OTHER MEMBERS.—A member of the Board that is not an employee of the Federal Government may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board.

"(C) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

"(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board with the approval for the contributing agency without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(b) OTHER WORKING GROUPS.—The Secretary may establish a working group of experts, or may use an existing working group or advisory committee, to—

"(1) identify innovative research with the potential to be developed as a qualified countermeasure or a qualified pandemic or epidemic product;

"(2) identify accepted animal models for particular diseases and conditions associated with any biological, chemical, radiological, or nuclear agent, any toxin, or any potential pandemic infectious disease, and identify strategies to accelerate animal model and research tool development and validation; and

"(3) obtain advice regarding supporting and facilitating advanced research and development related to qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to children, pregnant women, and other vulnerable populations, and other issues regarding activities under this section that affect such populations.

"(c) DEFINITIONS.—Any term that is defined in section 319L and that is used in this section shall have the same meaning in this section as such term is given in section 319L.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this section for fiscal year 2007 and each fiscal year thereafter.".

**SEC. 403. CLARIFICATION OF COUNTERMEASURES COVERED BY PROJECT BIOSHIELD.**

(a) QUALIFIED COUNTERMEASURE.—Section 319F–1(a) of the Public Health Service Act (42 U.S.C. 247d–6a(a)) is amended by striking paragraph (2) and inserting the following:

"(2) DEFINITIONS.—In this section:

"(A) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), that the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to—

"(i) diagnose, mitigate, prevent, or treat harm from any biological agent (including organisms that cause an infectious disease) or toxin, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

"(ii) diagnose, mitigate, prevent, or treat harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in this subparagraph.

"(B) INFECTIOUS DISEASE.—The term 'infectious disease' means a disease potentially caused by a pathogenic organism (including a bacteria, virus, fungus, or parasite) that is acquired by a person and that reproduces in that person.".

42 USC 247d–6b.

(b) SECURITY COUNTERMEASURE.—Section 319F–2(c)(1)(B) is amended by striking "treat, identify, or prevent" each place it appears and inserting "diagnose, mitigate, prevent, or treat".

42 USC 321j.

(c) LIMITATION ON USE OF FUNDS.—Section 510(a) of the Homeland Security Act of 2002 (6 U.S.C. 320(a)) is amended by adding at the end the following: "None of the funds made available under this subsection shall be used to procure countermeasures to

diagnose, mitigate, prevent, or treat harm resulting from any naturally occurring infectious disease or other public health threat that are not security countermeasures under section 319F–2(c)(1)(B).".

**SEC. 404. TECHNICAL ASSISTANCE.**

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

**"SEC. 565. TECHNICAL ASSISTANCE.**

Establishment. 21 USC 360bbb–4.

"The Secretary, in consultation with the Commissioner of Food and Drugs, shall establish within the Food and Drug Administration a team of experts on manufacturing and regulatory activities (including compliance with current Good Manufacturing Practice) to provide both off-site and on-site technical assistance to the manufacturers of qualified countermeasures (as defined in section 319F–1 of the Public Health Service Act), security countermeasures (as defined in section 319F–2 of such Act), or vaccines, at the request of such a manufacturer and at the discretion of the Secretary, if the Secretary determines that a shortage or potential shortage may occur in the United States in the supply of such vaccines or countermeasures and that the provision of such assistance would be beneficial in helping alleviate or avert such shortage.".

**SEC. 405. COLLABORATION AND COORDINATION.**

42 USC 247d–6a note.

(a) LIMITED ANTITRUST EXEMPTION.—

(1) MEETINGS AND CONSULTATIONS TO DISCUSS SECURITY COUNTERMEASURES, QUALIFIED COUNTERMEASURES, OR QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT DEVELOPMENT.—

(A) AUTHORITY TO CONDUCT MEETINGS AND CONSULTATIONS.—The Secretary of Health and Human Services (referred to in this subsection as the "Secretary"), in coordination with the Attorney General and the Secretary of Homeland Security, may conduct meetings and consultations with persons engaged in the development of a security countermeasure (as defined in section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b)) (as amended by this Act), a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act (42 U.S.C. 247d–6a)) (as amended by this Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d)) for the purpose of the development, manufacture, distribution, purchase, or storage of a countermeasure or product. The Secretary may convene such meeting or consultation at the request of the Secretary of Homeland Security, the Attorney General, the Chairman of the Federal Trade Commission (referred to in this section as the "Chairman"), or any interested person, or upon initiation by the Secretary. The Secretary shall give prior notice of any such meeting or consultation, and the topics to be discussed, to the Attorney General, the Chairman, and the Secretary of Homeland Security.

Notice.

(B) MEETING AND CONSULTATION CONDITIONS.—A meeting or consultation conducted under subparagraph (A) shall—

(i) be chaired or, in the case of a consultation, facilitated by the Secretary;

(ii) be open to persons involved in the development, manufacture, distribution, purchase, or storage of a countermeasure or product, as determined by the Secretary;

(iii) be open to the Attorney General, the Secretary of Homeland Security, and the Chairman;

(iv) be limited to discussions involving covered activities; and

(v) be conducted in such manner as to ensure that no national security, confidential commercial, or proprietary information is disclosed outside the meeting or consultation.

(C) LIMITATION.—The Secretary may not require participants to disclose confidential commercial or proprietary information.

(D) TRANSCRIPT.—The Secretary shall maintain a complete verbatim transcript of each meeting or consultation conducted under this subsection. Such transcript (or a portion thereof) shall not be disclosed under section 552 of title 5, United States Code, to the extent that the Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, determines that disclosure of such transcript (or portion thereof) would pose a threat to national security. The transcript (or portion thereof) with respect to which the Secretary has made such a determination shall be deemed to be information described in subsection (b)(3) of such section 552.

(E) EXEMPTION.—

(i) IN GENERAL.—Subject to clause (ii), it shall not be a violation of the antitrust laws for any person to participate in a meeting or consultation conducted in accordance with this paragraph.

(ii) LIMITATION.—Clause (i) shall not apply to any agreement or conduct that results from a meeting or consultation and that is not covered by an exemption granted under paragraph (4).

(2) SUBMISSION OF WRITTEN AGREEMENTS.—The Secretary shall submit each written agreement regarding covered activities that is made pursuant to meetings or consultations conducted under paragraph (1) to the Attorney General and the Chairman for consideration. In addition to the proposed agreement itself, any submission shall include—

(A) an explanation of the intended purpose of the agreement;

(B) a specific statement of the substance of the agreement;

(C) a description of the methods that will be utilized to achieve the objectives of the agreement;

(D) an explanation of the necessity for a cooperative effort among the particular participating persons to achieve the objectives of the agreement; and

(E) any other relevant information determined necessary by the Attorney General, in consultation with the Chairman and the Secretary.

(3) EXEMPTION FOR CONDUCT UNDER APPROVED AGREEMENT.—It shall not be a violation of the antitrust laws for a person to engage in conduct in accordance with a written

agreement to the extent that such agreement has been granted an exemption under paragraph (4), during the period for which the exemption is in effect.

(4) ACTION ON WRITTEN AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, in consultation with the Chairman, shall grant, deny, grant in part and deny in part, or propose modifications to an exemption request regarding a written agreement submitted under paragraph (2), in a written statement to the Secretary, within 15 business days of the receipt of such request. An exemption granted under this paragraph shall take effect immediately. Deadline.

(B) EXTENSION.—The Attorney General may extend the 15-day period referred to in subparagraph (A) for an additional period of not to exceed 10 business days.

(C) DETERMINATION.—An exemption shall be granted regarding a written agreement submitted in accordance with paragraph (2) only to the extent that the Attorney General, in consultation with the Chairman and the Secretary, finds that the conduct that will be exempted will not have any substantial anticompetitive effect that is not reasonably necessary for ensuring the availability of the countermeasure or product involved.

(5) LIMITATION ON AND RENEWAL OF EXEMPTIONS.—An exemption granted under paragraph (4) shall be limited to covered activities, and such exemption shall be renewed (with modifications, as appropriate, consistent with the finding described in paragraph (4)(C)), on the date that is 3 years after the date on which the exemption is granted unless the Attorney General in consultation with the Chairman determines that the exemption should not be renewed (with modifications, as appropriate) considering the factors described in paragraph (4).

(6) AUTHORITY TO OBTAIN INFORMATION.—Consideration by the Attorney General for granting or renewing an exemption submitted under this section shall be considered an antitrust investigation for purposes of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.).

(7) LIMITATION ON PARTIES.—The use of any information acquired under an agreement for which an exemption has been granted under paragraph (4), for any purpose other than specified in the exemption, shall be subject to the antitrust laws and any other applicable laws.

(8) REPORT.—Not later than one year after the date of enactment of this Act and biannually thereafter, the Attorney General and the Chairman shall report to Congress on the use of the exemption from the antitrust laws provided by this subsection.

(b) SUNSET.—The applicability of this section shall expire at the end of the 6-year period that begins on the date of enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) ANTITRUST LAWS.—The term "antitrust laws"—

(A) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Applicability.

Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) COUNTERMEASURE OR PRODUCT.—The term "countermeasure or product" refers to a security countermeasure, qualified countermeasure, or qualified pandemic or epidemic product (as those terms are defined in subsection (a)(1)).

(3) COVERED ACTIVITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "covered activities" includes any activity relating to the development, manufacture, distribution, purchase, or storage of a countermeasure or product.

(B) EXCEPTION.—The term "covered activities" shall not include, with respect to a meeting or consultation conducted under subsection (a)(1) or an agreement for which an exemption has been granted under subsection (a)(4), the following activities involving 2 or more persons:

(i) Exchanging information among competitors relating to costs, profitability, or distribution of any product, process, or service if such information is not reasonably necessary to carry out covered activities—

(I) with respect to a countermeasure or product regarding which such meeting or consultation is being conducted; or

(II) that are described in the agreement as exempted.

(ii) Entering into any agreement or engaging in any other conduct—

(I) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, produced by, or distributed or sold through such covered activities; or

(II) to restrict or require participation, by any person participating in such covered activities, in other research and development activities, except as reasonably necessary to prevent the misappropriation of proprietary information contributed by any person participating in such covered activities or of the results of such covered activities.

(iii) Entering into any agreement or engaging in any other conduct allocating a market with a competitor that is not expressly exempted from the antitrust laws under subsection (a)(4).

(iv) Exchanging information among competitors relating to production (other than production by such covered activities) of a product, process, or service if such information is not reasonably necessary to carry out such covered activities.

(v) Entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production of a product, process, or service that is not expressly exempted from the antitrust laws under subsection (a)(4).

(vi) Except as otherwise provided in this subsection, entering into any agreement or engaging in

any other conduct to restrict or require participation by any person participating in such covered activities, in any unilateral or joint activity that is not reasonably necessary to carry out such covered activities.

(vii) Entering into any agreement or engaging in any other conduct restricting or setting the price at which a countermeasure or product is offered for sale, whether by bid or otherwise.

**SEC. 406. PROCUREMENT.**

Section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) is amended—

(1) in the section heading, by inserting "**AND SECURITY COUNTERMEASURE PROCUREMENTS**" before the period; and

(2) in subsection (c)—

(A) in the subsection heading, by striking "BIOMEDICAL";

(B) in paragraph (3)—

(i) by striking "COUNTERMEASURES.—The Secretary" and inserting the following: "COUNTERMEASURES.—

"(A) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(B) INFORMATION.—The Secretary shall institute a process for making publicly available the results of assessments under subparagraph (A) while withholding such information as—

Public information.

"(i) would, in the judgment of the Secretary, tend to reveal public health vulnerabilities; or

"(ii) would otherwise be exempt from disclosure under section 552 of title 5, United States Code.";

(C) in paragraph (4)(A), by inserting "not developed or" after "currently";

(D) in paragraph (5)(B)(i), by striking "to meet the needs of the stockpile" and inserting "to meet the stockpile needs";

(E) in paragraph (7)(B)—

(i) by striking the subparagraph heading and all that follows through "Homeland Security Secretary" and inserting the following: "INTERAGENCY AGREEMENT; COST.—The Homeland Security Secretary"; and

(ii) by striking clause (ii);

(F) in paragraph (7)(C)(ii)—

(i) by amending subclause (I) to read as follows:

"(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment, partial payment for significant milestones, or payment to increase manufacturing capacity is necessary to ensure success of a project, the Secretary shall pay an amount, not to exceed 10 percent of the

contract amount, in advance of delivery. The Secretary shall, to the extent practicable, make the determination of advance payment at the same time as the issuance of a solicitation. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. The contract may also provide for additional advance payments of 5 percent each for meeting the milestones specified in such contract, except that such payments shall not exceed 50 percent of the total contract amount. If the specified milestones are reached, the advanced payments of 5 percent shall not be required to be repaid. Nothing in this subclause shall be construed as affecting the rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to the termination of contracts for the convenience of the Government."; and

(ii) by adding at the end the following:

"(VII) SALES EXCLUSIVITY.—The contract may provide that the vendor is the exclusive supplier of the product to the Federal Government for a specified period of time, not to exceed the term of the contract, on the condition that the vendor is able to satisfy the needs of the Government. During the agreed period of sales exclusivity, the vendor shall not assign its rights of sales exclusivity to another entity or entities without approval by the Secretary. Such a sales exclusivity provision in such a contract shall constitute a valid basis for a sole source procurement under section 303(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)).

"(VIII) WARM BASED SURGE CAPACITY.—The contract may provide that the vendor establish domestic manufacturing capacity of the product to ensure that additional production of the product is available in the event that the Secretary determines that there is a need to quickly purchase additional quantities of the product. Such contract may provide a fee to the vendor for establishing and maintaining such capacity in excess of the initial requirement for the purchase of the product. Additionally, the cost of maintaining the domestic manufacturing capacity shall be an allowable and allocable direct cost of the contract.

"(IX) CONTRACT TERMS.—The Secretary, in any contract for procurement under this section, may specify—

"(aa) the dosing and administration requirements for countermeasures to be developed and procured;

"(bb) the amount of funding that will be dedicated by the Secretary for development and acquisition of the countermeasure; and

"(cc) the specifications the countermeasure must meet to qualify for procurement under a contract under this section."; and

(G) in paragraph (8)(A), by adding at the end the following: "Such agreements may allow other executive agencies to order qualified and security countermeasures under procurement contracts or other agreements established by the Secretary. Such ordering process (including transfers of appropriated funds between an agency and the Department of Health and Human Services as reimbursements for such orders for countermeasures) may be conducted under the authority of section 1535 of title 31, United States Code, except that all such orders shall be processed under the terms established under this subsection for the procurement of countermeasures.".

Approved December 19, 2006.

LEGISLATIVE HISTORY—S. 3678:

SENATE REPORTS: No. 109–319 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 5, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–418
# 109th Congress

## An Act

Dec. 19, 2006
[H.R. 5466]

To amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Captain John Smith Chesapeake National Historic Trail Designation Act.
16 USC 1241 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Captain John Smith Chesapeake National Historic Trail Designation Act".

**SEC. 2. ADDITION TO NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS.**

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(25) CAPTAIN JOHN SMITH CHESAPEAKE NATIONAL HISTORIC TRAIL.—

State listing.
District of Columbia.

"(A) IN GENERAL.—The John Smith Chesapeake National Historic Trail, a series of water routes extending approximately 3,000 miles along the Chesapeake Bay and the tributaries of the Chesapeake Bay in the States of Virginia, Maryland, and Delaware, and in the District of Columbia, that traces the 1607–1609 voyages of Captain John Smith to chart the land and waterways of the Chesapeake Bay, as generally depicted on the map entitled 'Captain John Smith Chesapeake National Historic Trail Map MD, VA, DE, and DC', numbered P–16/8000 (CAJO), and dated May 2006.

"(B) MAP.—The map referred to in subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior—

"(i) in coordination with—

"(I) the Chesapeake Bay Gateways and Watertrails Network authorized under the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; 112 Stat. 2961); and

"(II) the Chesapeake Bay Program authorized under section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267); and

"(ii) in consultation with—

"(I) other Federal, State, tribal, regional, and local agencies; and

"(II) the private sector.

"(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.".

**SEC. 3. CHANGE IN AUTHORIZATION.**

Section 4 of the Act of July 3, 1930 (16 U.S.C. 81f), is amended in the first sentence by striking "10,472,000" and inserting "8,572,000".

Approved December 19, 2006.

LEGISLATIVE HISTORY—H.R. 5466:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 5, considered and passed House.
Dec. 7, considered and passed Senate.

# Public Law 109–419
## 109th Congress
## An Act

Dec. 20, 2006
[H.R. 394]

To direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as part of the Minute Man National Historical Park, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BOUNDARY ADJUSTMENT STUDY.**

(a) DEFINITIONS.—For the purposes of this Act:

(1) BARRETT'S FARM.—The term "Barrett's Farm" means the Colonel James Barrett Farm listed on the National Register of Historic Places, including the house and buildings on the approximately 6 acres of land in Concord, Massachusetts.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) STUDY.—Not later than 2 years after the date that funds are made available for this section, the Secretary shall conduct a boundary study to evaluate the significance of Barrett's Farm in Concord, Massachusetts, as well as the suitability and feasibility of its inclusion in the National Park System as part of Minute Man National Historical Park.

(c) CONTENT OF STUDY.—The study shall include an analysis of the following:

(1) The significance of Barrett's Farm in relation to the Revolutionary War.

(2) Opportunities for public enjoyment of the site as part of the Minute Man National Historical Park.

(3) Any operational, management, and private property issues that need to be considered if Barrett's Farm were added to the Minute Man National Historical Park.

(4) A determination of the feasibility of administering Barrett's Farm considering its size, configuration, ownership, costs, and other factors, as part of Minute Man National Historical Park.

(5) An evaluation of the adequacy of other alternatives for management and resource protection of Barrett's Farm.

(d) SUBMISSION OF REPORT.—Upon completion of the study, the Secretary shall submit a report on the findings of the study

to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 394:

HOUSE REPORTS: No. 109–135 (Comm. on Resources).
SENATE REPORTS: No. 109–311 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Sept. 20, considered and passed House.
Vol. 152 (2006): Dec. 7, considered and passed Senate.

# Public Law 109–420
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 758]

To establish an interagency aerospace revitalization task force to develop a national strategy for aerospace workforce recruitment, training, and cultivation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds the following:

(1) The aerospace industry generates nearly 15 percent of the gross domestic product of the United States, supports approximately 11,000,000 jobs in the United States, and leads the United States economy in net exports.

(2) The aerospace industry contributes directly to the economic and national security of the United States through military, space, air transport, and information technology applications.

(3) A skilled and educated workforce represents the most valuable asset of the United States economy.

(4) In 2004, total employment in the aerospace industry fell to its lowest point in 50 years.

(5) 27 percent of the aerospace manufacturing workforce will become eligible for retirement by 2008.

(6) Students in the United States rank near the bottom of the leading industrialized countries of the world in mathematics and science test performance.

(7) To ensure the stability of high-skilled jobs and the global competitiveness of the domestic aerospace industry, the United States requires coordinated Federal Government policies to sustain and expand the science, mathematics, engineering, and manufacturing workforce.

**SEC. 2. INTERAGENCY AEROSPACE REVITALIZATION TASK FORCE.**

(a) ESTABLISHMENT.—There is established a task force to be known as the "Interagency Aerospace Revitalization Task Force" (in this section referred to as the "Task Force").

(b) DUTIES.—The Task Force shall develop a strategy for the Federal Government for aerospace workforce development, including strategies for—

(1) maximizing cooperation among departments and agencies of the Federal Government and the use of resources of the Federal Government in fulfilling demand for a skilled workforce across all vocational classifications;

(2) developing integrated Federal Government policies to promote and monitor public and private sector programs for

science, engineering, technology, mathematics, and skilled trades education and training; and

(3) establishing partnerships with industry, organized labor, academia, and State and local governments to—

(A) collect and disseminate information on occupational requirements and projected employment openings; and

(B) coordinate appropriate agency resources, including grants, loans, and scholarships, for the advancement of workforce education, training, and certification programs.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Task Force shall be composed of 11 members who shall be appointed as follows:

(A) One member shall be the Assistant Secretary of Labor for Employment and Training.

(B) One member shall be a representative of the Department of Commerce and shall be appointed by the Secretary of Commerce.

(C) One member shall be a representative of the Department of Defense and shall be appointed by the Secretary of Defense.

(D) One member shall be a representative of the Department of Homeland Security and shall be appointed by the Secretary of Homeland Security.

(E) One member shall be a representative of the Department of Education and shall be appointed by the Secretary of Education.

(F) One member shall be a representative of the Department of Transportation and shall be appointed by the Secretary of Transportation.

(G) One member shall be a representative of the Department of Energy and shall be appointed by the Secretary of Energy.

(H) One member shall be a representative of the National Aeronautics and Space Administration (NASA) and shall be appointed by the Administrator of NASA.

(I) One member shall be a representative of the National Science Foundation (NSF) and shall be appointed by the Director of the NSF.

(J) Two members shall be appointed by the President. President.

(2) CHAIRPERSON.—The Assistant Secretary of Labor for Employment and Training shall serve as the chairperson of the Task Force.

(3) DEADLINE FOR APPOINTMENT.—Each member shall be appointed to the Task Force not later than 90 days after the date of the enactment of this Act.

(4) VACANCIES.—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(5) PROHIBITION OF COMPENSATION.—Members of the Task Force may not receive pay, allowances, or benefits by reason of their service on the Task Force.

(d) MEETINGS.—

(1) IN GENERAL.—The Task Force shall meet at the call of the Chairperson.

(2) FREQUENCY.—The Task Force shall meet not less than two times each year.

(3) QUORUM.—6 members of the Task Force shall constitute a quorum.

(e) ANNUAL REPORTS.—Not later than one year after the date of the enactment of this Act, and annually thereafter for four years, the Task Force shall submit to Congress, and make available to the public, a report detailing the activities of the Task Force and containing the findings, strategies, recommendations, policies, and initiatives developed pursuant to the duties of the Task Force under subsection (b).

(f) TERMINATION.—The Commission shall terminate on the date of the submission of the final report under subsection (e).

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 758:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Oct. 25, considered and passed House.
Vol. 152 (2006): Dec. 6, considered and passed Senate.

# Public Law 109–421
# 109th Congress

## An Act

To provide for certain lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe.

Dec. 20, 2006
[H.R. 854]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LANDS TO BE HELD IN TRUST.**

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the lands, including improvements and appurtenances, described in subsection (b) are hereby declared to be held in trust by the United States for the benefit of the Utu Utu Gwaitu Paiute Tribe, Benton Paiute Reservation.

(b) LAND DESCRIPTION.—The lands to be held in trust pursuant to subsection (a) are the approximately 240 acres described as follows: Mount Diablo Base and Meridian, Township 2 South, Range 31 East Section 11: SE¼ and E½ of SW¼.

(c) GAMING RESTRICTION.—Lands taken into trust pursuant to subsection (a) shall not be considered to have been taken into trust for, and shall not be eligible for, class II gaming or class III gaming (as those terms are used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 854:

HOUSE REPORTS: No. 109–557 (Comm. on Resources).
SENATE REPORTS: No. 109–342 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 24, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–422
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 864]

To provide for programs and activities with respect to the prevention of underage drinking.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Sober Truth on Preventing Underage Drinking Act.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Sober Truth on Preventing Underage Drinking Act" or the "STOP Act".

**SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

Section 519B of the Public Health Service Act (42 U.S.C. 290bb–25b) is amended by striking subsections (a) through (f) and inserting the following:

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'alcohol beverage industry' means the brewers, vintners, distillers, importers, distributors, and retail or online outlets that sell or serve beer, wine, and distilled spirits.

"(2) The term 'school-based prevention' means programs, which are institutionalized, and run by staff members or school-designated persons or organizations in any grade of school, kindergarten through 12th grade.

"(3) The term 'youth' means persons under the age of 21.

"(4) The term 'IOM report' means the report released in September 2003 by the National Research Council, Institute of Medicine, and entitled 'Reducing Underage Drinking: A Collective Responsibility'.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that:

"(1) A multi-faceted effort is needed to more successfully address the problem of underage drinking in the United States. A coordinated approach to prevention, intervention, treatment, enforcement, and research is key to making progress. This Act recognizes the need for a focused national effort, and addresses particulars of the Federal portion of that effort, as well as Federal support for State activities.

"(2) The Secretary of Health and Human Services shall continue to conduct research and collect data on the short and long-range impact of alcohol use and abuse upon adolescent brain development and other organ systems.

"(3) States and communities, including colleges and universities, are encouraged to adopt comprehensive prevention approaches, including—

"(A) evidence-based screening, programs and curricula;

"(B) brief intervention strategies;

"(C) consistent policy enforcement; and

"(D) environmental changes that limit underage access to alcohol.

"(4) Public health groups, consumer groups, and the alcohol beverage industry should continue and expand evidence-based efforts to prevent and reduce underage drinking.

"(5) The entertainment industries have a powerful impact on youth, and they should use rating systems and marketing codes to reduce the likelihood that underage audiences will be exposed to movies, recordings, or television programs with unsuitable alcohol content.

"(6) The National Collegiate Athletic Association, its member colleges and universities, and athletic conferences should affirm a commitment to a policy of discouraging alcohol use among underage students and other young fans.

"(7) Alcohol is a unique product and should be regulated differently than other products by the States and Federal Government. States have primary authority to regulate alcohol distribution and sale, and the Federal Government should support and supplement these State efforts. States also have a responsibility to fight youth access to alcohol and reduce underage drinking. Continued State regulation and licensing of the manufacture, importation, sale, distribution, transportation and storage of alcoholic beverages are clearly in the public interest and are critical to promoting responsible consumption, preventing illegal access to alcohol by persons under 21 years of age from commercial and non-commercial sources, maintaining industry integrity and an orderly marketplace, and furthering effective State tax collection.

"(c) INTERAGENCY COORDINATING COMMITTEE; ANNUAL REPORT ON STATE UNDERAGE DRINKING PREVENTION AND ENFORCEMENT ACTIVITIES.—

"(1) INTERAGENCY COORDINATING COMMITTEE ON THE PREVENTION OF UNDERAGE DRINKING.—

Establishment.

"(A) IN GENERAL.—The Secretary, in collaboration with the Federal officials specified in subparagraph (B), shall formally establish and enhance the efforts of the interagency coordinating committee, that began operating in 2004, focusing on underage drinking (referred to in this subsection as the 'Committee').

"(B) OTHER AGENCIES.—The officials referred to in paragraph (1) are the Secretary of Education, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Defense, the Surgeon General, the Director of the Centers for Disease Control and Prevention, the Director of the National Institute on Alcohol Abuse and Alcoholism, the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the National Institute on Drug Abuse, the Assistant Secretary for Children and Families, the Director of the Office of National Drug Control Policy, the Administrator of the National Highway Traffic Safety Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Chairman of the Federal Trade Commission, and such other Federal officials

as the Secretary of Health and Human Services determines to be appropriate.

"(C) CHAIR.—The Secretary of Health and Human Services shall serve as the chair of the Committee.

"(D) DUTIES.—The Committee shall guide policy and program development across the Federal Government with respect to underage drinking, provided, however, that nothing in this section shall be construed as transferring regulatory or program authority from an Agency to the Coordinating Committee.

"(E) CONSULTATIONS.—The Committee shall actively seek the input of and shall consult with all appropriate and interested parties, including States, public health research and interest groups, foundations, and alcohol beverage industry trade associations and companies.

"(F) ANNUAL REPORT.—

"(i) IN GENERAL.—The Secretary, on behalf of the Committee, shall annually submit to the Congress a report that summarizes—

"(I) all programs and policies of Federal agencies designed to prevent and reduce underage drinking;

"(II) the extent of progress in preventing and reducing underage drinking nationally;

"(III) data that the Secretary shall collect with respect to the information specified in clause (ii); and

"(IV) such other information regarding underage drinking as the Secretary determines to be appropriate.

"(ii) CERTAIN INFORMATION.—The report under clause (i) shall include information on the following:

"(I) Patterns and consequences of underage drinking as reported in research and surveys such as, but not limited to Monitoring the Future, Youth Risk Behavior Surveillance System, the National Survey on Drug Use and Health, and the Fatality Analysis Reporting System.

"(II) Measures of the availability of alcohol from commercial and non-commercial sources to underage populations.

"(III) Measures of the exposure of underage populations to messages regarding alcohol in advertising and the entertainment media as reported by the Federal Trade Commission.

"(IV) Surveillance data, including information on the onset and prevalence of underage drinking, consumption patterns and the means of underage access. The Secretary shall develop a plan to improve the collection, measurement and consistency of reporting Federal underage alcohol data.

"(V) Any additional findings resulting from research conducted or supported under subsection (f).

"(VI) Evidence-based best practices to prevent and reduce underage drinking and provide treatment services to those youth who need them.

"(2) ANNUAL REPORT ON STATE UNDERAGE DRINKING PREVENTION AND ENFORCEMENT ACTIVITIES.—

"(A) IN GENERAL.—The Secretary shall, with input and collaboration from other appropriate Federal agencies, States, Indian tribes, territories, and public health, consumer, and alcohol beverage industry groups, annually issue a report on each State's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.

"(B) STATE PERFORMANCE MEASURES.—

"(i) IN GENERAL.—The Secretary shall develop, in consultation with the Committee, a set of measures to be used in preparing the report on best practices.

"(ii) CATEGORIES.—In developing these measures, the Secretary shall consider categories including, but not limited to:

"(I) Whether or not the State has comprehensive anti-underage drinking laws such as for the illegal sale, purchase, attempt to purchase, consumption, or possession of alcohol; illegal use of fraudulent ID; illegal furnishing or obtaining of alcohol for an individual under 21 years; the degree of strictness of the penalties for such offenses; and the prevalence of the enforcement of each of these infractions.

"(II) Whether or not the State has comprehensive liability statutes pertaining to underage access to alcohol such as dram shop, social host, and house party laws, and the prevalence of enforcement of each of these laws.

"(III) Whether or not the State encourages and conducts comprehensive enforcement efforts to prevent underage access to alcohol at retail outlets, such as random compliance checks and shoulder tap programs, and the number of compliance checks within alcohol retail outlets measured against the number of total alcohol retail outlets in each State, and the result of such checks.

"(IV) Whether or not the State encourages training on the proper selling and serving of alcohol for all sellers and servers of alcohol as a condition of employment.

"(V) Whether or not the State has policies and regulations with regard to direct sales to consumers and home delivery of alcoholic beverages.

"(VI) Whether or not the State has programs or laws to deter adults from purchasing alcohol for minors; and the number of adults targeted by these programs.

"(VII) Whether or not the State has programs targeted to youths, parents, and caregivers to deter underage drinking; and the number of individuals served by these programs.

"(VIII) Whether or not the State has enacted graduated drivers licenses and the extent of those provisions.

"(IX) The amount that the State invests, per youth capita, on the prevention of underage drinking, further broken down by the amount spent on—

"(aa) compliance check programs in retail outlets, including providing technology to prevent and detect the use of false identification by minors to make alcohol purchases;

"(bb) checkpoints and saturation patrols that include the goal of reducing and deterring underage drinking;

"(cc) community-based, school-based, and higher-education-based programs to prevent underage drinking;

"(dd) underage drinking prevention programs that target youth within the juvenile justice and child welfare systems; and

"(ee) other State efforts or programs as deemed appropriate.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,000,000 for fiscal year 2007, and $1,000,000 for each of the fiscal years 2008 through 2010.

"(d) NATIONAL MEDIA CAMPAIGN TO PREVENT UNDERAGE DRINKING.—

"(1) SCOPE OF THE CAMPAIGN.—The Secretary shall continue to fund and oversee the production, broadcasting, and evaluation of the national adult-oriented media public service campaign if the Secretary determines that such campaign is effective in achieving the media campaign's measurable objectives.

"(2) REPORT.—The Secretary shall provide a report to the Congress annually detailing the production, broadcasting, and evaluation of the campaign referred to in paragraph (1), and to detail in the report the effectiveness of the campaign in reducing underage drinking, the need for and likely effectiveness of an expanded adult-oriented media campaign, and the feasibility and the likely effectiveness of a national youth-focused media campaign to combat underage drinking.

"(3) CONSULTATION REQUIREMENT.—In carrying out the media campaign, the Secretary shall direct the entity carrying out the national adult-oriented media public service campaign to consult with interested parties including both the alcohol beverage industry and public health and consumer groups. The progress of this consultative process is to be covered in the report under paragraph (2).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $1,000,000 for fiscal year 2007 and $1,000,000 for each of the fiscal years 2008 through 2010.

"(e) INTERVENTIONS.—

"(1) COMMUNITY-BASED COALITION ENHANCEMENT GRANTS TO PREVENT UNDERAGE DRINKING.—

"(A) AUTHORIZATION OF PROGRAM.—The Administrator of the Substance Abuse and Mental Health Services Administration, in consultation with the Director of the Office of National Drug Control Policy, shall award, if the Administrator determines that the Department of

Health and Human Services is not currently conducting activities that duplicate activities of the type described in this subsection, 'enhancement grants' to eligible entities to design, test, evaluate and disseminate effective strategies to maximize the effectiveness of community-wide approaches to preventing and reducing underage drinking. This subsection is subject to the availability of appropriations.

"(B) PURPOSES.—The purposes of this paragraph are to—

"(i) prevent and reduce alcohol use among youth in communities throughout the United States;

"(ii) strengthen collaboration among communities, the Federal Government, and State, local, and tribal governments;

"(iii) enhance intergovernmental cooperation and coordination on the issue of alcohol use among youth;

"(iv) serve as a catalyst for increased citizen participation and greater collaboration among all sectors and organizations of a community that first demonstrates a long-term commitment to reducing alcohol use among youth;

"(v) disseminate to communities timely information regarding state-of-the-art practices and initiatives that have proven to be effective in preventing and reducing alcohol use among youth; and

"(vi) enhance, not supplant, effective local community initiatives for preventing and reducing alcohol use among youth.

"(C) APPLICATION.—An eligible entity desiring an enhancement grant under this paragraph shall submit an application to the Administrator at such time, and in such manner, and accompanied by such information as the Administrator may require. Each application shall include—

"(i) a complete description of the entity's current underage alcohol use prevention initiatives and how the grant will appropriately enhance the focus on underage drinking issues; or

"(ii) a complete description of the entity's current initiatives, and how it will use this grant to enhance those initiatives by adding a focus on underage drinking prevention.

"(D) USES OF FUNDS.—Each eligible entity that receives a grant under this paragraph shall use the grant funds to carry out the activities described in such entity's application submitted pursuant to subparagraph (C). Grants under this paragraph shall not exceed $50,000 per year and may not exceed four years.

"(E) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this paragraph shall be used to supplement, not supplant, Federal and non-Federal funds available for carrying out the activities described in this paragraph.

"(F) EVALUATION.—Grants under this paragraph shall be subject to the same evaluation requirements and procedures as the evaluation requirements and procedures imposed on recipients of drug free community grants.

"(G) DEFINITIONS.—For purposes of this paragraph, the term 'eligible entity' means an organization that is currently receiving or has received grant funds under the Drug-Free Communities Act of 1997 (21 U.S.C. 1521 et seq.).

"(H) ADMINISTRATIVE EXPENSES.—Not more than 6 percent of a grant under this paragraph may be expended for administrative expenses.

"(I) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $5,000,000 for fiscal year 2007, and $5,000,000 for each of the fiscal years 2008 through 2010.

"(2) GRANTS DIRECTED AT PREVENTING AND REDUCING ALCOHOL ABUSE AT INSTITUTIONS OF HIGHER EDUCATION.—

"(A) AUTHORIZATION OF PROGRAM.—The Secretary shall award grants to eligible entities to enable the entities to prevent and reduce the rate of underage alcohol consumption including binge drinking among students at institutions of higher education.

"(B) APPLICATIONS.—An eligible entity that desires to receive a grant under this paragraph shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

"(i) a description of how the eligible entity will work to enhance an existing, or where none exists to build a, statewide coalition;

"(ii) a description of how the eligible entity will target underage students in the State;

"(iii) a description of how the eligible entity intends to ensure that the statewide coalition is actually implementing the purpose of this section and moving toward indicators described in subparagraph (D);

"(iv) a list of the members of the statewide coalition or interested parties involved in the work of the eligible entity;

"(v) a description of how the eligible entity intends to work with State agencies on substance abuse prevention and education;

"(vi) the anticipated impact of funds provided under this paragraph in preventing and reducing the rates of underage alcohol use;

"(vii) outreach strategies, including ways in which the eligible entity proposes to—

"(I) reach out to students and community stakeholders;

"(II) promote the purpose of this paragraph;

"(III) address the range of needs of the students and the surrounding communities; and

"(IV) address community norms for underage students regarding alcohol use; and

"(viii) such additional information as required by the Secretary.

"(C) USES OF FUNDS.—Each eligible entity that receives a grant under this paragraph shall use the grant funds to carry out the activities described in such entity's application submitted pursuant to subparagraph (B).

"(D) ACCOUNTABILITY.—On the date on which the Secretary first publishes a notice in the Federal Register soliciting applications for grants under this paragraph, the Secretary shall include in the notice achievement indicators for the program authorized under this paragraph. The achievement indicators shall be designed—

Notice.
Federal Register, publication.

"(i) to measure the impact that the statewide coalitions assisted under this paragraph are having on the institutions of higher education and the surrounding communities, including changes in the number of incidents of any kind in which students have abused alcohol or consumed alcohol while under the age of 21 (including violations, physical assaults, sexual assaults, reports of intimidation, disruptions of school functions, disruptions of student studies, mental health referrals, illnesses, or deaths);

"(ii) to measure the quality and accessibility of the programs or information offered by the eligible entity; and

"(iii) to provide such other measures of program impact as the Secretary determines appropriate.

"(E) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this paragraph shall be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities described in this paragraph.

"(F) DEFINITIONS.—For purposes of this paragraph:

"(i) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, institution of higher education, or nonprofit entity.

"(ii) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(iii) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(iv) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(v) STATEWIDE COALITION.—The term 'statewide coalition' means a coalition that—

"(I) includes, but is not limited to—

"(aa) institutions of higher education within a State; and

"(bb) a nonprofit group, a community underage drinking prevention coalition, or another substance abuse prevention group within a State; and

"(II) works toward lowering the alcohol abuse rate by targeting underage students at institutions of higher education throughout the State and in the surrounding communities.

"(vi) SURROUNDING COMMUNITY.—The term 'surrounding community' means the community—

"(I) that surrounds an institution of higher education participating in a statewide coalition;

"(II) where the students from the institution of higher education take part in the community; and

"(III) where students from the institution of higher education live in off-campus housing.

"(G) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of a grant under this paragraph may be expended for administrative expenses.

"(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $5,000,000 for fiscal year 2007, and $5,000,000 for each of the fiscal years 2008 through 2010.

"(f) ADDITIONAL RESEARCH.—

"(1) ADDITIONAL RESEARCH ON UNDERAGE DRINKING.—

"(A) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, collect data, and conduct or support research that is not duplicative of research currently being conducted or supported by the Department of Health and Human Services, on underage drinking, with respect to the following:

"(i) Comprehensive community-based programs or strategies and statewide systems to prevent and reduce underage drinking, across the underage years from early childhood to age 21, including programs funded and implemented by government entities, public health interest groups and foundations, and alcohol beverage companies and trade associations.

"(ii) Annually obtain and report more precise information than is currently collected on the scope of the underage drinking problem and patterns of underage alcohol consumption, including improved knowledge about the problem and progress in preventing, reducing and treating underage drinking; as well as information on the rate of exposure of youth to advertising and other media messages encouraging and discouraging alcohol consumption.

"(iii) Compiling information on the involvement of alcohol in unnatural deaths of persons ages 12 to 20 in the United States, including suicides, homicides, and unintentional injuries such as falls, drownings, burns, poisonings, and motor vehicle crash deaths.

"(B) CERTAIN MATTERS.—The Secretary shall carry out activities toward the following objectives with respect to underage drinking:

"(i) Obtaining new epidemiological data within the national or targeted surveys that identify alcohol use and attitudes about alcohol use during pre- and early adolescence, including harm caused to self or others as a result of adolescent alcohol use such as violence, date rape, risky sexual behavior, and prenatal alcohol exposure.

"(ii) Developing or identifying successful clinical treatments for youth with alcohol problems.

"(C) PEER REVIEW.—Research under subparagraph (A) shall meet current Federal standards for scientific peer review.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $6,000,000 for fiscal year 2007, and $6,000,000 for each of the fiscal years 2008 through 2010.".

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 864:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 14, considered and passed House.
Dec. 6, considered and passed Senate, amended.
Dec. 7, House concurred in Senate amendment.

# Public Law 109–423
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 1285]

To extend for 3 years changes to requirements for admission of nonimmigrant nurses in health professional shortage areas made by the Nursing Relief for Disadvantaged Areas Act of 1999.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005".

**SEC. 2. 3-YEAR EXTENSION FOR CHANGES TO REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS.**

Section 2 of the Nursing Relief for Disadvantaged Areas Act of 1999 (8 U.S.C. 1182 note) is amended—

(1) in the section heading, by striking "**4-YEAR**" and inserting "**SPECIFIED**"; and

8 USC 1182 note.

(2) by amending subsection (e) to read as follows:

"(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO SPECIFIED PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the period—

Effective date.

"(1) beginning on the date that interim or final regulations are first promulgated under subsection (d); and

Termination date.

"(2) ending on the date that is 3 years after the date of the enactment of the Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005.".

8 USC 1182 note.

**SEC. 3. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.**

The requirements of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedure Act") or any other law relating to rulemaking, information collection or publication in the Federal Register, shall not apply to any action to implement the amendments made by section 2 to the extent the Secretary Homeland of Security, the Secretary of Labor, or the Secretary of Health and Human Services determines that

compliance with any such requirement would impede the expeditious implementation of such amendments.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 1285:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 20, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–424
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 1674]

To authorize and strengthen the tsunami detection, forecast, warning, and mitigation program of the National Oceanic and Atmospheric Administration, to be carried out by the National Weather Service, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tsunami Warning and Education Act. 33 USC 3201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Tsunami Warning and Education Act".

33 USC 3201.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

33 USC 3202.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to improve tsunami detection, forecasting, warnings, notification, outreach, and mitigation to protect life and property in the United States;

(2) to enhance and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms, and increase the accuracy of forecasts and warnings, and to expand detection and warning systems to include other vulnerable States and United States territories, including the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico areas;

(3) to improve mapping, modeling, research, and assessment efforts to improve tsunami detection, forecasting, warnings, notification, outreach, mitigation, response, and recovery;

(4) to improve and increase education and outreach activities and ensure that those receiving tsunami warnings and the at-risk public know what to do when a tsunami is approaching;

(5) to provide technical and other assistance to speed international efforts to establish regional tsunami warning systems in vulnerable areas worldwide, including the Indian Ocean; and

(6) to improve Federal, State, and international coordination for detection, warnings, and outreach for tsunami and other coastal impacts.

**SEC. 4. TSUNAMI FORECASTING AND WARNING PROGRAM.** 33 USC 3203.

(a) IN GENERAL.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall operate a program to provide tsunami detection, forecasting, and warnings for the Pacific and Arctic Ocean regions and for the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico region.

(b) COMPONENTS.—The program under this section shall—

(1) include the tsunami warning centers established under subsection (d);

(2) utilize and maintain an array of robust tsunami detection technologies;

(3) maintain detection equipment in operational condition to fulfill the detection, forecasting, and warning requirements of this Act;

(4) provide tsunami forecasting capability based on models and measurements, including tsunami inundation models and maps for use in increasing the preparedness of communities, including through the TsunamiReady program;

(5) maintain data quality and management systems to support the requirements of the program;

(6) include a cooperative effort among the Administration, the United States Geological Survey, and the National Science Foundation under which the Geological Survey and the National Science Foundation shall provide rapid and reliable seismic information to the Administration from international and domestic seismic networks;

(7) provide a capability for the dissemination of warnings to at-risk States and tsunami communities through rapid and reliable notification to government officials and the public, including utilization of and coordination with existing Federal warning systems, including the National Oceanic and Atmospheric Administration Weather Radio All Hazards Program;

(8) allow, as practicable, for integration of tsunami detection technologies with other environmental observing technologies; and

(9) include any technology the Administrator considers appropriate to fulfill the objectives of the program under this section.

(c) SYSTEM AREAS.—The program under this section shall operate—

(1) a Pacific tsunami warning system capable of forecasting tsunami anywhere in the Pacific and Arctic Ocean regions and providing adequate warnings; and

(2) an Atlantic Ocean, Caribbean Sea, and Gulf of Mexico tsunami warning system capable of forecasting tsunami and providing adequate warnings in areas of the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico that are determined—

(A) to be geologically active, or to have significant potential for geological activity; and

(B) to pose significant risks of tsunami for States along the coastal areas of the Atlantic Ocean, Caribbean Sea, or Gulf of Mexico.

(d) TSUNAMI WARNING CENTERS.—

(1) IN GENERAL.—The Administrator, through the National Weather Service, shall maintain or establish— Establishment.

(A) a Pacific Tsunami Warning Center in Hawaii;

(B) a West Coast and Alaska Tsunami Warning Center in Alaska; and

(C) any additional forecast and warning centers determined by the National Weather Service to be necessary.

(2) RESPONSIBILITIES.—The responsibilities of each tsunami warning center shall include—

(A) continuously monitoring data from seismological, deep ocean, and tidal monitoring stations;

(B) evaluating earthquakes that have the potential to generate tsunami;

(C) evaluating deep ocean buoy data and tidal monitoring stations for indications of tsunami resulting from earthquakes and other sources;

(D) disseminating forecasts and tsunami warning bulletins to Federal, State, and local government officials and the public;

(E) coordinating with the tsunami hazard mitigation program described in section 5 to ensure ongoing sharing of information between forecasters and emergency management officials; and

(F) making data gathered under this Act and post-warning analyses conducted by the National Weather Service or other relevant Administration offices available to researchers.

(e) TRANSFER OF TECHNOLOGY; MAINTENANCE AND UPGRADES.—

(1) IN GENERAL.—In carrying out this section, the National Weather Service, in consultation with other relevant Administration offices, shall—

(A) develop requirements for the equipment used to forecast tsunami, which shall include provisions for multi-purpose detection platforms, reliability and performance metrics, and to the maximum extent practicable how the equipment will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System;

(B) develop and execute a plan for the transfer of technology from ongoing research described in section 6 into the program under this section; and

(C) ensure that maintaining operational tsunami detection equipment is the highest priority within the program carried out under this Act.

(2) REPORT TO CONGRESS.—

(A) Not later than 1 year after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit to Congress a report on how the tsunami forecast system under this section will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System.

(B) Not later than 3 years after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit a report to Congress on how technology developed under

section 6 is being transferred into the program under this section.

(f) FEDERAL COOPERATION.—When deploying and maintaining tsunami detection technologies, the Administrator shall seek the assistance and assets of other appropriate Federal agencies.

(g) ANNUAL EQUIPMENT CERTIFICATION.—At the same time Congress receives the budget justification documents in support of the President's annual budget request for each fiscal year, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a certification that—

(1) identifies the tsunami detection equipment deployed pursuant to this Act, as of December 31 of the preceding calendar year;

(2) certifies which equipment is operational as of December 31 of the preceding calendar year;

(3) in the case of any piece of such equipment that is not operational as of such date, identifies that equipment and describes the mitigation strategy that is in place—

(A) to repair or replace that piece of equipment within a reasonable period of time; or

(B) to otherwise ensure adequate tsunami detection coverage;

(4) identifies any equipment that is being developed or constructed to carry out this Act but which has not yet been deployed, if the Administration has entered into a contract for that equipment prior to December 31 of the preceding calendar year, and provides a schedule for the deployment of that equipment; and

(5) certifies that the Administrator expects the equipment described in paragraph (4) to meet the requirements, cost, and schedule provided in that contract.

(h) CONGRESSIONAL NOTIFICATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives within 30 days of— Deadline.

(1) impaired regional forecasting capabilities due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami forecasting and warning system.

(i) REPORT.—Not later than January 31, 2010, the Comptroller General of the United States shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that—

(1) evaluates the current status of the tsunami detection, forecasting, and warning system and the tsunami hazard mitigation program established under this Act, including progress toward tsunami inundation mapping of all coastal areas vulnerable to tsunami and whether there has been any degradation of services as a result of the expansion of the program;

(2) evaluates the National Weather Service's ability to achieve continued improvements in the delivery of tsunami detection, forecasting, and warning services by assessing policies and plans for the evolution of modernization systems,

models, and computational abilities (including the adoption of new technologies); and

(3) lists the contributions of funding or other resources to the program by other Federal agencies, particularly agencies participating in the program.

(j) EXTERNAL REVIEW.—The Administrator shall enter into an arrangement with the National Academy of Sciences to review the tsunami detection, forecast, and warning program established under this Act to assess further modernization and coverage needs, as well as long-term operational reliability issues, taking into account measures implemented under this Act. The review shall also include an assessment of how well the forecast equipment has been integrated into other United States and global ocean and coastal observation systems and the global earth observing system of systems. Not later than 2 years after the date of enactment of this Act, the Administrator shall transmit a report containing the National Academy of Sciences' recommendations, the Administrator's responses to the recommendations, including those where the Administrator disagrees with the Academy, a timetable to implement the accepted recommendations, and the cost of implementing all the Academy's recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

Deadline.
Reports.

(k) REPORT.—Not later than 3 months after the date of enactment of this Act, the Administrator shall establish a process for monitoring and certifying contractor performance in carrying out the requirements of any contract to construct or deploy tsunami detection equipment, including procedures and penalties to be imposed in cases of significant contractor failure or negligence.

33 USC 3204.

**SEC. 5. NATIONAL TSUNAMI HAZARD MITIGATION PROGRAM.**

(a) IN GENERAL.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall conduct a community-based tsunami hazard mitigation program to improve tsunami preparedness of at-risk areas in the United States and its territories.

Establishment.

(b) COORDINATING COMMITTEE.—In conducting the program under this section, the Administrator shall establish a coordinating committee comprising representatives of Federal, State, local, and tribal government officials. The Administrator may establish subcommittees to address region-specific issues. The committee shall—

(1) recommend how funds appropriated for carrying out the program under this section will be allocated;

(2) ensure that areas described in section 4(c) in the United States and its territories can have the opportunity to participate in the program;

(3) provide recommendations to the National Weather Service on how to improve the TsunamiReady program, particularly on ways to make communities more tsunami resilient through the use of inundation maps and other mitigation practices; and

(4) ensure that all components of the program are integrated with ongoing hazard warning and risk management activities, emergency response plans, and mitigation programs in affected areas, including integrating information to assist in tsunami evacuation route planning.

(c) PROGRAM COMPONENTS.—The program under this section shall—

(1) use inundation models that meet a standard of accuracy defined by the Administration to improve the quality and extent of inundation mapping, including assessment of vulnerable inner coastal and nearshore areas, in a coordinated and standardized fashion to maximize resources and the utility of data collected;

(2) promote and improve community outreach and education networks and programs to ensure community readiness, including the development of comprehensive coastal risk and vulnerability assessment training and decision support tools, implementation of technical training and public education programs, and providing for certification of prepared communities;

(3) integrate tsunami preparedness and mitigation programs into ongoing hazard warning and risk management activities, emergency response plans, and mitigation programs in affected areas, including integrating information to assist in tsunami evacuation route planning;

(4) promote the adoption of tsunami warning and mitigation measures by Federal, State, tribal, and local governments and nongovernmental entities, including educational programs to discourage development in high-risk areas; and

(5) provide for periodic external review of the program.

(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to require a change in the chair of any existing tsunami hazard mitigation program subcommittee.

**SEC. 6. TSUNAMI RESEARCH PROGRAM.** 33 USC 3205.

The Administrator shall, in consultation with other agencies and academic institutions, and with the coordinating committee established under section 5(b), establish or maintain a tsunami research program to develop detection, forecast, communication, and mitigation science and technology, including advanced sensing techniques, information and communication technology, data collection, analysis, and assessment for tsunami tracking and numerical forecast modeling. Such research program shall—

(1) consider other appropriate research to mitigate the impact of tsunami;

(2) coordinate with the National Weather Service on technology to be transferred to operations;

(3) include social science research to develop and assess community warning, education, and evacuation materials; and

(4) ensure that research and findings are available to the scientific community.

**SEC. 7. GLOBAL TSUNAMI WARNING AND MITIGATION NETWORK.** 33 USC 3206.

(a) INTERNATIONAL TSUNAMI WARNING SYSTEM.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, in coordination with other members of the United States Interagency Committee of the National Tsunami Hazard Mitigation Program, shall provide technical assistance and training to the Intergovernmental Oceanographic Commission, the World Meteorological Organization, and other international entities, as part of international efforts to develop a fully functional global tsunami forecast and warning system comprising regional tsunami warning networks, modeled on the International Tsunami Warning System of the Pacific.

(b) INTERNATIONAL TSUNAMI INFORMATION CENTER.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, in cooperation with the Intergovernmental Oceanographic Commission, shall operate an International Tsunami Information Center to improve tsunami preparedness for all Pacific Ocean nations participating in the International Tsunami Warning System of the Pacific, and may also provide such assistance to other nations participating in a global tsunami warning system established through the Intergovernmental Oceanographic Commission. As part of its responsibilities around the world, the Center shall—

(1) monitor international tsunami warning activities around the world;

(2) assist member states in establishing national warning systems, and make information available on current technologies for tsunami warning systems;

(3) maintain a library of materials to promulgate knowledge about tsunami in general and for use by the scientific community; and

(4) disseminate information, including educational materials and research reports.

(c) DETECTION EQUIPMENT; TECHNICAL ADVICE AND TRAINING.—In carrying out this section, the National Weather Service—

(1) shall give priority to assisting nations in identifying vulnerable coastal areas, creating inundation maps, obtaining or designing real-time detection and reporting equipment, and establishing communication and warning networks and contact points in each vulnerable nation;

(2) may establish a process for transfer of detection and communication technology to affected nations for the purposes of establishing the international tsunami warning system; and

(3) shall provide technical and other assistance to support international tsunami programs.

(d) DATA-SHARING REQUIREMENT.—The National Weather Service, when deciding to provide assistance under this section, may take into consideration the data sharing policies and practices of nations proposed to receive such assistance, with a goal to encourage all nations to support full and open exchange of data.

33 USC 3207.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Administrator to carry out this Act—

(1) $25,000,000 for fiscal year 2008, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 5; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 6;

(2) $26,000,000 for fiscal year 2009, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 5; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 6;

(3) $27,000,000 for fiscal year 2010, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 5; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 6;

(4) $28,000,000 for fiscal year 2011, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 5; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 6; and

(5) $29,000,000 for fiscal year 2012, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 5; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 6.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 1674 (S. 50):

HOUSE REPORTS: No. 109–698 (Comm. on Science).
SENATE REPORTS: No. 109–59 accompanying S. 50 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–425
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 4057]

To provide that attorneys employed by the Department of Justice shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

5 USC 5550b note.

**SECTION 1. COMPENSATORY TIME OFF FOR TRAVEL.**

(a) IN GENERAL.—Attorneys employed by the Department of Justice (including assistant United States attorneys) shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code, without regard to any provision of section 115 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(1) of Public Law 106–113 and reenacted by section 111 of the Department of Justice Appropriations Act, 2001 (as enacted into law by appendix B of Public Law 106–553)).

(b) APPLICABILITY.—Subsection (a) shall apply with respect to time spent in travel status on or after the date of the enactment of this Act.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 4057 (S. 1876):

HOUSE REPORTS: No. 109–390 (Comm. on Government Reform).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Mar. 28, considered and passed House.
Dec. 6, considered and passed Senate.

Public Law 109–426
109th Congress

# An Act

To reauthorize permanently the use of penalty and franked mail in efforts relating to the location and recovery of missing children.

Dec. 20, 2006
[H.R. 4416]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPEAL OF TERMINATION OF AUTHORITY TO USE PENALTY AND FRANKED MAIL TO LOCATE AND RECOVER MISSING CHILDREN.**

Public Law 99–87 is amended by striking section 5 (39 U.S.C. 3220 note).

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 4416:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 26, considered and passed House.
Dec. 7, considered and passed Senate.

# Public Law 109–427
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 4510]

To direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds as follows:

(1) Sojourner Truth was a towering figure among the founders of the movement for women's suffrage in the United States, and no monument that does not include her can accurately represent this important development in our Nation's history.

(2) The statue known as the Portrait Monument, originally presented to Congress in 1920 in honor of the passage of the Nineteenth Amendment guaranteeing women the right to vote and presently exhibited in the rotunda of the Capitol, portrays several early suffragists who were Sojourner Truth's contemporaries but not Sojourner Truth herself, the only African American among the group.

**SEC. 2. ACCEPTANCE AND DISPLAY OF BUST OF SOJOURNER TRUTH IN CAPITOL.**

Deadline.

(a) ACCEPTANCE OF DONATION OF BUST.—Not later than 2 years after the date of the enactment of this Act, the Joint Committee on the Library shall accept the donation of a bust depicting Sojourner Truth, subject to such terms and conditions as the Joint Committee considers appropriate.

(b) DISPLAY.—The Joint Committee shall place the bust accepted under subsection (a) in a suitable permanent location in the Capitol.

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 4510:

CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 18, considered and passed House.
Vol. 152 (2006): Dec. 6, considered and passed Senate.

Public Law 109–428
109th Congress

# An Act

To amend the Wool Products Labeling Act of 1939 to revise the requirements for labeling of certain wool and cashmere products.

Dec. 20, 2006
[H.R. 4583]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Wool Suit Fabric Labeling Fairness and International Standards Conforming Act. 15 USC 68 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Wool Suit Fabric Labeling Fairness and International Standards Conforming Act".

**SEC. 2. LABELING OF WOOL AND CASHMERE PRODUCTS TO FACILITATE COMPLIANCE AND PROTECT CONSUMERS.**

(a) IN GENERAL.—Section 4(a) of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(a)) is amended by adding at the end the following new paragraphs:

"(5) In the case of a wool product stamped, tagged, labeled, or otherwise identified as—

"(A) 'Super 80's' or '80's', if the average diameter of wool fiber of such wool product does not average 19.75 microns or finer;

"(B) 'Super 90's' or '90's', if the average diameter of wool fiber of such wool product does not average 19.25 microns or finer;

"(C) 'Super 100's' or '100's', if the average diameter of wool fiber of such wool product does not average 18.75 microns or finer;

"(D) 'Super 110's' or '110's', if the average diameter of wool fiber of such wool product does not average 18.25 microns or finer;

"(E) 'Super 120's' or '120's', if the average diameter of wool fiber of such wool product does not average 17.75 microns or finer;

"(F) 'Super 130's' or '130's', if the average diameter of wool fiber of such wool product does not average 17.25 microns or finer;

"(G) 'Super 140's' or '140's', if the average diameter of wool fiber of such wool product does not average 16.75 microns or finer;

"(H) 'Super 150's' or '150's', if the average diameter of wool fiber of such wool product does not average 16.25 microns or finer;

"(I) 'Super 160's' or '160's', if the average diameter of wool fiber of such wool product does not average 15.75 microns or finer;

"(J) 'Super 170's' or '170's', if the average diameter of wool fiber of such wool product does not average 15.25 microns or finer;

"(K) 'Super 180's' or '180's', if the average diameter of wool fiber of such wool product does not average 14.75 microns or finer;

"(L) 'Super 190's' or '190's', if the average diameter of wool fiber of such wool product does not average 14.25 microns or finer;

"(M) 'Super 200's' or '200's', if the average diameter of wool fiber of such wool product does not average 13.75 microns or finer;

"(N) 'Super 210's' or '210's', if the average diameter of wool fiber of such wool product does not average 13.25 microns or finer;

"(O) 'Super 220's' or '220's', if the average diameter of wool fiber of such wool product does not average 12.75 microns or finer;

"(P) 'Super 230's' or '230's', if the average diameter of wool fiber of such wool product does not average 12.25 microns or finer;

"(Q) 'Super 240's' or '240's', if the average diameter of wool fiber of such wool product does not average 11.75 microns or finer; and

"(R) 'Super 250's' or '250's', if the average diameter of wool fiber of such wool product does not average 11.25 microns or finer.

In each such case, the average fiber diameter of such wool product may be subject to such standards or deviations as adopted by regulation by the Commission.

"(6) In the case of a wool product stamped, tagged, labeled, or otherwise identified as cashmere, if—

"(A) such wool product is not the fine (dehaired) undercoat fibers produced by a cashmere goat (capra hircus laniger);

"(B) the average diameter of the fiber of such wool product exceeds 19 microns; or

"(C) such wool product contains more than 3 percent (by weight) of cashmere fibers with average diameters that exceed 30 microns.

The average fiber diameter may be subject to a coefficient of variation around the mean that shall not exceed 24 percent.".

(b) APPLICABILITY DATE.—The amendments made by this section shall apply to wool products manufactured on or after January 1, 2007. 15 USC 68b note.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 4583:

HOUSE REPORTS: No. 109–644 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 19, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–429
## 109th Congress
## An Act

Dec. 20, 2006
[H.R. 5132]

To direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the Battles of the River Raisin during the War of 1812.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

River Raisin National Battlefield Study Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "River Raisin National Battlefield Study Act".

**SEC. 2. SPECIAL RESOURCE STUDY, MONROE COUNTY, MICHIGAN, SITES RELATING TO BATTLES OF THE RIVER RAISIN.**

(a) STUDY REQUIRED.—The Secretary of the Interior shall conduct a special resource study of sites in Monroe County, Michigan, relating to the Battles of the River Raisin on January 18 and 22, 1813, and their aftermath to determine—

(1) the national significance of the sites; and

(2) the suitability and feasibility of including the sites in the National Park System.

(b) REQUIREMENTS.—The study conducted under subsection (a) shall include the analysis and recommendations of the Secretary on—

(1) the effect on Monroe County, Michigan, of including the sites in the National Park System; and

(2) whether the sites could be included in an existing unit of the National Park System.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with—

(1) appropriate Federal agencies and State and local government entities; and

(2) interested groups and organizations.

(d) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with Public Law 91–383 (16 U.S.C. 1a–1 et seq.).

(e) REPORT.—Not later than three years after the date on which funds are first made available for the study, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the findings of the study; and
(2) any conclusions and recommendations of the Secretary.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 5132:

HOUSE REPORTS: No. 109–637 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House.
Dec. 7, considered and passed Senate.

# Public Law 109–430
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 5136]

To establish a National Integrated Drought Information System within the National Oceanic and Atmospheric Administration to improve drought monitoring and forecasting capabilities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Integrated Drought Information System Act of 2006.
15 USC 311 note.
15 USC 313d note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Integrated Drought Information System Act of 2006".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) DROUGHT.—The term "drought" means a deficiency in precipitation—

(A) that leads to a deficiency in surface or subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

(B) that causes or may cause—

(i) substantial economic or social impacts; or

(ii) substantial physical damage or injury to individuals, property, or the environment.

(2) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

15 USC 313d.

**SEC. 3. NIDIS PROGRAM.**

(a) IN GENERAL.—The Under Secretary, through the National Weather Service and other appropriate weather and climate programs in the National Oceanic and Atmospheric Administration, shall establish a National Integrated Drought Information System.

(b) SYSTEM FUNCTIONS.—The National Integrated Drought Information System shall—

(1) provide an effective drought early warning system that—

(A) is a comprehensive system that collects and integrates information on the key indicators of drought in order to make usable, reliable, and timely drought forecasts and assessments of drought, including assessments of the severity of drought conditions and impacts;

(B) communicates drought forecasts, drought conditions, and drought impacts on an ongoing basis to—

(i) decisionmakers at the Federal, regional, State, tribal, and local levels of government;

(ii) the private sector; and

(iii) the public,

in order to engender better informed and more timely decisions thereby leading to reduced impacts and costs; and

(C) includes timely (where possible real-time) data, information, and products that reflect local, regional, and State differences in drought conditions;

(2) coordinate, and integrate as practicable, Federal research in support of a drought early warning system; and

(3) build upon existing forecasting and assessment programs and partnerships.

(c) CONSULTATION.—The Under Secretary shall consult with relevant Federal, regional, State, tribal, and local government agencies, research institutions, and the private sector in the development of the National Integrated Drought Information System.

(d) COOPERATION FROM OTHER FEDERAL AGENCIES.—Each Federal agency shall cooperate as appropriate with the Under Secretary in carrying out this Act.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

15 USC 313d note.

There are authorized to be appropriated to carry out this Act—

(1) $11,000,000 for fiscal year 2007;

(2) $12,000,000 for fiscal year 2008;

(3) $13,000,000 for fiscal year 2009;

(4) $14,000,000 for fiscal year 2010;

(5) $15,000,000 for fiscal year 2011; and

(6) $16,000,000 for fiscal year 2012.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 5136 (S. 2751):

HOUSE REPORTS: No. 109–503 (Comm. on Science).

SENATE REPORTS: No. 109–356 accompanying S. 2751 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Sept. 26, considered and passed House.

Dec. 6, considered and passed Senate.

# Public Law 109–431
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 5646]

To study and promote the use of energy efficient computer servers in the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STUDY.**

Deadline.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, through the Energy Star program, shall transmit to the Congress the results of a study analyzing the rapid growth and energy consumption of computer data centers by the Federal Government and private enterprise. The study shall include—

(1) an overview of the growth trends associated with data centers and the utilization of servers in the Federal Government and private sector;

(2) analysis of the industry migration to the use of energy efficient microchips and servers designed to provide energy efficient computing and reduce the costs associated with constructing, operating, and maintaining large and medium scale data centers;

(3) analysis of the potential cost savings to the Federal Government, large institutional data center operators, private enterprise, and consumers available through the adoption of energy efficient data centers and servers;

(4) analysis of the potential cost savings and benefits to the energy supply chain through the adoption of energy efficient data centers and servers, including reduced demand, enhanced capacity, and reduced strain on existing grid infrastructure, and consideration of secondary benefits, including potential impact of related advantages associated with substantial domestic energy savings;

(5) analysis of the potential impacts of energy efficiency on product performance, including computing functionality, reliability, speed, and features, and overall cost;

(6) analysis of the potential cost savings and benefits to the energy supply chain through the use of stationary fuel cells for backup power and distributed generation;

(7) an overview of current government incentives offered for energy efficient products and services and consideration of similar incentives to encourage the adoption of energy efficient data centers and servers;

(8) recommendations regarding potential incentives and voluntary programs that could be used to advance the adoption of energy efficient data centers and computing; and

(9) a meaningful opportunity for interested stakeholders, including affected industry stakeholders and energy efficiency advocates, to provide comments, data, and other information on the scope, contents, and conclusions of the study.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that it is in the best interest of the United States for purchasers of computer servers to give high priority to energy efficiency as a factor in determining best value and performance for purchases of computer servers.

Approved December 20, 2006.

LEGISLATIVE HISTORY—H.R. 5646:

HOUSE REPORTS: No. 109–538 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
July 11, 12, considered and passed House.
Dec. 7, considered and passed Senate.

# Public Law 109–432
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 6111]

To amend the Internal Revenue Code of 1986 to extend expiring provisions, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Tax Relief and Health Care Act of 2006.
26 USC 1 note.

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Tax Relief and Health Care Act of 2006".

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

Sec. 1. Short title, etc.

DIVISION A—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS, AND OTHER TAX PROVISIONS

Sec. 100. Reference.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

Sec. 101. Deduction for qualified tuition and related expenses.
Sec. 102. Extension and modification of new markets tax credit.
Sec. 103. Election to deduct State and local general sales taxes.
Sec. 104. Extension and modification of research credit.
Sec. 105. Work opportunity tax credit and welfare-to-work credit.
Sec. 106. Election to include combat pay as earned income for purposes of earned income credit.
Sec. 107. Extension and modification of qualified zone academy bonds.
Sec. 108. Above-the-line deduction for certain expenses of elementary and secondary school teachers.
Sec. 109. Extension and expansion of expensing of brownfields remediation costs.
Sec. 110. Tax incentives for investment in the District of Columbia.
Sec. 111. Indian employment tax credit.
Sec. 112. Accelerated depreciation for business property on Indian reservations.
Sec. 113. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.
Sec. 114. Cover over of tax on distilled spirits.
Sec. 115. Parity in application of certain limits to mental health benefits.
Sec. 116. Corporate donations of scientific property used for research and of computer technology and equipment.
Sec. 117. Availability of medical savings accounts.
Sec. 118. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 119. American Samoa economic development credit.
Sec. 120. Extension of bonus depreciation for certain qualified Gulf Opportunity Zone property.
Sec. 121. Authority for undercover operations.
Sec. 122. Disclosures of certain tax return information.
Sec. 123. Special rule for elections under expired provisions.

TITLE II—ENERGY TAX PROVISIONS

Sec. 201. Credit for electricity produced from certain renewable resources.
Sec. 202. Credit to holders of clean renewable energy bonds.
Sec. 203. Performance standards for sulfur dioxide removal in advanced coal-based generation technology units designed to use subbituminous coal.

Sec. 204. Deduction for energy efficient commercial buildings.
Sec. 205. Credit for new energy efficient homes.
Sec. 206. Credit for residential energy efficient property.
Sec. 207. Energy credit.
Sec. 208. Special rule for qualified methanol or ethanol fuel.
Sec. 209. Special depreciation allowance for cellulosic biomass ethanol plant property.
Sec. 210. Expenditures permitted from the Leaking Underground Storage Tank Trust Fund.
Sec. 211. Treatment of coke and coke gas.

TITLE III—HEALTH SAVINGS ACCOUNTS

Sec. 301. Short title.
Sec. 302. FSA and HRA terminations to fund HSAs.
Sec. 303. Repeal of annual deductible limitation on HSA contributions.
Sec. 304. Modification of cost-of-living adjustment.
Sec. 305. Contribution limitation not reduced for part-year coverage.
Sec. 306. Exception to requirement for employers to make comparable health savings account contributions.
Sec. 307. One-time distribution from individual retirement plans to fund HSAs.

TITLE IV—OTHER PROVISIONS

Sec. 401. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 402. Credit for prior year minimum tax liability made refundable after period of years.
Sec. 403. Returns required in connection with certain options.
Sec. 404. Partial expensing for advanced mine safety equipment.
Sec. 405. Mine rescue team training tax credit.
Sec. 406. Whistleblower reforms.
Sec. 407. Frivolous tax submissions.
Sec. 408. Addition of meningococcal and human papillomavirus vaccines to list of taxable vaccines.
Sec. 409. Clarification of taxation of certain settlement funds made permanent.
Sec. 410. Modification of active business definition under section 355 made permanent.
Sec. 411. Revision of State veterans limit made permanent.
Sec. 412. Capital gains treatment for certain self-created musical works made permanent.
Sec. 413. Reduction in minimum vessel tonnage which qualifies for tonnage tax made permanent.
Sec. 414. Modification of special arbitrage rule for certain funds made permanent.
Sec. 415. Great Lakes domestic shipping to not disqualify vessel from tonnage tax.
Sec. 416. Use of qualified mortgage bonds to finance residences for veterans without regard to first-time homebuyer requirement.
Sec. 417. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community.
Sec. 418. Sale of property by judicial officers.
Sec. 419. Premiums for mortgage insurance.
Sec. 420. Modification of refunds for kerosene used in aviation.
Sec. 421. Regional income tax agencies treated as States for purposes of confidentiality and disclosure requirements.
Sec. 422. Designation of wines by semi-generic names.
Sec. 423. Modification of railroad track maintenance credit.
Sec. 424. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
Sec. 425. Loans to qualified continuing care facilities made permanent.
Sec. 426. Technical corrections.

DIVISION B—MEDICARE AND OTHER HEALTH PROVISIONS

Sec. 1. Short title of division.

TITLE I—MEDICARE IMPROVED QUALITY AND PROVIDER PAYMENTS

Sec. 101. Physician payment and quality improvement.
Sec. 102. Extension of floor on Medicare work geographic adjustment.
Sec. 103. Update to the composite rate component of the basic case-mix adjusted prospective payment system for dialysis services.
Sec. 104. Extension of treatment of certain physician pathology services under Medicare.
Sec. 105. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.

Sec. 106. Hospital Medicare reports and clarifications.
Sec. 107. Payment for brachytherapy.
Sec. 108. Payment process under the competitive acquisition program (CAP).
Sec. 109. Quality reporting for hospital outpatient services and ambulatory surgical center services.
Sec. 110. Reporting of anemia quality indicators for Medicare part B cancer anti-anemia drugs.
Sec. 111. Clarification of hospice satellite designation.

TITLE II—MEDICARE BENEFICIARY PROTECTIONS

Sec. 201. Extension of exceptions process for Medicare therapy caps.
Sec. 202. Payment for administration of part D vaccines.
Sec. 203. OIG study of never events.
Sec. 204. Medicare medical home demonstration project.
Sec. 205. Medicare DRA technical corrections.
Sec. 206. Limited continuous open enrollment of original medicare fee-for-service enrollees into Medicare Advantage non-prescription drug plans.

TITLE III—MEDICARE PROGRAM INTEGRITY EFFORTS

Sec. 301. Offsetting adjustment in Medicare Advantage Stabilization Fund.
Sec. 302. Extension and expansion of recovery audit contractor program under the Medicare Integrity Program.
Sec. 303. Funding for the Health Care Fraud and Abuse Control Account.
Sec. 304. Implementation funding.

TITLE IV—MEDICAID AND OTHER HEALTH PROVISIONS

Sec. 401. Extension of Transitional Medical Assistance (TMA) and abstinence education program.
Sec. 402. Grants for research on vaccine against Valley Fever.
Sec. 403. Change in threshold for Medicaid indirect hold harmless provision of broad-based health care taxes.
Sec. 404. DSH allotments for fiscal year 2007 for Tennessee and Hawaii.
Sec. 405. Certain Medicaid DRA technical corrections.

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Offshore oil and gas leasing in 181 Area and 181 south Area of Gulf of Mexico.
Sec. 104. Moratorium on oil and gas leasing in certain areas of Gulf of Mexico.
Sec. 105. Disposition of qualified outer Continental Shelf revenues from 181 Area, 181 south Area, and 2002–2007 planning areas of Gulf of Mexico.

TITLE II—SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2006

Sec. 200. Short title.

Subtitle A—Mining Control and Reclamation

Sec. 201. Abandoned Mine Reclamation Fund and purposes.
Sec. 202. Reclamation fee.
Sec. 203. Objectives of Fund.
Sec. 204. Reclamation of rural land.
Sec. 205. Liens.
Sec. 206. Certification.
Sec. 207. Remining incentives.
Sec. 208. Extension of limitation on application of prohibition on issuance of permit.
Sec. 209. Tribal regulation of surface coal mining and reclamation operations.

Subtitle B—Coal Industry Retiree Health Benefit Act

Sec. 211. Certain related persons and successors in interest relieved of liability if premiums prepaid.
Sec. 212. Transfers to funds; premium relief.
Sec. 213. Other provisions.

TITLE III—WHITE PINE COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT

Sec. 301. Authorization of appropriations.

Sec. 302. Short title.
Sec. 303. Definitions.

Subtitle A—Land Disposal

Sec. 311. Conveyance of White Pine County, Nevada, land.
Sec. 312. Disposition of proceeds.

Subtitle B—Wilderness Areas

Sec. 321. Short title.
Sec. 322. Findings.
Sec. 323. Additions to National Wilderness Preservation System.
Sec. 324. Administration.
Sec. 325. Adjacent management.
Sec. 326. Military overflights.
Sec. 327. Native American cultural and religious uses.
Sec. 328. Release of wilderness study areas.
Sec. 329. Wildlife management.
Sec. 330. Wildfire, insect, and disease management.
Sec. 331. Climatological data collection.

Subtitle C—Transfers of Administrative Jurisdiction

Sec. 341. Transfer to the United States Fish and Wildlife Service.
Sec. 342. Transfer to the Bureau of Land Management.
Sec. 343. Transfer to the Forest Service.
Sec. 344. Availability of map and legal descriptions.

Subtitle D—Public Conveyances

Sec. 351. Conveyance to the State of Nevada.
Sec. 352. Conveyance to White Pine County, Nevada.

Subtitle E—Silver State Off-Highway Vehicle Trail

Sec. 355. Silver State off-highway vehicle trail.

Subtitle F—Transfer of Land to Be Held in Trust for the Ely Shoshone Tribe.

Sec. 361. Transfer of land to be held in trust for the Ely Shoshone Tribe.

Subtitle G—Eastern Nevada Landscape Restoration Project.

Sec. 371. Findings; purposes.
Sec. 372. Definitions.
Sec. 373. Restoration project.

Subtitle H—Amendments to the Southern Nevada Public Land Management Act of 1998

Sec. 381. Findings.
Sec. 382. Availability of special account.

Subtitle I—Amendments to the Lincoln County Conservation, Recreation, and Development Act of 2004

Sec. 391. Disposition of proceeds.

Subtitle J—All American Canal Projects

Sec. 395. All American Canal Lining Project.
Sec. 396. Regulated storage water facility.
Sec. 397. Application of law.

TITLE IV—OTHER PROVISIONS

Sec. 401. Tobacco personal use quantity exception to not apply to delivery sales.
Sec. 402. Ethanol Tariff Schedule.
Sec. 403. Withdrawal of certain Federal land and interests in certain Federal land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws.
Sec. 404. Continuing eligibility for certain students under District of Columbia School Choice Program.
Sec. 405. Study on Establishing Uniform National Database on Elder Abuse.
Sec. 406. Temporary duty reductions for certain cotton shirting fabric.
Sec. 407. Cotton Trust Fund.

Sec. 408. Tax court review of requests for equitable relief from joint and several liability.

DIVISION D—TEMPORARILY MODIFY CERTAIN RATES OF DUTY AND MAKE OTHER TECHNICAL AMENDMENTS TO THE TRADE LAWS, EXTEND CERTAIN TRADE PREFERENCE PROGRAMS, AND OTHER PURPOSES

Sec. 1. Table of contents.

TITLE I—TARIFF PROVISIONS

Sec. 1001. Reference; expired provisions.

Subtitle A—New Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS

Sec. 1111. Diethyl sulfate.
Sec. 1112. Sorafenib.
Sec. 1113. Prohexadione calcium.
Sec. 1114. Methyl methoxy acetate.
Sec. 1115. Methoxyacetic acid.
Sec. 1116. N-Methylpiperidine.
Sec. 1117. Quinclorac technical.
Sec. 1118. Pyridaben.
Sec. 1119. Certain rubber or plastic footwear.
Sec. 1120. Sodium ortho-phenylphenol.
Sec. 1121. Certain chemical.
Sec. 1122. Baypure CX.
Sec. 1123. Isoeicosane.
Sec. 1124. Isododecane.
Sec. 1125. Isohexadecane.
Sec. 1126. Aminoguanidine bicarbonate.
Sec. 1127. o-Chlorotoluene.
Sec. 1128. Bayderm bottom DLV-N.
Sec. 1129. 2,3-Dichloronitrobenzene.
Sec. 1130. 1-Methoxy-2-propanol.
Sec. 1131. Basic Red 1 dye.
Sec. 1132. Basic Red 1:1 dye.
Sec. 1133. Basic Violet 11 dye.
Sec. 1134. Basic Violet 11:1 dye.
Sec. 1135. N-Cyclohexylthiophthalimide.
Sec. 1136. 4,4′-Dithiodimorpholine.
Sec. 1137. Tetraethylthiuram disulfide.
Sec. 1138. Certain tetramethylthiuram disulfide.
Sec. 1139. Certain aerosol valves.
Sec. 1140. 4-Methyl-5-n-propoxy-2,4-dihydro-1,2,4-triazol-3-one.
Sec. 1141. Ethoxyquin.
Sec. 1142. Tricholorobenzene.
Sec. 1143. Benzoic acid, 3,4,5-trihydroxy-, propyl ester.
Sec. 1144. 2-Cyanopyridine.
Sec. 1145. Mixed xylidines.
Sec. 1146. Certain reception apparatus not containing a clock or clock timer, incorporating only AM radio.
Sec. 1147. Pigment Yellow 219.
Sec. 1148. Pigment Blue 80.
Sec. 1149. 1-Oxa-3, 20-diazadispiro-[5.1.11.2] heneicosan-21-one 2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichloro-hydrin, hydrolyzed and polymerized.
Sec. 1150. Isobutyl parahydroxybenzoic acid and its sodium salt.
Sec. 1151. Phosphinic acid, diethyl-, aluminum salt.
Sec. 1152. Exolit OP 1312.
Sec. 1153. Sodium hypophosphite.
Sec. 1154. Cyanuric chloride.
Sec. 1155. Certain leather footwear for persons other than men or women.
Sec. 1156. Certain other work footwear.
Sec. 1157. Certain turn or turned footwear.
Sec. 1158. Certain work footwear with outer soles of leather.
Sec. 1159. Certain footwear with outer soles of rubber or plastics and with open toes or heels.
Sec. 1160. Certain athletic footwear.
Sec. 1161. Certain work footwear.
Sec. 1162. Certain footwear.
Sec. 1163. 1-Naphthyl methylcarbamate.

Sec. 1164. Certain 16-inch variable speed scroll saw machines.
Sec. 1165. 3,4-Dimethoxybenzaldehyde.
Sec. 1166. 2-Aminothiophenol.
Sec. 1167. Solvent Red 227.
Sec. 1168. Mixtures of formaldehyde polymer and toluene.
Sec. 1169. 1,2-Bis(3-aminopropyl)ethylenediamine, polymer with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine and 2,4,6-trichloro-1,3,5-triazine.
Sec. 1170. Mixture of barium carbonate, strontium carbonate, calcium carbonate, methoxy-2-propananolacetate-1, for use as emitter suspension cathode coating.
Sec. 1171. Resin cement.
Sec. 1172. Phosphor yox, yttrium oxide phosphor, activated by europium.
Sec. 1173. Phosphor-bag-barium magnesium aluminate phosphor.
Sec. 1174. Yttrium vanadate phosphor.
Sec. 1175. Phosphor scap strontium chloroapatite-europium.
Sec. 1176. Phosphor zinc silicate.
Sec. 1177. Strontium magnesium phosphate-tin doped.
Sec. 1178. Phosphor-yof flu pdr yox; yttrium oxide phosphor, activated by europium.
Sec. 1179. Calcium chloride phosphate phosphor.
Sec. 1180. Ceramic frit powder.
Sec. 1181. Phosphor lite white and phosphor blue halo.
Sec. 1182. Phosphor-sca, strontium halophosphate doped with europium.
Sec. 1183. Phosphor-cool white small particle calcium halophosphate phosphor activated by manganese and antimony.
Sec. 1184. Phosphor lap lanthanum phosphate phosphor, activated by cerium and terbium.
Sec. 1185. Kashmir.
Sec. 1186. Certain articles of platinum.
Sec. 1187. Nickel alloy wire.
Sec. 1188. Titanium mononitride.
Sec. 1189. High accuracy, metal, marine sextants, used for navigating by celestial bodies.
Sec. 1190. Electrically operated pencil sharpeners.
Sec. 1191. Valve assemblies (vacuum relief).
Sec. 1192. Seals, aerodynamic, fireproof.
Sec. 1193. Wing illumination lights.
Sec. 1194. Exterior emergency lights.
Sec. 1195. Magnesium peroxide.
Sec. 1196. Certain footwear other than for men.
Sec. 1197. Grass shears with rotating blade.
Sec. 1198. Cerium sulfide pigments.
Sec. 1199. Kresoxim methyl.
Sec. 1200. 4-piece or 5-piece fireplace tools of iron or steel.
Sec. 1201. RSD 1235.
Sec. 1202. MCPB acid and MCPB sodium salt.
Sec. 1203. Gibberellic acid.
Sec. 1204. Triphenyltin hydroxide.
Sec. 1205. Bromoxynil octonoate.
Sec. 1206. Methyl 3-(trifluoromethyl)benzoate.
Sec. 1207. 4-(Trifluoromethoxy)phenyl isocyanate.
Sec. 1208. 4-Methylbenzonitrile.
Sec. 1209. Diaminodecane.
Sec. 1210. Certain compounds of lanthanum phosphates.
Sec. 1211. Certain compounds of yttrium europium oxide coprecipitates.
Sec. 1212. Certain compounds of lanthanum, cerium, and terbium phosphates.
Sec. 1213. Certain compounds of yttrium cerium phosphates.
Sec. 1214. Canned, boiled oysters, not smoked.
Sec. 1215. Boots.
Sec. 1216. Vinylidene chloride-methyl methacrylate-acrylonitrile copolymer.
Sec. 1217. 1-Propene, 1,1,2,3,3,3-hexafluoro-, oxidized, polymerized, reduced hydrolyzed.
Sec. 1218. 1-Propene,1,1,2,3,3,3-hexafluoro-oxidized, polymerized.
Sec. 1219. 1-Propene, 1,1,2,3,3,3-hexafluoro-, telomer with chlorotrifluoroethene, oxidized, reduced, ethyl ester, hydrolyzed.
Sec. 1220. Infrared absorbing dye.
Sec. 1221. 1,1,2-2-Tetrafluoroethene, oxidized, polymerized.
Sec. 1222. Methoxycarbonyl-terminated perfluorinated polyoxymethylene-polyoxyethylene.
Sec. 1223. Ethene, tetrafluoro, oxidized, polymerized, reduced, decarboxylated.
Sec. 1224. Ethene, tetrafluoro, oxidized, polymerized reduced, methyl esters, reduced, ethoxylated.

Sec. 1225. Oxiranemethanol, polymers with reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene.
Sec. 1226. Ethene, tetrafluoro, oxidized, polymerized reduced, methyl esters, reduced.
Sec. 1227. Certain light-absorbing photo dyes.
Sec. 1228. Certain specialty monomers.
Sec. 1229. Suspension of duty on exoflex F BX7011.
Sec. 1230. Triphenyl phosphine.
Sec. 1231. Certain golf bag bodies.
Sec. 1232. Dichlorprop-p acid, dichlorprop-p dimethylamine salt, and dichlorprop-p 2-ethylhexyl ester.
Sec. 1233. 2,4-db acid and 2,4-db dimethylamine salt.
Sec. 1234. Filament fiber tow of rayon.
Sec. 1235. Parts for use in the manufacture of certain high-performance loudspeakers.
Sec. 1236. Certain plastic lamp-holder housings containing sockets.
Sec. 1237. Certain porcelain lamp-holder housings containing sockets.
Sec. 1238. Certain aluminum lamp-holder housings containing sockets.
Sec. 1239. Certain brass lamp-holder housings containing sockets.
Sec. 1240. Staple fibers of viscose rayon, not carded.
Sec. 1241. Staple fibers of rayon, carded, combed, or otherwise processed.
Sec. 1242. Mini DVD camcorder with 680K pixel CCD.
Sec. 1243. Mini DVD camcorder with 20G HDD.
Sec. 1244. Metal halide lamp.
Sec. 1245. Hand-held electronic can openers.
Sec. 1246. Electric knives.
Sec. 1247. Toaster ovens with single-slot traditional toaster opening on top of oven.
Sec. 1248. Ice shavers.
Sec. 1249. Dual-press sandwich makers with floating upper lid and lock.
Sec. 1250. Electric juice extractors greater than 300 watts but less than 400 watts.
Sec. 1251. Electric juice extractors not less than 800 watts.
Sec. 1252. Open-top electric indoor grills.
Sec. 1253. Automatic drip coffeemakers other than those with clocks.
Sec. 1254. Automatic drip coffeemakers with electronic clocks.
Sec. 1255. Electric under-the-cabinet mounting can openers.
Sec. 1256. Dimethyl malonate.
Sec. 1257. Lightweight digital camera lenses.
Sec. 1258. Digital zoom camera lenses.
Sec. 1259. Color flat panel screen monitors.
Sec. 1260. Color monitors with a video display diagonal of 35.56 cm or greater.
Sec. 1261. Color monitors.
Sec. 1262. Black and white monitors.
Sec. 1263. 6 V lead-acid storage batteries.
Sec. 1264. Zirconyl chloride.
Sec. 1265. Naphthol AS-CA.
Sec. 1266. Naphthol AS-KB.
Sec. 1267. Basic Violet 1.
Sec. 1268. Basic Blue 7.
Sec. 1269. 3-Amino-4-methylbenzamide.
Sec. 1270. Acetoacetyl-2,5-dimethoxy-4-chloroanilide.
Sec. 1271. Phenyl salicylate (benzoic acid, 2-hydroxy-, phenyl ester).
Sec. 1272. Synthetic indigo powder.
Sec. 1273. 1,3,5-Triazine-2,4-diamine, 6-[2-(2-methyl-1H-imidazol-1-yl)ethyl]-.
Sec. 1274. 50/50 Mixture of 1,3,5-triazine-2,4,6(1H,3H,5H)-trione, 1,3,5-tris[(2r)-oxiranylmethyl]- and 1,3,5,-triazine-2,4,6(1H,3H,5H)-trione, 1,3,5-tris[(2s)-oxiranylmethyl]-.
Sec. 1275. 9H-Thioxanthene-2-carboxaldehyde, 9-oxo-, 2-(o-acetyloxime).
Sec. 1276. 1H-Imidazole, 2-ethyl-4-methyl-.
Sec. 1277. 1H-Imidazole-4-methanol, 5-methyl-2-phenyl-.
Sec. 1278. 4-Cyclohexene-1,2-dicarboxylic acid, compd. With 1,3,5-triazine-2,4,6-triamine (1:1).
Sec. 1279. 1,3,5,-Triazine-2,4-diamine, 6-[2-(2-undecyl-1H-imidazol-1-yl)ethyl]-.
Sec. 1280. Certain footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1281. Certain women's footwear with coated or laminated textile fabrics.
Sec. 1282. Certain men's footwear with coated or laminated textile fabrics.
Sec. 1283. Certain men's footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1284. Certain women's footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1285. Certain other footwear valued over $20 a pair with coated or laminated textile fabrics.

Sec. 1286. Certain footwear with coated or laminated textile fabrics.
Sec. 1287. Certain other footwear covering the ankle with coated or laminated textile fabrics.
Sec. 1288. Certain women's footwear covering the ankle with coated or laminated textile fabrics.
Sec. 1289. Certain women's footwear not covering the ankle with coated or laminated textile fabrics.
Sec. 1290. Felt-bottom boots for use in fishing waders.
Sec. 1291. Lug bottom boots for use in fishing waders.
Sec. 1292. Certain parts and accessories for measuring or checking instruments.
Sec. 1293. Certain printed circuit assemblies.
Sec. 1294. Certain subassemblies for measuring equipment for telecommunications.
Sec. 1295. Chloroneb.
Sec. 1296. p-Nitrobenzoic acid (PNBA).
Sec. 1297. Allyl pentaerythritol (APE).
Sec. 1298. Butyl ethyl propanediol (BEP).
Sec. 1299. BEPD70L.
Sec. 1300. Boltorn-1 (bolt-1).
Sec. 1301. Boltorn-2 (bolt-2).
Sec. 1302. Cyclic TMP formal (CTF).
Sec. 1303. DITMP.
Sec. 1304. Polyol DPP (DPP).
Sec. 1305. Hydroxypivalic acid (HPA).
Sec. 1306. TMPDE.
Sec. 1307. TMPME.
Sec. 1308. TMP oxetane (TMPO).
Sec. 1309. TMPO ethoxylate (TMPOE).
Sec. 1310. Amyl-anthraquinone.
Sec. 1311. T-butyl acrylate.
Sec. 1312. 3-Cyclohexene-1-carboxylic acid, 6-[(di-2-propenylamino)carbonyl]-, rel-(1R,6R)-, reaction products with pentafluoroiodoethane-tetrafluoroethylene telomer, ammonium salt.
Sec. 1313. Mixtures of phosphate ammonium salt derivatives of a fluorochemical.
Sec. 1314. 1-(3H)-isobenzofuranone, 3,3-bis(2-methyl-1-octyl-1H-indol-3-yl)-.
Sec. 1315. Mixture of poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-1,3,5-triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidinyl)imino]-1,6-hexanediyl[(2,2,6,6-tetramethyl-4-piperidinyl)imino]]) and bis(2,2,6,6-tetramethyl-4-piperidyl) sebacate.
Sec. 1316. Certain bitumen-coated polyethylene sleeves specifically designed to protect in-ground wood posts.
Sec. 1317. Nylon woolpacks used to package wool.
Sec. 1318. Magnesium zinc aluminum hydroxide carbonate hydrate.
Sec. 1319. C12–18 alkenes.
Sec. 1320. Acrypet UT100.
Sec. 1321. 5-Amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)–(trifluoromethyl)-sulfinyl]-1H-pyrazole-3-carbonitrile (Fipronil).
Sec. 1322. 2,3-Pyridinedicarboxylic acid.
Sec. 1323. Mixtures of 2-amino-2,3-dimethylbutylnitrile and toluene.
Sec. 1324. 2,3-Quinolinedicarboxylic acid.
Sec. 1325. 3,5-Difluoroaniline.
Sec. 1326. Clomazone.
Sec. 1327. Chloropivaloyl chloride.
Sec. 1328. N,N′-Hexane-1,6-diylbis(3-(3,5-di-tert-butyl-4-hydroxyphenylpropionamide)).
Sec. 1329. Reactive Red 268.
Sec. 1330. Reactive Red 270.
Sec. 1331. Certain glass thermo bulbs.
Sec. 1332. Pyriproxyfen.
Sec. 1333. Uniconazole-P.
Sec. 1334. Bispyribac-sodium.
Sec. 1335. Dinotefuran.
Sec. 1336. Etoxazole.
Sec. 1337. Bioallethrin.
Sec. 1338. S-Bioallethrin.
Sec. 1339. Tetramethrin.
Sec. 1340. Tralomethrin.
Sec. 1341. Flumiclorac-pentyl.
Sec. 1342. 1-Propene-2-methyl homopolymer.
Sec. 1343. Acronal-S-600.
Sec. 1344. Lucirin TPO.
Sec. 1345. Sokalan PG IME.
Sec. 1346. Lycopene 10 percent.

Sec. 1347. Mixtures of CAS Nos. 181274–15–7 and 208465–21–8.
Sec. 1348. 2-Methyl-1-[4-(methylthio)phenyl]-2-(4-morpholinyl)–1-propanone.
Sec. 1349. 1,6-Hexanediamine, N,N- bis(2,2,6,6-tetramethyl-4- piperidinyl)-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with n-butyl-1-butanamine and N-butyl- 2,2,6,6-tetramethyl-4- piperidinamine.
Sec. 1350. Vat Black 25.
Sec. 1351. Acid Orange 162.
Sec. 1352. Methyl salicylate.
Sec. 1353. 1,2-Octanediol.
Sec. 1354. Menthone glycerin acetal.
Sec. 1355. Pontamine Green 2b.
Sec. 1356. Bayderm bottom 10 UD.
Sec. 1357. Bayderm finish DLH.
Sec. 1358. Levagard DMPP.
Sec. 1359. Bayderm bottom DLV.
Sec. 1360. Certain ethylene-vinyl acetate copolymers.
Sec. 1361. Cyazofamid.
Sec. 1362. Flonicamid.
Sec. 1363. Zeta-cypermethrin.
Sec. 1364. 2-Ethylhexyl 4-methoxycinnamate.
Sec. 1365. Certain flame retardant plasticizers.
Sec. 1366. Baypure DS.
Sec. 1367. Bayowet C4.
Sec. 1368. Certain bicycle parts.
Sec. 1369. Other cycles.
Sec. 1370. Certain bicycle parts.
Sec. 1371. Certain bicycle parts.
Sec. 1372. (2-Chloroethyl)phosphonic acid (Ethephon).
Sec. 1373. Preparations containing, 2-(1-(((3-chloro-2-propenyl)oxy)imino)propyl)–5-(2-(ethylthio)propyl)–3-hydroxy-2-cyclohexene-1-one (Clethodim).
Sec. 1374. Urea, polymer with formaldehyde (pergopak).
Sec. 1375. Ortho nitroaniline.
Sec. 1376. 2,2 -(2,5-thiophenediyl)bis(5-(1,1-dimethylethyl)benzoxazole).
Sec. 1377. Certain chemicals and chemical mixtures.
Sec. 1378. Acid Red 414.
Sec. 1379. Solvent Yellow 163.
Sec. 1380. 4-Amino-3,6-bis[[5-[[4-chloro-6-[methyl[2-(methylamino)–2-oxoethyl]amino]-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]azo]-5-hydroxy-2,7-naphthalenedisulfonic acid, lithium potassium sodium salt.
Sec. 1381. Reactive Red 123.
Sec. 1382. Reactive Blue 250.
Sec. 1383. Reactive Black 5.
Sec. 1384. 5-[(2-Cyano-4-nitrophenyl)azo]-2-[[2-(2-hydroxyethoxy)ethyl]amino]-4-methyl-6-(phenylamino)–3-pyridinecarbonitrile.
Sec. 1385. Cyano[3-[(6-methoxy-2-benzothiazolyl)amino]-1H-isoindol-1-ylidene]-acetic acid, pentyl ester.
Sec. 1386. [(9,10-Dihydro-9,10-dioxo-1,4-anthracenediyl)bis[imino[3-(2-methylpropyl)–3,1-propanediyl]]]bisbenzenesulfonic acid, disodium salt.
Sec. 1387. [4-(2,6-Dihydro-2,6-dioxo-7-phenylbenzo[1,2-b:4,5-b′]difuran-3-yl)phenoxy]-acetic acid, 2-ethoxyethyl ester.
Sec. 1388. 3-Phenyl-7-(4-propoxyphenyl)-benzo[1,2-b:4,5-b′]difuran-2,6-dione.
Sec. 1389. 2-[[[2, 5-Dichloro-4-[(2-methyl-1H-indol-3-yl)azo]phenyl]sulfonyl]amino]-ethanesulfonic acid, monosodium salt.
Sec. 1390. 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[(3-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-4-hydroxy-3-[[4-[[2-(sulfoxy)ethyl]sulfonyl]phenyl]azo]-, sodium salt.
Sec. 1391. 7-[[2-[(Aminocarbonyl)amino]-4-[[4-[4-[2-[[4-[[3-[(aminocarbonyl) amino]-4-[(3,6,8-trisulfo-2-naphthalenyl)azo]phenyl]amino]-6-chloro-1,3,5-triazin-2-yl]amino]ethyl]- 1-piperazinyl]-6-chloro-1,3,5-triazin-2-yl]amino]phenyl]azo]-1,3,6-naphthalenetrisulfonic acid, lithium potassium sodium salt.
Sec. 1392. 4-[[3-(Acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid, monosodium salt.
Sec. 1393. [4-[2,6-Dihydro-2,6-dioxo-7-(4-propoxyphenyl)benzo[1,2-b:4,5-b ]difuran-3-yl]phenoxy]-acetic acid, 2-ethoxyethyl ester.
Sec. 1394. Basic Yellow 40 chloride based.
Sec. 1395. Direct Yellow 119.
Sec. 1396. Naugard 412s.
Sec. 1397. Triacetonamine.
Sec. 1398. Ipconazole.
Sec. 1399. Omite tech.
Sec. 1400. Pantera technical.

Sec. 1401. p-Toluenesulfonyl chloride.
Sec. 1402. Preformed pellets of a mixture of sodium iodide, thallium iodide, dysprosium tri-iodide, holmium tri-iodide, thulium tri-iodide, and sometimes calcium iodide.
Sec. 1403. p-Aminobenzamide (4-aminobenzamide).
Sec. 1404. p-Chloroaniline.
Sec. 1405. 4-Chloro-2-nitroaniline.
Sec. 1406. o-Chloro-p-toluidine (3-chloro-4-methylaniline).
Sec. 1407. 2-Chloroacetoacetanilide.
Sec. 1408. p-Acetoacetanisidide.
Sec. 1409. 1-Hydroxy-2-naphthoic acid.
Sec. 1410. Pigment Green 7 crude, not ready for use as a pigment.
Sec. 1411. 1,8-Naphthalimide (1H-benz[de]isoquinoline-1,3(2H)-dione).
Sec. 1412. Diisopropyl succinate.
Sec. 1413. 2,4-Di-tert-butyl-6-(5-chlorobenzotriazol-2-yl)phenol.
Sec. 1414. Direct Black 22.
Sec. 1415. Methylene bis-benzotriazolyl tetramethylbutylphenol.
Sec. 1416. Bis-ethylhexyloxyphenol methoxyphenol triazine.
Sec. 1417. Reactive Orange 132.
Sec. 1418. Acid Black 244.
Sec. 1419. Certain cores used in remanufacture.
Sec. 1420. ADTP.
Sec. 1421. DCBTF.
Sec. 1422. Noviflumuron.
Sec. 1423. Parachlorobenzotrifluoride.
Sec. 1424. Mixtures of insecticide.
Sec. 1425. Mixture of fungicide.
Sec. 1426. 1,2-Benzisothiazol-3(2H)-one.
Sec. 1427. Styrene, ar-ethyl-, polymer with divinylbenzene and styrene (6CI) beads with low ash.
Sec. 1428. Mixtures of fungicide.
Sec. 1429. 2-Methyl-4-chlorophenoxy-acetic acid, di-methylamine salt.
Sec. 1430. Charge control agent 7.
Sec. 1431. Pro-jet Black 820 liquid feed.
Sec. 1432. Pro-jet Magenta M700.
Sec. 1433. Pro-jet Fast Black 287 NA liquid feed.
Sec. 1434. Pro-jet Fast Black 286 stage.
Sec. 1435. Pro-jet Cyan 485 stage.
Sec. 1436. Pro-jet Black 661 liquid feed.
Sec. 1437. Pro-jet Black Cyan 854 liquid feed.
Sec. 1438. Erasers.
Sec. 1439. Artificial flowers.
Sec. 1440. Suspension system stabilizer bars.
Sec. 1441. Rattan webbing.
Sec. 1442. Tractor body parts.
Sec. 1443. AC electric motors of an output exceeding 74.6 W but not exceeding 85 W.
Sec. 1444. AC electric motors of an output exceeding 74.6 W but not exceeding 105 W.
Sec. 1445. AC electric motors of an output exceeding 74.6 W but not exceeding 95 W.
Sec. 1446. Certain AC electric motors.
Sec. 1447. Viscose rayon yarn.
Sec. 1448. Certain twisted yarn of viscose rayon.
Sec. 1449. Allyl ureido monomer.
Sec. 1450. Synthetic elastic staple fiber.
Sec. 1451. Certain fiberglass sheets.
Sec. 1452. Halophosphor calcium diphosphate.
Sec. 1453. Certain rayon staple fibers.
Sec. 1454. Synthetic quartz or fused silica photomask substrates.
Sec. 1455. Certain integrated machines for manufacturing pneumatic tires.
Sec. 1456. Tramway cars.
Sec. 1457. Certain artificial filament single yarn (other than sewingthread).
Sec. 1458. Certain electrical transformers rated at 25VA.
Sec. 1459. Certain electrical transformers rated at 40VA.

CHAPTER 2—REDUCTIONS

Sec. 1461. Floor coverings and mats of vulcanized rubber.
Sec. 1462. Manicure and pedicure sets.
Sec. 1463. Nitrocellulose.
Sec. 1464. Sulfentrazone technical.

Sec. 1465. Clock radio combos.
Sec. 1466. Thiamethoxam technical.
Sec. 1467. Staple fibers of viscose rayon, not carded, combed, or otherwise processed for spinning.
Sec. 1468. Certain men's footwear covering the ankle with coated or laminated textile fabrics.
Sec. 1469. Certain footwear not covering the ankle with coated or laminated textile fabrics.
Sec. 1470. Acrylic or modacrylic synthetic staple fibers, not carded, combed, or otherwise processed for spinning.
Sec. 1471. Certain women's footwear.
Sec. 1472. Numerous other seals made of rubber or silicone, and covered with, or reinforced with, a fabric material.
Sec. 1473. Tetrakis.
Sec. 1474. Glycine, N,N-bis[2-hydroxy-3-(2-propenyloxy)propyl]-, monosodium salt, reaction products with ammonium hydroxide and pentafluoroiodoethane-tetrafluoroethylene telomer.
Sec. 1475. Diethyl ketone.
Sec. 1476. Acephate.
Sec. 1477. Flumioxazin.
Sec. 1478. Garenoxacin mesylate.
Sec. 1479. Butylated hydroxyethylbenzene.
Sec. 1480. Certain automotive catalytic converter mats.
Sec. 1481. 3,3′-Dichlorobenzidine dihydrochloride.
Sec. 1482. TMC114.
Sec. 1483. Biaxially oriented polypropylene dielectric film.
Sec. 1484. Biaxially oriented polyethylene terephthalate dielectric film.
Sec. 1485. Certain bicycle parts.
Sec. 1486. Certain bicycle parts.
Sec. 1487. Bifenthrin.
Sec. 1488. Reduced Vat 1.
Sec. 1489. 4-Chlorobenzonitrile.
Sec. 1490. Nail clippers and nail files.
Sec. 1491. Electric automatic shower cleaners.
Sec. 1492. Mesotrione technical.
Sec. 1493. Certain crank-gear and other bicycle parts.

Subtitle B—Existing Suspensions and Reductions

Sec. 1501. Extensions of existing suspensions and other modifications.

Subtitle C—Effective Date

Sec. 1511. Effective date.

TITLE II—RELIQUIDATIONS

Sec. 2001. Reliquidation of certain entries of certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania.
Sec. 2002. Certain entries of pasta.
Sec. 2003. Clarification of reliquidation provision.
Sec. 2004. Reliquidation of certain drawback claim.
Sec. 2005. Payment of interest on amounts owed pursuant to reliquidation of certain entries.

TITLE III—TECHNICAL CORRECTIONS AND OTHER PROVISIONS

Subtitle A—Technical corrections

Sec. 3001. Amendments to the HTS.
Sec. 3002. Technical correction to the Tariff Act of 1930.
Sec. 3003. Amendments to the Pension Protection Act of 2006.
Sec. 3004. NMSBA.
Sec. 3005. Certain monochrome glass envelopes.
Sec. 3006. Flexible magnets and composite goods containing flexible magnets.
Sec. 3007. Cellar treatment of wine.

Subtitle B—Other Provisions

Sec. 3011. Consideration of certain civil actions delayed because of the terrorist attacks of September 11, 2001.
Sec. 3012. Effective date of modifications to the Harmonized Tariff Schedule.

TITLE IV—EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO THE PRODUCTS OF VIETNAM

Sec. 4001. Findings.

Sec. 4002. Termination of application of title IV of the Trade Act of 1974 to Vietnam.
Sec. 4003. Procedure for determining prohibited subsidies by Vietnam.
Sec. 4004. Consultations upon initiation of investigation.
Sec. 4005. Public participation and consultation.
Sec. 4006. Arbitration and imposition of quotas.
Sec. 4007. Definitions.

TITLE V—HAITI

Sec. 5001. Short title.
Sec. 5002. Trade benefits for Haiti.
Sec. 5003. ITC study.
Sec. 5004. Sense of Congress on interpretation of textile and apparel provisions for Haiti.
Sec. 5005. Technical amendments.
Sec. 5006. Effective date.

TITLE VI—AFRICAN GROWTH AND OPPORTUNITY ACT

Sec. 6001. Short title.
Sec. 6002. Preferential treatment of apparel products of lesser developed countries.
Sec. 6003. Technical corrections.
Sec. 6004. Effective date for AGOA.

TITLE VII—ANDEAN TRADE PREFERENCE ACT

Sec. 7001. Short title.
Sec. 7002. ATPA extension.
Sec. 7003. Technical amendments.

TITLE VIII—GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM

Sec. 8001. Limitations on waivers of competitive need limitation.
Sec. 8002. Extension of GSP program.

# DIVISION A—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS, AND OTHER TAX PROVISIONS

**SEC. 100. REFERENCE.**

Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

# TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

**SEC. 101. DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.**

(a) IN GENERAL.—Section 222(e) is amended by striking "2005" and inserting "2007". 26 USC 222.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking "a taxable year beginning in 2004 or 2005" and inserting "any taxable year beginning after 2003", and

(2) by striking "2004 AND 2005" in the heading and inserting "AFTER 2003".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005. 26 USC 222 note.

**SEC. 102. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.**

26 USC 45D.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking "and 2007" and inserting ", 2007, and 2008".

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.".

26 USC 45D note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 103. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.**

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking "2006" and inserting "2008".

26 USC 164 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 104. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking "2005" and inserting "2007".

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking "2005" and inserting "2007".

26 USC 41 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2005.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(A) by striking "2.65 percent" and inserting "3 percent",

(B) by striking "3.2 percent" and inserting "4 percent", and

(C) by striking "3.75 percent" and inserting "5 percent".

26 USC 41 note.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), the amendments made by this subsection shall apply to taxable years ending after December 31, 2006.

26 USC 41 note.

(3) TRANSITION RULE.—

(A) IN GENERAL.—In the case of a specified transitional taxable year for which an election under section 41(c)(4) of the Internal Revenue Code of 1986 applies, the credit determined under section 41(a)(1) of such Code shall be equal to the sum of—

(i) the applicable 2006 percentage multiplied by the amount determined under section 41(c)(4)(A) of such Code (as in effect for taxable years ending on December 31, 2006), plus

(ii) the applicable 2007 percentage multiplied by the amount determined under section 41(c)(4)(A) of such Code (as in effect for taxable years ending on January 1, 2007).

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) SPECIFIED TRANSITIONAL TAXABLE YEAR.—The term "specified transitional taxable year" means any taxable year which ends after December 31, 2006, and which includes such date.

(ii) APPLICABLE 2006 PERCENTAGE.—The term "applicable 2006 percentage" means the number of days in the specified transitional taxable year before January 1, 2007, divided by the number of days in such taxable year.

(iii) APPLICABLE 2007 PERCENTAGE.—The term "applicable 2007 percentage" means the number of days in the specified transitional taxable year after December 31, 2006, divided by the number of days in such taxable year.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph: 26 USC 41.

"(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.". Applicability.

(2) TRANSITION RULE FOR DEEMED REVOCATION OF ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes January 1, 2007, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by this subsection) for such year. 26 USC 41 note.

(3) EFFECTIVE DATE.—Except as provided in paragraph (4), the amendments made by this subsection shall apply to taxable years ending after December 31, 2006. 26 USC 41 note.

(4) TRANSITION RULE FOR NONCALENDAR TAXABLE YEARS.— 26 USC 41 note.

(A) IN GENERAL.—In the case of a specified transitional taxable year for which an election under section 41(c)(5) of the Internal Revenue Code of 1986 (as added by this subsection) applies, the credit determined under section 41(a)(1) of such Code shall be equal to the sum of—

(i) the applicable 2006 percentage multiplied by the amount determined under section 41(a)(1) of such Code (as in effect for taxable years ending on December 31, 2006), plus

(ii) the applicable 2007 percentage multiplied by the amount determined under section 41(c)(5) of such Code (as in effect for taxable years ending on January 1, 2007).

(B) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (A)—

(i) DEFINITIONS.—Terms used in this paragraph which are also used in subsection (b)(3) shall have the respective meanings given such terms in such subsection.

(ii) DUAL ELECTIONS PERMITTED.—Elections under paragraphs (4) and (5) of section 41(c) of such Code may both apply for the specified transitional taxable year.

(iii) DEFERRAL OF DEEMED ELECTION REVOCATION.—Any election under section 41(c)(4) of the Internal Revenue Code of 1986 treated as revoked under paragraph (2) shall be treated as revoked for the taxable year after the specified transitional taxable year.

**SEC. 105. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.**

26 USC 51, 51A.

(a) IN GENERAL.—Sections 51(c)(4)(B) and 51A(f) are each amended by striking "2005" and inserting "2007".

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking "25" and inserting "40".

(d) EXTENSION OF PAPERWORK FILING DEADLINE.—Section 51(d)(12)(A)(ii)(II) is amended by striking "21st day" and inserting "28th day".

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) a long-term family assistance recipient.".

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation.".

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

"(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

"(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

"(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

"(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

"(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

"(A) which are paid to a long-term family assistance recipient, and

"(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

Applicability.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.".

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

26 USC 51 note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

(2) CONSOLIDATION.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2006.

**SEC. 106. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.**

26 USC 32.

(a) IN GENERAL.—Section 32(c)(2)(B)(vi)(II) is amended by striking "2007" and inserting "2008".

26 USC 32 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

**SEC. 107. EXTENSION AND MODIFICATION OF QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking "and 2005" and inserting "2005, 2006, and 2007".

(b) SPECIAL RULES RELATING TO EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking "and" at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) the issue meets the requirements of subsections (f), (g), and (h).", and

(B) by redesignating subsections (f), (g), (h), and (i) as subsections (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsections:

"(f) SPECIAL RULES RELATING TO EXPENDITURES.—

"(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

"(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

"(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

"(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

"(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

"(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if

an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(g) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

"(h) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).".

(2) CONFORMING AMENDMENTS.—Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking "section 1397E(i)" and inserting "section 1397E(l)". 26 USC 54, 1400N.

(c) EFFECTIVE DATES.— 26 USC 1397E note.

(1) EXTENSION.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2005.

(2) SPECIAL RULES.—The amendments made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act pursuant to allocations of the national zone academy bond limitation for calendar years after 2005.

**SEC. 108. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking "or 2005" and inserting "2005, 2006, or 2007".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005. 26 USC 62 note.

**SEC. 109. EXTENSION AND EXPANSION OF EXPENSING OF BROWNFIELDS REMEDIATION COSTS.**

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking "2005" and inserting "2007".

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) any petroleum product (as defined in section 4612(a)(3)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005. 26 USC 198 note.

**SEC. 110. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking "2005" both places it appears and inserting "2007".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005. 26 USC 1400 note.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking "2005" and inserting "2007".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005. 26 USC 1400A note.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

26 USC 1400B.

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking "2006" each place it appears and inserting "2008".

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "2010" and inserting "2012", and

(ii) by striking "2010" in the heading thereof and inserting "2012".

(B) Section 1400B(g)(2) is amended by striking "2010" and inserting "2012".

(C) Section 1400F(d) is amended by striking "2010" and inserting "2012".

26 USC 1400B note.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking "2006" and inserting "2008".

26 USC 1400C note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

**SEC. 111. INDIAN EMPLOYMENT TAX CREDIT.**

(a) IN GENERAL.—Section 45A(f) is amended by striking "2005" and inserting "2007".

26 USC 45A note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 112. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS.**

(a) IN GENERAL.—Section 168(j)(8) is amended by striking "2005" and inserting "2007".

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

**SEC. 113. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT PROPERTY.**

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking "2006" and inserting "2008".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2005.

**SEC. 114. COVER OVER OF TAX ON DISTILLED SPIRITS.**

(a) IN GENERAL.—Section 7652(f)(1) is amended by striking "2006" and inserting "2008".

26 USC 7652 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2005.

**SEC. 115. PARITY IN APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 9812(f)(3) is amended by striking "2006" and inserting "2007". 26 USC 9812.

(b) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "2006" and inserting "2007".

(c) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking "2006" and inserting "2007".

**SEC. 116. CORPORATE DONATIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH AND OF COMPUTER TECHNOLOGY AND EQUIPMENT.**

(a) EXTENSION OF COMPUTER TECHNOLOGY AND EQUIPMENT DONATION.—

(1) IN GENERAL.—Section 170(e)(6)(G) is amended by striking "2005" and inserting "2007".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made in taxable years beginning after December 31, 2005. 26 USC 170 note.

(b) EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.—

(1) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(B) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembly" after "construction".

(2) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembly" after "construction".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2005. 26 USC 170 note.

**SEC. 117. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) are each amended by striking "2005" each place it appears in the text and headings and inserting "2007".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking "or 2004" each place it appears and inserting "2004, 2005, or 2006", and

(B) in the heading by striking "OR 2004" and inserting "2004, 2005, OR 2006".

(2) Subparagraph (A) of section 220(j)(4) is amended by striking "and 2004" and inserting "2004, 2005, and 2006".

26 USC 220 note.

(c) TIME FOR FILING REPORTS, ETC.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2005, or August 1, 2006, as the case may be, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2005 or calendar year 2006, as the case may be, shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2005 or 2006 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

**SEC. 118. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

26 USC 613A.

(a) IN GENERAL.—Section 613A(c)(6)(H) is amended by striking "2006" and inserting "2008".

26 USC 613A note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

26 USC 30A note.

**SEC. 119. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.**

Corporations.

(a) IN GENERAL.—For purposes of section 30A of the Internal Revenue Code of 1986, a domestic corporation shall be treated as a qualified domestic corporation to which such section applies if such corporation—

(1) is an existing credit claimant with respect to American Samoa, and

(2) elected the application of section 936 of the Internal Revenue Code of 1986 for its last taxable year beginning before January 1, 2006.

(b) SPECIAL RULES FOR APPLICATION OF SECTION.—The following rules shall apply in applying section 30A of the Internal Revenue Code of 1986 for purposes of this section:

(1) AMOUNT OF CREDIT.—Notwithstanding section 30A(a)(1) of such Code, the amount of the credit determined under section 30A(a)(1) of such Code for any taxable year shall be the amount determined under section 30A(d) of such Code, except that section 30A(d) shall be applied without regard to paragraph (3) thereof.

(2) SEPARATE APPLICATION.—In applying section 30A(a)(3) of such Code in the case of a corporation treated as a qualified domestic corporation by reason of this section, section 30A of such Code (and so much of section 936 of such Code as relates to such section 30A) shall be applied separately with respect to American Samoa.

(3) FOREIGN TAX CREDIT ALLOWED.—Notwithstanding section 30A(e) of such Code, the provisions of section 936(c) of such Code shall not apply with respect to the credit allowed by reason of this section.

(c) DEFINITIONS.—For purposes of this section, any term which is used in this section which is also used in section 30A or 936 of such Code shall have the same meaning given such term by such section 30A or 936.

(d) APPLICATION OF SECTION.—Notwithstanding section 30A(h) or section 936(j) of such Code, this section (and so much of section 30A and section 936 of such Code as relates to this section) shall apply to the first two taxable years of a corporation to which subsection (a) applies which begin after December 31, 2005, and before January 1, 2008.

**SEC. 120. EXTENSION OF BONUS DEPRECIATION FOR CERTAIN QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.**

(a) IN GENERAL.—Subsection (d) of section 1400N is amended by adding at the end the following new paragraph: 26 USC 1400N.

"(6) EXTENSION FOR CERTAIN PROPERTY.—

"(A) IN GENERAL.—In the case of any specified Gulf Opportunity Zone extension property, paragraph (2)(A) shall be applied without regard to clause (v) thereof.

"(B) SPECIFIED GULF OPPORTUNITY ZONE EXTENSION PROPERTY.—For purposes of this paragraph, the term 'specified Gulf Opportunity Zone extension property' means property—

"(i) substantially all of the use of which is in one or more specified portions of the GO Zone, and

"(ii) which is—

"(I) nonresidential real property or residential rental property which is placed in service by the taxpayer on or before December 31, 2010, or

"(II) in the case of a taxpayer who places a building described in subclause (I) in service on or before December 31, 2010, property described in section 168(k)(2)(A)(i) if substantially all of the use of such property is in such building and such property is placed in service by the taxpayer not later than 90 days after such building is placed in service.

"(C) SPECIFIED PORTIONS OF THE GO ZONE.—For purposes of this paragraph, the term 'specified portions of the GO Zone' means those portions of the GO Zone which are in any county or parish which is identified by the Secretary as being a county or parish in which hurricanes occurring during 2005 damaged (in the aggregate) more than 60 percent of the housing units in such county or parish which were occupied (determined according to the 2000 Census).

"(D) ONLY PRE-JANUARY 1, 2010, BASIS OF REAL PROPERTY ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified Gulf Opportunity Zone property solely by reason of subparagraph (B)(ii)(I), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2010.".

(b) EXTENSION NOT APPLICABLE TO INCREASED SECTION 179 EXPENSING.—Paragraph (2) of section 1400N(e) is amended by inserting "without regard to subsection (d)(6)" after "subsection (d)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005. 26 USC 1400N note.

**SEC. 121. AUTHORITY FOR UNDERCOVER OPERATIONS.**

26 USC 7608.

Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking "2007" both places it appears and inserting "2008".

**SEC. 122. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION.**

(a) DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.—

(1) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking "2006" and inserting "2007".

26 USC 6103 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to disclosures after December 31, 2006.

(b) DISCLOSURES RELATING TO TERRORIST ACTIVITIES.—

(1) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are each amended by striking "2006" and inserting "2007".

26 USC 6103 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to disclosures after December 31, 2006.

(c) DISCLOSURES RELATING TO STUDENT LOANS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking "2006" and inserting "2007".

26 USC 6103 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to requests made after December 31, 2006.

26 USC 41 note.

**SEC. 123. SPECIAL RULE FOR ELECTIONS UNDER EXPIRED PROVISIONS.**

Deadline.

(a) RESEARCH CREDIT ELECTIONS.—In the case of any taxable year ending after December 31, 2005, and before the date of the enactment of this Act, any election under section 41(c)(4) or section 280C(c)(3)(C) of the Internal Revenue Code of 1986 shall be treated as having been timely made for such taxable year if such election is made not later than the later of April 15, 2007, or such time as the Secretary of the Treasury, or his designee, may specify. Such election shall be made in the manner prescribed by such Secretary or designee.

(b) OTHER ELECTIONS.—Except as otherwise provided by such Secretary or designee, a rule similar to the rule of subsection (a) shall apply with respect to elections under any other expired provision of the Internal Revenue Code of 1986 the applicability of which is extended by reason of the amendments made by this title.

# TITLE II—ENERGY TAX PROVISIONS

**SEC. 201. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.**

Subsection (d) of section 45 is amended by striking "January 1, 2008" each place it appears and inserting "January 1, 2009".

**SEC. 202. CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.**

(a) IN GENERAL.—Section 54 is amended—

(1) by striking "$800,000,000" in subsection (f)(1) and inserting "$1,200,000,000",

(2) by striking "$500,000,000" in subsection (f)(2) and inserting "$750,000,000", and

(3) by striking "December 31, 2007" in subsection (m) and inserting "December 31, 2008".

(b) EFFECTIVE DATES.— 26 USC 54 note.

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) shall apply to bonds issued after December 31, 2006.

(2) ALLOCATIONS.—The amendment made by subsection (a)(2) shall apply to allocations or reallocations after December 31, 2006.

**SEC. 203. PERFORMANCE STANDARDS FOR SULFUR DIOXIDE REMOVAL IN ADVANCED COAL-BASED GENERATION TECHNOLOGY UNITS DESIGNED TO USE SUBBITUMINOUS COAL.**

(a) IN GENERAL.—Paragraph (1) of section 48A(f) (relating to advanced coal-based generation technology) is amended by adding at the end the following new flush sentence: 26 USC 48A.

"For purposes of the performance requirement specified for the removal of $SO_2$ in the table contained in subparagraph (B), the $SO_2$ removal design level in the case of a unit designed for the use of feedstock substantially all of which is subbituminous coal shall be 99 percent $SO_2$ removal or the achievement of an emission level of 0.04 pounds or less of $SO_2$ per million Btu, determined on a 30-day average.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take apply with respect to applications for certification under section 48A(d)(2) of the Internal Revenue Code of 1986 submitted after October 2, 2006. 26 USC 48A note.

**SEC. 204. DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.**

Subsection (h) of section 179D is amended by striking "December 31, 2007" and inserting "December 31, 2008".

**SEC. 205. CREDIT FOR NEW ENERGY EFFICIENT HOMES.**

Subsection (g) of section 45L is amended by striking "December 31, 2007" and inserting "December 31, 2008".

**SEC. 206. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

(a) EXTENSION.—Subsection (g) of section 25D is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(b) CLARIFICATION OF TERM.—

(1) Subsections (a)(1), (b)(1)(A), and (e)(4)(A)(i) of section 25D are each amended by striking "qualified photovoltaic property expenditures" and inserting "qualified solar electric property expenditures".

(2) Section 25D(d)(2) is amended—

(A) by striking "qualified photovoltaic property expenditure" and inserting "qualified solar electric property expenditure", and

(B) in the heading by striking "QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE" and inserting "QUALIFIED SOLAR ELECTRIC PROPERTY EXPENDITURE".

**SEC. 207. ENERGY CREDIT.**

Section 48 is amended—

(1) by striking "January 1, 2008" both places it appears and inserting "January 1, 2009", and

(2) by striking "December 31, 2007" both places it appears and inserting "December 31, 2008".

**SEC. 208. SPECIAL RULE FOR QUALIFIED METHANOL OR ETHANOL FUEL.**

26 USC 4041.

(a) EXTENSION.—Subparagraph (D) of section 4041(b)(2) is amended by striking "October 1, 2007" and inserting "January 1, 2009".

(b) APPLICABLE BLENDER RATE.—Section 4041(b)(2)(C)(ii) is amended by striking "2007" and inserting "2008".

(c) CLERICAL AMENDMENT.—The heading for section 4041(b)(2)(B) is amended to read as follows: "QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL".

**SEC. 209. SPECIAL DEPRECIATION ALLOWANCE FOR CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.**

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following:

"(l) SPECIAL ALLOWANCE FOR CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified cellulosic biomass ethanol plant property—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

"(B) the adjusted basis of such property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.—The term 'qualified cellulosic biomass ethanol plant property' means property of a character subject to the allowance for depreciation—

"(A) which is used in the United States solely to produce cellulosic biomass ethanol,

"(B) the original use of which commences with the taxpayer after the date of the enactment of this subsection,

"(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this subsection, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this subsection, and

Deadline.

"(D) which is placed in service by the taxpayer before January 1, 2013.

"(3) CELLULOSIC BIOMASS ETHANOL.—For purposes of this subsection, the term 'cellulosic biomass ethanol' means ethanol produced by enzymatic hydrolysis of any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.

"(4) EXCEPTIONS.—

"(A) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

"(B) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

"(C) ELECTION OUT.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(5) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

"(A) by substituting 'the date of the enactment of subsection (l)' for 'September 10, 2001' each place it appears therein,

"(B) by substituting 'January 1, 2013' for 'January 1, 2005' in clause (i) thereof, and

"(C) by substituting 'qualified cellulosic biomass ethanol plant property' for 'qualified property' in clause (iv) thereof.

"(6) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply. Applicability.

"(7) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified cellulosic biomass ethanol plant property which ceases to be qualified cellulosic biomass ethanol plant property. Applicability.

"(8) DENIAL OF DOUBLE BENEFIT.—Paragraph (1) shall not apply to any qualified cellulosic biomass ethanol plant property with respect to which an election has been made under section 179C (relating to election to expense certain refineries).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date. 26 USC 168 note.

**SEC. 210. EXPENDITURES PERMITTED FROM THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.**

(a) IN GENERAL.—Subsection (c) of section 9508 is amended— 26 USC 9508.

(1) by striking "section 9003(h)" and inserting "sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013", and

(2) by striking "Superfund Amendments and Reauthorization Act of 1986" and inserting "Public Law 109–168".

(b) CONFORMING AMENDMENTS.—Section 9014(2) of the Solid Waste Disposal Act is amended by striking "Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986" and inserting "Fund". 42 USC 6991m.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 9508 note.

**SEC. 211. TREATMENT OF COKE AND COKE GAS.**

(a) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

"(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.".

(b) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting "(other than from petroleum based products)" after "coke or coke gas".

26 USC 45K note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1321 of the Energy Policy Act of 2005.

# TITLE III—HEALTH SAVINGS ACCOUNTS

Health Opportunity Patient Empowerment Act of 2006. 26 USC 1 note.

**SEC. 301. SHORT TITLE.**

This title may be cited as the "Health Opportunity Patient Empowerment Act of 2006".

**SEC. 302. FSA AND HRA TERMINATIONS TO FUND HSAS.**

26 USC 106.

(a) IN GENERAL.—Section 106 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new subsection:

"(e) FSA AND HRA TERMINATIONS TO FUND HSAS.—

"(1) IN GENERAL.—A plan shall not fail to be treated as a health flexible spending arrangement or health reimbursement arrangement under this section or section 105 merely because such plan provides for a qualified HSA distribution.

"(2) QUALIFIED HSA DISTRIBUTION.—The term 'qualified HSA distribution' means a distribution from a health flexible spending arrangement or health reimbursement arrangement to the extent that such distribution—

"(A) does not exceed the lesser of the balance in such arrangement on September 21, 2006, or as of the date of such distribution, and

"(B) is contributed by the employer directly to the health savings account of the employee before January 1, 2012.

Such term shall not include more than 1 distribution with respect to any arrangement.

"(3) ADDITIONAL TAX FOR FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—

"(A) IN GENERAL.—If, at any time during the testing period, the employee is not an eligible individual, then the amount of the qualified HSA distribution—

"(i) shall be includible in the gross income of the employee for the taxable year in which occurs the first month in the testing period for which such employee is not an eligible individual, and

"(ii) the tax imposed by this chapter for such taxable year on the employee shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Clauses (i) and (ii) of subparagraph (A) shall not apply if the employee ceases to be an eligible individual by reason of the death of the employee or the employee becoming disabled (within the meaning of section 72(m)(7)).

"(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) TESTING PERIOD.—The term 'testing period' means the period beginning with the month in which the qualified HSA distribution is contributed to the health savings

account and ending on the last day of the 12th month following such month.

"(B) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given such term by section 223(c)(1).

"(C) TREATMENT AS ROLLOVER CONTRIBUTION.—A qualified HSA distribution shall be treated as a rollover contribution described in section 223(f)(5).

"(5) TAX TREATMENT RELATING TO DISTRIBUTIONS.—For purposes of this title—

"(A) IN GENERAL.—A qualified HSA distribution shall be treated as a payment described in subsection (d).

"(B) COMPARABILITY EXCISE TAX.—

"(i) IN GENERAL.—Except as provided in clause (ii), section 4980G shall not apply to qualified HSA distributions.

"(ii) FAILURE TO OFFER TO ALL EMPLOYEES.—In the case of a qualified HSA distribution to any employee, the failure to offer such distribution to any eligible individual covered under a high deductible health plan of the employer shall (notwithstanding section 4980G(d)) be treated for purposes of section 4980G as a failure to meet the requirements of section 4980G(b).".

(b) CERTAIN FSA COVERAGE DISREGARDED COVERAGE.—Subparagraph (B) of section 223(c)(1) (relating to certain coverage disregarded) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by inserting after clause (ii) the following new clause:

"(iii) for taxable years beginning after December 31, 2006, coverage under a health flexible spending arrangement during any period immediately following the end of a plan year of such arrangement during which unused benefits or contributions remaining at the end of such plan year may be paid or reimbursed to plan participants for qualified benefit expenses incurred during such period if—

"(I) the balance in such arrangement at the end of such plan year is zero, or

"(II) the individual is making a qualified HSA distribution (as defined in section 106(e)) in an amount equal to the remaining balance in such arrangement as of the end of such plan year, in accordance with rules prescribed by the Secretary.".

(c) APPLICATION OF SECTION.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions on or after the date of the enactment of this Act. 26 USC 106 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act. Effective date. 26 USC 223 note.

**SEC. 303. REPEAL OF ANNUAL DEDUCTIBLE LIMITATION ON HSA CONTRIBUTIONS.**

(a) IN GENERAL.—Paragraph (2) of section 223(b) (relating to monthly limitation) is amended— 26 USC 223.

(1) in subparagraph (A) by striking "the lesser of—" and all that follows and inserting "$2,250.", and

(2) in subparagraph (B) by striking "the lesser of—" and all that follows and inserting "$4,500.".

(b) CONFORMING AMENDMENT.—Section 223(d)(1)(A)(ii)(I) is amended by striking "subsection (b)(2)(B)(ii)" and inserting "subsection (b)(2)(B)".

26 USC 223 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Applicability. Publication. Deadline.

**SEC. 304. MODIFICATION OF COST-OF-LIVING ADJUSTMENT.**

Paragraph (1) of section 223(g) (relating to cost-of-living adjustment) is amended by adding at the end the following new flush sentence:

"In the case of adjustments made for any taxable year beginning after 2007, section 1(f)(4) shall be applied for purposes of this paragraph by substituting 'March 31' for 'August 31', and the Secretary shall publish the adjusted amounts under subsections (b)(2) and (c)(2)(A) for taxable years beginning in any calendar year no later than June 1 of the preceding calendar year.".

**SEC. 305. CONTRIBUTION LIMITATION NOT REDUCED FOR PART-YEAR COVERAGE.**

(a) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER BEGINNING OF THE YEAR.—Subsection (b) of section 223 (relating to limitations) is amended by adding at the end the following new paragraph:

"(8) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER THE BEGINNING OF THE YEAR.—

"(A) IN GENERAL.—For purposes of computing the limitation under paragraph (1) for any taxable year, an individual who is an eligible individual during the last month of such taxable year shall be treated—

"(i) as having been an eligible individual during each of the months in such taxable year, and

"(ii) as having been enrolled, during each of the months such individual is treated as an eligible individual solely by reason of clause (i), in the same high deductible health plan in which the individual was enrolled for the last month of such taxable year.

"(B) FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—

"(i) IN GENERAL.—If, at any time during the testing period, the individual is not an eligible individual, then—

"(I) gross income of the individual for the taxable year in which occurs the first month in the testing period for which such individual is not an eligible individual is increased by the aggregate amount of all contributions to the health savings account of the individual which could not have been made but for subparagraph (A), and

"(II) the tax imposed by this chapter for any taxable year on the individual shall be increased by 10 percent of the amount of such increase.

"(ii) EXCEPTION FOR DISABILITY OR DEATH.—Subclauses (I) and (II) of clause (i) shall not apply if the individual ceased to be an eligible individual by

reason of the death of the individual or the individual becoming disabled (within the meaning of section 72(m)(7)).

"(iii) TESTING PERIOD.—The term 'testing period' means the period beginning with the last month of the taxable year referred to in subparagraph (A) and ending on the last day of the 12th month following such month.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 223 note.

**SEC. 306. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO MAKE COMPARABLE HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.**

(a) IN GENERAL.—Section 4980G (relating to failure of employer to make comparable health savings account contributions) is amended by adding at the end the following new subsection: 26 USC 4980G.

"(d) EXCEPTION.—For purposes of applying section 4980E to a contribution to a health savings account of an employee who is not a highly compensated employee (as defined in section 414(q)), highly compensated employees shall not be treated as comparable participating employees.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 4980G note.

**SEC. 307. ONE-TIME DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLANS TO FUND HSAs.**

(a) IN GENERAL.—Subsection (d) of section 408 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new paragraph:

"(9) DISTRIBUTION FOR HEALTH SAVINGS ACCOUNT FUNDING.—

"(A) IN GENERAL.—In the case of an individual who is an eligible individual (as defined in section 223(c)) and who elects the application of this paragraph for a taxable year, gross income of the individual for the taxable year does not include a qualified HSA funding distribution to the extent such distribution is otherwise includible in gross income.

"(B) QUALIFIED HSA FUNDING DISTRIBUTION.—For purposes of this paragraph, the term 'qualified HSA funding distribution' means a distribution from an individual retirement plan (other than a plan described in subsection (k) or (p)) of the employee to the extent that such distribution is contributed to the health savings account of the individual in a direct trustee-to-trustee transfer.

"(C) LIMITATIONS.—

"(i) MAXIMUM DOLLAR LIMITATION.—The amount excluded from gross income by subparagraph (A) shall not exceed the excess of—

"(I) the annual limitation under section 223(b) computed on the basis of the type of coverage under the high deductible health plan covering the individual at the time of the qualified HSA funding distribution, over

"(II) in the case of a distribution described in clause (ii)(II), the amount of the earlier qualified HSA funding distribution.

"(ii) ONE-TIME TRANSFER.—

"(I) IN GENERAL.—Except as provided in subclause (II), an individual may make an election under subparagraph (A) only for one qualified HSA funding distribution during the lifetime of the individual. Such an election, once made, shall be irrevocable.

"(II) CONVERSION FROM SELF-ONLY TO FAMILY COVERAGE.—If a qualified HSA funding distribution is made during a month in a taxable year during which an individual has self-only coverage under a high deductible health plan as of the first day of the month, the individual may elect to make an additional qualified HSA funding distribution during a subsequent month in such taxable year during which the individual has family coverage under a high deductible health plan as of the first day of the subsequent month.

"(D) FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—

"(i) IN GENERAL.—If, at any time during the testing period, the individual is not an eligible individual, then the aggregate amount of all contributions to the health savings account of the individual made under subparagraph (A)—

"(I) shall be includible in the gross income of the individual for the taxable year in which occurs the first month in the testing period for which such individual is not an eligible individual, and

"(II) the tax imposed by this chapter for any taxable year on the individual shall be increased by 10 percent of the amount which is so includible.

"(ii) EXCEPTION FOR DISABILITY OR DEATH.—Subclauses (I) and (II) of clause (i) shall not apply if the individual ceased to be an eligible individual by reason of the death of the individual or the individual becoming disabled (within the meaning of section 72(m)(7)).

"(iii) TESTING PERIOD.—The term 'testing period' means the period beginning with the month in which the qualified HSA funding distribution is contributed to a health savings account and ending on the last day of the 12th month following such month.

"(E) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as otherwise includible in gross income for purposes of subparagraph (A), the aggregate amount distributed from an individual retirement plan shall be treated as includible in gross income to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts from all individual retirement plans were distributed. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.".

(b) COORDINATION WITH LIMITATION ON CONTRIBUTIONS TO HSAS.—Section 223(b)(4) (relating to coordination with other contributions) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) the aggregate amount contributed to health savings accounts of such individual for such taxable year under section 408(d)(9) (and such amount shall not be allowed as a deduction under subsection (a)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 223 note.

# TITLE IV—OTHER PROVISIONS

## SEC. 401. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subsection (d) of section 199 (relating to definitions and special rules) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph: 26 USC 199.

"(8) TREATMENT OF ACTIVITIES IN PUERTO RICO.—

"(A) IN GENERAL.—In the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year, then for purposes of determining the domestic production gross receipts of such taxpayer for such taxable year under subsection (c)(4), the term 'United States' shall include the Commonwealth of Puerto Rico.

"(B) SPECIAL RULE FOR APPLYING WAGE LIMITATION.—In the case of any taxpayer described in subparagraph (A), for purposes of applying the limitation under subsection (b) for any taxable year, the determination of W–2 wages of such taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in Puerto Rico.

"(C) TERMINATION.—This paragraph shall apply only with respect to the first 2 taxable years of the taxpayer beginning after December 31, 2005, and before January 1, 2008.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005. 26 USC 199 note.

## SEC. 402. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY MADE REFUNDABLE AFTER PERIOD OF YEARS.

(a) IN GENERAL.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS.—

"(1) IN GENERAL.—If an individual has a long-term unused minimum tax credit for any taxable year beginning before January 1, 2013, the amount determined under subsection (c)

for such taxable year shall not be less than the AMT refundable credit amount for such taxable year.

"(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'AMT refundable credit amount' means, with respect to any taxable year, the amount equal to the greater of—

"(i) the lesser of—

"(I) $5,000, or

"(II) the amount of long-term unused minimum tax credit for such taxable year, or

"(ii) 20 percent of the amount of such credit.

"(B) PHASEOUT OF AMT REFUNDABLE CREDIT AMOUNT.—

"(i) IN GENERAL.—In the case of an individual whose adjusted gross income for any taxable year exceeds the threshold amount (within the meaning of section 151(d)(3)(C)), the AMT refundable credit amount determined under subparagraph (A) for such taxable year shall be reduced by the applicable percentage (within the meaning of section 151(d)(3)(B)).

"(ii) ADJUSTED GROSS INCOME.—For purposes of clause (i), adjusted gross income shall be determined without regard to sections 911, 931, and 933.

"(3) LONG-TERM UNUSED MINIMUM TAX CREDIT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'long-term unused minimum tax credit' means, with respect to any taxable year, the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years before the 3rd taxable year immediately preceding such taxable year.

"(B) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of subparagraph (A), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.

"(4) CREDIT REFUNDABLE.—For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.".

(b) CONFORMING AMENDMENTS.—

26 USC 6211.

(1) Section 6211(b)(4)(A) is amended by striking "and 34" and inserting "34, and 53(e)".

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting "or 53(e)" after "section 35".

26 USC 53 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 403. RETURNS REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.**

(a) IN GENERAL.—So much of section 6039(a) as follows paragraph (2) is amended to read as follows:

"shall, for such calendar year, make a return at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.".

(b) STATEMENTS TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Section 6039 is amended by redesignating

subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REPORTED.—Every corporation making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement setting forth such information as the Secretary may by regulations prescribe. The written statement required under the preceding sentence shall be furnished to such person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.". Corporations. Deadline.

(c) CONFORMING AMENDMENTS.—

(1) Section 6724(d)(1)(B) is amended by striking "or" at the end of clause (xvii), by striking "and" at the end of clause (xviii) and inserting "or", and by adding at the end the following new clause: 26 USC 6724.

"(xix) section 6039(a) (relating to returns required with respect to certain options), and".

(2) Section 6724(d)(2)(B) is amended by striking "section 6039(a)" and inserting "section 6039(b)".

(3) The heading of section 6039 and the item relating to such section in the table of sections of subpart A of part III of subchapter A of chapter 61 of such Code are each amended by striking "Information" and inserting "Returns".

(4) The heading of subsection (a) of section 6039 is amended by striking "FURNISHING OF INFORMATION" and inserting "REQUIREMENT OF REPORTING".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act. 26 USC 6039 note.

**SEC. 404. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

**"SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.**

"(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

"(b) ELECTION.—

"(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

"(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

"(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety

equipment property for use in any underground mine located in the United States—

"(1) the original use of which commences with the taxpayer, and

"(2) which is placed in service by the taxpayer after the date of the enactment of this section.

"(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

"(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

"(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

"(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

"(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

"(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

"(e) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

"(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

"(g) TERMINATION.—This section shall not apply to property placed in service after December 31, 2008.".

(b) CONFORMING AMENDMENTS.—

26 USC 263.

(1) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by inserting after subparagraph (K) the following new subparagraph:

"(L) expenditures for which a deduction is allowed under section 179E.".

(2) Section 312(k)(3)(B) is amended by striking "or 179D" each place it appears in the heading and text thereof and inserting "179D, or 179E".

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting "179E," after "179D,".

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

"Sec. 179E. Election to expense advanced mine safety equipment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

26 USC 179E note.

**SEC. 405. MINE RESCUE TEAM TRAINING TAX CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

**"SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.**

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to each qualified mine rescue team employee of an eligible employer for any taxable year is an amount equal to the lesser of—

"(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of such qualified mine rescue team employee (including wages of such employee while attending such program), or

"(2) $10,000.

"(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

"(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

"(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

"(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

"(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following new paragraph:

"(31) the mine rescue team training credit determined under section 45N(a).".

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

26 USC 280C.

"(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45N. Mine rescue team training credit.".

26 USC 38 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 406. WHISTLEBLOWER REFORMS.**

(a) AWARDS TO WHISTLEBLOWERS.—

26 USC 7623.

(1) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(A) by striking "The Secretary" and inserting "(a) IN GENERAL.—The Secretary",

(B) by striking "and" at the end of paragraph (1) and inserting "or",

(C) by striking "(other than interest)", and

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

"(b) AWARDS TO WHISTLEBLOWERS.—

"(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

"(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

"(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

"(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

"(3) REDUCTION IN OR DENIAL OF AWARD.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned

and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

"(4) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

"(5) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

"(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

"(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $2,000,000.

"(6) ADDITIONAL RULES.—

"(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

"(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

"(C) SUBMISSION OF INFORMATION.—No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.".

(2) ASSIGNMENT TO SPECIAL TRIAL JUDGES.—

(A) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (7), and by inserting after paragraph (5) the following new paragraph: 26 USC 7443A.

"(6) any proceeding under section 7623(b)(4), and".

(B) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (5)" and inserting "(5), or (6)".

(3) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 (relating to general rule defining adjusted gross income) is amended by inserting after paragraph (20) the following new paragraph:

"(21) ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of such award.".

(b) WHISTLEBLOWER OFFICE.— 26 USC 7623 note.

(1) IN GENERAL.—Not later than the date which is 12 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance for the operation of a whistleblower program to be administered in the Internal Revenue Service by an office to be known as the "Whistleblower Office" which— Deadline. Guidance.

(A) shall at all times operate at the direction of the Commissioner of Internal Revenue and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner of Internal Revenue,

(B) shall analyze information received from any individual described in section 7623(b) of the Internal Revenue Code of 1986 and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office, and

(C) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual.

(2) REQUEST FOR ASSISTANCE.—The guidance issued under paragraph (1) shall specify that any assistance requested under paragraph (1)(C) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under paragraph (1)(A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

26 USC 7623 note.

(c) REPORT BY SECRETARY.—The Secretary of the Treasury shall each year conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986, including—

(1) an analysis of the use of such section during the preceding year and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

26 USC 62 note.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to information provided on or after the date of the enactment of this Act.

**SEC. 407. FRIVOLOUS TAX SUBMISSIONS.**

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

**"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission. Deadline.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection: 26 USC 6330.

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

26 USC 6320.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(f) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

26 USC 6320 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

**SEC. 408. ADDITION OF MENINGOCOCCAL AND HUMAN PAPILLOMAVIRUS VACCINES TO LIST OF TAXABLE VACCINES.**

(a) MENINGOCOCCAL VACCINE.—Section 4132(a)(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(O) Any meningococcal vaccine.".

(b) HUMAN PAPILLOMAVIRUS VACCINE.—Section 4132(a)(1), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(P) Any vaccine against the human papillomavirus.".

26 USC 4132 note.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph

for which delivery is made after such date, the delivery date shall be considered the sale date.

**SEC. 409. CLARIFICATION OF TAXATION OF CERTAIN SETTLEMENT FUNDS MADE PERMANENT.**

(a) IN GENERAL.—Subsection (g) of section 468B is amended by striking paragraph (3). 26 USC 468B.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Tax Increase Prevention and Reconciliation Act of 2005. 26 USC 468B note.

**SEC. 410. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355 MADE PERMANENT.**

(a) IN GENERAL.—Subparagraphs (A) and (D) of section 355(b)(3) are each amended by striking "and on or before December 31, 2010".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 202 of the Tax Increase Prevention and Reconciliation Act of 2005. 26 USC 355 note.

**SEC. 411. REVISION OF STATE VETERANS LIMIT MADE PERMANENT.**

(a) IN GENERAL.—Subparagraph (B) of section 143(l)(3) is amended by striking clause (iv).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 203 of the Tax Increase Prevention and Reconciliation Act of 2005. 26 USC 143 note.

**SEC. 412. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS MADE PERMANENT.**

(a) IN GENERAL.—Paragraph (3) of section 1221(b) is amended by striking "before January 1, 2011,".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 204 of the Tax Increase Prevention and Reconciliation Act of 2005. 26 USC 1221 note.

**SEC. 413. REDUCTION IN MINIMUM VESSEL TONNAGE WHICH QUALIFIES FOR TONNAGE TAX MADE PERMANENT.**

(a) IN GENERAL.—Paragraph (4) of section 1355(a) is amended by striking "10,000 (6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)" and inserting "6,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 205 of the Tax Increase Prevention and Reconciliation Act of 2005. 26 USC 1355 note.

**SEC. 414. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS MADE PERMANENT.**

(a) IN GENERAL.—Section 206 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking "and before August 31, 2009".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 206 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 415. GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL FROM TONNAGE TAX.**

(a) IN GENERAL.—Section 1355 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection

(h) and by inserting after subsection (f) the following new subsection:

"(g) GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL.—

"(1) IN GENERAL.—If the electing corporation elects (at such time and in such manner as the Secretary may require) to apply this subsection for any taxable year to any qualifying vessel which is used in qualified zone domestic trade during the taxable year—

"(A) solely for purposes of subsection (a)(4), such use shall be treated as use in United States foreign trade (and not as use in United States domestic trade), and

"(B) subsection (f) shall not apply with respect to such vessel for such taxable year.

"(2) EFFECT OF TEMPORARILY OPERATING VESSEL IN UNITED STATES DOMESTIC TRADE.—In the case of a qualifying vessel to which this subsection applies—

"(A) IN GENERAL.—An electing corporation shall be treated as using such vessel in qualified zone domestic trade during any period of temporary use in the United States domestic trade (other than qualified zone domestic trade) if the electing corporation gives timely notice to the Secretary stating—

"(i) that it temporarily operates or has operated in the United States domestic trade (other than qualified zone domestic trade) a qualifying vessel which had been used in the United States foreign trade or qualified zone domestic trade, and

"(ii) its intention to resume operation of the vessel in the United States foreign trade or qualified zone domestic trade.

"(B) NOTICE.—Notice shall be deemed timely if given not later than the due date (including extensions) for the corporation's tax return for the taxable year in which the temporary cessation begins.

"(C) PERIOD DISREGARD IN EFFECT.—The period of temporary use under subparagraph (A) continues until the earlier of the date of which—

"(i) the electing corporation abandons its intention to resume operations of the vessel in the United States foreign trade or qualified zone domestic trade, or

"(ii) the electing corporation resumes operation of the vessel in the United States foreign trade or qualified zone domestic trade.

"(D) NO DISREGARD IF DOMESTIC TRADE USE EXCEEDS 30 DAYS.—Subparagraph (A) shall not apply to any qualifying vessel which is operated in the United States domestic trade (other than qualified zone domestic trade) for more than 30 days during the taxable year.

"(3) ALLOCATION OF INCOME AND DEDUCTIONS TO QUALIFYING SHIPPING ACTIVITIES.—In the case of a qualifying vessel to which this subsection applies, the Secretary shall prescribe rules for the proper allocation of income, expenses, losses, and deductions between the qualified shipping activities and the other activities of such vessel.

"(4) QUALIFIED ZONE DOMESTIC TRADE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified zone domestic trade' means the transportation of goods or passengers between places in the qualified zone if such transportation is in the United States domestic trade.

"(B) QUALIFIED ZONE.—The term 'qualified zone' means the Great Lakes Waterway and the St. Lawrence Seaway.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 1355 note.

**SEC. 416. USE OF QUALIFIED MORTGAGE BONDS TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.**

(a) IN GENERAL.—Section 143(d)(2) (relating to exceptions to 3-year requirement) is amended by striking "and" at the end of subparagraph (B), by adding "and" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph: 26 USC 143.

"(D) in the case of bonds issued after the date of the enactment of this subparagraph and before January 1, 2008, financing of any residence for a veteran (as defined in section 101 of title 38, United States Code), if such veteran has not previously qualified for and received such financing by reason of this subparagraph,".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 143 note.

**SEC. 417. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking "duty" and all that follows and inserting the following:

"duty—

"(i) as a member of the uniformed services,

"(ii) as a member of the Foreign Service of the United States, or

"(iii) as an employee of the intelligence community.".

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

"(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

"(I) the Office of the Director of National Intelligence,

"(II) the Central Intelligence Agency,

"(III) the National Security Agency,

"(IV) the Defense Intelligence Agency,

"(V) the National Geospatial-Intelligence Agency,

"(VI) the National Reconnaissance Office,

"(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

"(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

"(IX) the Bureau of Intelligence and Research of the Department of State, or

"(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.".

26 USC 121.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

"(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless such duty is at a duty station located outside the United States.".

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: "UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY".

26 USC 121 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act and before January 1, 2011.

**SEC. 418. SALE OF PROPERTY BY JUDICIAL OFFICERS.**

(a) IN GENERAL.—Section 1043(b) (relating to the sale of property to comply with conflict-of-interest requirements) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting ", or a judicial officer," after "an officer or employee of the executive branch"; and

(B) in subparagraph (B), by inserting "judicial canon," after "any statute, regulation, rule,";

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "judicial canon," after "any Federal conflict of interest statute, regulation, rule,"; and

(B) in subparagraph (B), by inserting after "the Director of the Office of Government Ethics," the following: "in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial officers,"; and

(3) in paragraph (5)(B), by inserting "judicial canon," after "any statute, regulation, rule,".

(b) JUDICIAL OFFICER DEFINED.—Section 1043(b) is amended by adding at the end the following new paragraph:

"(6) JUDICIAL OFFICER.—The term 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal

Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of enactment of this Act. 26 USC 1043 note.

**SEC. 419. PREMIUMS FOR MORTGAGE INSURANCE.**

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph: 26 USC 163.

"(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

"(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

"(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).

"(iii) LIMITATION.—Clause (i) shall not apply with respect to any mortgage insurance contracts issued before January 1, 2007.

"(iv) TERMINATION.—Clause (i) shall not apply to amounts—

"(I) paid or accrued after December 31, 2007, or

"(II) properly allocable to any period after such date.".

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

"(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

"(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

"(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the

end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.".

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

26 USC 6050H.

"(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

"(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

"(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) rules similar to the rules of subsection (c) shall apply, and

"(B) the term 'mortgage insurance' means—

"(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).".

26 USC 163 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 2006.

**SEC. 420. MODIFICATION OF REFUNDS FOR KEROSENE USED IN AVIATION.**

(a) IN GENERAL.—Paragraph (4) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene) is amended to read as follows:

"(4) REFUNDS FOR KEROSENE USED IN AVIATION.—

"(A) KEROSENE USED IN COMMERCIAL AVIATION.—In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

"(B) KEROSENE USED IN NONCOMMERCIAL AVIATION.—In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

"(i) any tax imposed by subsection (c) or (d)(2) of section 4041, and

"(ii) so much of the tax imposed by section 4081 as is attributable to—

"(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

"(C) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—

"(i) IN GENERAL.—With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(I) is registered under section 4101, and

"(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(ii) PAYMENTS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

"(I) is registered under section 4101, and

"(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 6427(l) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5). 26 USC 6427.

(2) Section 4082(d)(2)(B) is amended by striking "section 6427(l)(6)(B)" and inserting "section 6427(l)(5)(B)".

(3) Section 6427(i)(4)(A) is amended—

(A) by striking "paragraph (4)(B), (5), or (6)" each place it appears and inserting "paragraph (4)(C) or (5)", and

(B) by striking "(l)(5), and (l)(6)" and inserting "(l)(4)(C)(ii), and (l)(5)".

(4) Section 6427(l)(1) is amended by striking "paragraph (4)(B)" and inserting "paragraph (4)(C)(i)".

(5) Section 9502(d) is amended—

(A) in paragraph (2), by striking "and (l)(5)", and

(B) in paragraph (3), by striking "or (5)".

(6) Section 9503(c)(7) is amended—

(A) by amending subparagraphs (A) and (B) to read as follows:

"(A) 4.3 cents per gallon of kerosene subject to section 6427(l)(4)(A) with respect to which a payment has been made by the Secretary under section 6427(l), and

"(B) 21.8 cents per gallon of kerosene subject to section 6427(l)(4)(B) with respect to which a payment has been made by the Secretary under section 6427(l).", and

(B) in the matter following subparagraph (B), by striking "or (5)".

26 USC 6427 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to kerosene sold after September 30, 2005.

(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section 6427(l)(5) of such Code (as redesignated by subsection (b)) applies) after September 30, 2005, and before the date of the enactment of this Act, the ultimate purchaser shall be treated as having waived the right to payment under section 6427(l)(1) of such Code and as having assigned such right to the ultimate vendor if such ultimate vendor has met the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1) of such Code.

26 USC 6427 note.

(d) SPECIAL RULE FOR KEROSENE USED IN AVIATION ON A FARM FOR FARMING PURPOSES.—

(1) REFUNDS FOR PURCHASES AFTER DECEMBER 31, 2004, AND BEFORE OCTOBER 1, 2005.—The Secretary of the Treasury shall pay to the ultimate purchaser of any kerosene which is used in aviation on a farm for farming purposes and which was purchased after December 31, 2004, and before October 1, 2005, an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081 of the Internal Revenue Code of 1986, as the case may be, reduced by any payment to the ultimate vendor under section 6427(l)(5)(C) of such Code (as in effect on the day before the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users).

(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

(3) TIME FOR FILING CLAIMS.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act.

(4) NO DOUBLE BENEFIT.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

(5) APPLICABLE LAWS.—For purposes of this subsection, rules similar to the rules of section 6427(j) of the Internal Revenue Code of 1986 shall apply.

**SEC. 421. REGIONAL INCOME TAX AGENCIES TREATED AS STATES FOR PURPOSES OF CONFIDENTIALITY AND DISCLOSURE REQUIREMENTS.**

(a) IN GENERAL.—Paragraph (5) of section 6103(b) is amended to read as follows: 26 USC 6103.

"(5) STATE.—

"(A) IN GENERAL.—The term 'State' means—

"(i) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands,

"(ii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any municipality—

"(I) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

"(II) which imposes a tax on income or wages, and

"(III) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure, and

"(iii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any governmental entity—

"(I) which is formed and operated by a qualified group of municipalities, and

"(II) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

"(B) REGIONAL INCOME TAX AGENCIES.—For purposes of subparagraph (A)(iii)—

"(i) QUALIFIED GROUP OF MUNICIPALITIES.—The term 'qualified group of municipalities' means, with respect to any governmental entity, 2 or more municipalities—

"(I) each of which imposes a tax on income or wages,

"(II) each of which, under the authority of a State statute, administers the laws relating to the imposition of such taxes through such entity, and

"(III) which collectively have a population in excess of 250,000 (as determined under the most recent decennial United States census data available).

"(ii) REFERENCES TO STATE LAW, ETC.—For purposes of applying subparagraph (A)(iii) to the subsections referred to in such subparagraph, any reference in such subsections to State law, proceedings, or tax returns shall be treated as references to the law, proceedings, or tax returns, as the case may be, of the municipalities which form and operate the governmental entity referred to in such subparagraph.

"(iii) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a governmental entity referred to in subparagraph (A)(iii) unless such entity, to the satisfaction of the Secretary—

"(I) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of subsection (p)(4)) to protect the confidentiality of such returns or return information,

"(II) agrees to conduct an on-site review every 3 years (or a mid-point review in the case of contracts or agreements of less than 3 years in duration) of each contractor or other agent to determine compliance with such requirements,

"(III) submits the findings of the most recent review conducted under subclause (II) to the Secretary as part of the report required by subsection (p)(4)(E), and

"(IV) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subclause (IV) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this clause shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration and a rule similar to the rule of subsection (p)(8)(B) shall apply for purposes of this clause.".

(b) SPECIAL RULES FOR DISCLOSURE.—Subsection (d) of section 6103 is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON DISCLOSURE REGARDING REGIONAL INCOME TAX AGENCIES TREATED AS STATES.—For purposes of paragraph (1), inspection by or disclosure to an entity described in subsection (b)(5)(A)(iii) shall be for the purpose of, and only to the extent necessary in, the administration of the laws of the member municipalities in such entity relating to the imposition of a tax on income or wages. Such entity may not redisclose any return or return information received pursuant to paragraph (1) to any such member municipality.".

26 USC 6103 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after December 31, 2006.

**SEC. 422. DESIGNATION OF WINES BY SEMI-GENERIC NAMES.**

26 USC 5388.

(a) IN GENERAL.—Subsection (c) of section 5388 (relating to use of semi-generic designations) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR USE OF CERTAIN SEMI-GENERIC DESIGNATIONS.—

"(A) IN GENERAL.—In the case of any wine to which this paragraph applies—

"(i) paragraph (1) shall not apply,

"(ii) in the case of wine of the European Community, designations referred to in subparagraph (C)(i) may be used for such wine only if the requirement of subparagraph (B)(ii) is met, and

"(iii) in the case any other wine bearing a brand name, or brand name and fanciful name, semi-generic designations may be used for such wine only if the requirements of clauses (i), (ii), and (iii) of subparagraph (B) are met.

"(B) REQUIREMENTS.—

"(i) The requirement of this clause is met if there appears in direct conjunction with the semi-generic designation an appropriate appellation of origin disclosing the origin of the wine.

"(ii) The requirement of this clause is met if the wine conforms to the standard of identity, if any, for such wine contained in the regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

"(iii) The requirement of this clause is met if the person, or its successor in interest, using the semi-generic designation held a Certificate of Label Approval or Certificate of Exemption from Label Approval issued by the Secretary for a wine label bearing such brand name, or brand name and fanciful name, before March 10, 2006, on which such semi-generic designation appeared.

"(C) WINES TO WHICH PARAGRAPH APPLIES.—

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall apply to any grape wine which is designated as Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Retsina, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, or Tokay.

"(ii) EXCEPTION.—This paragraph shall not apply to wine which—

"(I) contains less than 7 percent or more than 24 percent alcohol by volume,

"(II) is intended for sale outside the United States, or

"(III) does not bear a brand name.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wine imported or bottled in the United States on or after the date of enactment of this Act. 26 USC 5388 note.

**SEC. 423. MODIFICATION OF RAILROAD TRACK MAINTENANCE CREDIT.**

(a) IN GENERAL.—Section 45G(d) (defining qualified railroad track maintenance expenditures) is amended— 26 USC 45G.

(1) by inserting "gross" after "means", and

(2) by inserting "(determined without regard to any consideration for such expenditures given by the Class II or Class III railroad which made the assignment of such track)" after "Class II or Class III railroad".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 245(a) of the American Jobs Creation Act of 2004. 26 USC 45G note.

**SEC. 424. MODIFICATION OF EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.**

26 USC 664.

(a) IN GENERAL.—Subsection (c) of section 664 (relating to exemption from income taxes) is amended to read as follows:

"(c) TAXATION OF TRUSTS.—

"(1) INCOME TAX.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

"(2) EXCISE TAX.—

"(A) IN GENERAL.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

"(B) CERTAIN RULES TO APPLY.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

"(C) TAX COURT PROCEEDINGS.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.".

26 USC 664 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

**SEC. 425. LOANS TO QUALIFIED CONTINUING CARE FACILITIES MADE PERMANENT.**

(a) IN GENERAL.—Subsection (h) of section 7872 (relating to exception for loans to qualified continuing care facilities) is amended by striking paragraph (4).

26 USC 7872 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 209 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 426. TECHNICAL CORRECTIONS.**

(a) TECHNICAL CORRECTION RELATING TO LOOK-THROUGH TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—

(A) The first sentence of section 954(c)(6)(A) is amended by striking "which is not subpart F income" and inserting "which is neither subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States".

Regulations.

(B) Section 954(c)(6)(A) is amended by striking the last sentence and inserting the following: "The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including such regulations as may be necessary or appropriate to prevent the abuse of the purposes of this paragraph.".

26 USC 954 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 103(b) of the Tax Increase Prevention and Reconciliation Act of 2005.

(b) TECHNICAL CORRECTION REGARDING AUTHORITY TO EXERCISE REASONABLE CAUSE AND GOOD FAITH EXCEPTION.—

(1) IN GENERAL.—Section 903(d)(2)(B)(iii) of the American Jobs Creation Act of 2004, as amended by section 303(a) of the Gulf Opportunity Zone Act of 2005, is amended by inserting "or the Secretary's delegate" after "the Secretary of the Treasury". 26 USC 6404 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates. 26 USC 6404 note.

# DIVISION B—MEDICARE AND OTHER HEALTH PROVISIONS

Medicare Improvements and Extension Act of 2006.

**SEC. 1. SHORT TITLE OF DIVISION.** 42 USC 1305 note.

This division may be cited as the "Medicare Improvements and Extension Act of 2006".

# TITLE I—MEDICARE IMPROVED QUALITY AND PROVIDER PAYMENTS

**SEC. 101. PHYSICIAN PAYMENT AND QUALITY IMPROVEMENT.**

(a) ONE-YEAR INCREASE IN MEDICARE PHYSICIAN FEE SCHEDULE CONVERSION FACTOR.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

"(7) CONVERSION FACTOR FOR 2007.—

"(A) IN GENERAL.—The conversion factor that would otherwise be applicable under this subsection for 2007 shall be the amount of such conversion factor divided by the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for 2007 (divided by 100); and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor under paragraph (4)(B) for 2007.

"(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2008.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2008 as if subparagraph (A) had never applied.".

(b) QUALITY REPORTING SYSTEM.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

"(k) QUALITY REPORTING SYSTEM.—

"(1) IN GENERAL.—The Secretary shall implement a system for the reporting by eligible professionals of data on quality measures specified under paragraph (2). Such data shall be submitted in a form and manner specified by the Secretary (by program instruction or otherwise), which may include submission of such data on claims under this part.

"(2) USE OF CONSENSUS-BASED QUALITY MEASURES.—

"(A) FOR 2007.—

Website, publication. Deadline.

"(i) IN GENERAL.—For purposes of applying this subsection for the reporting of data on quality measures for covered professional services furnished during the period beginning July 1, 2007, and ending December 31, 2007, the quality measures specified under this paragraph are the measures identified as 2007 physician quality measures under the Physician Voluntary Reporting Program as published on the public website of the Centers for Medicare & Medicaid Services as of the date of the enactment of this subsection, except as may be changed by the Secretary based on the results of a consensus-based process in January of 2007, if such change is published on such website by not later than April 1, 2007.

Website, publication.

"(ii) SUBSEQUENT REFINEMENTS IN APPLICATION PERMITTED.—The Secretary may, from time to time (but not later than July 1, 2007), publish on such website (without notice or opportunity for public comment) modifications or refinements (such as code additions, corrections, or revisions) for the application of quality measures previously published under clause (i), but may not, under this clause, change the quality measures under the reporting system.

"(iii) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement by program instruction or otherwise this subsection for 2007.

"(B) FOR 2008.—

"(i) IN GENERAL.—For purposes of reporting data on quality measures for covered professional services furnished during 2008, the quality measures specified under this paragraph for covered professional services shall be measures that have been adopted or endorsed by a consensus organization (such as the National Quality Forum or AQA), that include measures that have been submitted by a physician specialty, and that the Secretary identifies as having used a consensus-based process for developing such measures. Such measures shall include structural measures, such as the use of electronic health records and electronic prescribing technology.

Deadline. Federal Register, publication.

"(ii) PROPOSED SET OF MEASURES.—Not later than August 15, 2007, the Secretary shall publish in the Federal Register a proposed set of quality measures that the Secretary determines are described in clause (i) and would be appropriate for eligible professionals to use to submit data to the Secretary in 2008. The Secretary shall provide for a period of public comment on such set of measures.

Public comment.

Deadline. Federal Register, publication.

"(iii) FINAL SET OF MEASURES.—Not later than November 15, 2007, the Secretary shall publish in the Federal Register a final set of quality measures that the Secretary determines are described in clause (i) and would be appropriate for eligible professionals to use to submit data to the Secretary in 2008.

"(3) COVERED PROFESSIONAL SERVICES AND ELIGIBLE PROFESSIONALS DEFINED.—For purposes of this subsection:

"(A) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' means services for which payment is made under, or is based on, the fee schedule established under this section and which are furnished by an eligible professional.

"(B) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means any of the following:

"(i) A physician.

"(ii) A practitioner described in section 1842(b)(18)(C).

"(iii) A physical or occupational therapist or a qualified speech-language pathologist.

"(4) USE OF REGISTRY-BASED REPORTING.—As part of the publication of proposed and final quality measures for 2008 under clauses (ii) and (iii) of paragraph (2)(B), the Secretary shall address a mechanism whereby an eligible professional may provide data on quality measures through an appropriate medical registry (such as the Society of Thoracic Surgeons National Database), as identified by the Secretary.

"(5) IDENTIFICATION UNITS.—For purposes of applying this subsection, the Secretary may identify eligible professionals through billing units, which may include the use of the Provider Identification Number, the unique physician identification number (described in section 1833(q)(1)), the taxpayer identification number, or the National Provider Identifier. For purposes of applying this subsection for 2007, the Secretary shall use the taxpayer identification number as the billing unit.

"(6) EDUCATION AND OUTREACH.—The Secretary shall provide for education and outreach to eligible professionals on the operation of this subsection.

"(7) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of the development and implementation of the reporting system under paragraph (1), including identification of quality measures under paragraph (2) and the application of paragraphs (4) and (5).

"(8) IMPLEMENTATION.—The Secretary shall carry out this subsection acting through the Administrator of the Centers for Medicare & Medicaid Services.".

(c) TRANSITIONAL BONUS INCENTIVE PAYMENTS FOR QUALITY REPORTING IN 2007.— 42 USC 1395w–4 note.

(1) IN GENERAL.—With respect to covered professional services furnished during a reporting period (as defined in paragraph (6)(C)) by an eligible professional, if—

(A) there are any quality measures that have been established under the physician reporting system that are applicable to any such services furnished by such professional for such period, and

(B) the eligible professional satisfactorily submits (as determined under paragraph (2)) to the Secretary data on such quality measures in accordance with such reporting system for such reporting period,

in addition to the amount otherwise paid under part B of title XVIII of the Social Security Act, subject to paragraph (3), there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6) of the Social Security Act (42 U.S.C.

1395u(b)(6))) from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t) an amount equal to 1.5 percent of the Secretary's estimate (based on claims submitted not later than two months after the end of the reporting period) of the allowed charges under such part for all such covered professional services furnished during the reporting period.

(2) SATISFACTORY REPORTING DESCRIBED.—For purposes of paragraph (1), an eligible professional shall be treated as satisfactorily submitting data on quality measures for covered professional services for a reporting period if quality measures have been reported as follows:

(A) THREE OR FEWER QUALITY MEASURES APPLICABLE.—If there are no more than 3 quality measures that are provided under the physician reporting system and that are applicable to such services of such professional furnished during the period, each such quality measure has been reported under such system in at least 80 percent of the cases in which such measure is reportable under the system.

(B) FOUR OR MORE QUALITY MEASURES APPLICABLE.—If there are 4 or more quality measures that are provided under the physician reporting system and that are applicable to such services of such professional furnished during the period, at least 3 such quality measures have been reported under such system in at least 80 percent of the cases in which the respective measure is reportable under the system.

(3) PAYMENT LIMITATION.—

(A) IN GENERAL.—In no case shall the total payment made under this subsection to an eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6) of the Social Security Act) exceed the product of—

(i) the total number of quality measures for which data are submitted under the physician reporting system for covered professional services of such professional that are furnished during the reporting period; and

(ii) 300 percent of the average per measure payment amount specified in subparagraph (B).

(B) AVERAGE PER MEASURE PAYMENT AMOUNT SPECIFIED.—The average per measure payment amount specified in this subparagraph is an amount, estimated by the Secretary (based on claims submitted not later than two months after the end of the reporting period), equal to—

(i) the total of the amount of allowed charges under part B of title XVIII of the Social Security Act for all covered professional services furnished during the reporting period on claims for which quality measures are reported under the physician reporting system; divided by

(ii) the total number of quality measures for which data are reported under such system for covered professional services furnished during the reporting period.

(4) FORM OF PAYMENT.—The payment under this subsection shall be in the form of a single consolidated payment.

(5) APPLICATION.—

(A) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of section 1848(k) of the Social Security Act, as added by subsection (b), shall apply for purposes of this subsection in the same manner as they apply for purposes of such section.

(B) COORDINATION WITH OTHER BONUS PAYMENTS.—The provisions of this subsection shall not be taken into account in applying subsections (m) and (u) of section 1833 of the Social Security Act (42 U.S.C. 1395l) and any payment under such subsections shall not be taken into account in computing allowable charges under this subsection.

(C) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement by program instruction or otherwise this subsection.

(D) VALIDATION.—

(i) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, for purposes of determining whether a measure is applicable to the covered professional services of an eligible professional under paragraph (2), the Secretary shall presume that if an eligible professional submits data for a measure, such measure is applicable to such professional.

(ii) METHOD.—The Secretary shall validate (by sampling or other means as the Secretary determines to be appropriate) whether measures applicable to covered professional services of an eligible professional have been reported.

(iii) DENIAL OF PAYMENT AUTHORITY.—If the Secretary determines that an eligible professional has not reported measures applicable to covered professional services of such professional, the Secretary shall not pay the bonus incentive payment.

(E) LIMITATIONS ON REVIEW.—

(i) IN GENERAL.—There shall be no administrative or judicial review under section 1869 or 1878 of the Social Security Act or otherwise of—

(I) the determination of measures applicable to services furnished by eligible professionals under this subsection;

(II) the determination of satisfactory reporting under paragraph (2);

(III) the determination of the payment limitation under paragraph (3); and

(IV) the determination of the bonus incentive payment under this subsection.

(ii) TREATMENT OF DETERMINATIONS.—A determination under this subsection shall not be treated as a determination for purposes of section 1869 of the Social Security Act.

(6) DEFINITIONS.—For purposes of this subsection:

(A) ELIGIBLE PROFESSIONAL; COVERED PROFESSIONAL SERVICES.—The terms "eligible professional" and "covered professional services" have the meanings given such terms in section 1848(k)(3) of the Social Security Act, as added by subsection (b).

(B) PHYSICIAN REPORTING SYSTEM.—The term "physician reporting system" means the system established under section 1848(k) of the Social Security Act, as added by subsection (b).

(C) REPORTING PERIOD.—The term "reporting period" means the period beginning on July 1, 2007, and ending on December 31, 2007.

(D) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(d) PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.—Section 1848 of the Social Security Act, as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(l) PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.—

"(1) ESTABLISHMENT.—The Secretary shall establish under this subsection a Physician Assistance and Quality Initiative Fund (in this subsection referred to as the 'Fund') which shall be available to the Secretary for physician payment and quality improvement initiatives, which may include application of an adjustment to the update of the conversion factor under subsection (d).

"(2) FUNDING.—

"(A) AMOUNT AVAILABLE.—There shall be available to the Fund for expenditures an amount equal to $1,350,000,000.

"(B) TIMELY OBLIGATION OF ALL AVAILABLE FUNDS FOR SERVICES FURNISHED DURING 2008.—The Secretary shall provide for expenditures from the Fund in a manner designed to provide (to the maximum extent feasible) for the obligation of the entire amount specified in subparagraph (A) for payment with respect to physicians' services furnished during 2008.

"(C) PAYMENT FROM TRUST FUND.—The amount specified in subparagraph (A) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Supplementary Medical Insurance Trust Fund under section 1841.

"(D) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations in accordance with subparagraph (B) but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under subparagraph (A). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.

"(E) CONSTRUCTION.—In the case that expenditures from the Fund are applied to, or otherwise affect, a conversion factor under subsection (d) for a year, the conversion factor under such subsection shall be computed for a subsequent year as if such application or effect had never occurred.".

(e) IMPLEMENTATION.—For purposes of implementing the provisions of, and amendments made by, this section, the Secretary of Health and Human Services shall provide for the transfer, from

the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t), of $60,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2007, 2008, and 2009.

**SEC. 102. EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT.**

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking "before January 1, 2007" and inserting "before January 1, 2008".

**SEC. 103. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.**

(a) IN GENERAL.—Section 1881(b)(12)(G) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(G)) is amended to read as follows:

"(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted system under subparagraph (B) for dialysis services—

"(i) furnished on or after January 1, 2006, and before April 1, 2007, by 1.6 percent above the amount of such composite rate component for such services furnished on December 31, 2005; and

"(ii) furnished on or after April 1, 2007, by 1.6 percent above the amount of such composite rate component for such services furnished on March 31, 2007.".

(b) GAO REPORT ON HOME DIALYSIS PAYMENT.—Not later than January 1, 2009, the Comptroller General of the United States shall submit to Congress a report on the costs for home hemodialysis treatment and patient training for both home hemodialysis and peritoneal dialysis. Such report shall also include recommendations for a payment methodology for payment under section 1881 of the Social Security Act (42 U.S.C. 1395rr) that measures, and is based on, the costs of providing such services and takes into account the case mix of patients. Deadline.

**SEC. 104. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.**

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is amended by striking "and 2006" and inserting ", 2006, and 2007". 42 USC 1395w–4 note.

**SEC. 105. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.** 42 USC 1395*l* note.

Effective as if included in the enactment of section 416 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), subsection (b) of such section is amended by striking "2-year period" and inserting "3-year period". 42 USC 1395*l* note.

**SEC. 106. HOSPITAL MEDICARE REPORTS AND CLARIFICATIONS.**

42 USC 1395 note.

(a) CORRECTION OF MID-YEAR RECLASSIFICATION EXPIRATION.—Notwithstanding any other provision of law, in the case of a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which a reclassification of its wage index for purposes of such section would (but for this subsection) expire on March 31, 2007, such reclassification of such hospital shall be extended through September 30, 2007. The previous sentence shall not be effected in a budget-neutral manner.

(b) REVISION OF THE MEDICARE WAGE INDEX CLASSIFICATION SYSTEM.—

(1) MEDPAC REPORT.—

(A) IN GENERAL.—The Medicare Payment Advisory Commission shall submit to Congress, by not later than June 30, 2007, a report on its study of the wage index classification system applied under Medicare prospective payment systems, including under section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)). Such report shall include any alternatives the Commission recommends to the method to compute the wage index under such section.

(B) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission, $2,000,000 for fiscal year 2007 to carry out this paragraph.

(2) PROPOSAL TO REVISE THE HOSPITAL WAGE INDEX CLASSIFICATION SYSTEM.—The Secretary of Health and Human Services, taking into account the recommendations described in the report under paragraph (1), shall include in the proposed rule published under section 1886(e)(5)(A) of the Social Security Act (42 U.S.C. 1395ww(e)(5)(A)) for fiscal year 2009 one or more proposals to revise the wage index adjustment applied under section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)) for purposes of the Medicare prospective payment system for inpatient hospital services. Such proposal (or proposals) shall consider each of the following:

(A) Problems associated with the definition of labor markets for purposes of such wage index adjustment.

(B) The modification or elimination of geographic reclassifications and other adjustments.

(C) The use of Bureau of Labor Statistics data, or other data or methodologies, to calculate relative wages for each geographic area involved.

(D) Minimizing variations in wage index adjustments between and within Metropolitan Statistical Areas and Statewide rural areas.

(E) The feasibility of applying all components of the proposal to other settings, including home health agencies and skilled nursing facilities.

(F) Methods to minimize the volatility of wage index adjustments, while maintaining the principle of budget neutrality in applying such adjustments.

(G) The effect that the implementation of the proposal would have on health care providers and on each region of the country.

(H) Methods for implementing the proposal, including methods to phase-in such implementation.

(I) Issues relating to occupational mix, such as staffing practices and any evidence on the effect on quality of care and patient safety and any recommendations for alternative calculations.

(c) ELIMINATION OF UNNECESSARY REPORT.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(4)(C), by striking clause (iv); and

(2) in subsection (e), by striking paragraph (3).

**SEC. 107. PAYMENT FOR BRACHYTHERAPY.**

(a) EXTENSION OF PAYMENT RULE.—Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)) is amended by striking "January 1, 2007" and inserting "January 1, 2008".

(b) ESTABLISHMENT OF SEPARATE PAYMENT GROUPS.—

(1) IN GENERAL.—Section 1833(t)(2)(H) of such Act (42 U.S.C. 1395l(t)(2)(H)) is amended by inserting "and for stranded and non-stranded devices furnished on or after July 1, 2007" before the period at the end.

(2) IMPLEMENTATION.—The Secretary of Health and Human Services may implement the amendment made by paragraph (1) by program instruction or otherwise.

42 USC 1395*l* note.

**SEC. 108. PAYMENT PROCESS UNDER THE COMPETITIVE ACQUISITION PROGRAM (CAP).**

(a) IN GENERAL.—Section 1847B(a)(3) of the Social Security Act (42 U.S.C. 1395w–3b(a)(3)) is amended—

(1) in subparagraph (A)(iii), by striking "and biologicals" and all that follows and inserting "and biologicals shall be made only to such contractor upon receipt of a claim for a drug or biological supplied by the contractor for administration to a beneficiary."; and

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

"(D) POST-PAYMENT REVIEW PROCESS.—The Secretary shall establish (by program instruction or otherwise) a post-payment review process (which may include the use of statistical sampling) to assure that payment is made for a drug or biological under this section only if the drug or biological has been administered to a beneficiary. The Secretary shall recoup, offset, or collect any overpayments determined by the Secretary under such process.".

(b) CONSTRUCTION.—Nothing in this section shall be construed as—

42 USC 1395w–3b note.

(1) requiring the conduct of any additional competition under subsection (b)(1) of section 1847B of the Social Security Act (42 U.S.C. 1395w–3b); or

(2) requiring any additional process for elections by physicians under subsection (a)(1)(A)(ii) of such section or additional selection by a selecting physician of a contractor under subsection (a)(5) of such section.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for drugs and biologicals supplied under section 1847B of the Social Security Act (42 U.S.C. 1395w–3b)—

42 USC 1395w–3b note.

(1) on or after April 1, 2007; and

(2) on or after July 1, 2006, and before April 1, 2007, for claims that are unpaid as of April 1, 2007.

**SEC. 109. QUALITY REPORTING FOR HOSPITAL OUTPATIENT SERVICES AND AMBULATORY SURGICAL CENTER SERVICES.**

(a) OUTPATIENT HOSPITAL SERVICES.—

(1) IN GENERAL.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended—

(A) in paragraph (3)(C)(iv), by inserting "subject to paragraph (17)," after "For purposes of this subparagraph,"; and

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

"(17) QUALITY REPORTING.—

"(A) REDUCTION IN UPDATE FOR FAILURE TO REPORT.—

"(i) IN GENERAL.—For purposes of paragraph (3)(C)(iv) for 2009 and each subsequent year, in the case of a subsection (d) hospital (as defined in section 1886(d)(1)(B)) that does not submit, to the Secretary in accordance with this paragraph, data required to be submitted on measures selected under this paragraph with respect to such a year, the OPD fee schedule increase factor under paragraph (3)(C)(iv) for such year shall be reduced by 2.0 percentage points.

"(ii) NON-CUMULATIVE APPLICATION.—A reduction under this subparagraph shall apply only with respect to the year involved and the Secretary shall not take into account such reduction in computing the OPD fee schedule increase factor for a subsequent year.

"(B) FORM AND MANNER OF SUBMISSION.—Each subsection (d) hospital shall submit data on measures selected under this paragraph to the Secretary in a form and manner, and at a time, specified by the Secretary for purposes of this paragraph.

"(C) DEVELOPMENT OF OUTPATIENT MEASURES.—

"(i) IN GENERAL.—The Secretary shall develop measures that the Secretary determines to be appropriate for the measurement of the quality of care (including medication errors) furnished by hospitals in outpatient settings and that reflect consensus among affected parties and, to the extent feasible and practicable, shall include measures set forth by one or more national consensus building entities.

"(ii) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the Secretary from selecting measures that are the same as (or a subset of) the measures for which data are required to be submitted under section 1886(b)(3)(B)(viii).

"(D) REPLACEMENT OF MEASURES.—For purposes of this paragraph, the Secretary may replace any measures or indicators in appropriate cases, such as where all hospitals are effectively in compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

"(E) AVAILABILITY OF DATA.—The Secretary shall establish procedures for making data submitted under this paragraph available to the public. Such procedures shall ensure that a hospital has the opportunity to review the data that are to be made public with respect to the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome,

patients' perspectives on care, efficiency, and costs of care that relate to services furnished in outpatient settings in hospitals on the Internet website of the Centers for Medicare & Medicaid Services.".

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B)(viii)(III) of such Act (42 U.S.C. 1395ww(b)(3)(B)(viii)(III)) is amended by inserting "(including medication errors)" after "quality of care".

(b) APPLICATION TO AMBULATORY SURGICAL CENTERS.—Section 1833(i) of such Act (42 U.S.C. 1935l(i)) is amended—

(1) in paragraph (2)(D), by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

"(iv) The Secretary may implement such system in a manner so as to provide for a reduction in any annual update for failure to report on quality measures in accordance with paragraph (7).";

and

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

"(7)(A) For purposes of paragraph (2)(D)(iv), the Secretary may provide, in the case of an ambulatory surgical center that does not submit, to the Secretary in accordance with this paragraph, data required to be submitted on measures selected under this paragraph with respect to a year, any annual increase provided under the system established under paragraph (2)(D) for such year shall be reduced by 2.0 percentage points. A reduction under this subparagraph shall apply only with respect to the year involved and the Secretary shall not take into account such reduction in computing any annual increase factor for a subsequent year.

"(B) Except as the Secretary may otherwise provide, the provisions of subparagraphs (B), (C), (D), and (E) of paragraph (17) of section 1833(t) shall apply with respect to services of ambulatory surgical centers under this paragraph in a similar manner to the manner in which they apply under such paragraph and, for purposes of this subparagraph, any reference to a hospital, outpatient setting, or outpatient hospital services is deemed a reference to an ambulatory surgical center, the setting of such a center, or services of such a center, respectively.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payment for services furnished on or after January 1, 2009.

42 USC 1395*l* note.

**SEC. 110. REPORTING OF ANEMIA QUALITY INDICATORS FOR MEDICARE PART B CANCER ANTI-ANEMIA DRUGS.**

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(u) Each request for payment, or bill submitted, for a drug furnished to an individual for the treatment of anemia in connection with the treatment of cancer shall include (in a form and manner specified by the Secretary) information on the hemoglobin or hematocrit levels for the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs furnished on or after January 1, 2008. The Secretary of Health and Human Services shall address the implementation of such amendment in the rulemaking process under section 1848 of the Social Security Act (42 U.S.C. 1395w–

42 USC 1395u note. Applicability.

4) for payment for physicians' services for 2008, consistent with the previous sentence.

**SEC. 111. CLARIFICATION OF HOSPICE SATELLITE DESIGNATION.**

Notwithstanding any other provision of law, for purposes of calculating the hospice aggregate payment cap for 2004, 2005, and 2006 for a hospice program under section 1814(i)(2)(A) of the Social Security Act (42 U.S.C. 1395f(i)(2)(A)) for hospice care provided on or after November 1, 2003, and before December 27, 2005, Medicare provider number 29–1511 is deemed to be a multiple location of Medicare provider number 29–1500.

# TITLE II—MEDICARE BENEFICIARY PROTECTIONS

**SEC. 201. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.**

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking "2006" and inserting "the period beginning on January 1, 2006, and ending on December 31, 2007,".

**SEC. 202. PAYMENT FOR ADMINISTRATION OF PART D VACCINES.**

42 USC 1395w–102 note.

(a) TRANSITION FOR 2007.—Notwithstanding any other provision of law, in the case of a vaccine that is a covered part D drug under section 1860D–2(e) of the Social Security Act (42 U.S.C. 1395w–102(e)) and that is administered during 2007, the administration of such vaccine shall be paid under part B of title XVIII of such Act as if it were the administration of a vaccine described in section 1861(s)(10)(B) of such Act (42 U.S.C. 1395w(s)(10)(B)).

(b) ADMINISTRATION INCLUDED IN COVERAGE OF COVERED PART D DRUGS BEGINNING IN 2008.—Section 1860D–2(e)(1) of the Social Security Act (42 U.S.C. 1395w–102(e)(1)) is amended, in the matter following subparagraph (B), by inserting "(and, for vaccines administered on or after January 1, 2008, its administration)" after "Public Health Service Act".

**SEC. 203. OIG STUDY OF NEVER EVENTS.**

(a) STUDY.—

(1) IN GENERAL.—The Inspector General in the Department of Health and Human Services shall conduct a study on—

(A) incidences of never events for Medicare beneficiaries, including types of such events and payments by any party for such events;

(B) the extent to which the Medicare program paid, denied payment, or recouped payment for services furnished in connection with such events and the extent to which beneficiaries paid for such services; and

(C) the administrative processes of the Centers for Medicare & Medicaid Services to detect such events and to deny or recoup payments for services furnished in connection with such an event.

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Inspector General—

(A) shall audit a representative sample of claims and medical records of Medicare beneficiaries to identify never

events and any payment (or recoupment) for services furnished in connection with such events;

(B) may request access to such claims and records from any Medicare contractor; and

(C) shall not release individually identifiable information or facility-specific information.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Inspector General shall submit a report to Congress on the study conducted under this section. Such report shall include recommendations for such legislation and administrative action, such as a noncoverage policy or denial of payments, as the Inspector General determines appropriate, including—

(1) recommendations on processes to identify never events and to deny or recoup payments for services furnished in connection with such events; and

(2) a recommendation on a potential process (or processes) for public disclosure of never events which—

(A) will ensure protection of patient privacy; and

(B) will permit the use of the disclosed information for a root cause analysis to inform the public and the medical community about safety issues involved.

(c) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Inspector General of the Department of Health and Human Services $3,000,000 to carry out this section, to be available until January 1, 2010.

(d) NEVER EVENTS DEFINED.—For purposes of this section, the term "never event" means an event that is listed and endorsed as a serious reportable event by the National Quality Forum as of November 16, 2006.

**SEC. 204. MEDICARE MEDICAL HOME DEMONSTRATION PROJECT.**

42 USC 1395b–1 note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish under title XVIII of the Social Security Act a medical home demonstration project (in this section referred to as the "project") to redesign the health care delivery system to provide targeted, accessible, continuous and coordinated, family-centered care to high-need populations and under which—

(1) care management fees are paid to persons performing services as personal physicians; and

(2) incentive payments are paid to physicians participating in practices that provide services as a medical home under subsection (d).

For purposes of this subsection, the term "high-need population" means individuals with multiple chronic illnesses that require regular medical monitoring, advising, or treatment.

(b) DETAILS.—

(1) DURATION; SCOPE.—The project shall operate during a period of three years and shall include urban, rural, and underserved areas in a total of no more than 8 States.

(2) ENCOURAGING PARTICIPATION OF SMALL PHYSICIAN PRACTICES.—The project shall be designed to include the participation of physicians in practices with fewer than three full-time equivalent physicians, as well as physicians in larger practices particularly in rural and underserved areas.

(c) PERSONAL PHYSICIAN DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "personal physician" means a physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) who—

(A) meets the requirements described in paragraph (2); and

(B) performs the services described in paragraph (3). Nothing in this paragraph shall be construed as preventing such a physician from being a specialist or subspecialist for an individual requiring ongoing care for a specific chronic condition or multiple chronic conditions (such as severe asthma, complex diabetes, cardiovascular disease, rheumatologic disorder) or for an individual with a prolonged illness.

(2) REQUIREMENTS.—The requirements described in this paragraph for a personal physician are as follows:

(A) The physician is a board certified physician who provides first contact and continuous care for individuals under the physician's care.

(B) The physician has the staff and resources to manage the comprehensive and coordinated health care of each such individual.

(3) SERVICES PERFORMED.—A personal physician shall perform or provide for the performance of at least the following services:

(A) Advocates for and provides ongoing support, oversight, and guidance to implement a plan of care that provides an integrated, coherent, cross-discipline plan for ongoing medical care developed in partnership with patients and including all other physicians furnishing care to the patient involved and other appropriate medical personnel or agencies (such as home health agencies).

(B) Uses evidence-based medicine and clinical decision support tools to guide decision-making at the point-of-care based on patient-specific factors.

(C) Uses health information technology, that may include remote monitoring and patient registries, to monitor and track the health status of patients and to provide patients with enhanced and convenient access to health care services.

(D) Encourages patients to engage in the management of their own health through education and support systems.

(d) MEDICAL HOME DEFINED.—For purposes of this section, the term "medical home" means a physician practice that—

(1) is in charge of targeting beneficiaries for participation in the project; and

(2) is responsible for—

(A) providing safe and secure technology to promote patient access to personal health information;

(B) developing a health assessment tool for the individuals targeted; and

(C) providing training programs for personnel involved in the coordination of care.

(e) PAYMENT MECHANISMS.—

(1) PERSONAL PHYSICIAN CARE MANAGEMENT FEE.—Under the project, the Secretary shall provide for payment under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) of a care management fee to personal physicians providing

care management under the project. Under such section and using the relative value scale update committee (RUC) process under such section, the Secretary shall develop a care management fee code for such payments and a value for such code.

(2) MEDICAL HOME SHARING IN SAVINGS.—The Secretary shall provide for payment under the project of a medical home based on the payment methodology applied to physician group practices under section 1866A of the Social Security Act (42 U.S.C. 1395cc–1). Under such methodology, 80 percent of the reductions in expenditures under title XVIII of the Social Security Act resulting from participation of individuals that are attributable to the medical home (as reduced by the total care managements fees paid to the medical home under the project) shall be paid to the medical home. The amount of such reductions in expenditures shall be determined by using assumptions with respect to reductions in the occurrence of health complications, hospitalization rates, medical errors, and adverse drug reactions.

(3) SOURCE.—Payments paid under the project shall be made from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t).

(f) EVALUATIONS AND REPORTS.—

(1) ANNUAL INTERIM EVALUATIONS AND REPORTS.—For each year of the project, the Secretary shall provide for an evaluation of the project and shall submit to Congress, by a date specified by the Secretary, a report on the project and on the evaluation of the project for each such year.

(2) FINAL EVALUATION AND REPORT.—The Secretary shall provide for an evaluation of the project and shall submit to Congress, not later than one year after completion of the project, a report on the project and on the evaluation of the project.

**SEC. 205. MEDICARE DRA TECHNICAL CORRECTIONS.**

(a) PACE CLARIFICATION.—Paragraph (7) of section 5302(c) of the Deficit Reduction Act of 2005 (42 U.S.C. 1395eee note) is amended to read as follows:

"(7) APPROPRIATION.—

"(A) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary $10,000,000 to carry out this subsection for the period of fiscal years 2006 through 2010.

"(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available for obligation through fiscal year 2010.".

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) CORRECTION OF MARGIN (SECTION 5001).—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)), as amended by section 5001(a) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended by moving clause (viii) (including subclauses (I) through (VII) of such clause) 6 ems to the left.

(2) REFERENCE CORRECTION (SECTION 5114).—Section 5114(a)(2) of the Deficit Reduction Act of 2005 (Public Law 109–171), in the matter preceding subparagraph (A), is amended by striking "1842(b)(6)(F) of such Act (42 U.S.C. 42 USC 1395u.

42 USC 1395u note.

1395u(b)(6)(F))" and inserting "1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6))".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Deficit Reduction Act of 2005 (Public Law 109–171).

*Ante*, p. 4.

**SEC. 206. LIMITED CONTINUOUS OPEN ENROLLMENT OF ORIGINAL MEDICARE FEE-FOR-SERVICE ENROLLEES INTO MEDICARE ADVANTAGE NON-PRESCRIPTION DRUG PLANS.**

(a) IN GENERAL.—Section 1851(e)(2) of the Social Security Act (42 U.S.C. 1395w–21(e)(2)) is amended by adding at the end the following new subparagraph:

"(E) LIMITED CONTINUOUS OPEN ENROLLMENT OF ORIGINAL FEE-FOR-SERVICE ENROLLEES IN MEDICARE ADVANTAGE NON-PRESCRIPTION DRUG PLANS.—

"(i) IN GENERAL.—On any date during 2007 or 2008 on which a Medicare Advantage eligible individual is an unenrolled fee-for-service individual (as defined in clause (ii)), the individual may elect under subsection (a)(1) to enroll in a Medicare Advantage plan that is not an MA–PD plan.

"(ii) UNENROLLED FEE-FOR-SERVICE INDIVIDUAL DEFINED.—In this subparagraph, the term 'unenrolled fee-for-service individual' means, with respect to a date, a Medicare Advantage eligible individual who—

"(I) is receiving benefits under this title through enrollment in the original medicare fee-for-service program under parts A and B;

"(II) is not enrolled in an MA plan on such date; and

"(III) as of such date is not otherwise eligible to elect to enroll in an MA plan.

"(iii) LIMITATION OF ONE CHANGE DURING YEAR.—An individual may exercise the right under clause (i) only once during the year.

"(iv) NO EFFECT ON COVERAGE UNDER A PRESCRIPTION DRUG PLAN.—Nothing in this subparagraph shall be construed as permitting an individual exercising the right under clause (i)—

"(I) who is enrolled in a prescription drug plan under part D, to disenroll from such plan or to enroll in a different prescription drug plan; or

"(II) who is not enrolled in a prescription drug plan, to enroll in such a plan.".

(b) CONFORMING AMENDMENT.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking "subparagraphs (B) and (C)" and inserting "subparagraphs (B), (C), and (E)".

# TITLE III—MEDICARE PROGRAM INTEGRITY EFFORTS

**SEC. 301. OFFSETTING ADJUSTMENT IN MEDICARE ADVANTAGE STABILIZATION FUND.**

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w–27a(e)(2)(A)(i)) is amended by striking "2007," and

"$10,000,000,000" and inserting "2012," and "$3,500,000,000", respectively.

**SEC. 302. EXTENSION AND EXPANSION OF RECOVERY AUDIT CONTRACTOR PROGRAM UNDER THE MEDICARE INTEGRITY PROGRAM.**

(a) IN GENERAL.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

"(h) USE OF RECOVERY AUDIT CONTRACTORS.—

"(1) IN GENERAL.—Under the Program, the Secretary shall enter into contracts with recovery audit contractors in accordance with this subsection for the purpose of identifying underpayments and overpayments and recouping overpayments under this title with respect to all services for which payment is made under part A or B. Under the contracts—

"(A) payment shall be made to such a contractor only from amounts recovered;

"(B) from such amounts recovered, payment—

"(i) shall be made on a contingent basis for collecting overpayments; and

"(ii) may be made in such amounts as the Secretary may specify for identifying underpayments; and

"(C) the Secretary shall retain a portion of the amounts recovered which shall be available to the program management account of the Centers for Medicare & Medicaid Services for purposes of activities conducted under the recovery audit program under this subsection.

"(2) DISPOSITION OF REMAINING RECOVERIES.—The amounts recovered under such contracts that are not paid to the contractor under paragraph (1) or retained by the Secretary under paragraph (1)(C) shall be applied to reduce expenditures under parts A and B.

"(3) NATIONWIDE COVERAGE.—The Secretary shall enter into contracts under paragraph (1) in a manner so as to provide for activities in all States under such a contract by not later than January 1, 2010.

"(4) AUDIT AND RECOVERY PERIODS.—Each such contract shall provide that audit and recovery activities may be conducted during a fiscal year with respect to payments made under part A or B—

"(A) during such fiscal year; and

"(B) retrospectively (for a period of not more than 4 fiscal years prior to such fiscal year).

"(5) WAIVER.—The Secretary shall waive such provisions of this title as may be necessary to provide for payment of recovery audit contractors under this subsection in accordance with paragraph (1).

"(6) QUALIFICATIONS OF CONTRACTORS.—

"(A) IN GENERAL.—The Secretary may not enter into a contract under paragraph (1) with a recovery audit contractor unless the contractor has staff that has the appropriate clinical knowledge of, and experience with, the payment rules and regulations under this title or the contractor has, or will contract with, another entity that has such knowledgeable and experienced staff.

"(B) INELIGIBILITY OF CERTAIN CONTRACTORS.—The Secretary may not enter into a contract under paragraph (1) with a recovery audit contractor to the extent the contractor is a fiscal intermediary under section 1816, a carrier under section 1842, or a medicare administrative contractor under section 1874A.

"(C) PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY.—In awarding contracts to recovery audit contractors under paragraph (1), the Secretary shall give preference to those risk entities that the Secretary determines have demonstrated more than 3 years direct management experience and a proficiency for cost control or recovery audits with private insurers, health care providers, health plans, under the Medicaid program under title XIX, or under this title.

"(7) CONSTRUCTION RELATING TO CONDUCT OF INVESTIGATION OF FRAUD.—A recovery of an overpayment to a individual or entity by a recovery audit contractor under this subsection shall not be construed to prohibit the Secretary or the Attorney General from investigating and prosecuting, if appropriate, allegations of fraud or abuse arising from such overpayment.

"(8) ANNUAL REPORT.—The Secretary shall annually submit to Congress a report on the use of recovery audit contractors under this subsection. Each such report shall include information on the performance of such contractors in identifying underpayments and overpayments and recouping overpayments, including an evaluation of the comparative performance of such contractors and savings to the program under this title.".

42 USC 1395ddd note.

(b) ACCESS TO COORDINATION OF BENEFITS CONTRACTOR DATABASE.—The Secretary of Health and Human Services shall provide for access by recovery audit contractors conducting audit and recovery activities under section 1893(h) of the Social Security Act, as added by subsection (a), to the database of the Coordination of Benefits Contractor of the Centers for Medicare & Medicaid Services with respect to the audit and recovery periods described in paragraph (4) of such section 1893(h).

(c) CONFORMING AMENDMENTS TO CURRENT DEMONSTRATION PROJECT.—Section 306 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2256) is amended—

(1) in subsection (b)(2), by striking "last for not longer than 3 years" and inserting "continue until contracts are entered into under section 1893(h) of the Social Security Act"; and

(2) by striking subsection (f).

**SEC. 303. FUNDING FOR THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.**

(a) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

(1) IN GENERAL.—Section 1817(k)(3)(A)(i) of the Social Security Act (42 U.S.C. 1395i(k)(3)(A)(i)) is amended—

(A) in the matter preceding subclause (I), by inserting "until expended" after "without further appropriation";

(B) in subclause (II), by striking "and" at the end;

(C) in subclause (III)—

(i) by striking "for each fiscal year after fiscal year 2003" and inserting "for each of fiscal years 2004, 2005, and 2006"; and

(ii) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following new subclauses:

"(IV) for each of fiscal years 2007, 2008, 2009, and 2010, the limit under this clause for the preceding fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year; and

"(V) for each fiscal year after fiscal year 2010, the limit under this clause for fiscal year 2010.".

(2) OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Section 1817(k)(3)(A)(ii) of such Act (42 U.S.C. 1395i(k)(3)(A)(ii)) is amended—

(A) in subclause (VI), by striking "and" at the end;

(B) in subclause (VII)—

(i) by striking "for each fiscal year after fiscal year 2002" and inserting "for each of fiscal years 2003, 2004, 2005, and 2006"; and

(ii) by striking the period at the end and inserting a semicolon; and

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

"(VIII) for fiscal year 2007, not less than $160,000,000, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year;

"(IX) for each of fiscal years 2008, 2009, and 2010, not less than the amount required under this clause for the preceding fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year; and

"(X) for each fiscal year after fiscal year 2010, not less than the amount required under this clause for fiscal year 2010.".

(b) FEDERAL BUREAU OF INVESTIGATION.—Section 1817(k)(3)(B) of the Social Security Act (42 U.S.C. 1395i(k)(3)(B)) is amended—

(1) in the matter preceding clause (i), by inserting "until expended" after "without further appropriation";

(2) in clause (vi), by striking "and" at the end;

(3) in clause (vii)—

(A) by striking "for each fiscal year after fiscal year 2002" and inserting "for each of fiscal years 2003, 2004, 2005, and 2006"; and

(B) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following new clauses:

"(viii) for each of fiscal years 2007, 2008, 2009, and 2010, the amount to be appropriated under this subparagraph for the preceding fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year; and

"(ix) for each fiscal year after fiscal year 2010, the amount to be appropriated under this subparagraph for fiscal year 2010.".

**SEC. 304. IMPLEMENTATION FUNDING.**

For purposes of implementing the provisions of, and amendments made by, this title and titles I and II of this division, other than section 203, the Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of $45,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2007 and 2008.

# TITLE IV—MEDICAID AND OTHER HEALTH PROVISIONS

**SEC. 401. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.**

Appropriations.

Activities authorized by sections 510 and 1925 of the Social Security Act shall continue through June 30, 2007, in the manner authorized for fiscal year 2006, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the third quarter of fiscal year 2007 at the level provided for such activities through the third quarter of fiscal year 2006.

42 USC 300aa–2 note.

**SEC. 402. GRANTS FOR RESEARCH ON VACCINE AGAINST VALLEY FEVER.**

(a) IN GENERAL.—In supporting research on the development of vaccines against human diseases, the Secretary of Health and Human Services shall make grants for the purpose of conducting research toward the development of a vaccine against coccidioidomycosis (commonly known as Valley Fever).

(b) SUNSET.—No grant may be made under subsection (a) on or after October 1, 2012. The preceding sentence does not have any legal effect on payments under grants for which amounts appropriated under subsection (c) were obligated prior to such date.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $40,000,000 for the period of fiscal years 2007 through 2012.

**SEC. 403. CHANGE IN THRESHOLD FOR MEDICAID INDIRECT HOLD HARMLESS PROVISION OF BROAD-BASED HEALTH CARE TAXES.**

Section 1903(w)(4)(C) of the Social Security Act (42 U.S.C. 1396b(w)(4)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following:

"(ii) For purposes of clause (i), a determination of the existence of an indirect guarantee shall be made under paragraph (3)(i) of section 433.68(f) of title 42, Code of Federal Regulations, as in effect on November 1, 2006, except that for portions of fiscal years beginning on or after January 1, 2008, and before October 1, 2011, '5.5 percent' shall be substituted for '6 percent' each place it appears.".

**SEC. 404. DSH ALLOTMENTS FOR FISCAL YEAR 2007 FOR TENNESSEE AND HAWAII.**

Section 1923(f)(6) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)) is amended to read as follows:

"(6) ALLOTMENT ADJUSTMENTS FOR FISCAL YEAR 2007.—

"(A) TENNESSEE.—

"(i) IN GENERAL.—Only with respect to fiscal year 2007, the DSH allotment for Tennessee for such fiscal year, notwithstanding the table set forth in paragraph (2) or the terms of the TennCare Demonstration Project in effect for the State, shall be the greater of—

"(I) the amount that the Secretary determines is equal to the Federal medical assistance percentage component attributable to disproportionate share hospital payment adjustments for the demonstration year ending in 2006 that is reflected in the budget neutrality provision of the TennCare Demonstration Project; and

"(II) $280,000,000.

"(ii) LIMITATION ON AMOUNT OF PAYMENT ADJUSTMENTS ELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION.—Payment under section 1903(a) shall not be made to Tennessee with respect to the aggregate amount of any payment adjustments made under this section for hospitals in the State for fiscal year 2007 that is in excess of 30 percent of the DSH allotment for the State for such fiscal year determined pursuant to clause (i).

"(iii) STATE PLAN AMENDMENT.—The Secretary shall permit Tennessee to submit an amendment to its State plan under this title that describes the methodology to be used by the State to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities. The Secretary may not approve such plan amendment unless the methodology described in the amendment is consistent with the requirements under this section for making payment adjustments to disproportionate share hospitals. For purposes of demonstrating budget neutrality under the TennCare Demonstration Project, payment adjustments made pursuant to a State plan amendment approved in accordance with this subparagraph shall be considered expenditures under such project.

"(iv) OFFSET OF FEDERAL SHARE OF PAYMENT ADJUSTMENTS FOR FISCAL YEAR 2007 AGAINST ESSENTIAL ACCESS HOSPITAL SUPPLEMENTAL POOL PAYMENTS UNDER THE TENNCARE DEMONSTRATION PROJECT.—

"(I) The total amount of Essential Access Hospital supplemental pool payments that may be made under the TennCare Demonstration Project for fiscal year 2007 shall be reduced on a dollar for dollar basis by the amount of any payments made under section 1903(a) to Tennessee with respect to payment adjustments made under this section for hospitals in the State for such fiscal year.

"(II) The sum of the total amount of payments made under section 1903(a) to Tennessee with respect to payment adjustments made under this section for hospitals in the State for fiscal year 2007 and the total amount of Essential Access Hospital supplemental pool payments made under the TennCare Demonstration Project for such fiscal year shall not exceed the State's DSH allotment for such fiscal year established under clause (i).

"(B) HAWAII.—

"(i) IN GENERAL.—Only with respect to fiscal year 2007, the DSH allotment for Hawaii for such fiscal year, notwithstanding the table set forth in paragraph (2), shall be $10,000,000.

"(ii) STATE PLAN AMENDMENT.—The Secretary shall permit Hawaii to submit an amendment to its State plan under this title that describes the methodology to be used by the State to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities. The Secretary may not approve such plan amendment unless the methodology described in the amendment is consistent with the requirements under this section for making payment adjustments to disproportionate share hospitals.".

**SEC. 405. CERTAIN MEDICAID DRA TECHNICAL CORRECTIONS.**

(a) TECHNICAL CORRECTIONS RELATING TO STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING (SECTIONS 6041 THROUGH 6043).—

(1) CLARIFICATION OF CONTINUED APPLICATION OF REGULAR COST SHARING RULES FOR INDIVIDUALS WITH FAMILY INCOME NOT EXCEEDING 100 PERCENT OF THE POVERTY LINE.—Section 1916A of the Social Security Act, as inserted by section 6041(a) of the Deficit Reduction Act of 2005 and amended by sections 6042 and 6043 of such Act, is amended—

42 USC 1396o–1.

(A) in subsection (a)(1)—

(i) by inserting "but subject to paragraph (2)," after "1902(a)(10)(B),"; and

(ii) by inserting "and non-emergency services furnished in a hospital emergency department for which cost sharing may be imposed under subsection (e)" after "(c)";

(B) by redesignating paragraph (2) of subsection (a) as paragraph (3);

(C) in subsection (a), by inserting after paragraph (1) the following:

"(2) EXEMPTION FOR INDIVIDUALS WITH FAMILY INCOME NOT EXCEEDING 100 PERCENT OF THE POVERTY LINE.—

"(A) IN GENERAL.—Paragraph (1) and subsection (d) shall not apply, and sections 1916 and 1902(a)(10)(B) shall continue to apply, in the case of an individual whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(B) LIMIT ON AGGREGATE COST SHARING.—To the extent cost sharing under subsections (c) and (e) or under section 1916 is imposed against individuals described in subparagraph (A), the limitation under subsection (b)(1)(B)(ii) on the total aggregate amount of cost sharing shall apply to such cost sharing for all individuals in a family described in subparagraph (A) in the same manner as such limitations apply to cost sharing and families described in subsection (b)(1)(B)(ii).";

(D) in subsections (c)(2)(C) and (e)(2)(C), by inserting "under subsection (a)(2)(B) or" after "cap on cost sharing applied"; and

(E) in subsection (e)(2)(A), by inserting "who is not described in subparagraph (B)" after "subsection (b)(1)".

(2) CLARIFICATION OF TREATMENT OF NON-PREFERRED DRUG AND NON-EMERGENCY COST-SHARING.—Such section is further amended—

(A) in subsections (b)(1) and (b)(2), by striking ", subject to subsections (c)(2) and (e)(2)(A)";

(B) in subsection (c)(1), in the matter preceding subparagraph (A), by striking "least (or less) costly effective" and inserting "most (or more) cost effective";

(C) in subsection (c)(1)(B), by striking "otherwise be imposed under" and inserting "be imposed under subsection (a) due to the application of";

(D) in subsection (c)(2)(B), by striking "otherwise not subject to cost sharing due to the application of subsection (b)(3)(B)" and inserting "not subject to cost sharing under subsection (a) due to the application of paragraph (1)(B)";

(E) in subsection (e)(2)(A)—

(i) by amending the heading to read as follows: "INDIVIDUALS WITH FAMILY INCOME BETWEEN 100 AND 150 PERCENT OF THE POVERTY LINE.—"; and

(ii) by striking "under subsection (b)(1)" and inserting "under subsection (b)(1)(B)(ii)";

(F) in subsection (e)(2)(B), by striking "who is otherwise not subject to cost sharing under subsection (b)(3)" and inserting "described in subsection (a)(2)(A) or who is not subject to cost sharing under subsection (b)(3)(B) with respect to non-emergency services described in paragraph (1)"; and

(G) in subsection (e)(2)(C), by inserting "or section 1916" after "subsection (a)".

(3) CLARIFICATION OF COST SHARING RULES APPLICABLE TO DISABLED CHILDREN PROVIDED MEDICAL ASSISTANCE UNDER THE ELIGIBILITY CATEGORY ADDED BY THE FAMILY OPPORTUNITY ACT.—Such section is further amended—

(A) in subsection (a)(1), in the second sentence, by striking "section 1916(g)" and inserting "subsection (g) or (i) of section 1916"; and

(B) in subsection (b)(3)—

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

"(vi) Disabled children who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XIX) and 1902(cc).."; and

(ii) in subparagraph (B), by adding at the end the following:

"(ix) Services furnished to disabled children who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XIX) and 1902(cc).".

(4) CORRECTION OF IV–B REFERENCES.—Such section is further amended in subsection (b)(3)—

(A) in subparagraph (A)(i), by striking "aid or assistance is made available under part B of title IV to children in foster care" and inserting "child welfare services are made available under part B of title IV on the basis of being a child in foster care"; and

(B) in subparagraph (B)(i), by striking "aid or assistance is made available under part B of title IV to children in foster care" and inserting "child welfare services are made available under part B of title IV on the basis of being a child in foster care or".

(5) NON-EMERGENCY SERVICES.—Section 1916A(e)(4)(A) of the Social Security Act, as added by section 6043(a) of the Deficit Reduction Act of 2005, is amended by striking "the physician determines".

42 USC 1396o–1 note.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by sections 6041(a) of the Deficit Reduction Act of 2005, except that insofar as such amendments are to, or relate to, subsection (c) or (e) of section 1916A of the Social Security Act, such amendments shall take effect as if included in the amendments made by section 6042 or 6043, respectively, of the Deficit Reduction Act of 2005.

(b) CLARIFYING TREATMENT OF CERTAIN ANNUITIES (SECTION 6012).—

(1) IN GENERAL.—Section 1917(c)(1)(F)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(F)(i)), as added by section 6012(b) of the Deficit Reduction Act of 2005, is amended by striking "annuitant" and inserting "institutionalized individual".

42 USC 1396p note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of section 6012 of the Deficit Reduction Act of 2005.

(c) ADDITIONAL MISCELLANEOUS TECHNICAL CORRECTIONS.—

42 USC 1396b note.

(1) DOCUMENTATION (SECTION 6036).—

(A) IN GENERAL.—Effective as if included in the amendment made by section 6036(a)(2) of the Deficit Reduction Act of 2005, section 1903(x) of the Social Security Act (42 U.S.C. 1396b(x)), as inserted by such section 6036(a)(2), is amended—

(i) in paragraph (1), by striking "(i)(23)" and inserting "(i)(22)";

(ii) in paragraph (2)—

(I) in the matter preceding subparagraph (A), by striking "alien" and inserting "individual

declaring to be a citizen or national of the United States";

(II) by striking subparagraph (B) and inserting the following:

"(B) and is receiving—

"(i) disability insurance benefits under section 223 or monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)); or

"(ii) supplemental security income benefits under title XVI;";

(III) in subparagraph (C)—

(aa) by striking "other"; and

(bb) by striking "had" and inserting "has";

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

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

"(C) and with respect to whom—

"(i) child welfare services are made available under part B of title IV on the basis of being a child in foster care; or

"(ii) adoption or foster care assistance is made available under part E of title IV; or"; and

(iii) in paragraph (3)(C)(iii), by striking "I–97" and inserting "I–197".

(B) ASSURANCE OF STATE FOSTER CARE AGENCY VERIFICATION OF CITIZENSHIP OR LEGAL STATUS.—

(i) STATE PLAN AMENDMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(I) in paragraph (25), by striking "and" at the end;

(II) in paragraph (26)(C), by striking the period at the end and inserting "; and"; and

(III) by adding at the end the following:

"(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 472 on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child.".

(ii) INCLUSION IN REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS.—Section 1123A(b)(2) of the Social Security Act (42 U.S.C. 1320a–2a(b)(2)) is amended by inserting "(which shall include determining whether the State program is in conformity with the requirement of section 471(a)(27))" after "review".

(iii) EFFECTIVE DATE.—The amendments made by this subparagraph shall take effect on the date that is 6 months after the date of the enactment of this Act. 42 USC 671 note.

(2) MISCELLANEOUS TECHNICAL CORRECTIONS.— 42 USC 1395u note.

(A) Effective as if included in the enactment of the Deficit Reduction Act of 2005 (Public Law 109–171), the following sections of such Act are amended as follows:

(i) Section 5114(a)(2) is amended by striking "section 1842(b)(6)(F) of such Act (42 U.S.C.

1395u(b)(6)(F))" and inserting "section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6))".

*Ante*, p. 60.

(ii) Section 6003(b)(2) is amended, by striking "subsection (k)" and inserting "subsection (k)(1)".

*Ante*, p. 72.

(iii) Sections 6031(b), 6032(b), and 6035(c) are each amended by striking "section 6035(e)" and inserting "section 6034(e)".

*Ante*, p. 74.

(iv) Section 6034(b) is amended by striking "section 6033(a)" and inserting "section 6032(a)".

*Ante*, p. 80.

(v) Section 6036 is amended—

(I) in subsection (b), by striking "section 1903(z)" and inserting "section 1903(x)"; and

(II) in subsection (c), by striking "(i)(23)" and inserting "(i)(22)".

42 USC 1396r note.

(B) Effective as if included in the amendment made by section 6015(a)(1) of the Deficit Reduction Act of 2005, section 1919(c)(5)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396r(c)(5)(A)(i)(II)) is amended by striking "clause (v)" and inserting "subparagraph (B)(v)".

# DIVISION C—OTHER PROVISIONS

Gulf of Mexico Energy Security Act of 2006.

## TITLE I—GULF OF MEXICO ENERGY SECURITY

43 USC 1331 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Gulf of Mexico Energy Security Act of 2006".

43 USC 1331 note.

**SEC. 102. DEFINITIONS.**

In this title:

(1) 181 AREA.—The term "181 Area" means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service, available in the Office of the Director of the Minerals Management Service, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

(2) 181 SOUTH AREA.—The term "181 South Area" means any area—

(A) located—

(i) south of the 181 Area;

(ii) west of the Military Mission Line; and

(iii) in the Central Planning Area;

(B) excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service; and

(C) included in the areas considered for oil and gas leasing, as identified in map 8, page 37 of the document entitled "Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012", dated February 2006.

(3) BONUS OR ROYALTY CREDIT.—The term "bonus or royalty credit" means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(A) a bonus bid for a lease on the outer Continental Shelf; or

(B) a royalty due on oil or gas production from any lease located on the outer Continental Shelf.

(4) CENTRAL PLANNING AREA.—The term "Central Planning Area" means the Central Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled "Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012", dated February 2006.

(5) EASTERN PLANNING AREA.—The term "Eastern Planning Area" means the Eastern Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled "Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012", dated February 2006.

(6) 2002–2007 PLANNING AREA.—The term "2002–2007 planning area" means any area—

(A) located in—

(i) the Eastern Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service;

(ii) the Central Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; or

(iii) the Western Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; and

(B) not located in—

(i) an area in which no funds may be expended to conduct offshore preleasing, leasing, and related activities under sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521) (as in effect on August 2, 2005);

(ii) an area withdrawn from leasing under the "Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition", from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

(iii) the 181 Area or 181 South Area.

(7) GULF PRODUCING STATE.—The term "Gulf producing State" means each of the States of Alabama, Louisiana, Mississippi, and Texas.

(8) MILITARY MISSION LINE.—The term "Military Mission Line" means the north-south line at 86°41′ W. longitude.

(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

(A) IN GENERAL.—The term "qualified outer Continental Shelf revenues" means—

(i) in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums

due and payable to the United States from leases entered into on or after the date of enactment of this Act for—

(I) areas in the 181 Area located in the Eastern Planning Area; and

(II) the 181 South Area; and

(ii) in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for—

(I) the 181 Area;

(II) the 181 South Area; and

(III) the 2002–2007 planning area.

(B) EXCLUSIONS.—The term "qualified outer Continental Shelf revenues" does not include—

(i) revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold; or

(ii) revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(10) COASTAL POLITICAL SUBDIVISION.—The term "coastal political subdivision" means a political subdivision of a Gulf producing State any part of which political subdivision is—

(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of the date of enactment of this Act; and

(B) not more than 200 nautical miles from the geographic center of any leased tract.

(11) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

43 USC 1331 note.

**SEC. 103. OFFSHORE OIL AND GAS LEASING IN 181 AREA AND 181 SOUTH AREA OF GULF OF MEXICO.**

(a) 181 AREA LEASE SALE.—Except as provided in section 104, the Secretary shall offer the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable, but not later than 1 year, after the date of enactment of this Act.

(b) 181 SOUTH AREA LEASE SALE.—The Secretary shall offer the 181 South Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable after the date of enactment of this Act.

(c) LEASING PROGRAM.—The 181 Area and 181 South Area shall be offered for lease under this section notwithstanding the omission of the 181 Area or the 181 South Area from any outer Continental Shelf leasing program under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

(d) CONFORMING AMENDMENT.—Section 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 522) is amended by inserting "(other than the 181 South Area (as defined in section

102 of the Gulf of Mexico Energy Security Act of 2006))" after "lands located outside Sale 181".

**SEC. 104. MORATORIUM ON OIL AND GAS LEASING IN CERTAIN AREAS OF GULF OF MEXICO.**

43 USC 1331 note.

(a) IN GENERAL.—Effective during the period beginning on the date of enactment of this Act and ending on June 30, 2022, the Secretary shall not offer for leasing, preleasing, or any related activity—

Effective date. Termination date.

(1) any area east of the Military Mission Line in the Gulf of Mexico;

(2) any area in the Eastern Planning Area that is within 125 miles of the coastline of the State of Florida; or

(3) any area in the Central Planning Area that is—

(A) within—

(i) the 181 Area; and

(ii) 100 miles of the coastline of the State of Florida; or

(B)(i) outside the 181 Area;

(ii) east of the western edge of the Pensacola Official Protraction Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

(iii) within 100 miles of the coastline of the State of Florida.

(b) MILITARY MISSION LINE.—Notwithstanding subsection (a), the United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

(c) EXCHANGE OF CERTAIN LEASES.—

(1) IN GENERAL.—The Secretary shall permit any person that, as of the date of enactment of this Act, has entered into an oil or gas lease with the Secretary in any area described in paragraph (2) or (3) of subsection (a) to exchange the lease for a bonus or royalty credit that may only be used in the Gulf of Mexico.

(2) VALUATION OF EXISTING LEASE.—The amount of the bonus or royalty credit for a lease to be exchanged shall be equal to—

(A) the amount of the bonus bid; and

(B) any rental paid for the lease as of the date the lessee notifies the Secretary of the decision to exchange the lease.

(3) REVENUE DISTRIBUTION.—No bonus or royalty credit may be used under this subsection in lieu of any payment due under, or to acquire any interest in, a lease subject to the revenue distribution provisions of section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(4) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that shall provide a process for—

Deadline.

(A) notification to the Secretary of a decision to exchange an eligible lease;

(B) issuance of bonus or royalty credits in exchange for relinquishment of the existing lease;

(C) transfer of the bonus or royalty credit to any other person; and

(D) determining the proper allocation of bonus or royalty credits to each lease interest owner.

43 USC 1331 note.

**SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.**

(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

(2) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

(A) 75 percent to Gulf producing States in accordance with subsection (b); and

(B) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460l–5).

(b) ALLOCATION AMONG GULF PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

(1) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEARS 2007 THROUGH 2016.—

Regulations. Effective dates.

(A) IN GENERAL.—Subject to subparagraph (B), effective for each of fiscal years 2007 through 2016, the amount made available under subsection (a)(2)(A) shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(2) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEAR 2017 AND THEREAFTER.—

Effective dates. Regulations.

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter—

(i) the amount made available under subsection (a)(2)(A) from any lease entered into within the 181 Area or the 181 South Area shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract; and

(ii) the amount made available under subsection (a)(2)(A) from any lease entered into within the 2002–2007 planning area shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(C) HISTORICAL LEASE SITES.—

Effective dates. Termination dates.

(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A)(ii), the historical lease sites in the 2002–2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

(ii) ADJUSTMENT.—Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years.

(3) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

(A) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (2), to the coastal political subdivisions of the Gulf producing State.

(B) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).

(c) TIMING.—The amounts required to be deposited under paragraph (2) of subsection (a) for the applicable fiscal year shall be made available in accordance with that paragraph during the fiscal year immediately following the applicable fiscal year.

(d) AUTHORIZED USES.—

(1) IN GENERAL.—Subject to paragraph (2), each Gulf producing State and coastal political subdivision shall use all amounts received under subsection (b) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(A) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(D) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

(E) Planning assistance and the administrative costs of complying with this section.

(2) LIMITATION.—Not more than 3 percent of amounts received by a Gulf producing State or coastal political subdivision under subsection (b) may be used for the purposes described in paragraph (1)(E).

(e) ADMINISTRATION.—Amounts made available under subsection (a)(2) shall—

(1) be made available, without further appropriation, in accordance with this section;

(2) remain available until expended; and

(3) be in addition to any amounts appropriated under—

(A) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(B) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); or

(C) any other provision of law.

(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

(1) IN GENERAL.—Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed $500,000,000 for each of fiscal years 2016 through 2055.

(2) EXPENDITURES.—For the purpose of paragraph (1), for each of fiscal years 2016 through 2055, expenditures under subsection (a)(2) shall be net of receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.

(3) PRO RATA REDUCTIONS.—If paragraph (1) limits the amount of qualified outer Continental Shelf revenue that would be paid under subparagraphs (A) and (B) of subsection (a)(2)—

(A) the Secretary shall reduce the amount of qualified outer Continental Shelf revenue provided to each recipient on a pro rata basis; and

(B) any remainder of the qualified outer Continental Shelf revenues shall revert to the general fund of the Treasury.

Surface Mining Control and Reclamation Act Amendments of 2006.

# TITLE II—SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2006

30 USC 1201 note.

**SEC. 200. SHORT TITLE.**

This title may be cited as the "Surface Mining Control and Reclamation Act Amendments of 2006".

## Subtitle A—Mining Control and Reclamation

**SEC. 201. ABANDONED MINE RECLAMATION FUND AND PURPOSES.**

(a) IN GENERAL.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended—

(1) in subsection (c)—

(A) by striking paragraphs (2) and (6); and

(B) by redesignating paragraphs (3), (4), and (5) and paragraphs (7) through (13) as paragraphs (2) through (11), respectively;

(2) by striking subsection (d) and inserting the following:

"(d) AVAILABILITY OF MONEYS; NO FISCAL YEAR LIMITATION.—

"(1) IN GENERAL.—Moneys from the fund for expenditures under subparagraphs (A) through (D) of section 402(g)(3) shall be available only when appropriated for those subparagraphs.

"(2) NO FISCAL YEAR LIMITATION.—Appropriations described in paragraph (1) shall be made without fiscal year limitation.

"(3) OTHER PURPOSES.—Moneys from the fund shall be available for all other purposes of this title without prior appropriation as provided in subsection (f).";

(3) in subsection (e)—

(A) in the second sentence, by striking "the needs of such fund" and inserting "achieving the purposes of the transfers under section 402(h)"; and

(B) in the third sentence, by inserting before the period the following: "for the purpose of the transfers under section 402(h)"; and

(4) by adding at the end the following:

"(f) GENERAL LIMITATION ON OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—From amounts deposited into the fund under subsection (b), the Secretary shall distribute during each fiscal year beginning after September 30, 2007, an amount determined under paragraph (2). Effective date.

"(2) AMOUNTS.—

"(A) FOR FISCAL YEARS 2008 THROUGH 2022.—For each of fiscal years 2008 through 2022, the amount distributed by the Secretary under this subsection shall be equal to—

"(i) the amounts deposited into the fund under paragraphs (1), (2), and (4) of subsection (b) for the preceding fiscal year that were allocated under paragraphs (1) and (5) of section 402(g); plus

"(ii) the amount needed for the adjustment under section 402(g)(8) for the current fiscal year.

"(B) FISCAL YEARS 2023 AND THEREAFTER.—For fiscal year 2023 and each fiscal year thereafter, to the extent that funds are available, the Secretary shall distribute an amount equal to the amount distributed under subparagraph (A) during fiscal year 2022.

"(3) DISTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for each fiscal year, of the amount to be distributed to States and Indian tribes pursuant to paragraph (2), the Secretary shall distribute—

"(i) the amounts allocated under paragraph (1) of section 402(g), the amounts allocated under paragraph (5) of section 402(g), and any amount reallocated under section 411(h)(3) in accordance with section 411(h)(2), for grants to States and Indian tribes under section 402(g)(5); and

"(ii) the amounts allocated under section 402(g)(8).

"(B) EXCLUSION.—Beginning on October 1, 2007, certified States shall be ineligible to receive amounts under section 402(g)(1). Effective date.

"(4) AVAILABILITY.—Amounts in the fund available to the Secretary for obligation under this subsection shall be available until expended.

"(5) ADDITION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the amount distributed under this subsection for each fiscal year shall be in addition to the amount appropriated from the fund during the fiscal year.

"(B) EXCEPTIONS.—Notwithstanding paragraph (3), the amount distributed under this subsection for the first 4 fiscal years beginning on and after October 1, 2007, shall be equal to the following percentage of the amount otherwise required to be distributed:

"(i) 50 percent in fiscal year 2008.

"(ii) 50 percent in fiscal year 2009.

"(iii) 75 percent in fiscal year 2010.

"(iv) 75 percent in fiscal year 2011.".

(b) CONFORMING AMENDMENT.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended by striking "section 401(c)(11)" and inserting "section 401(c)(9)".

**SEC. 202. RECLAMATION FEE.**

Effective dates. 30 USC 1232 note.

(a) AMOUNTS.—

(1) FISCAL YEARS 2008–2012.—Effective October 1, 2007, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended—

(A) by striking "35" and inserting "31.5";

(B) by striking "15" and inserting "13.5"; and

(C) by striking "10 cents" and inserting "9 cents".

30 USC 1232 note.

(2) FISCAL YEARS 2013–2021.—Effective October 1, 2012, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) (as amended by paragraph (1)) is amended—

(A) by striking "31.5" and inserting "28";

(B) by striking "13.5" and inserting "12"; and

(C) by striking "9 cents" and inserting "8 cents".

Effective date. 30 USC 1232 note.

(b) DURATION.—Effective September 30, 2007, section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) (as amended by section 7007 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 484)) is amended by striking "September 30, 2007" and all that follows through the end of the sentence and inserting "September 30, 2021.".

(c) ALLOCATION OF FUNDS.—Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (1)(D)—

(A) by inserting "(except for grants awarded during fiscal years 2008, 2009, and 2010 to the extent not expended within 5 years)" after "this paragraph"; and

(B) by striking "in any area under paragraph (2), (3), (4), or (5)" and inserting "under paragraph (5)";

(2) by striking paragraph (2) and inserting:

"(2) In making the grants referred to in paragraph (1)(C) and the grants referred to in paragraph (5), the Secretary shall ensure

strict compliance by the States and Indian tribes with the priorities described in section 403(a) until a certification is made under section 411(a).";

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking "paragraphs (2) and" and inserting "paragraph";

(B) in subparagraph (A), by striking "401(c)(11)" and inserting "401(c)(9)"; and

(C) by adding at the end the following:

"(E) For the purpose of paragraph (8).";

(4) in paragraph (5)—

(A) by inserting "(A)" after "(5)";

(B) in the first sentence, by striking "40" and inserting "60";

(C) in the last sentence, by striking "Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4)" and inserting "Funds made available under paragraph (3) or (4)"; and

(D) by adding at the end the following:

"(B) Any amount that is reallocated and available under section 411(h)(3) shall be in addition to amounts that are allocated under subparagraph (A).."; and

(5) by striking paragraphs (6) through (8) and inserting the following:

"(6)(A) Any State with an approved abandoned mine reclamation program pursuant to section 405 may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1) and (5) if those amounts are deposited into an acid mine drainage abatement and treatment fund established under State law, from which amounts (together with all interest earned on the amounts) are expended by the State for the abatement of the causes and the treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

"(B) In this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

"(ii) that contains land and water that are—

"(I) eligible pursuant to section 404 and include any of the priorities described in section 403(a); and

"(II) the subject of expenditures by the State from the forfeiture of bonds required under section 509 or from other States sources to abate and treat acid mine drainage.

"(7) In complying with the priorities described in section 403(a), any State or Indian tribe may use amounts available in grants made annually to the State or tribe under paragraphs (1) and (5) for the reclamation of eligible land and water described in section 403(a)(3) before the completion of reclamation projects under paragraphs (1) and (2) of section 403(a) only if the expenditure of funds for the reclamation is done in conjunction with the expenditure before, on, or after the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 of funds for reclamation projects under paragraphs (1) and (2) of section 403(a).

"(8)(A) In making funds available under this title, the Secretary shall ensure that the grant awards total not less than $3,000,000 annually to each State and each Indian tribe having an approved abandoned mine reclamation program pursuant to section 405 and eligible land and water pursuant to section 404, so long as an allocation of funds to the State or tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).

Applicability. Tennessee. Missouri.

"(B) Notwithstanding any other provision of law, this paragraph applies to the States of Tennessee and Missouri.".

(d) TRANSFERS OF INTEREST EARNED BY ABANDONED MINE RECLAMATION FUND.—Section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232) is amended by striking subsection (h) and inserting the following:

"(h) TRANSFERS OF INTEREST EARNED BY FUND.—

"(1) IN GENERAL.—

"(A) TRANSFERS TO COMBINED BENEFIT FUND.—As soon as practicable after the beginning of fiscal year 2007 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year to transfer to the Combined Benefit Fund such amounts as are estimated by the trustees of such fund to offset the amount of any deficit in net assets in the Combined Benefit Fund as of October 1, 2006, and to make the transfer described in paragraph (2)(A).

"(B) TRANSFERS TO 1992 AND 1993 PLANS.—As soon as practicable after the beginning of fiscal year 2008 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year (reduced by the amount used under subparagraph (A)) to make the transfers described in paragraphs (2)(B) and (2)(C).

"(2) TRANSFERS DESCRIBED.—The transfers referred to in paragraph (1) are the following:

"(A) UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.—A transfer to the United Mine Workers of America Combined Benefit Fund equal to the amount that the trustees of the Combined Benefit Fund estimate will be expended from the fund for the fiscal year in which the transfer is made, reduced by—

"(i) the amount the trustees of the Combined Benefit Fund estimate the Combined Benefit Fund will receive during the fiscal year in—

"(I) required premiums; and

"(II) payments paid by Federal agencies in connection with benefits provided by the Combined Benefit Fund; and

"(ii) the amount the trustees of the Combined Benefit Fund estimate will be expended during the fiscal year to provide health benefits to beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, but only to the extent that such

amount does not exceed the amounts described in subsection (i)(1)(A) that the Secretary estimates will be available to pay such estimated expenditures.

"(B) UNITED MINE WORKERS OF AMERICA 1992 BENEFIT PLAN.—A transfer to the United Mine Workers of America 1992 Benefit Plan, in an amount equal to the difference between—

"(i) the amount that the trustees of the 1992 UMWA Benefit Plan estimate will be expended from the 1992 UMWA Benefit Plan during the next calendar year to provide the benefits required by the 1992 UMWA Benefit Plan on the date of enactment of this subparagraph; minus

"(ii) the amount that the trustees of the 1992 UMWA Benefit Plan estimate the 1992 UMWA Benefit Plan will receive during the next calendar year in—

"(I) required monthly per beneficiary premiums, including the amount of any security provided to the 1992 UMWA Benefit Plan that is available for use in the provision of benefits; and

"(II) payments paid by Federal agencies in connection with benefits provided by the 1992 UMWA Benefit Plan.

"(C) MULTIEMPLOYER HEALTH BENEFIT PLAN.—A transfer to the Multiemployer Health Benefit Plan established after July 20, 1992, by the parties that are the settlors of the 1992 UMWA Benefit Plan referred to in subparagraph (B) (referred to in this subparagraph and subparagraph (D) as 'the Plan'), in an amount equal to the excess (if any) of—

"(i) the amount that the trustees of the Plan estimate will be expended from the Plan during the next calendar year, to provide benefits no greater than those provided by the Plan as of December 31, 2006; over

"(ii) the amount that the trustees estimated the Plan will receive during the next calendar year in payments paid by Federal agencies in connection with benefits provided by the Plan.

Such excess shall be calculated by taking into account only those beneficiaries actually enrolled in the Plan as of December 31, 2006, who are eligible to receive benefits under the Plan on the first day of the calendar year for which the transfer is made.

"(D) INDIVIDUALS CONSIDERED ENROLLED.—For purposes of subparagraph (C), any individual who was eligible to receive benefits from the Plan as of the date of enactment of this subsection, even though benefits were being provided to the individual pursuant to a settlement agreement approved by order of a bankruptcy court entered on or before September 30, 2004, will be considered to be actually enrolled in the Plan and shall receive benefits from the Plan beginning on December 31, 2006.

"(3) ADJUSTMENT.—If, for any fiscal year, the amount of a transfer under subparagraph (A), (B), or (C) of paragraph (2) is more or less than the amount required to be transferred under that subparagraph, the Secretary shall appropriately

adjust the amount transferred under that subparagraph for the next fiscal year.

"(4) ADDITIONAL AMOUNTS.—

"(A) PREVIOUSLY CREDITED INTEREST.—Notwithstanding any other provision of law, any interest credited to the fund that has not previously been transferred to the Combined Benefit Fund referred to in paragraph (2)(A) under this section—

"(i) shall be held in reserve by the Secretary until such time as necessary to make the payments under subparagraphs (A) and (B) of subsection (i)(1), as described in clause (ii); and

"(ii) in the event that the amounts described in subsection (i)(1) are insufficient to make the maximum payments described in subparagraphs (A) and (B) of subsection (i)(1), shall be used by the Secretary to supplement the payments so that the maximum amount permitted under those paragraphs is paid.

"(B) PREVIOUSLY ALLOCATED AMOUNTS.—All amounts allocated under subsection (g)(2) before the date of enactment of this subparagraph for the program described in section 406, but not appropriated before that date, shall be available to the Secretary to make the transfers described in paragraph (2).

"(C) ADEQUACY OF PREVIOUSLY CREDITED INTEREST.—The Secretary shall—

Consultation.

"(i) consult with the trustees of the plans described in paragraph (2) at reasonable intervals; and

Notification.

"(ii) notify Congress if a determination is made that the amounts held in reserve under subparagraph (A) are insufficient to meet future requirements under subparagraph (A)(ii).

"(D) ADDITIONAL RESERVE AMOUNTS.—In addition to amounts held in reserve under subparagraph (A), there is authorized to be appropriated such sums as may be necessary for transfer to the fund to carry out the purposes of subparagraph (A)(ii).

"(E) INAPPLICABILITY OF CAP.—The limitation described in subsection (i)(3)(A) shall not apply to payments made from the reserve fund under this paragraph.

"(5) LIMITATIONS.—

"(A) AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR.—The Secretary may make transfers under subparagraphs (B) and (C) of paragraph (2) for a calendar year only if the Secretary determines, using actuarial projections provided by the trustees of the Combined Benefit Fund referred to in paragraph (2)(A), that amounts will be available under paragraph (1), after the transfer, for the next fiscal year for making the transfer under paragraph (2)(A).

"(B) RATE OF CONTRIBUTIONS OF OBLIGORS.—

"(i) IN GENERAL.—

"(I) RATE.—A transfer under paragraph (2)(C) shall not be made for a calendar year unless the persons that are obligated to contribute to the plan referred to in paragraph (2)(C) on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect

on the date which is 30 days before the date of enactment of this subsection.

"(II) APPLICATION.—The contributions described in subclause (I) shall be applied first to the provision of benefits to those plan beneficiaries who are not described in paragraph (2)(C)(ii).

"(ii) INITIAL CONTRIBUTIONS.—

"(I) IN GENERAL.—From the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 through December 31, 2010, the persons that, on the date of enactment of that Act, are obligated to contribute to the plan referred to in paragraph (2)(C) shall be obligated, collectively, to make contributions equal to the amount described in paragraph (2)(C), less the amount actually transferred due to the operation of subparagraph (C).

"(II) FIRST CALENDAR YEAR.—Calendar year 2006 is the first calendar year for which contributions are required under this clause.

"(III) AMOUNT OF CONTRIBUTION FOR 2006.—Except as provided in subclause (IV), the amount described in paragraph (2)(C) for calendar year 2006 shall be calculated as if paragraph (2)(C) had been in effect during 2005.

"(IV) LIMITATION.—The contributions required under this clause for calendar year 2006 shall not exceed the amount necessary for solvency of the plan described in paragraph (2)(C), measured as of December 31, 2006, and taking into account all assets held by the plan as of that date.

"(iii) DIVISION.—The collective annual contribution obligation required under clause (ii) shall be divided among the persons subject to the obligation, and applied uniformly, based on the hours worked for which contributions referred to in clause (i) would be owed.

"(C) PHASE-IN OF TRANSFERS.—For each of calendar years 2008 through 2010, the transfers required under subparagraphs (B) and (C) of paragraph (2) shall equal the following amounts:

"(i) For calendar year 2008, the Secretary shall make transfers equal to 25 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

"(ii) For calendar year 2009, the Secretary shall make transfers equal to 50 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

"(iii) For calendar year 2010, the Secretary shall make transfers equal to 75 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

"(i) FUNDING.—

"(1) IN GENERAL.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary

of the Treasury shall transfer to the plans described in subsection (h)(2) such sums as are necessary to pay the following amounts:

"(A) To the Combined Fund (as defined in section 9701(a)(5) of the Internal Revenue Code of 1986 and referred to in this paragraph as the 'Combined Fund'), the amount that the trustees of the Combined Fund estimate will be expended from premium accounts maintained by the Combined Fund for the fiscal year to provide benefits for beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, subject to the following limitations:

"(i) For fiscal year 2008, the amount paid under this subparagraph shall equal—

"(I) the amount described in subparagraph (A); minus

"(II) the amounts required under section 9706(h)(3)(A) of the Internal Revenue Code of 1986.

"(ii) For fiscal year 2009, the amount paid under this subparagraph shall equal—

"(I) the amount described in subparagraph (A); minus

"(II) the amounts required under section 9706(h)(3)(B) of the Internal Revenue Code of 1986.

"(iii) For fiscal year 2010, the amount paid under this subparagraph shall equal—

"(I) the amount described in subparagraph (A); minus

"(II) the amounts required under section 9706(h)(3)(C) of the Internal Revenue Code of 1986.

Certification.

"(B) On certification by the trustees of any plan described in subsection (h)(2) that the amount available for transfer by the Secretary pursuant to this section (determined after application of any limitation under subsection (h)(5)) is less than the amount required to be transferred, to the plan the amount necessary to meet the requirement of subsection (h)(2).

"(C) To the Combined Fund, $9,000,000 on October 1, 2007, $9,000,000 on October 1, 2008, and $9,000,000 on October 1, 2009 (which amounts shall not be exceeded) to provide a refund of any premium (as described in section 9704(a) of the Internal Revenue Code of 1986) paid on or before September 7, 2000, to the Combined Fund, plus interest on the premium calculated at the rate of 7.5 percent per year, on a proportional basis and to be paid not later than 60 days after the date on which each payment is received by the Combined Fund, to those signatory operators (to the extent that the Combined Fund has not previously returned the premium amounts to the operators), or any related persons to the operators (as defined in section 9701(c) of the Internal Revenue Code of 1986), or their heirs, successors, or assigns who have been denied

the refunds as the result of final judgments or settlements if—

"(i) prior to the date of enactment of this paragraph, the signatory operator (or any related person to the operator)—

"(I) had all of its beneficiary assignments made under section 9706 of the Internal Revenue Code of 1986 voided by the Commissioner of the Social Security Administration; and

"(II) was subject to a final judgment or final settlement of litigation adverse to a claim by the operator that the assignment of beneficiaries under section 9706 of the Internal Revenue Code of 1986 was unconstitutional as applied to the operator; and

"(ii) on or before September 7, 2000, the signatory operator (or any related person to the operator) had paid to the Combined Fund any premium amount that had not been refunded.

"(2) PAYMENTS TO STATES AND INDIAN TRIBES.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior for distribution to States and Indian tribes such sums as are necessary to pay amounts described in paragraphs (1)(A) and (2)(A) of section 411(h).

"(3) LIMITATIONS.—

"(A) CAP.—The total amount transferred under this subsection for any fiscal year shall not exceed $490,000,000.

"(B) INSUFFICIENT AMOUNTS.—In a case in which the amount required to be transferred without regard to this paragraph exceeds the maximum annual limitation in subparagraph (A), the Secretary shall adjust the transfers of funds so that—

"(i) each transfer for the fiscal year is a percentage of the amount described;

"(ii) the amount is determined without regard to subsection (h)(5)(A); and

"(iii) the percentage transferred is the same for all transfers made under this subsection for the fiscal year.

"(4) AVAILABILITY OF FUNDS.—Funds shall be transferred under paragraphs (1) and (2) beginning in fiscal year 2008 and each fiscal year thereafter, and shall remain available until expended.".

**SEC. 203. OBJECTIVES OF FUND.**

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "(1) the protection" and inserting the following:

"(1)(A) the protection;";

(ii) in subparagraph (A) (as designated by clause (i)), by striking "general welfare,"; and

(iii) by adding at the end the following:

"(B) the restoration of land and water resources and the environment that—

"(i) have been degraded by the adverse effects of coal mining practices; and

"(ii) are adjacent to a site that has been or will be remediated under subparagraph (A);";

(B) in paragraph (2)—

(i) by striking "(2) the protection" and inserting the following:

"(2)(A) the protection";

(ii) in subparagraph (A) (as designated by clause (i), by striking "health, safety, and general welfare" and inserting "health and safety"; and

(iii) by adding at the end the following:

"(B) the restoration of land and water resources and the environment that—

"(i) have been degraded by the adverse effects of coal mining practices; and

"(ii) are adjacent to a site that has been or will be remediated under subparagraph (A); and";

(C) in paragraph (3), by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (4) and (5);

(2) in subsection (b)—

(A) by striking the subsection heading and inserting "WATER SUPPLY RESTORATION.—"; and

(B) in paragraph (1), by striking "up to 30 percent of the"; and

(3) in the second sentence of subsection (c), by inserting ", subject to the approval of the Secretary," after "amendments".

**SEC. 204. RECLAMATION OF RURAL LAND.**

(a) ADMINISTRATION.—Section 406(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(h)) is amended by striking "Soil Conservation Service" and inserting "Natural Resources Conservation Service".

(b) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT RURAL LAND RECLAMATION.—Section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236) is amended by adding at the end the following:

"(i) There are authorized to be appropriated to the Secretary of Agriculture, from amounts in the Treasury other than amounts in the fund, such sums as may be necessary to carry out this section.".

**SEC. 205. LIENS.**

Section 408(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1238) is amended in the last sentence by striking "who owned the surface prior to May 2, 1977, and".

**SEC. 206. CERTIFICATION.**

Section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before the first sentence; and

(B) by adding at the end the following:

"(2)(A) The Secretary may, on the initiative of the Secretary, make the certification referred to in paragraph (1) on behalf of

any State or Indian tribe referred to in paragraph (1) if on the basis of the inventory referred to in section 403(c) all reclamation projects relating to the priorities described in section 403(a) for eligible land and water pursuant to section 404 in the State or tribe have been completed.

"(B) The Secretary shall only make the certification after notice in the Federal Register and opportunity for public comment."; and

Federal Register, publication. Public comment.

(2) by adding at the end the following:

"(h) PAYMENTS TO STATES AND INDIAN TRIBES.—

"(1) IN GENERAL.—

"(A) PAYMENTS.—

"(i) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall make payments to States or Indian tribes for the amount due for the aggregate unappropriated amount allocated to the State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

"(ii) CONVERSION AS EQUIVALENT PAYMENTS.—Amounts allocated under subparagraph (A) or (B) of section 402(g)(1) shall be reallocated to the allocation established in section 402(g)(5) in amounts equivalent to payments made to States or Indian tribes under this paragraph.

"(B) AMOUNT DUE.—In this paragraph, the term 'amount due' means the unappropriated amount allocated to a State or Indian tribe before October 1, 2007, under subparagraph (A) or (B) of section 402(g)(1).

"(C) SCHEDULE.—Payments under subparagraph (A) shall be made in 7 equal annual installments, beginning with fiscal year 2008.

"(D) USE OF FUNDS.—

"(i) CERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that makes a certification under subsection (a) in which the Secretary concurs shall use any amounts provided under this paragraph for the purposes established by the State legislature or tribal council of the Indian tribe, with priority given for addressing the impacts of mineral development.

"(ii) UNCERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that has not made a certification under subsection (a) in which the Secretary has concurred shall use any amounts provided under this paragraph for the purposes described in section 403.

"(2) SUBSEQUENT STATE AND INDIAN TRIBE SHARE FOR CERTIFIED STATES AND INDIAN TRIBES.—

"(A) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall pay to each certified State or Indian tribe an amount equal to the sum of the aggregate unappropriated amount allocated on or after October 1, 2007, to the certified State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

"(B) CERTIFIED STATE OR INDIAN TRIBE DEFINED.—In this paragraph the term 'certified State or Indian tribe' means a State or Indian tribe for which a certification is made under subsection (a) in which the Secretary concurs.

"(3) MANNER OF PAYMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), payments to States or Indian tribes under this subsection shall be made without regard to any limitation in section 401(d) and concurrently with payments to States under that section.

"(B) INITIAL PAYMENTS.—The first 3 payments made to any State or Indian tribe shall be reduced to 25 percent, 50 percent, and 75 percent, respectively, of the amounts otherwise required under paragraph (2)(A).

"(C) INSTALLMENTS.—Amounts withheld from the first 3 annual installments as provided under subparagraph (B) shall be paid in 2 equal annual installments beginning with fiscal year 2018.

Grants.

"(4) REALLOCATION.—

"(A) IN GENERAL.—The amount allocated to any State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1) that is paid to the State or Indian tribe as a result of a payment under paragraph (1) or (2) shall be reallocated and available for grants under section 402(g)(5).

"(B) ALLOCATION.—The grants shall be allocated based on the amount of coal historically produced before August 3, 1977, in the same manner as under section 402(g)(5).".

**SEC. 207. REMINING INCENTIVES.**

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended by adding at the end the following:

30 USC 1244.

**"SEC. 415. REMINING INCENTIVES.**

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may, after opportunity for public comment, promulgate regulations that describe conditions under which amounts in the fund may be used to provide incentives to promote remining of eligible land under section 404 in a manner that leverages the use of amounts from the fund to achieve more reclamation with respect to the eligible land than would be achieved without the incentives.

"(b) REQUIREMENTS.—Any regulations promulgated under subsection (a) shall specify that the incentives shall apply only if the Secretary determines, with the concurrence of the State regulatory authority referred to in title V, that, without the incentives, the eligible land would not be likely to be remined and reclaimed.

"(c) INCENTIVES.—

"(1) IN GENERAL.—Incentives that may be considered for inclusion in the regulations promulgated under subsection (a) include, but are not limited to—

"(A) a rebate or waiver of the reclamation fees required under section 402(a); and

"(B) the use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509.

"(2) LIMITATIONS.—

"(A) USE.—A rebate or waiver under paragraph (1)(A) shall be used only for operations that—

"(i) remove or reprocess abandoned coal mine waste; or

"(ii) conduct remining activities that meet the priorities specified in paragraph (1) or (2) of section 403(a).

"(B) AMOUNT.—The amount of a rebate or waiver provided as an incentive under paragraph (1)(A) to remine or reclaim eligible land shall not exceed the estimated cost of reclaiming the eligible land under this section.".

**SEC. 208. EXTENSION OF LIMITATION ON APPLICATION OF PROHIBITION ON ISSUANCE OF PERMIT.**

Section 510(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended by striking the last sentence.

**SEC. 209. TRIBAL REGULATION OF SURFACE COAL MINING AND RECLAMATION OPERATIONS.**

(a) IN GENERAL.—Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following:

"(j) TRIBAL REGULATORY AUTHORITY.—

"(1) TRIBAL REGULATORY PROGRAMS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe may apply for, and obtain the approval of, a tribal program under section 503 regulating in whole or in part surface coal mining and reclamation operations on reservation land under the jurisdiction of the Indian tribe using the procedures of section 504(e).

"(B) REFERENCES TO STATE.—For purposes of this subsection and the implementation and administration of a tribal program under title V, any reference to a 'State' in this Act shall be considered to be a reference to a 'tribe'.

"(2) CONFLICTS OF INTEREST.—

"(A) IN GENERAL.—The fact that an individual is a member of an Indian tribe does not in itself constitute a violation of section 201(f).

"(B) EMPLOYEES OF TRIBAL REGULATORY AUTHORITY.—Any employee of a tribal regulatory authority shall not be eligible for a per capita distribution of any proceeds from coal mining operations conducted on Indian reservation lands under this Act.

"(3) SOVEREIGN IMMUNITY.—To receive primary regulatory authority under section 504(e), an Indian tribe shall waive sovereign immunity for purposes of section 520 and paragraph (4).

"(4) JUDICIAL REVIEW.—

"(A) CIVIL ACTIONS.—

"(i) IN GENERAL.—After exhausting all tribal remedies with respect to a civil action arising under a tribal program approved under section 504(e), an interested party may file a petition for judicial review of the civil action in the United States circuit court for the circuit in which the surface coal mining operation named in the petition is located.

"(ii) SCOPE OF REVIEW.—

"(I) QUESTIONS OF LAW.—The United States circuit court shall review de novo any questions of law under clause (i).

"(II) FINDINGS OF FACT.—The United States circuit court shall review findings of fact under clause (i) using a clearly erroneous standard.

"(B) CRIMINAL ACTIONS.—Any criminal action brought under section 518 with respect to surface coal mining or reclamation operations on Indian reservation lands shall be brought in—

"(i) the United States District Court for the District of Columbia; or

"(ii) the United States district court in which the criminal activity is alleged to have occurred.

"(5) GRANTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), grants for developing, administering, and enforcing tribal programs approved in accordance with section 504(e) shall be provided to an Indian tribe in accordance with section 705.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the Federal share of the costs of developing, administering, and enforcing an approved tribal program shall be 100 percent.

"(6) REPORT.—Not later than 18 months after the date on which a tribal program is approved under subsection (e) of section 504, the Secretary shall submit to the appropriate committees of Congress a report, developed in cooperation with the applicable Indian tribe, on the tribal program that includes a recommendation of the Secretary on whether primary regulatory authority under that subsection should be expanded to include additional Indian lands.".

(b) CONFORMING AMENDMENT.—Section 710(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300(i)) is amended in the first sentence by striking ", except" and all that follows through "section 503".

# Subtitle B—Coal Industry Retiree Health Benefit Act

### SEC. 211. CERTAIN RELATED PERSONS AND SUCCESSORS IN INTEREST RELIEVED OF LIABILITY IF PREMIUMS PREPAID.

26 USC 9704.

(a) COMBINED BENEFIT FUND.—Section 9704 of the Internal Revenue Code of 1986 (relating to liability of assigned operators) is amended by adding at the end the following new subsection:

"(j) PREPAYMENT OF PREMIUM LIABILITY.—

"(1) IN GENERAL.—If—

"(A) a payment meeting the requirements of paragraph (3) is made to the Combined Fund by or on behalf of—

"(i) any assigned operator to which this subsection applies, or

"(ii) any related person to any assigned operator described in clause (i), and

"(B) the common parent of the controlled group of corporations described in paragraph (2)(B) is jointly and severally liable for any premium under this section which (but for this subsection) would be required to be paid by the assigned operator or related person,

then such common parent (and no other person) shall be liable for such premium.

"(2) ASSIGNED OPERATORS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any assigned operator if—

"(i) the assigned operator (or a related person to the assigned operator)—

"(I) made contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for employment during the period covered by the 1988 agreement; and

"(II) is not a 1988 agreement operator,

"(ii) the assigned operator (and all related persons to the assigned operator) are not actively engaged in the production of coal as of July 1, 2005, and

"(iii) the assigned operator was, as of July 20, 1992, a member of a controlled group of corporations described in subparagraph (B).

"(B) CONTROLLED GROUP OF CORPORATIONS.—A controlled group of corporations is described in this subparagraph if the common parent of such group is a corporation the shares of which are publicly traded on a United States exchange.

"(C) COORDINATION WITH REPEAL OF ASSIGNMENTS.—A person shall not fail to be treated as an assigned operator to which this subsection applies solely because the person ceases to be an assigned operator by reason of section 9706(h)(1) if the person otherwise meets the requirements of this subsection and is liable for the payment of premiums under section 9706(h)(3).

"(D) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given such term by section 52(a).

"(3) REQUIREMENTS.—A payment meets the requirements of this paragraph if—

"(A) the amount of the payment is not less than the present value of the total premium liability under this chapter with respect to the Combined Fund of the assigned operators or related persons described in paragraph (1) or their assignees, as determined by the operator's or related person's enrolled actuary (as defined in section 7701(a)(35)) using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary;

"(B) such enrolled actuary files with the Secretary of Labor a signed actuarial report containing—

"(i) the date of the actuarial valuation applicable to the report; and

"(ii) a statement by the enrolled actuary signing the report that, to the best of the actuary's knowledge, the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations; and

"(C) 90 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary of Labor, and the Secretary of Labor has not notified the

assigned operator in writing that the requirements of this paragraph have not been satisfied.

"(4) USE OF PREPAYMENT.—The Combined Fund shall—

"(A) establish and maintain an account for each assigned operator or related person by, or on whose behalf, a payment described in paragraph (3) was made,

"(B) credit such account with such payment (and any earnings thereon), and

"(C) use all amounts in such account exclusively to pay premiums that would (but for this subsection) be required to be paid by the assigned operator.

Upon termination of the obligations for the premium liability of any assigned operator or related person for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such person as may be designated by the common parent described in paragraph (1)(B).".

(b) INDIVIDUAL EMPLOYER PLANS.—Section 9711(c) of the Internal Revenue Code of 1986 (relating to joint and several liability) is amended to read as follows:

26 USC 9711.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(2) LIABILITY LIMITED IF SECURITY PROVIDED.—If—

"(A) security meeting the requirements of paragraph (3) is provided by or on behalf of—

"(i) any last signatory operator which is an assigned operator described in section 9704(j)(2), or

"(ii) any related person to any last signatory operator described in clause (i), and

"(B) the common parent of the controlled group of corporations described in section 9704(j)(2)(B) is jointly and severally liable for the provision of health care under this section which, but for this paragraph, would be required to be provided by the last signatory operator or related person,

then, as of the date the security is provided, such common parent (and no other person) shall be liable for the provision of health care under this section which the last signatory operator or related person would otherwise be required to provide. Security may be provided under this paragraph without regard to whether a payment was made under section 9704(j).

"(3) SECURITY.—Security meets the requirements of this paragraph if—

"(A) the security—

"(i) is in the form of a bond, letter of credit, or cash escrow,

"(ii) is provided to the trustees of the 1992 UMWA Benefit Plan solely for the purpose of paying premiums for beneficiaries who would be described in section 9712(b)(2)(B) if the requirements of this section were not met by the last signatory operator, and

"(iii) is in an amount equal to 1 year of liability of the last signatory operator under this section, determined by using the average cost of such operator's liability during the prior 3 calendar years;

"(B) the security is in addition to any other security required under any other provision of this title; and

"(C) the security remains in place for 5 years.

"(4) REFUNDS OF SECURITY.—The remaining amount of any security provided under this subsection (and earnings thereon) shall be refunded to the last signatory operator as of the earlier of—

"(A) the termination of the obligations of the last signatory operator under this section, or

"(B) the end of the 5-year period described in paragraph (4)(C).".

(c) 1992 UMWA BENEFIT PLAN.—Section 9712(d)(4) of the Internal Revenue Code of 1986 (relating to joint and several liability) is amended by adding at the end the following new sentence: "The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.". Applicability. 26 USC 9712.

(d) SUCCESSOR IN INTEREST.—Section 9701(c) of the Internal Revenue Code of 1986 (relating to terms relating to operators) is amended by adding at the end the following new paragraph:

"(8) SUCCESSOR IN INTEREST.—

"(A) SAFE HARBOR.—The term 'successor in interest' shall not include any person who—

"(i) is an unrelated person to an eligible seller described in subparagraph (C); and

"(ii) purchases for fair market value assets, or all of the stock, of a related person to such seller, in a bona fide, arm's-length sale.

"(B) UNRELATED PERSON.—The term 'unrelated person' means a purchaser who does not bear a relationship to the eligible seller described in section 267(b).

"(C) ELIGIBLE SELLER.—For purposes of this paragraph, the term 'eligible seller' means an assigned operator described in section 9704(j)(2) or a related person to such assigned operator.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendment made by subsection (d) shall apply to transactions after the date of the enactment of this Act. 26 USC 9701 note.

**SEC. 212. TRANSFERS TO FUNDS; PREMIUM RELIEF.**

(a) COMBINED FUND.—

(1) FEDERAL TRANSFERS.—Section 9705(b) of the Internal Revenue Code of 1986 (relating to transfers from Abandoned Mine Reclamation Fund) is amended—

(A) in paragraph (1), by striking "section 402(h)" and inserting "subsections (h) and (i) of section 402";

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to pay benefits and administrative costs of beneficiaries of the Combined Fund or for such other purposes as are specifically provided in the Acts described in paragraph (1)."; and

(C) by striking "FROM ABANDONED MINE RECLAMATION FUND" in the heading thereof.

(2) MODIFICATIONS OF PREMIUMS TO REFLECT FEDERAL TRANSFERS.—

26 USC 9704.

(A) ELIMINATION OF UNASSIGNED BENEFICIARIES PREMIUM.—Section 9704(d) of such Code (establishing unassigned beneficiaries premium) is amended to read as follows:

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—

"(1) PLAN YEARS ENDING ON OR BEFORE SEPTEMBER 30, 2006.—For plan years ending on or before September 30, 2006, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(2) PLAN YEARS BEGINNING ON OR AFTER OCTOBER 1, 2006.—

"(A) IN GENERAL.—For plan years beginning on or after October 1, 2006, subject to subparagraph (B), there shall be no unassigned beneficiaries premium, and benefit costs with respect to eligible beneficiaries who are not assigned under section 9706 to any person for any such plan year shall be paid from amounts transferred under section 9705(b).

"(B) INADEQUATE TRANSFERS.—If, for any plan year beginning on or after October 1, 2006, the amounts transferred under section 9705(b) are less than the amounts required to be transferred to the Combined Fund under subsection (h)(2)(A) or (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232)), then the unassigned beneficiaries premium for any assigned operator shall be equal to the operator's applicable percentage of the amount required to be so transferred which was not so transferred.".

(B) PREMIUM ACCOUNTS.—

(i) CREDITING OF ACCOUNTS.—Section 9704(e)(1) of such Code (relating to premium accounts; adjustments) is amended by inserting "and amounts transferred under section 9705(b)" after "premiums received".

(ii) SURPLUSES ATTRIBUTABLE TO PUBLIC FUNDING.—Section 9704(e)(3)(A) of such Code is amended by adding at the end the following new sentence: "Amounts credited to an account from amounts transferred under section 9705(b) shall not be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.".

(C) APPLICABLE PERCENTAGE.—Section 9704(f)(2) of such Code (relating to annual adjustments) is amended by adding at the end the following new subparagraph:

"(C) In the case of plan years beginning on or after October 1, 2007, the total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries whose assignments have been revoked under section 9706(h).".

(3) ASSIGNMENTS AND REASSIGNMENT.—Section 9706 of the Internal Revenue Code of 1986 (relating to assignment of eligible beneficiaries) is amended by adding at the end the following: 26 USC 9706.

"(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

"(1) IN GENERAL.—Subject to the premium obligation set forth in paragraph (3), the Commissioner of Social Security shall—

"(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on and after October 1, 2007; and

"(B) make no further assignments to persons other than 1988 agreement operators, except that no individual who becomes an unassigned beneficiary by reason of subparagraph (A) may be assigned to a 1988 agreement operator.

"(2) REASSIGNMENT UPON PURCHASE.—This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.

"(3) LIABILITY OF PERSONS DURING THREE FISCAL YEARS BEGINNING ON AND AFTER OCTOBER 1, 2007.—In the case of each of the fiscal years beginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

"(A) For the fiscal year beginning on October 1, 2007, 55 percent.

"(B) For the fiscal year beginning on October 1, 2008, 40 percent.

"(C) For the fiscal year beginning on October 1, 2009, 15 percent.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years of the Combined Fund beginning after September 30, 2006. 26 USC 9704 note.

(b) 1992 UMWA BENEFIT AND OTHER PLANS.—

(1) TRANSFERS TO PLANS.—Section 9712(a) of the Internal Revenue Code of 1986 (relating to the establishment and coverage of the 1992 UMWA Benefit Plan) is amended by adding at the end the following:

"(3) TRANSFERS UNDER OTHER FEDERAL STATUTES.—

"(A) IN GENERAL.—The 1992 UMWA Benefit Plan shall include any amount transferred to the plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

"(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in subsection (c) with

respect to any beneficiary for whom no monthly per beneficiary premium is paid pursuant to paragraph (1)(A) or (3) of subsection (d).

"(4) SPECIAL RULE FOR 1993 PLAN.—

"(A) IN GENERAL.—The plan described in section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)) shall include any amount transferred to the plan under subsections (h) and (i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

"(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individuals described in section 402(h)(2)(C) of such Act (30 U.S.C. 1232(h)(2)(C)).".

(2) PREMIUM ADJUSTMENTS.—

26 USC 9712.

(A) IN GENERAL.—Section 9712(d)(1) of such Code (relating to guarantee of benefits) is amended to read as follows:

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c) by meeting the following requirements in accordance with the contribution requirements established in the 1992 UMWA Benefit Plan:

"(A) The payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan.

"(B) The provision of a security (in the form of a bond, letter of credit, or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator.

"(C) If the amounts transferred under subsection (a)(3) are less than the amounts required to be transferred to the 1992 UMWA Benefit Plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232), the payment of an additional backstop premium by each 1988 last signatory operator which is equal to such operator's share of the amounts required to be so transferred but which were not so transferred, determined on the basis of the number of eligible and potentially eligible beneficiaries attributable to the operator.".

(B) CONFORMING AMENDMENTS.—Section 9712(d) of such Code is amended—

(i) in paragraph (2)(B), by striking "prefunding" and inserting "backstop", and

(ii) in paragraph (3), by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)".

26 USC 9712 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to fiscal years beginning on or after October 1, 2010.

**SEC. 213. OTHER PROVISIONS.**

(a) BOARD OF TRUSTEES.—Section 9702(b) of the Internal Revenue Code of 1986 (relating to board of trustees of the Combined Fund) is amended to read as follows: 26 USC 9702.

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows—

"(A) 2 individuals who represent employers in the coal mining industry shall be designated by the BCOA;

"(B) 2 individuals designated by the United Mine Workers of America; and

"(C) 3 individuals selected by the individuals appointed under subparagraphs (A) and (B).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULE.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.".

(b) ENFORCEMENT OF OBLIGATIONS.—

(1) FAILURE TO PAY PREMIUMS.—Section 9707(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) FAILURES TO PAY.—

"(1) PREMIUMS FOR ELIGIBLE BENEFICIARIES.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(2) CONTRIBUTIONS REQUIRED UNDER THE MINING LAWS.— There is hereby imposed a penalty on the failure of any person to make a contribution required under section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 to a plan referred to in section 402(h)(2)(C) of such Act. For purposes of applying this section, each such required monthly contribution for the hours worked of any individual shall be treated as if it were a premium required to be paid under section 9704 with respect to an eligible beneficiary.". Penalty.

(2) CIVIL ENFORCEMENT.—Section 9721 of such Code is amended to read as follows:

**"SEC. 9721. CIVIL ENFORCEMENT.**

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim— Applicability.

"(1) arising out of an obligation to pay any amount required to be paid by this chapter; or

"(2) arising out of an obligation to pay any amount required by section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).".

White Pine County Conservation, Recreation, and Development Act of 2006. Nevada.

# TITLE III—WHITE PINE COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT

**SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this title.

16 USC 1241 note.

**SEC. 302. SHORT TITLE.**

This title may be cited as the "White Pine County Conservation, Recreation, and Development Act of 2006".

16 USC 1244 note.

**SEC. 303. DEFINITIONS.**

In this title:

(1) COUNTY.—The term "County" means White Pine County, Nevada.

(2) SECRETARY.—The term "Secretary" means—

(A) with respect to land in the National Forest System, the Secretary of Agriculture; and

(B) with respect to other Federal land, the Secretary of the Interior.

(3) STATE.—The term "State" means the State of Nevada.

## Subtitle A—Land Disposal

**SEC. 311. CONVEYANCE OF WHITE PINE COUNTY, NEVADA, LAND.**

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary, in cooperation with the County, in accordance with that Act, this subtitle, and other applicable law and subject to valid existing rights, shall, at such time as the parcels of Federal land become available for disposal, conduct sales of the parcels of Federal land described in subsection (b) to qualified bidders.

(b) DESCRIPTION OF LAND.—The parcels of Federal land referred to in subsection (a) consist of not more than 45,000 acres of Bureau of Land Management land in the County that—

(1) is not segregated or withdrawn on or after the date of enactment of this Act, unless the land is withdrawn in accordance with subsection (h); and

(2) is identified for disposal by the Bureau of Land Management through—

(A) the Ely Resource Management Plan; or

(B) a subsequent amendment to the management plan that is undertaken with full public involvement.

(c) AVAILABILITY.—The map and any legal descriptions of the Federal land conveyed under this section shall be on file and available for public inspection in—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the Nevada State Director of the Bureau of Land Management; and

(3) the Ely Field Office of the Bureau of Land Management.

(d) JOINT SELECTION REQUIRED.—The Secretary and the County shall jointly select which parcels of Federal land described in subsection (b) to offer for sale under subsection (a).

(e) COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.— Before a sale of Federal land under subsection (a), the County shall submit to the Secretary a certification that qualified bidders have agreed to comply with— Certification.

(1) County and city zoning ordinances; and

(2) any master plan for the area approved by the County.

(f) METHOD OF SALE; CONSIDERATION.—The sale of Federal land under subsection (a) shall be—

(1) consistent with subsections (d) and (f) of section 203 of the Federal Land Management Policy Act of 1976 (43 U.S.C. 1713);

(2) unless otherwise determined by the Secretary, through a competitive bidding process; and

(3) for not less than fair market value.

(g) RECREATION AND PUBLIC PURPOSES ACT CONVEYANCES.—

(1) IN GENERAL.—Not later than 30 days before land is offered for sale under subsection (a), the State or County may elect to obtain any of the land for local public purposes in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.). Deadline.

(2) RETENTION.—Pursuant to an election made under paragraph (1), the Secretary shall retain the elected land for conveyance to the State or County in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(h) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights and except as provided in paragraph (2), the Federal land described in subsection (b) is withdrawn from—

(A) all forms of entry and appropriation under the public land laws and mining laws;

(B) location and patent under the mining laws; and

(C) operation of the mineral laws, geothermal leasing laws, and mineral material laws.

(2) EXCEPTION.—Paragraph (1)(A) shall not apply to sales made consistent with this section or an election by the County or the State to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.).

(i) DEADLINE FOR SALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of the signing of the record of decision authorizing the implementation of the Ely Resource Management Plan and annually thereafter until the Federal land described in subsection (b) is disposed of or the County requests a postponement under paragraph (2), the Secretary shall offer for sale the Federal land described in subsection (b).

(2) POSTPONEMENT; EXCLUSION FROM SALE.—

(A) REQUEST BY COUNTY FOR POSTPONEMENT OR EXCLUSION.—At the request of the County, the Secretary shall

postpone or exclude from the sale all or a portion of the land described in subsection (b).

(B) INDEFINITE POSTPONEMENT.—Unless specifically requested by the County, a postponement under subparagraph (A) shall not be indefinite.

**SEC. 312. DISPOSITION OF PROCEEDS.**

Of the proceeds from the sale of Federal land described in section 311(b)—

(1) 5 percent shall be paid directly to the State for use in the general education program of the State;

(2) 10 percent shall be paid to the County for use for fire protection, law enforcement, education, public safety, housing, social services, transportation, and planning; and

(3) the remainder shall be deposited in a special account in the Treasury of the United States, to be known as the "White Pine County Special Account" (referred to in this subtitle as the "special account"), and shall be available without further appropriation to the Secretary until expended for—

(A) the reimbursement of costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of Federal land described in section 311(b), including the costs of surveys and appraisals and compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713);

(B) the inventory, evaluation, protection, and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb)) of the County;

(C) the reimbursement of costs incurred by the Department of the Interior for preparing and carrying out the transfers of land to be held in trust by the United States under section 361;

(D) conducting a study of routes for the Silver State Off-Highway Vehicle Trail as required by section 355(a);

(E) developing and implementing the Silver State Off-Highway Vehicle Trail management plan described in section 355(c);

(F) wilderness protection and processing wilderness designations, including the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated;

(G) if the Secretary determines necessary, developing and implementing conservation plans for endangered or at risk species in the County; and

(H) carrying out a study to assess non-motorized recreation opportunities on Federal land in the County.

## Subtitle B—Wilderness Areas

Pam White Wilderness Act of 2006.

**SEC. 321. SHORT TITLE.**

This subtitle may be cited as the "Pam White Wilderness Act of 2006".

**SEC. 322. FINDINGS.**

Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of land that remain in a natural state; and

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) protecting prehistoric cultural resources;

(C) conserving primitive recreational resources; and

(D) protecting air and water quality.

**SEC. 323. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.**

(a) ADDITIONS.—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) MT. MORIAH WILDERNESS ADDITION.—Certain Federal land managed by the Forest Service and the Bureau of Land Management, comprising approximately 11,261 acres, as generally depicted on the map entitled "Eastern White Pine County" and dated November 29, 2006, is incorporated in, and shall be managed as part of, the Mt. Moriah Wilderness, as designated by section 2(13) of the Nevada Wilderness Protection Act of 1989 (16 U.S.C. 1132 note; Public Law 101–195). 16 USC 1132 note.

(2) MOUNT GRAFTON WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 78,754 acres, as generally depicted on the map entitled "Southern White Pine County" and dated November 29, 2006, which shall be known as the "Mount Grafton Wilderness". 16 USC 1132 note.

(3) SOUTH EGAN RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 67,214 acres, as generally depicted on the map entitled "Southern White Pine County" and dated November 29, 2006, which shall be known as the "South Egan Range Wilderness". 16 USC 1132 note.

(4) HIGHLAND RIDGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management and the Forest Service, comprising approximately 68,627 acres, as generally depicted on the map entitled "Southern White Pine County" and dated November 29, 2006, which shall be known as the "Highland Ridge Wilderness". 16 USC 1132 note.

(5) GOVERNMENT PEAK WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 6,313 acres, as generally depicted on the map entitled "Eastern White Pine County" and dated November 29, 2006, which shall be known as the "Government Peak Wilderness". 16 USC 1132 note.

(6) CURRANT MOUNTAIN WILDERNESS ADDITION.—Certain Federal land managed by the Forest Service, comprising approximately 10,697 acres, as generally depicted on the map entitled "Western White Pine County" and dated November 16 USC 1132 note.

29, 2006, is incorporated in, and shall be managed as part of, the "Currant Mountain Wilderness", as designated by section 2(4) of the Nevada Wilderness Protection Act of 1989 (16 U.S.C. 1132 note; Public Law 101–195).

16 USC 1132 note.

(7) RED MOUNTAIN WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 20,490 acres, as generally depicted on the map entitled "Western White Pine County" and dated November 29, 2006, which shall be known as the "Red Mountain Wilderness".

16 USC 1132 note.

(8) BALD MOUNTAIN WILDERNESS.—Certain Federal land managed by the Bureau of Land Management and the Forest Service, comprising approximately 22,366 acres, as generally depicted on the map entitled "Western White Pine County" and dated November 29, 2006, which shall be known as the "Bald Mountain Wilderness".

16 USC 1132 note.

(9) WHITE PINE RANGE WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 40,013 acres, as generally depicted on the map entitled "Western White Pine County" and dated November 29, 2006, which shall be known as the "White Pine Range Wilderness".

16 USC 1132 note.

(10) SHELLBACK WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 36,143 acres, as generally depicted on the map entitled "Western White Pine County" and dated November 29, 2006, which shall be known as the "Shellback Wilderness".

16 USC 1132 note.

(11) HIGH SCHELLS WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 121,497 acres, as generally depicted on the map entitled "Eastern White Pine County" and dated November 29, 2006, which shall be known as the "High Schells Wilderness".

16 USC 1132 note.

(12) BECKY PEAK WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 18,119 acres, as generally depicted on the map entitled "Northern White Pine County" and dated November 29, 2006, which shall be known as the "Becky Peak Wilderness".

16 USC 1132 note.

(13) GOSHUTE CANYON WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 42,544 acres, as generally depicted on the map entitled "Northern White Pine County" and dated November 29, 2006, which shall be known as the "Goshute Canyon Wilderness".

16 USC 1132 note.

(14) BRISTLECONE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 14,095 acres, as generally depicted on the map entitled "Eastern White Pine County" and dated November 29, 2006, which shall be known as the "Bristlecone Wilderness".

(b) BOUNDARY.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in the appropriate offices of—

(A) the Bureau of Land Management;

(B) the Forest Service; and

(C) the National Park Service.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness areas designated by subsection (a) are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

(e) MT. MORIAH WILDERNESS BOUNDARY ADJUSTMENT.—The boundary of the Mt. Moriah Wilderness established under section 2(13) of the Nevada Wilderness Protection Act of 1989 (16 U.S.C. 1132 note; Public Law 101–195) is adjusted to include only the land identified as the "Mount Moriah Wilderness Area" and "Mount Moriah Additions" on the map entitled "Eastern White Pine County" and dated November 29, 2006.

**SEC. 324. ADMINISTRATION.**

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this subtitle shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

(b) LIVESTOCK.—Within the wilderness areas designated under this subtitle that are administered by the Bureau of Land Management and the Forest Service, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue—

(1) subject to such reasonable regulations, policies, and practices that the Secretary considers necessary; and

(2) consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101–405.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of an area designated as wilderness by this subtitle that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as wilderness by this subtitle is located—

(i) in the semiarid region of the Great Basin; and

(ii) at the headwaters of the streams and rivers on land with respect to which there are few if any—

(I) actual or proposed water resource facilities located upstream; and

(II) opportunities for diversion, storage, or other uses of water occurring outside the land that would adversely affect the wilderness values of the land;

(B) the land designated as wilderness by this subtitle is generally not suitable for use or development of new water resource facilities; and

(C) because of the unique nature of the land designated as wilderness by this subtitle, it is possible to provide for proper management and protection of the wilderness and other values of land in ways different from those used in other laws.

(2) PURPOSE.—The purpose of this section is to protect the wilderness values of the land designated as wilderness by this subtitle by means other than a federally reserved water right.

(3) STATUTORY CONSTRUCTION.—Nothing in this subtitle—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to a wilderness designated by this subtitle;

(B) shall affect any water rights in the State (including any water rights held by the United States) in existence on the date of enactment of this Act;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any interstate compact or equitable apportionment decree that apportions water among and between the State and other States.

(4) NEVADA WATER LAW.—The Secretary shall follow the procedural and substantive requirements of State law in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness areas designated by this subtitle.

(5) NEW PROJECTS.—

(A) DEFINITION OF WATER RESOURCE FACILITY.—In this paragraph, the term "water resource facility"—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this title, on or after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource

facility within a wilderness area that is wholly or partially within the County.

**SEC. 325. ADJACENT MANAGEMENT.**

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State by this subtitle to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this subtitle shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

**SEC. 326. MILITARY OVERFLIGHTS.**

Nothing in this subtitle restricts or precludes—

(1) low-level overflights of military aircraft over the areas designated as wilderness by this subtitle, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

**SEC. 327. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.**

Nothing in this subtitle shall be construed to diminish—

(1) the rights of any Indian tribe; or

(2) tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

**SEC. 328. RELEASE OF WILDERNESS STUDY AREAS.**

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the Bureau of Land Management land has been adequately studied for wilderness designation in any portion of the wilderness study areas or instant study areas—

(1) not designated as wilderness by section 323(a), excluding the portion of the Goshute Canyon Wilderness Study Area located outside of the County; and

(2) depicted as released on the maps entitled—

(A) "Eastern White Pine County" and dated November 29, 2006;

(B) "Northern White Pine County" and dated November 29, 2006;

(C) "Southern White Pine County" and dated November 29, 2006; and

(D) "Western White Pine County" and dated November 29, 2006.

(b) RELEASE.—

(1) IN GENERAL.—Any public land described in subsection (a) that is not designated as wilderness by this subtitle—

(A) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));

(B) shall be managed in accordance with—

(i) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(ii) cooperative conservation agreements in existence on the date of enactment of this Act; and

(C) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(2) EXCEPTION.—The requirements described in paragraph (1) shall not apply to the portion of the Goshute Canyon Wilderness Study Area located outside of the County.

**SEC. 329. WILDLIFE MANAGEMENT.**

(a) IN GENERAL.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this subtitle.

(b) MANAGEMENT ACTIVITIES.—In furtherance of the purposes and principles of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may conduct such management activities as are necessary to maintain or restore fish and wildlife populations and habitats in the wilderness areas designated by this subtitle if those activities are conducted—

(1) consistent with relevant wilderness management plans; and

(2) in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(B) appropriate policies such as those set forth in Appendix B of House Report 101–405, including the occasional and temporary use of motorized vehicles if the use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those tasks with the minimal impact necessary to reasonably accomplish those tasks.

(c) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, feral horses, and feral burros.

(d) WILDLIFE WATER DEVELOPMENT PROJECTS.—Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this subtitle if—

(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) HUNTING, FISHING, AND TRAPPING.—

(1) IN GENERAL.—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this subtitle.

(2) CONSULTATION.—Except in emergencies, the Secretary shall consult with the appropriate State agency before promulgating regulations under paragraph (1).

(f) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The State (including a designee of the State) may conduct wildlife management activities in the wilderness areas designated by this subtitle—

(A) in accordance with the terms and conditions specified in the cooperative agreement between the Secretary and the State, entitled "Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9," and signed November and December 2003, including any amendments to the cooperative agreement agreed to by the Secretary and the State; and

(B) subject to all applicable laws and regulations.

(2) REFERENCES.—

(A) CLARK COUNTY.—For purposes of this subsection, any references to Clark County in the cooperative agreement described in paragraph (1)(A) shall be considered to be references to White Pine County, Nevada.

(B) BUREAU OF LAND MANAGEMENT.—For purposes of this subsection, any references to the Bureau of Land Management in the cooperative agreement described in paragraph (1)(A) shall also be considered to be references to the Forest Service.

**SEC. 330. WILDFIRE, INSECT, AND DISEASE MANAGEMENT.**

Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the Secretary may take such measures as may be necessary in the control of fire, insects, and diseases, including coordination with a State or local agency, as the Secretary deems appropriate.

**SEC. 331. CLIMATOLOGICAL DATA COLLECTION.**

If the Secretary determines that hydrologic, meteorologic, or climatological collection devices are appropriate to further the scientific, educational, and conservation purposes of the wilderness areas designated by this subtitle, nothing in this subtitle precludes the installation and maintenance of the collection devices within the wilderness areas.

## Subtitle C—Transfers of Administrative Jurisdiction

**SEC. 341. TRANSFER TO THE UNITED STATES FISH AND WILDLIFE SERVICE.**

(a) IN GENERAL.—Administrative jurisdiction over the land described in subsection (b) is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Ruby Lake National Wildlife Refuge.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is approximately 645 acres of land administered by the Bureau of Land Management and identified on the map entitled "Ruby Lake Land Transfer" and dated July 10, 2006, as "Lands to be transferred to the Fish and Wildlife Service".

**SEC. 342. TRANSFER TO THE BUREAU OF LAND MANAGEMENT.**

(a) IN GENERAL.—Subject to subsection (c), administrative jurisdiction over the parcels of land described in subsection (b) is transferred from the Forest Service to the Bureau of Land Management.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the land administered by the Forest Service and identified on the map entitled "Southern White Pine County" and dated November 29, 2006, as "Withdrawal Area";

(2) the land administered by the Forest Service and identified on the map entitled "Southern White Pine County" and dated November 29, 2006, as "Highland Ridge Wilderness"; and

(3) all other Federal land administered by the Forest Service that is located adjacent to the Highland Ridge Wilderness.

(c) CONTINUATION OF COOPERATIVE AGREEMENTS.—Any existing Forest Service cooperative agreement or permit in effect on the date of enactment of this Act relating to a parcel of land to which administrative jurisdiction is transferred by subsection (a) shall be continued by the Bureau of Land Management unless there is reasonable cause to terminate the agreement or permit, as determined by the Secretary.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Withdrawal Area is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral laws, geothermal leasing laws, and mineral materials laws.

(e) MOTORIZED AND MECHANICAL VEHICLES.—Use of motorized and mechanical vehicles in the withdrawal area designated by this subtitle shall be permitted only on roads and trails designated for their use, unless the use of those vehicles is needed—

(1) for administrative purposes; or

(2) to respond to an emergency.

**SEC. 343. TRANSFER TO THE FOREST SERVICE.**

(a) IN GENERAL.—Subject to subsection (c), administrative jurisdiction over the parcels of land described in subsection (b) is transferred from the Bureau of Land Management to the Forest Service.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are the approximately 5,799 acres of land administered by the Bureau of Land Management and identified on the map entitled "Western White Pine County", dated November 29, 2006, as the BLM Public Land Transfer to the US Forest Service.

(c) CONTINUATION OF COOPERATIVE AGREEMENTS.—Any existing Bureau of Land Management cooperative agreement or permit in effect on the date of enactment of this Act relating to a parcel of land to which administrative jurisdiction is transferred by subsection (a) shall be continued by the Forest Service unless there is reasonable cause to terminate the agreement or permit, as determined by the Secretary.

**SEC. 344. AVAILABILITY OF MAP AND LEGAL DESCRIPTIONS.**

The maps of the land transferred by this subtitle shall be on file and available for public inspection in the appropriate offices of—

(1) the Bureau of Land Management;
(2) the Forest Service;
(3) the National Park Service; and
(4) the United States Fish and Wildlife Service.

# Subtitle D—Public Conveyances

**SEC. 351. CONVEYANCE TO THE STATE OF NEVADA.**

Contracts.

(a) CONVEYANCE.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the State, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b) if the State and the County enter into a written agreement supporting the conveyance.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the approximately 6,281 acres of Bureau of Land Management land identified as "Steptoe Valley Wildlife Management Area Expansion Proposal" on the map entitled "Ely, Nevada Area" and dated November 29, 2006;

(2) the approximately 658 acres of Bureau of Land Management land identified as "Ward Charcoal Ovens Expansion" on the map entitled "Ely, Nevada Area" and dated November 29, 2006; and

(3) the approximately 2,960 acres of Forest Service identified as "Cave Lake State Park Expansion" on the map entitled "Ely, Nevada Area" and dated November 29, 2006.

(c) COSTS.—Any costs relating to a conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the State.

(d) USE OF LAND.—

(1) IN GENERAL.—Any parcel of land conveyed to the State under subsection (a) shall be used only for—

(A) the conservation of wildlife or natural resources; or

(B) a public park.

(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses described in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

**SEC. 352. CONVEYANCE TO WHITE PINE COUNTY, NEVADA.**

(a) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the approximately 1,551 acres of land identified on the map entitled "Ely, Nevada Area", dated November 29, 2006, as the Airport Expansion; and

(2) the approximately 202 acres of land identified on the map entitled "Ely, Nevada Area", dated November 29, 2006, as the Industrial Park Expansion.

(c) AUTHORIZED USES.—

(1) AIRPORT EXPANSION.—The parcel of land described in subsection (b)(1) shall be used by the County to expand the Ely Airport.

(2) INDUSTRIAL PARK EXPANSION.—The parcel of land described in subsection (b)(2) shall be used by the County to expand the White Pine County Industrial Park.

(3) USE OF CERTAIN LAND FOR NONRESIDENTIAL DEVELOPMENT.—

(A) IN GENERAL.—After conveyance to the County of the land described in subsection (b), the County may sell, lease, or otherwise convey any portion of the land conveyed for purposes of nonresidential development relating to the authorized uses described in paragraphs (1) and (2).

(B) METHOD OF SALE.—The sale, lease, or conveyance of land under subparagraph (A) shall be—

(i) through a competitive bidding process; and

(ii) for not less than fair market value.

(C) DISPOSITION OF PROCEEDS.—The gross proceeds from the sale, lease, or conveyance of land under subparagraph (A) shall be distributed in accordance with section 312.

(d) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the use described for the parcel in paragraph (1), (2), or (3) of subsection (c), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

# Subtitle E—Silver State Off-Highway Vehicle Trail

16 USC 1244 note.

**SEC. 355. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.**

(a) STUDY.—

Deadline.

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a study of routes (with emphasis on roads and trails in existence on the date of enactment of this Act) in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the Silver State Off-Highway Vehicle Trail (referred to in this section as the "Trail").

(2) PREFERRED ROUTE.—Based on the study conducted under paragraph (1), the Secretary, in consultation with the State, the County, and any interested persons, shall identify the preferred route for the Trail.

(b) DESIGNATION OF TRAIL.—

Deadline.

(1) IN GENERAL.—Subject to paragraph (2), not later than 90 days after the date on which the study is completed under subsection (a), the Secretary shall designate the Trail.

(2) LIMITATIONS.—The Secretary shall designate the Trail only if the Secretary—

(A) determines that the route of the Trail would not have significant negative impacts on wildlife, natural or cultural resources, or traditional uses; and

(B) ensures that the Trail designation—

(i) is an effort to extend the Silver State Off-Highway Vehicle Trail designated under section 401(b) of the Lincoln County Conservation, Recreation, and Development Act of 2004 (16 U.S.C. 1244 note; Public Law 108–424); and

(ii) is limited to—

(I) 1 route that generally runs in a north-south direction; and

(II) 1 potential spur running west.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Trail in a manner that—

(A) is consistent with any motorized and mechanized uses of the Trail that are authorized on the date of enactment of this Act under applicable Federal and State laws (including regulations);

(B) ensures the safety of the individuals who use the Trail; and

(C) does not damage sensitive wildlife habitat, natural, or cultural resources.

(2) MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 2 years after the date of designation of the Trail, the Secretary, in consultation with the State, the County, and any other interested persons, shall complete a management plan for the Trail. Deadline.

(B) COMPONENTS.—The management plan shall—

(i) describe the appropriate uses and management of the Trail;

(ii) authorize the use of motorized and mechanized vehicles on the Trail; and

(iii) describe actions carried out to periodically evaluate and manage the appropriate levels of use and location of the Trail to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(3) MONITORING AND EVALUATION.—

(A) ANNUAL ASSESSMENT.—The Secretary shall annually assess—

(i) the effects of the use of off-highway vehicles on the Trail to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail; and

(ii) in consultation with the Nevada Department of Wildlife, the effects of the Trail on wildlife and wildlife habitat to minimize environmental impacts from the use of the Trail.

(B) CLOSURE.—The Secretary, in consultation with the State and the County and subject to subparagraph (C), may temporarily close or permanently reroute a portion of the Trail if the Secretary determines that—

(i) the Trail is having an adverse impact on—

(I) wildlife habitats;
(II) natural resources;
(III) cultural resources; or
(IV) traditional uses;
(ii) the Trail threatens public safety;
(iii) closure of the Trail is necessary to repair damage to the Trail; or
(iv) closure of the Trail is necessary to repair resource damage.
(C) REROUTING.—Any portion of the Trail that is temporarily closed may be permanently rerouted along existing roads and trails on public land open to motorized use if the Secretary determines that rerouting the portion of the Trail would not significantly increase or decrease the length of the Trail.
(D) NOTICE.—The Secretary shall provide information to the public with respect to any routes on the Trail that are closed under subparagraph (B), including through the provision of appropriate signage along the Trail.
(4) NOTICE OF OPEN ROUTES.—The Secretary shall ensure that visitors to the Trail have access to adequate notice relating to the routes on the Trail that are open through—
(A) the provision of appropriate signage along the Trail; and
(B) the distribution of maps, safety education materials, and any other information that the Secretary determines to be appropriate.
(d) NO EFFECT ON NON-FEDERAL LAND AND INTERESTS IN LAND.—Nothing in this section affects the ownership or management of, or other rights relating to, non-Federal land or interests in non-Federal land.

# Subtitle F—Transfer of Land to Be Held in Trust for the Ely Shoshone Tribe.

### SEC. 361. TRANSFER OF LAND TO BE HELD IN TRUST FOR THE ELY SHOSHONE TRIBE.

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)—
(1) shall be held in trust by the United States for the benefit of the Ely Shoshone Tribe (referred to in this section as the "Tribe"); and
(2) shall be part of the reservation of the Tribe.
(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of parcels 1, 2, 3, and 4, totaling the approximately 3,526 acres of land that are identified on—
(1) the Ely, Nevada Area map dated November 29, 2006; and
(2) the Eastern White Pine County map dated November 29, 2006, as the "Ely Shoshone Expansion".

Deadline.

(c) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Bureau of Land Management shall complete a survey of the boundary lines to establish the boundaries of the trust land.
(d) CONDITIONS.—

(1) GAMING.—Land taken into trust under subsection (a) shall not be—

(A) considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)); and

(B) used for gaming.

(2) TRUST LAND FOR CEREMONIAL USE.—With respect to the use of the land identified on the map as "Ely Shoshone Expansion" and marked as "3", the Tribe—

(A) shall limit the use of the surface of the land to traditional and customary uses and stewardship conservation for the benefit of the Tribe; and

(B) shall not permit any permanent residential or recreational development on, or commercial use of, the surface of the land, including commercial development or gaming.

(3) THINNING; LANDSCAPE RESTORATION.—With respect to land taken into trust under subsection (a), the Forest Service and the Bureau of Land Management may, in consultation and coordination with the Tribe, carry out any thinning and other landscape restoration work on the trust land that is beneficial to the Tribe and the Forest Service or the Bureau of Land Management.

# Subtitle G—Eastern Nevada Landscape Restoration Project.

**SEC. 371. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) there is an increasing threat of wildfire in the Great Basin;

(2) those wildfires—

(A) endanger homes and communities;

(B) damage or destroy watersheds and soils; and

(C) pose a serious threat to the habitat of threatened and endangered species;

(3) forest land and rangeland in the Great Basin are degraded as a direct consequence of land management practices (including practices to control and prevent wildfires) that disrupt the occurrence of frequent low-intensity fires that have periodically removed flammable undergrowth; and

(4) additional scientific information is needed in the Great Basin for—

(A) the design, implementation, and adaptation of landscape-scale restoration treatments; and

(B) the improvement of wildfire management technology and practices.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) support the Great Basin Restoration Initiative through the implementation of the Eastern Nevada Landscape Restoration Project; and

(2) ensure resilient and healthy ecosystems in the Great Basin by restoring native plant communities and natural mosaics on the landscape that function within the parameters of natural fire regimes.

**SEC. 372. DEFINITIONS.**

In this subtitle:

(1) INITIATIVE.—The term "Initiative" means the Great Basin Restoration Initiative.

(2) PROJECT.—The term "Project" means the Eastern Nevada Landscape Restoration Project authorized under section 373(a).

(3) SECRETARIES.—The term "Secretaries" means the Secretary of Agriculture and the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Nevada.

**SEC. 373. RESTORATION PROJECT.**

(a) IN GENERAL.—In accordance with all applicable Federal laws, the Secretaries shall carry out the Eastern Nevada Landscape Restoration Project to—

(1) implement the Initiative; and

(2) restore native rangelands and native woodland (including riparian and aspen communities) in White Pine and Lincoln Counties in the State.

(b) GRANTS; COOPERATIVE AGREEMENT.—In carrying out the Project—

(1) the Secretaries may make grants to the Eastern Nevada Landscape Coalition, the Great Basin Institute, and other entities for the study and restoration of rangeland and other land in the Great Basin—

(A) to assist in—

(i) reducing hazardous fuels; and

(ii) restoring native rangeland and woodland; and

(B) for other related purposes; and

(2) notwithstanding sections 6301 through 6308, of title 31, United States Code, the Director of the Bureau of Land Management and the Chief of the Forest Service may enter into an agreement with the Eastern Nevada Landscape Coalition, the Great Basin Institute, and other entities to provide for the conduct of scientific analyses, hazardous fuels and mechanical treatments, and related work.

(c) RESEARCH FACILITY.—The Secretaries may conduct a feasibility study on the potential establishment of an interagency science center, including a research facility and experimental rangeland in the eastern portion of the State.

(d) FUNDING.—Section 4(e)(3)(A) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346; 116 Stat. 2007; 118 Stat. 2414) is amended—

(1) by redesignating clause (viii) as clause (ix); and

(2) by inserting after clause (vii) the following:

"(viii) to carry out the Eastern Nevada Landscape Restoration Project in White Pine County, Nevada and Lincoln County, Nevada; and".

# Subtitle H—Amendments to the Southern Nevada Public Land Management Act of 1998

**SEC. 381. FINDINGS.**

Section 2(a)(3) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343) is amended by inserting "the Sloan Canyon National Conservation Area," before "and the Spring Mountains".

**SEC. 382. AVAILABILITY OF SPECIAL ACCOUNT.**

Section 4(e) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346; 116 Stat. 2007; 117 Stat. 1317; 118 Stat. 2414) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "may be expended" and inserting "shall be expended";

(ii) in clause (ii)—

(I) by inserting ", the Great Basin National Park," after "the Red Rock Canyon National Conservation Area";

(II) by inserting "and the Forest Service" after "the Bureau of Land Management"; and

(III) by striking "Clark and Lincoln Counties" and inserting "Clark, Lincoln, and White Pine Counties";

(iii) in clause (iii), by inserting "and implementation" before "of a multispecies habitat";

(iv) in clause (iv), by striking "Clark and Lincoln Counties," and inserting "Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph (4)),";

(v) in clause (v), by striking "Clark and Lincoln Counties" and inserting "Clark, Lincoln, and White Pine Counties";

(vi) in clause (vii)—

(I) by striking "for development" and inserting "development"; and

(II) by striking "and" at the end;

(vii) by redesignating clauses (viii) and (ix) (as amended by section 373(d)) as clauses (x) and (xi), respectively; and

(viii) by inserting after clause (vii) the following:

"(viii) reimbursement of any costs incurred by the Bureau of Land Management to clear debris from and protect land that is—

"(I) located in the disposal boundary described in subsection (a); and

"(II) reserved for affordable housing;

"(ix) development and implementation of comprehensive, cost-effective, multijurisdictional hazardous fuels reduction and wildfire prevention plans (including sustainable biomass and biofuels energy development and production activities) for the Lake

Tahoe Basin (to be developed in conjunction with the Tahoe Regional Planning Agency), the Carson Range in Douglas and Washoe Counties and Carson City in the State, and the Spring Mountains in the State, that are—

"(I) subject to approval by the Secretary; and

"(II) not more than 10 years in duration;"; and

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

"(D) TRANSFER REQUIREMENT.—Subject to such terms and conditions as the Secretary may prescribe, and notwithstanding any other provision of law—

"(i) for amounts that have been authorized for expenditure under subparagraph (A)(iv) but not transferred as of the date of enactment of this subparagraph, the Secretary shall, not later than 60 days after a request for funds from the applicable unit of local government or regional governmental entity, transfer to the applicable unit of local government or regional governmental entity the amount authorized for the expenditure; and

"(ii) for expenditures authorized under subparagraph (A)(iv) that are approved by the Secretary, the Secretary shall, not later than 60 days after a request for funds from the applicable unit of local government or regional governmental entity, transfer to the applicable unit of local government or regional governmental entity the amount approved for expenditure."; and

(2) by adding at the end the following:

"(4) LIMITATION FOR WASHOE COUNTY.—Until December 31, 2011, Washoe County shall be eligible to nominate for expenditure amounts to acquire land (not to exceed 250 acres) and develop 1 regional park and natural area.".

## Subtitle I—Amendments to the Lincoln County Conservation, Recreation, and Development Act of 2004

**SEC. 391. DISPOSITION OF PROCEEDS.**

Section 103(b)(2) of the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108–424; 118 Stat. 2405) is amended by inserting "education, planning," after "social services,".

## Subtitle J—All American Canal Projects

**SEC. 395. ALL AMERICAN CANAL LINING PROJECT.**

(a) DUTIES OF THE SECRETARY.—Notwithstanding any other provision of law, upon the date of enactment of this Act, the Secretary shall, without delay, carry out the All American Canal Lining Project identified—

(1) as the preferred alternative in the record of decision for that project, dated July 29, 1994; and

(2) in the allocation agreement allocating water from the All American Canal Lining Project, entered into as of October 10, 2003.

(b) DUTIES OF COMMISSIONER OF RECLAMATION.—

(1) IN GENERAL.—Subject to paragraph (2), if a State conducts a review or study of the implications of the All American Canal Lining Project as carried out under subsection (a), upon request from the Governor of the State, the Commissioner of Reclamation shall cooperate with the State, to the extent practicable, in carrying out the review or study.

(2) RESTRICTION OF DELAY.—A review or study conducted by a State under paragraph (1) shall not delay the carrying out by the Secretary of the All American Canal Lining Project.

**SEC. 396. REGULATED STORAGE WATER FACILITY.**

(a) CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITY.—Notwithstanding any other provision of law, upon the date of enactment of this Act, the Secretary shall, without delay, pursuant to the Act of January 1, 1927 (44 Stat. 1010, chapter 47) (commonly known as the "River and Harbor Act of 1927"), as amended, design and provide for the construction, operation, and maintenance of a regulated water storage facility (including all incidental works that are reasonably necessary to operate the storage facility) to provide additional storage capacity to reduce nonstorable flows on the Colorado River below Parker Dam.

(b) LOCATION OF FACILITY.—The storage facility (including all incidental works) described in subsection (a) shall be located at or near the All American Canal.

**SEC. 397. APPLICATION OF LAW.**

Mexico.

The Treaty between the United States of America and Mexico relating to the utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, and supplementary protocol signed November 14, 1944, signed at Washington February 3, 1944 (59 Stat. 1219) is the exclusive authority for identifying, considering, analyzing, or addressing impacts occurring outside the boundary of the United States of works constructed, acquired, or used within the territorial limits of the United States.

# TITLE IV—OTHER PROVISIONS

**SEC. 401. TOBACCO PERSONAL USE QUANTITY EXCEPTION TO NOT APPLY TO DELIVERY SALES.**

(a) DEFINITIONS.—Section 801 of the Tariff Act of 1930 (19 U.S.C. 1681) is amended by adding at the end the following:

"(3) DELIVERY SALE.—The term 'delivery sale' means any sale of cigarettes or a smokeless tobacco product to a consumer if—

"(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

"(B) the cigarettes or smokeless tobacco product is delivered by use of a common carrier, private delivery service, or the mail, or the seller is not in the physical

presence of the buyer when the buyer obtains personal possession of the delivered cigarettes or smokeless tobacco product.".

(b) INAPPLICABILITY OF EXEMPTIONS FROM REQUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES AND SMOKELESS TOBACCO PRODUCTS.—Section 802(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1681a(b)(1)) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any cigarettes or smokeless tobacco products sold in connection with a delivery sale.".

(c) STATE ACCESS TO CUSTOMS CERTIFICATIONS.—Section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(d) STATE ACCESS TO CUSTOMS CERTIFICATIONS.—A State, through its Attorney General, shall be entitled to obtain copies of any certification required under subsection (c) directly—

"(1) upon request to the agency of the United States responsible for collecting such certification; or

"(2) upon request to the importer, manufacturer, or authorized official of such importer or manufacturer.".

(d) ENFORCEMENT PROVISIONS.—Section 803(b) of the Tariff Act of 1930 (19 U.S.C. 1681b(b)) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", or to any State in which such tobacco product, cigarette papers, or tube is found"; and

(2) in the second sentence, by inserting ", or to any State," after "the United States".

(e) INCLUSION OF SMOKELESS TOBACCO.—

(1) Sections 802 and 803(a) of the Tariff Act of 1930 (19 U.S.C. 1681a and 1681b(a)) (other than the last sentence of section 802(b)(1), as added by subsection (b) of this section) are further amended by inserting "or smokeless tobacco products" after "cigarettes" each place it appears.

(2) Section 802 of such Act is further amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting "or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), as the case may be" after "section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)";

(ii) in paragraph (2), by inserting "or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as the case may be," after "section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)"; and

(iii) in paragraph (3), by inserting "or section 3(d) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(d)), as the case may be" after "section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))";

(B) in subsection (b)—

(i) in the heading of paragraph (1), by inserting "OR SMOKELESS TOBACCO PRODUCTS" after "CIGARETTES"; and

(ii) in the heading of paragraphs (2) and (3), by inserting "OR SMOKELESS TOBACCO PRODUCTS" after "CIGARETTES"; and

(C) in subsection (c)—

(i) in the heading, by inserting "OR SMOKELESS TOBACCO PRODUCT" after "CIGARETTE";

(ii) in paragraph (1), by inserting "or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), as the case may be" after "section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)";

(iii) in paragraph (2)(A), by inserting "or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as the case may be," after "section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)"; and

(iv) in paragraph (2)(B), by inserting "or section 3(d) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(d)), as the case may be" after "section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))".

(3) Section 803(b) of such Act, as amended by subsection (d)(1) of this section, is further amended by inserting ", or any smokeless tobacco product," after "or tube" the first place it appears.

(4)(A) The heading of title VIII of such Act is amended by inserting "**AND SMOKELESS TOBACCO PRODUCTS**" after "**CIGARETTES**".

(B) The heading of section 802 of such Act is amended by inserting "**AND SMOKELESS TOBACCO PRODUCTS**" after "**CIGARETTES**".

(f) APPLICATION OF CIVIL PENALTIES TO RELANDINGS OF TOBACCO PRODUCTS SOLD IN A DELIVERY SALE.—

(1) IN GENERAL.—Section 5761 of the Internal Revenue Code of 1986 (relating to civil penalties) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection: 26 USC 5761.

"(d) PERSONAL USE QUANTITIES.—

"(1) IN GENERAL.—No quantity of tobacco products other than the quantity referred to in paragraph (2) may be relanded or received as a personal use quantity.

"(2) EXCEPTION FOR PERSONAL USE QUANTITY.—Subsection (c) and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under subsection (c).

"(3) SPECIAL RULE FOR DELIVERY SALES.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any tobacco product sold in connection with a delivery sale.

"(B) DELIVERY SALE.—For purposes of subparagraph (A), the term 'delivery sale' means any sale of a tobacco product to a consumer if—

"(i) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online

service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made, or

"(ii) the tobacco product is delivered by use of a common carrier, private delivery service, or the mail, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the tobacco product.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 5761 of such Code is amended by striking the last two sentences.

(B) Paragraph (1) of section 5754(c) of such Code is amended by striking "section 5761(c)" and inserting "section 5761(d)".

19 USC 1681 note.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

**SEC. 402. ETHANOL TARIFF SCHEDULE.**

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2009".

**SEC. 403. WITHDRAWAL OF CERTAIN FEDERAL LAND AND INTERESTS IN CERTAIN FEDERAL LAND FROM LOCATION, ENTRY, AND PATENT UNDER THE MINING LAWS AND DISPOSITION UNDER THE MINERAL AND GEOTHERMAL LEASING LAWS.**

(a) DEFINITIONS.—In this section:

(1) BUREAU OF LAND MANAGEMENT LAND.—The term "Bureau of Land Management land" means the Bureau of Land Management land and any federally-owned minerals located south of the Blackfeet Indian Reservation and east of the Lewis and Clark National Forest to the eastern edge of R. 8 W., beginning in T. 29 N. down to and including T. 19 N. and all of T. 18 N., R. 7 W.

(2) ELIGIBLE FEDERAL LAND.—The term "eligible Federal land" means the Bureau of Land Management land and the Forest Service land, as generally depicted on the map.

(3) FOREST SERVICE LAND.—The term "Forest Service land" means—

(A) the Forest Service land and any federally-owned minerals located in the Rocky Mountain Division of the Lewis and Clark National Forest, including the approximately 356,111 acres of land made unavailable for leasing by the August 28, 1997, Record of Decision for the Lewis and Clark National Forest Oil and Gas Leasing Environmental Impact Statement and that is located from T. 31 N. to T. 16 N. and R. 13 W. to R. 7 W.; and

(B) the Forest Service land and any federally-owned minerals located within the Badger Two Medicine area of the Flathead National Forest, including—

(i) the land located in T. 29 N. from the western edge of R. 16 W. to the eastern edge of R. 13 W.; and

(ii) the land located in T. 28 N., Rs. 13 and 14 W.

(4) MAP.—The term "map" means the map entitled "Rocky Mountain Front Mineral Withdrawal Area" and dated December 31, 2006.

(b) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights, the eligible Federal land (including any interest in the eligible Federal land) is withdrawn from—

(A) all forms of location, entry, and patent under the mining laws; and

(B) disposition under all laws relating to mineral and geothermal leasing.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for inspection in the Office of the Chief of the Forest Service.

(c) TAX INCENTIVE FOR SALE OF EXISTING MINERAL AND GEOTHERMAL RIGHTS TO TAX-EXEMPT ENTITIES.—

(1) EXCLUSION.—For purposes of the Internal Revenue Code of 1986, gross income shall not include 25 percent of the qualifying gain from a conservation sale of a qualifying mineral or geothermal interest.

(2) QUALIFYING GAIN.—For purposes of this subsection, the term "qualifying gain" means any gain which would be recognized as long-term capital gain under such Code.

(3) CONSERVATION SALE.—For purposes of this subsection, the term "conservation sale" means a sale which meets the following requirements:

(A) TRANSFEREE IS AN ELIGIBLE ENTITY.—The transferee of the qualifying mineral or geothermal interest is an eligible entity.

(B) QUALIFYING LETTER OF INTENT REQUIRED.—At the time of the sale, such transferee provides the taxpayer with a qualifying letter of intent.

(C) NONAPPLICATION TO CERTAIN SALES.—The sale is not made pursuant to an order of condemnation or eminent domain.

(4) QUALIFYING MINERAL OR GEOTHERMAL INTEREST.—For purposes of this subsection—

(A) IN GENERAL.—The term "qualifying mineral or geothermal interest" means an interest in any mineral or geothermal deposit located on eligible Federal land which constitutes a taxpayer's entire interest in such deposit.

(B) ENTIRE INTEREST.—For purposes of subparagraph (A)—

(i) an interest in any mineral or geothermal deposit is not a taxpayer's entire interest if such interest in such mineral or geothermal deposit was divided in order to avoid the requirements of such subparagraph or section 170(f)(3)(A) of such Code, and

(ii) a taxpayer's entire interest in such deposit does not fail to satisfy such subparagraph solely because the taxpayer has retained an interest in other deposits, even if the other deposits are contiguous with such certain deposit and were acquired by the taxpayer along with such certain deposit in a single conveyance.

(5) OTHER DEFINITIONS.—For purposes of this subsection—

(A) ELIGIBLE ENTITY.—The term "eligible entity" means—

(i) a governmental unit referred to in section 170(c)(1) of such Code, or an agency or department thereof operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of such Code, or

(ii) an entity which is—

(I) described in section 170(b)(1)(A)(vi) or section 170(h)(3)(B) of such Code, and

(II) organized and at all times operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of such Code.

(B) QUALIFYING LETTER OF INTENT.—The term "qualifying letter of intent" means a written letter of intent which includes the following statement: "The transferee's intent is that this acquisition will serve 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, that the transferee's use of the deposits so acquired will be consistent with section 170(h)(5) of such Code, and that the use of the deposits will continue to be consistent with such section, even if ownership or possession of such deposits is subsequently transferred to another person.".

(6) TAX ON SUBSEQUENT TRANSFERS.—

(A) IN GENERAL.—A tax is hereby imposed on any subsequent transfer by an eligible entity of ownership or possession, whether by sale, exchange, or lease, of an interest acquired directly or indirectly in—

(i) a conservation sale described in paragraph (1), or

(ii) a transfer described in clause (i), (ii), or (iii) of subparagraph (D).

(B) AMOUNT OF TAX.—The amount of tax imposed by subparagraph (A) on any transfer shall be equal to the sum of—

(i) 20 percent of the fair market value (determined at the time of the transfer) of the interest the ownership or possession of which is transferred, plus

(ii) the product of—

(I) the highest rate of tax specified in section 11 of such Code, times

(II) any gain or income realized by the transferor as a result of the transfer.

(C) LIABILITY.—The tax imposed by subparagraph (A) shall be paid by the transferor.

(D) RELIEF FROM LIABILITY.—The person (otherwise liable for any tax imposed by subparagraph (A)) shall be relieved of liability for the tax imposed by subparagraph (A) with respect to any transfer if—

(i) the transferee is an eligible entity which provides such person, at the time of transfer, a qualifying letter of intent,

(ii) in any case where the transferee is not an eligible entity, it is established to the satisfaction of the Secretary of the Treasury, that the transfer of

ownership or possession, as the case may be, will be consistent with section 170(h)(5) of such Code, and the transferee provides such person, at the time of transfer, a qualifying letter of intent, or

(iii) tax has previously been paid under this paragraph as a result of a prior transfer of ownership or possession of the same interest.

(E) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F of such Code, the taxes imposed by this paragraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.

(7) REPORTING.—The Secretary of the Treasury may require such reporting as may be necessary or appropriate to further the purpose under this subsection that any conservation use be in perpetuity.

(d) EFFECTIVE DATES.—

(1) MORATORIUM.—Subsection (b) shall take effect on the date of the enactment of this Act.

(2) TAX INCENTIVE.—Subsection (c) shall apply to sales occurring on or after the date of the enactment of this Act.

**SEC. 404. CONTINUING ELIGIBILITY FOR CERTAIN STUDENTS UNDER DISTRICT OF COLUMBIA SCHOOL CHOICE PROGRAM.**

(a) IN GENERAL.—Section 307(a)(4) of the DC School Choice Incentive Act of 2003 (sec. 38–1851.06(a)(4), D.C. Official Code) is amended by striking "200 percent" and inserting the following: "200 percent (or, in the case of an eligible student whose first year of participation in the program is an academic year ending in June 2005 or June 2006 and whose second or succeeding year is an academic year ending on or before June 2009, 300 percent)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the DC School Choice Incentive Act of 2003.

**SEC. 405. STUDY ON ESTABLISHING UNIFORM NATIONAL DATABASE ON ELDER ABUSE.**

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Attorney General, shall conduct a study on establishing a uniform national database on elder abuse.

(2) ISSUES STUDIED.—The study conducted under paragraph (1) may consider the following:

(A) Current methodologies used for collecting data on elder abuse, including a determination of the shortcomings, strengths, and commonalities of existing data collection efforts and reporting forms, and how a uniform national database would capitalize on such efforts.

(B) The process by which uniform national standards for reporting on elder abuse could be implemented, including the identification and involvement of necessary stakeholders, financial resources needed, timelines, and the treatment of existing standards with respect to elder abuse.

(C) Potential conflicts in Federal, State, and local laws, and enforcement and jurisdictional issues that could occur as a result of the creation of a uniform national database on elder abuse.

(D) The scope, purpose, and variability of existing definitions used by Federal, State, and local agencies with respect to elder abuse.

(3) DURATION.—The study conducted under paragraph (1) shall be conducted for a period not to exceed 2 years.

(b) REPORT.—Not later than 180 days after the completion of the study conducted under subsection (a)(1), the Secretary of Health and Human Services shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives containing the findings of the study, together with recommendations on how to implement a uniform national database on elder abuse.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section, $500,000 for each of fiscal years 2007 and 2008.

**SEC. 406. TEMPORARY DUTY REDUCTIONS FOR CERTAIN COTTON SHIRTING FABRIC.**

(a) CERTAIN COTTON SHIRTING FABRICS.—

(1) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

| | | | | | | |
|---|---|---|---|---|---|---|
| `` | 9902.52.08 | Woven fabrics of cotton, of a type described in subheading 5208.21, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.52.09 | Woven fabrics of cotton, of a type described in subheading 5208.22, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.52.10 | Woven fabrics of cotton, of a type described in subheading 5208.29, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. ..... | Free | No change | No change | On or before 12/31/2009 |

| | | | | | |
|---|---|---|---|---|---|
| 9902.52.11 | Woven fabrics of cotton, of a type described in subheading 5208.31, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.12 | Woven fabrics of cotton, of a type described in subheading 5208.32, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.13 | Woven fabrics of cotton, of a type described in subheading 5208.39, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.14 | Woven fabrics of cotton, of a type described in subheading 5208.41, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.15 | Woven fabrics of cotton, of a type described in subheading 5208.42, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |

| | | | | | |
|---|---|---|---|---|---|
| 9902.52.16 | Woven fabrics of cotton, of a type described in subheading 5208.49, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.17 | Woven fabrics of cotton, of a type described in subheading 5208.51, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.18 | Woven fabrics of cotton, of a type described in subheading 5208.52, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.19 | Woven fabrics of cotton, of a type described in subheading 5208.59, of average yarn number exceeding 135 metric, other than fabrics provided for in headings 9902.52.20 through 9902.52.31, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Notes 18 and 19 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.20 | Woven fabrics of cotton of a type described in subheading 5208.21, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |

| | | | | | |
|---|---|---|---|---|---|
| 9902.52.21 | Woven fabrics of cotton of a type described in subheading 5208.22, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.22 | Woven fabrics of cotton of a type described in subheading 5208.29, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.23 | Woven fabrics of cotton of a type described in subheading 5208.31, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.24 | Woven fabrics of cotton of a type described in subheading 5208.32, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.25 | Woven fabrics of cotton of a type described in subheading 5208.39, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |

| | | | | | |
|---|---|---|---|---|---|
| 9902.52.26 | Woven fabrics of cotton of a type described in subheading 5208.41, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.27 | Woven fabrics of cotton of a type described in subheading 5208.42, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.28 | Woven fabrics of cotton of a type described in subheading 5208.49, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.29 | Woven fabrics of cotton of a type described in subheading 5208.51, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |
| 9902.52.30 | Woven fabrics of cotton of a type described in subheading 5208.52, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. | Free | No change | No change | On or before 12/31/2009 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 9902.52.31 | Woven fabrics of cotton of a type described in subheading 5208.59, of average yarn number exceeding 135 metric, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. Note 18 of this subchapter. ..... | Free | No change | No change | On or before 12/31/2009 | ". |

(2) DEFINITIONS AND LIMITATION ON QUANTITY OF IMPORTS.—The U.S. Notes to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States are amended by adding at the end the following:

"18. For purposes of headings 9902.52.08 through 9902.52.31, the term 'manufacturer' means a person or entity that cuts and sews men's and boys' shirts in the United States.

"19. The aggregate quantity of fabrics entered under headings 9902.52.08 through 9902.52.19 from January 1 to December 31 of each year, inclusive, by or on behalf of each manufacturer of men's and boys' shirts shall be limited to 85 percent of the total square meter equivalents of all imported woven fabrics of cotton containing 85 percent or more by weight of cotton used by such manufacturer in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.".

(b) DETERMINATION OF TARIFF-RATE QUOTAS.—

(1) AUTHORITY TO ISSUE LICENSES AND LICENSE USE.—In order to implement the limitation on the quantity of cotton woven fabrics that may be entered under headings 9902.52.08 through 9902.52.19 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 19 to subchapter II of chapter 99 of such Schedule, the Secretary of Commerce shall issue licenses to eligible manufacturers under such headings 9902.52.08 through 9902.52.19, specifying the restrictions under each such license on the quantity of cotton woven fabrics that may be entered each year by or on behalf of the manufacturer. A licensee may assign the authority (in whole or in part) under the license to import fabric under headings 9902.52.08 through 9902.52.19 of such Schedule.

(2) LICENSES UNDER U.S. NOTE 19.—For purposes of U.S. Note 19 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States, the Secretary of Commerce shall issue a license to a manufacturer within 60 days after the manufacturer files with the Secretary of Commerce an application containing a notarized affidavit from an officer of the manufacturer that the manufacturer is eligible to receive a license and stating the quantity of imported woven fabrics of cotton containing 85 percent or more by weight of cotton purchased during calendar year 2000 for use in the cutting and sewing men's and boys' shirts in the United States. Deadline.

(3) AFFIDAVITS.—For purposes of an affidavit described in this subsection, the date of purchase shall be—

(A) the invoice date if the manufacturer is not the importer of record; and

(B) the date of entry if the manufacturer is the importer of record.

**SEC. 407. COTTON TRUST FUND.**

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Pima Cotton Trust Fund" (in this section referred to as the "Trust Fund"), consisting of such amounts as may be transferred to the Trust Fund under subsection (b).

(b) TRANSFER OF AMOUNTS.—

Effective date.

(1) IN GENERAL.—Beginning October 1, 2006, the Secretary of the Treasury shall transfer to the Trust Fund, from the general fund of the Treasury, amounts determined by the Secretary of the Treasury to be equivalent to the amounts received in the general fund that are attributable to duties received since January 1, 1994, on articles under subheadings 5208.21.60, 5208.22.80, 5208.29.80, 5208.31.80, 5208.32.50, 5208.39.80, 5208.41.80, 5208.42.50, 5208.49.80, 5208.51.80, 5208.52.50, and 5208.59.80 of the Harmonized Tariff Schedule of the United States, subject to the limitation in paragraph (2).

Effective date.

(2) LIMITATION.—The Secretary may not transfer more than $16,000,000 to the Trust Fund in any fiscal year, and may not transfer any amount beginning on or after October 1, 2008.

(c) DISTRIBUTION OF FUNDS.—From amounts in the Trust Fund, the Commissioner of the Bureau of Customs and Border Protection shall make the following payments annually beginning in fiscal year 2007:

(1) 25 percent of the amounts in the Trust Fund shall be paid annually to a nationally recognized association established for the promotion of pima cotton grown in the United States for the use in textile and apparel goods.

(2) 25 percent of the amounts in the Trust Fund shall be paid annually to yarn spinners of pima cotton grown in the United States, and shall be allocated to each spinner in an amount that bears the same ratio as—

(A) the spinner's production of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number) from pima cotton grown in the United States in single and plied form during the period January 1, 1998, through December 31, 2003 (as evidenced by an affidavit provided by the spinner) bears to—

(B) the production of the yarns described in subparagraph (A) during the period January 1, 1998, through December 31, 2003, for all spinners who qualify under this paragraph.

(3) 50 percent of the amounts in the Trust Fund shall be paid annually to those manufacturers who cut and sew cotton shirts in the United States who certify that they used imported cotton fabric during the period January 1, 1998, through July 1, 2003, and shall be allocated to each such manufacturer in an amount that bears the same ratio as—

(A) the dollar value (excluding duty, shipping, and related costs) of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased by the manufacturer during calendar year 2002 (as evidenced by

an affidavit from the manufacturer that meets the requirements of subsection (d)) used in the manufacturing of men's and boys' cotton shirts, bears to—

(B) the dollar value (excluding duty, shipping, and related costs) of the fabric described in subparagraph (A) purchased during calendar year 2002 by all manufacturers who qualify under this paragraph.

(d) AFFIDAVIT OF SHIRTING MANUFACTURERS.—The affidavit required by subsection (c)(3)(A) is a notarized affidavit provided by an officer of the manufacturer of men's and boys' shirts concerned that affirms—

(1) that the manufacturer used imported cotton fabric during the period January 1, 1998, through July 1, 2003, to cut and sew men's and boys' woven cotton shirts in the United States;

(2) the dollar value of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased during calendar year 2002;

(3) that the manufacturer maintains invoices along with other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven cotton fabric of 80s or higher count and 2-ply in warp; and

(4) that the fabric was suitable for use in the manufacturing of men's and boys' cotton shirts.

(e) DATE OF PURCHASE.—For purposes of the affidavit under subsection (d), the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and related costs.

(f) AFFIDAVIT OF YARN SPINNERS.—The affidavit required by subsection (c)(2)(A) is a notarized affidavit provided by an officer of the producer of ring spun yarns that affirms—

(1) that the producer used pima cotton grown in the United States during the period January 1, 2002, through December 31, 2002, to produce ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during 2002;

(2) the quantity, measured in pounds, of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002; and

(3) that the producer maintains supporting documentation showing the quantity of such yarns produced, and evidencing the yarns as ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002.

(g) NO APPEAL.—Any amount paid by the Commissioner of the Bureau of Customs and Border Protection under this section shall be final and not subject to appeal or protest.

**SEC. 408. TAX COURT REVIEW OF REQUESTS FOR EQUITABLE RELIEF FROM JOINT AND SEVERAL LIABILITY.**

(a) IN GENERAL.—Paragraph (1) of section 6015(e) of the Internal Revenue Code of 1986 (relating to petition for tax court review) is amended by inserting ", or in the case of an individual 26 USC 6015.

who requests equitable relief under subsection (f)" after "who elects to have subsection (b) or (c) apply".

(b) CONFORMING AMENDMENTS.—

(1) Section 6015(e)(1)(A)(i)(II) of such Code is amended by inserting "or request is made" after "election is filed".

(2) Section 6015(e)(1)(B)(i) of such Code is amended—

(A) by inserting "or requesting equitable relief under subsection (f)" after "making an election under subsection (b) or (c)", and

(B) by inserting "or request" after "to which such election".

(3) Section 6015(e)(1)(B)(ii) of such Code is amended by inserting "or to which the request under subsection (f) relates" after "to which the election under subsection (b) or (c) relates".

(4) Section 6015(e)(4) of such Code is amended by inserting "or the request for equitable relief under subsection (f)" after "the election under subsection (b) or (c)".

(5) Section 6015(e)(5) of such Code is amended by inserting "or who requests equitable relief under subsection (f)" after "who elects the application of subsection (b) or (c)".

(6) Section 6015(g)(2) of such Code is amended by inserting "or of any request for equitable relief under subsection (f)" after "any election under subsection (b) or (c)".

(7) Section 6015(h)(2) of such Code is amended by inserting "or a request for equitable relief made under subsection (f)" after "with respect to an election made under subsection (b) or (c)".

26 USC 6015 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to liability for taxes arising or remaining unpaid on or after the date of the enactment of this Act.

# DIVISION D—TEMPORARILY MODIFY CERTAIN RATES OF DUTY AND MAKE OTHER TECHNICAL AMENDMENTS TO THE TRADE LAWS, EXTEND CERTAIN TRADE PREFERENCE PROGRAMS, AND OTHER PURPOSES

**SEC. 1. TABLE OF CONTENTS.**

The table of contents for this division is as follows:

DIVISION D—TEMPORARILY MODIFY CERTAIN RATES OF DUTY AND MAKE OTHER TECHNICAL AMENDMENTS TO THE TRADE LAWS, EXTEND CERTAIN TRADE PREFERENCE PROGRAMS, AND OTHER PURPOSES

Sec. 1. Table of contents.

TITLE I—TARIFF PROVISIONS

Sec. 1001. Reference; expired provisions.

Subtitle A—New Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS

Sec. 1111. Diethyl sulfate.
Sec. 1112. Sorafenib.
Sec. 1113. Prohexadione calcium.
Sec. 1114. Methyl methoxy acetate.

Sec. 1115. Methoxyacetic acid.
Sec. 1116. N-Methylpiperidine.
Sec. 1117. Quinclorac technical.
Sec. 1118. Pyridaben.
Sec. 1119. Certain rubber or plastic footwear.
Sec. 1120. Sodium ortho-phenylphenol.
Sec. 1121. Certain chemical.
Sec. 1122. Baypure CX.
Sec. 1123. Isoeicosane.
Sec. 1124. Isododecane.
Sec. 1125. Isohexadecane.
Sec. 1126. Aminoguanidine bicarbonate.
Sec. 1127. o-Chlorotoluene.
Sec. 1128. Bayderm bottom DLV-N.
Sec. 1129. 2,3-Dichloronitrobenzene.
Sec. 1130. 1-Methoxy-2-propanol.
Sec. 1131. Basic Red 1 dye.
Sec. 1132. Basic Red 1:1 dye.
Sec. 1133. Basic Violet 11 dye.
Sec. 1134. Basic Violet 11:1 dye.
Sec. 1135. N-Cyclohexylthiophthalimide.
Sec. 1136. 4,4′-Dithiodimorpholine.
Sec. 1137. Tetraethylthiuram disulfide.
Sec. 1138. Certain tetramethylthiuram disulfide.
Sec. 1139. Certain aerosol valves.
Sec. 1140. 4-Methyl-5-n-propoxy-2,4-dihydro-1,2,4-triazol-3-one.
Sec. 1141. Ethoxyquin.
Sec. 1142. Tricholorobenzene.
Sec. 1143. Benzoic acid, 3,4,5-trihydroxy-, propyl ester.
Sec. 1144. 2-Cyanopyridine.
Sec. 1145. Mixed xylidines.
Sec. 1146. Certain reception apparatus not containing a clock or clock timer, incorporating only AM radio.
Sec. 1147. Pigment Yellow 219.
Sec. 1148. Pigment Blue 80.
Sec. 1149. 1-Oxa-3, 20-diazadispiro-[5.1.11.2] heneicosan-21-one 2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichloro-hydrin, hydrolyzed and polymerized.
Sec. 1150. Isobutyl parahydroxybenzoic acid and its sodium salt.
Sec. 1151. Phosphinic acid, diethyl-, aluminum salt.
Sec. 1152. Exolit OP 1312.
Sec. 1153. Sodium hypophosphite.
Sec. 1154. Cyanuric chloride.
Sec. 1155. Certain leather footwear for persons other than men or women.
Sec. 1156. Certain other work footwear.
Sec. 1157. Certain turn or turned footwear.
Sec. 1158. Certain work footwear with outer soles of leather.
Sec. 1159. Certain footwear with outer soles of rubber or plastics and with open toes or heels.
Sec. 1160. Certain athletic footwear.
Sec. 1161. Certain work footwear.
Sec. 1162. Certain footwear.
Sec. 1163. 1-Naphthyl methylcarbamate.
Sec. 1164. Certain 16-inch variable speed scroll saw machines.
Sec. 1165. 3,4-Dimethoxybenzaldehyde.
Sec. 1166. 2-Aminothiophenol.
Sec. 1167. Solvent Red 227.
Sec. 1168. Mixtures of formaldehyde polymer and toluene.
Sec. 1169. 1,2-Bis(3-aminopropyl)ethylenediamine, polymer with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine and 2,4,6-trichloro-1,3,5-triazine.
Sec. 1170. Mixture of barium carbonate, strontium carbonate, calcium carbonate, methoxy-2-propananolacetate-1, for use as emitter suspension cathode coating.
Sec. 1171. Resin cement.
Sec. 1172. Phosphor yox, yttrium oxide phosphor, activated by europium.
Sec. 1173. Phosphor-bag-barium magnesium aluminate phosphor.
Sec. 1174. Yttrium vanadate phosphor.
Sec. 1175. Phosphor scap strontium chloroapatite-europium.
Sec. 1176. Phosphor zinc silicate.
Sec. 1177. Strontium magnesium phosphate-tin doped.
Sec. 1178. Phosphor-yof flu pdr yox; yttrium oxide phosphor, activated by europium.

Sec. 1179. Calcium chloride phosphate phosphor.
Sec. 1180. Ceramic frit powder.
Sec. 1181. Phosphor lite white and phosphor blue halo.
Sec. 1182. Phosphor-sca, strontium halophosphate doped with europium.
Sec. 1183. Phosphor-cool white small particle calcium halophosphate phosphor activated by manganese and antimony.
Sec. 1184. Phosphor lap lanthanum phosphate phosphor, activated by cerium and terbium.
Sec. 1185. Kashmir.
Sec. 1186. Certain articles of platinum.
Sec. 1187. Nickel alloy wire.
Sec. 1188. Titanium mononitride.
Sec. 1189. High accuracy, metal, marine sextants, used for navigating by celestial bodies.
Sec. 1190. Electrically operated pencil sharpeners.
Sec. 1191. Valve assemblies (vacuum relief).
Sec. 1192. Seals, aerodynamic, fireproof.
Sec. 1193. Wing illumination lights.
Sec. 1194. Exterior emergency lights.
Sec. 1195. Magnesium peroxide.
Sec. 1196. Certain footwear other than for men.
Sec. 1197. Grass shears with rotating blade.
Sec. 1198. Cerium sulfide pigments.
Sec. 1199. Kresoxim methyl.
Sec. 1200. 4-piece or 5-piece fireplace tools of iron or steel.
Sec. 1201. RSD 1235.
Sec. 1202. MCPB acid and MCPB sodium salt.
Sec. 1203. Gibberellic acid.
Sec. 1204. Triphenyltin hydroxide.
Sec. 1205. Bromoxynil octonoate.
Sec. 1206. Methyl 3-(trifluoromethyl)benzoate.
Sec. 1207. 4-(Trifluoromethoxy)phenyl isocyanate.
Sec. 1208. 4-Methylbenzonitrile.
Sec. 1209. Diaminodecane.
Sec. 1210. Certain compounds of lanthanum phosphates.
Sec. 1211. Certain compounds of yttrium europium oxide coprecipitates.
Sec. 1212. Certain compounds of lanthanum, cerium, and terbium phosphates.
Sec. 1213. Certain compounds of yttrium cerium phosphates.
Sec. 1214. Canned, boiled oysters, not smoked.
Sec. 1215. Boots.
Sec. 1216. Vinylidene chloride-methyl methacrylate-acrylonitrile copolymer.
Sec. 1217. 1-Propene, 1,1,2,3,3,3-hexafluoro-, oxidized, polymerized, reduced hydrolyzed.
Sec. 1218. 1-Propene,1,1,2,3,3,3-hexafluoro-oxidized, polymerized.
Sec. 1219. 1-Propene, 1,1,2,3,3,3-hexafluoro-, telomer with chlorotrifluoroethene, oxidized, reduced, ethyl ester, hydrolyzed.
Sec. 1220. Infrared absorbing dye.
Sec. 1221. 1,1,2-2-Tetrafluoroethene, oxidized, polymerized.
Sec. 1222. Methoxycarbonyl-terminated perfluorinated polyoxymethylene-polyoxyethylene.
Sec. 1223. Ethene, tetrafluoro, oxidized, polymerized, reduced, decarboxylated.
Sec. 1224. Ethene, tetrafluoro, oxidized, polymerized reduced, methyl esters, reduced, ethoxylated.
Sec. 1225. Oxiranemethanol, polymers with reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene.
Sec. 1226. Ethene, tetrafluoro, oxidized, polymerized reduced, methyl esters, reduced.
Sec. 1227. Certain light-absorbing photo dyes.
Sec. 1228. Certain specialty monomers.
Sec. 1229. Suspension of duty on exoflex F BX7011.
Sec. 1230. Triphenyl phosphine.
Sec. 1231. Certain golf bag bodies.
Sec. 1232. Dichlorprop-p acid, dichlorprop-p dimethylamine salt, and dichlorprop-p 2-ethylhexyl ester.
Sec. 1233. 2,4-db acid and 2,4-db dimethylamine salt.
Sec. 1234. Filament fiber tow of rayon.
Sec. 1235. Parts for use in the manufacture of certain high-performance loudspeakers.
Sec. 1236. Certain plastic lamp-holder housings containing sockets.
Sec. 1237. Certain porcelain lamp-holder housings containing sockets.
Sec. 1238. Certain aluminum lamp-holder housings containing sockets.
Sec. 1239. Certain brass lamp-holder housings containing sockets.

Sec. 1240. Staple fibers of viscose rayon, not carded.
Sec. 1241. Staple fibers of rayon, carded, combed, or otherwise processed.
Sec. 1242. Mini DVD camcorder with 680K pixel CCD.
Sec. 1243. Mini DVD camcorder with 20G HDD.
Sec. 1244. Metal halide lamp.
Sec. 1245. Hand-held electronic can openers.
Sec. 1246. Electric knives.
Sec. 1247. Toaster ovens with single-slot traditional toaster opening on top of oven.
Sec. 1248. Ice shavers.
Sec. 1249. Dual-press sandwich makers with floating upper lid and lock.
Sec. 1250. Electric juice extractors greater than 300 watts but less than 400 watts.
Sec. 1251. Electric juice extractors not less than 800 watts.
Sec. 1252. Open-top electric indoor grills.
Sec. 1253. Automatic drip coffeemakers other than those with clocks.
Sec. 1254. Automatic drip coffeemakers with electronic clocks.
Sec. 1255. Electric under-the-cabinet mounting can openers.
Sec. 1256. Dimethyl malonate.
Sec. 1257. Lightweight digital camera lenses.
Sec. 1258. Digital zoom camera lenses.
Sec. 1259. Color flat panel screen monitors.
Sec. 1260. Color monitors with a video display diagonal of 35.56 cm or greater.
Sec. 1261. Color monitors.
Sec. 1262. Black and white monitors.
Sec. 1263. 6 V lead-acid storage batteries.
Sec. 1264. Zirconyl chloride.
Sec. 1265. Naphthol AS-CA.
Sec. 1266. Naphthol AS-KB.
Sec. 1267. Basic Violet 1.
Sec. 1268. Basic Blue 7.
Sec. 1269. 3-Amino-4-methylbenzamide.
Sec. 1270. Acetoacetyl-2,5-dimethoxy-4-chloroanilide.
Sec. 1271. Phenyl salicylate (benzoic acid, 2-hydroxy-, phenyl ester).
Sec. 1272. Synthetic indigo powder.
Sec. 1273. 1,3,5-Triazine-2,4-diamine, 6-[2-(2-methyl-1H-imidazol-1-yl)ethyl]-.
Sec. 1274. 50/50 Mixture of 1,3,5-triazine-2,4,6(1H,3H,5H)-trione, 1,3,5-tris[(2r)-oxiranylmethyl]- and 1,3,5,-triazine-2,4,6(1H,3H,5H)-trione, 1,3,5-tris[(2s)-oxiranylmethyl]-.
Sec. 1275. 9H-Thioxanthene-2-carboxaldehyde, 9-oxo-, 2-(o-acetyloxime).
Sec. 1276. 1H-Imidazole, 2-ethyl-4-methyl-.
Sec. 1277. 1H-Imidazole-4-methanol, 5-methyl-2-phenyl-.
Sec. 1278. 4-Cyclohexene-1,2-dicarboxylic acid, compd. With 1,3,5-triazine-2,4,6-triamine (1:1).
Sec. 1279. 1,3,5,-Triazine-2,4-diamine, 6-[2-(2-undecyl-1H-imidazol-1-yl)ethyl]-.
Sec. 1280. Certain footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1281. Certain women's footwear with coated or laminated textile fabrics.
Sec. 1282. Certain men's footwear with coated or laminated textile fabrics.
Sec. 1283. Certain men's footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1284. Certain women's footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1285. Certain other footwear valued over $20 a pair with coated or laminated textile fabrics.
Sec. 1286. Certain footwear with coated or laminated textile fabrics.
Sec. 1287. Certain other footwear covering the ankle with coated or laminated textile fabrics.
Sec. 1288. Certain women's footwear covering the ankle with coated or laminated textile fabrics.
Sec. 1289. Certain women's footwear not covering the ankle with coated or laminated textile fabrics.
Sec. 1290. Felt-bottom boots for use in fishing waders.
Sec. 1291. Lug bottom boots for use in fishing waders.
Sec. 1292. Certain parts and accessories for measuring or checking instruments.
Sec. 1293. Certain printed circuit assemblies.
Sec. 1294. Certain subassemblies for measuring equipment for telecommunications.
Sec. 1295. Chloroneb.
Sec. 1296. p-Nitrobenzoic acid (PNBA).
Sec. 1297. Allyl pentaerythritol (APE).
Sec. 1298. Butyl ethyl propanediol (BEP).
Sec. 1299. BEPD70L.
Sec. 1300. Boltorn-1 (bolt-1).
Sec. 1301. Boltorn-2 (bolt-2).

Sec. 1302. Cyclic TMP formal (CTF).
Sec. 1303. DITMP.
Sec. 1304. Polyol DPP (DPP).
Sec. 1305. Hydroxypivalic acid (HPA).
Sec. 1306. TMPDE.
Sec. 1307. TMPME.
Sec. 1308. TMP oxetane (TMPO).
Sec. 1309. TMPO ethoxylate (TMPOE).
Sec. 1310. Amyl-anthraquinone.
Sec. 1311. T-butyl acrylate.
Sec. 1312. 3-Cyclohexene-1-carboxylic acid, 6-[(di-2-propenylamino)carbonyl]-, rel-(1R,6R)-, reaction products with pentafluoroiodoethane-tetrafluoroethylene telomer, ammonium salt.
Sec. 1313. Mixtures of phosphate ammonium salt derivatives of a fluorochemical.
Sec. 1314. 1-(3H)-isobenzofuranone, 3,3-bis(2-methyl-1-octyl-1H-indol-3-yl)-.
Sec. 1315. Mixture of poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-1,3,5-triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidinyl)imino]-1,6-hexanediyl[(2,2,6,6-tetramethyl-4-piperidinyl)imino]]) and bis(2,2,6,6-tetramethyl-4-piperidyl) sebacate.
Sec. 1316. Certain bitumen-coated polyethylene sleeves specifically designed to protect in-ground wood posts.
Sec. 1317. Nylon woolpacks used to package wool.
Sec. 1318. Magnesium zinc aluminum hydroxide carbonate hydrate.
Sec. 1319. C12–18 alkenes.
Sec. 1320. Acrypet UT100.
Sec. 1321. 5-Amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)–(trifluoromethyl)-sulfinyl]-1H-pyrazole-3-carbonitrile (Fipronil).
Sec. 1322. 2,3-Pyridinedicarboxylic acid.
Sec. 1323. Mixtures of 2-amino-2,3-dimethylbutylnitrile and toluene.
Sec. 1324. 2,3-Quinolinedicarboxylic acid.
Sec. 1325. 3,5-Difluoroaniline.
Sec. 1326. Clomazone.
Sec. 1327. Chloropivaloyl chloride.
Sec. 1328. N,N′-Hexane-1,6-diylbis(3-(3,5-di-tert-butyl-4-hydroxyphenylpropionamide)).
Sec. 1329. Reactive Red 268.
Sec. 1330. Reactive Red 270.
Sec. 1331. Certain glass thermo bulbs.
Sec. 1332. Pyriproxyfen.
Sec. 1333. Uniconazole-P.
Sec. 1334. Bispyribac-sodium.
Sec. 1335. Dinotefuran.
Sec. 1336. Etoxazole.
Sec. 1337. Bioallethrin.
Sec. 1338. S-Bioallethrin.
Sec. 1339. Tetramethrin.
Sec. 1340. Tralomethrin.
Sec. 1341. Flumiclorac-pentyl.
Sec. 1342. 1-Propene-2-methyl homopolymer.
Sec. 1343. Acronal-S-600.
Sec. 1344. Lucirin TPO.
Sec. 1345. Sokalan PG IME.
Sec. 1346. Lycopene 10 percent.
Sec. 1347. Mixtures of CAS Nos. 181274–15–7 and 208465–21–8.
Sec. 1348. 2-Methyl-1-[4-(methylthio)phenyl]-2-(4-morpholinyl)–1-propanone.
Sec. 1349. 1,6-Hexanediamine, N,N- bis(2,2,6,6-tetramethyl-4- piperidinyl)-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with n-butyl-1-butanamine and N-butyl- 2,2,6,6-tetramethyl-4- piperidinamine.
Sec. 1350. Vat Black 25.
Sec. 1351. Acid Orange 162.
Sec. 1352. Methyl salicylate.
Sec. 1353. 1,2-Octanediol.
Sec. 1354. Menthone glycerin acetal.
Sec. 1355. Pontamine Green 2b.
Sec. 1356. Bayderm bottom 10 UD.
Sec. 1357. Bayderm finish DLH.
Sec. 1358. Levagard DMPP.
Sec. 1359. Bayderm bottom DLV.
Sec. 1360. Certain ethylene-vinyl acetate copolymers.
Sec. 1361. Cyazofamid.
Sec. 1362. Flonicamid.
Sec. 1363. Zeta-cypermethrin.

Sec. 1364. 2-Ethylhexyl 4-methoxycinnamate.
Sec. 1365. Certain flame retardant plasticizers.
Sec. 1366. Baypure DS.
Sec. 1367. Bayowet C4.
Sec. 1368. Certain bicycle parts.
Sec. 1369. Other cycles.
Sec. 1370. Certain bicycle parts.
Sec. 1371. Certain bicycle parts.
Sec. 1372. (2-Chloroethyl)phosphonic acid (Ethephon).
Sec. 1373. Preparations containing, 2-(1-(((3-chloro-2-propenyl)oxy)imino)propyl)–5-(2-(ethylthio)propyl)–3-hydroxy-2-cyclohexene-1-one (Clethodim).
Sec. 1374. Urea, polymer with formaldehyde (pergopak).
Sec. 1375. Ortho nitroaniline.
Sec. 1376. 2,2 -(2,5-thiophenediyl)bis(5-(1,1-dimethylethyl)benzoxazole).
Sec. 1377. Certain chemicals and chemical mixtures.
Sec. 1378. Acid Red 414.
Sec. 1379. Solvent Yellow 163.
Sec. 1380. 4-Amino-3,6-bis[[5-[[4-chloro-6-[methyl[2-(methylamino)–2-oxoethyl]amino]-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]azo]-5-hydroxy-2,7-naphthalenedisulfonic acid, lithium potassium sodium salt.
Sec. 1381. Reactive Red 123.
Sec. 1382. Reactive Blue 250.
Sec. 1383. Reactive Black 5.
Sec. 1384. 5-[(2-Cyano-4-nitrophenyl)azo]-2-[[2-(2-hydroxyethoxy)ethyl]amino]-4-methyl-6-(phenylamino)–3-pyridinecarbonitrile.
Sec. 1385. Cyano[3-[(6-methoxy-2-benzothiazolyl)amino]-1H-isoindol-1-ylidene]-acetic acid, pentyl ester.
Sec. 1386. [(9,10-Dihydro-9,10-dioxo-1,4-anthracenediyl)bis[imino[3-(2-methylpropyl)–3,1-propanediyl]]]bisbenzenesulfonic acid, disodium salt.
Sec. 1387. [4-(2,6-Dihydro-2,6-dioxo-7-phenylbenzo[1,2-b:4,5-b′]difuran-3-yl)phenoxy]-acetic acid, 2-ethoxyethyl ester.
Sec. 1388. 3-Phenyl-7-(4-propoxyphenyl)-benzo[1,2-b:4,5-b′]difuran-2,6-dione.
Sec. 1389. 2-[[[2, 5-Dichloro-4-[(2-methyl-1H-indol-3-yl)azo]phenyl]sulfonyl]amino]-ethanesulfonic acid, monosodium salt.
Sec. 1390. 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[(3-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-4-hydroxy-3-[[4-[[2-(sulfoxy)ethyl]sulfonyl]phenyl]azo]-, sodium salt.
Sec. 1391. 7-[[2-[(Aminocarbonyl)amino]-4-[[4-[4-[2-[[4-[[3-[(aminocarbonyl) amino]-4-[(3,6,8-trisulfo-2-naphthalenyl)azo]phenyl]amino]-6-chloro-1,3,5-triazin-2-yl]amino]ethyl]- 1-piperazinyl]-6-chloro-1,3,5-triazin-2-yl]amino]phenyl]azo]-1,3,6-naphthalenetrisulfonic acid, lithium potassium sodium salt.
Sec. 1392. 4-[[3-(Acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid, monosodium salt.
Sec. 1393. [4-[2,6-Dihydro-2,6-dioxo-7-(4-propoxyphenyl)benzo[1,2-b:4,5-b ]difuran-3-yl]phenoxy]-acetic acid, 2-ethoxyethyl ester.
Sec. 1394. Basic Yellow 40 chloride based.
Sec. 1395. Direct Yellow 119.
Sec. 1396. Naugard 412s.
Sec. 1397. Triacetonamine.
Sec. 1398. Ipconazole.
Sec. 1399. Omite tech.
Sec. 1400. Pantera technical.
Sec. 1401. p-Toluenesulfonyl chloride.
Sec. 1402. Preformed pellets of a mixture of sodium iodide, thallium iodide, dysprosium tri-iodide, holmium tri-iodide, thulium tri-iodide, and sometimes calcium iodide.
Sec. 1403. p-Aminobenzamide (4-aminobenzamide).
Sec. 1404. p-Chloroaniline.
Sec. 1405. 4-Chloro-2-nitroaniline.
Sec. 1406. o-Chloro-p-toluidine (3-chloro-4-methylaniline).
Sec. 1407. 2-Chloroacetoacetanilide.
Sec. 1408. p-Acetoacetanisidide.
Sec. 1409. 1-Hydroxy-2-naphthoic acid.
Sec. 1410. Pigment Green 7 crude, not ready for use as a pigment.
Sec. 1411. 1,8-Naphthalimide (1H-benz[de]isoquinoline-1,3(2H)-dione).
Sec. 1412. Diisopropyl succinate.
Sec. 1413. 2,4-Di-tert-butyl-6-(5-chlorobenzotriazol-2-yl)phenol.
Sec. 1414. Direct Black 22.
Sec. 1415. Methylene bis-benzotriazolyl tetramethylbutylphenol.
Sec. 1416. Bis-ethylhexyloxyphenol methoxyphenol triazine.
Sec. 1417. Reactive Orange 132.

Sec. 1418. Acid Black 244.
Sec. 1419. Certain cores used in remanufacture.
Sec. 1420. ADTP.
Sec. 1421. DCBTF.
Sec. 1422. Noviflumuron.
Sec. 1423. Parachlorobenzotrifluoride.
Sec. 1424. Mixtures of insecticide.
Sec. 1425. Mixture of fungicide.
Sec. 1426. 1,2-Benzisothiazol-3(2H)-one.
Sec. 1427. Styrene, ar-ethyl-, polymer with divinylbenzene and styrene (6CI) beads with low ash.
Sec. 1428. Mixtures of fungicide.
Sec. 1429. 2-Methyl-4-chlorophenoxy-acetic acid, di-methylamine salt.
Sec. 1430. Charge control agent 7.
Sec. 1431. Pro-jet Black 820 liquid feed.
Sec. 1432. Pro-jet Magenta M700.
Sec. 1433. Pro-jet Fast Black 287 NA liquid feed.
Sec. 1434. Pro-jet Fast Black 286 stage.
Sec. 1435. Pro-jet Cyan 485 stage.
Sec. 1436. Pro-jet Black 661 liquid feed.
Sec. 1437. Pro-jet Black Cyan 854 liquid feed.
Sec. 1438. Erasers.
Sec. 1439. Artificial flowers.
Sec. 1440. Suspension system stabilizer bars.
Sec. 1441. Rattan webbing.
Sec. 1442. Tractor body parts.
Sec. 1443. AC electric motors of an output exceeding 74.6 W but not exceeding 85 W.
Sec. 1444. AC electric motors of an output exceeding 74.6 W but not exceeding 105 W.
Sec. 1445. AC electric motors of an output exceeding 74.6 W but not exceeding 95 W.
Sec. 1446. Certain AC electric motors.
Sec. 1447. Viscose rayon yarn.
Sec. 1448. Certain twisted yarn of viscose rayon.
Sec. 1449. Allyl ureido monomer.
Sec. 1450. Synthetic elastic staple fiber.
Sec. 1451. Certain fiberglass sheets.
Sec. 1452. Halophosphor calcium diphosphate.
Sec. 1453. Certain rayon staple fibers.
Sec. 1454. Synthetic quartz or fused silica photomask substrates.
Sec. 1455. Certain integrated machines for manufacturing pneumatic tires.
Sec. 1456. Tramway cars.
Sec. 1457. Certain artificial filament single yarn (other than sewingthread).
Sec. 1458. Certain electrical transformers rated at 25VA.
Sec. 1459. Certain electrical transformers rated at 40VA.

CHAPTER 2—REDUCTIONS

Sec. 1461. Floor coverings and mats of vulcanized rubber.
Sec. 1462. Manicure and pedicure sets.
Sec. 1463. Nitrocellulose.
Sec. 1464. Sulfentrazone technical.
Sec. 1465. Clock radio combos.
Sec. 1466. Thiamethoxam technical.
Sec. 1467. Staple fibers of viscose rayon, not carded, combed, or otherwise processed for spinning.
Sec. 1468. Certain men's footwear covering the ankle with coated or laminated textile fabrics.
Sec. 1469. Certain footwear not covering the ankle with coated or laminated textile fabrics.
Sec. 1470. Acrylic or modacrylic synthetic staple fibers, not carded, combed, or otherwise processed for spinning.
Sec. 1471. Certain women's footwear.
Sec. 1472. Numerous other seals made of rubber or silicone, and covered with, or reinforced with, a fabric material.
Sec. 1473. Tetrakis.
Sec. 1474. Glycine, N,N-bis[2-hydroxy-3-(2-propenyloxy)propyl]-, monosodium salt, reaction products with ammonium hydroxide and pentafluoroiodoethane-tetrafluoroethylene telomer.
Sec. 1475. Diethyl ketone.
Sec. 1476. Acephate.

Sec. 1477. Flumioxazin.
Sec. 1478. Garenoxacin mesylate.
Sec. 1479. Butylated hydroxyethylbenzene.
Sec. 1480. Certain automotive catalytic converter mats.
Sec. 1481. 3,3′-Dichlorobenzidine dihydrochloride.
Sec. 1482. TMC114.
Sec. 1483. Biaxially oriented polypropylene dielectric film.
Sec. 1484. Biaxially oriented polyethylene terephthalate dielectric film.
Sec. 1485. Certain bicycle parts.
Sec. 1486. Certain bicycle parts.
Sec. 1487. Bifenthrin.
Sec. 1488. Reduced Vat 1.
Sec. 1489. 4-Chlorobenzonitrile.
Sec. 1490. Nail clippers and nail files.
Sec. 1491. Electric automatic shower cleaners.
Sec. 1492. Mesotrione technical.
Sec. 1493. Certain crank-gear and other bicycle parts.

Subtitle B—Existing Suspensions and Reductions

Sec. 1501. Extensions of existing suspensions and other modifications.

Subtitle C—Effective Date

Sec. 1511. Effective date.

TITLE II—RELIQUIDATIONS

Sec. 2001. Reliquidation of certain entries of certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania.
Sec. 2002. Certain entries of pasta.
Sec. 2003. Clarification of reliquidation provision.
Sec. 2004. Reliquidation of certain drawback claim.
Sec. 2005. Payment of interest on amounts owed pursuant to reliquidation of certain entries.

TITLE III—TECHNICAL CORRECTIONS AND OTHER PROVISIONS

Subtitle A—Technical corrections

Sec. 3001. Amendments to the HTS.
Sec. 3002. Technical correction to the Tariff Act of 1930.
Sec. 3003. Amendments to the Pension Protection Act of 2006.
Sec. 3004. NMSBA.
Sec. 3005. Certain monochrome glass envelopes.
Sec. 3006. Flexible magnets and composite goods containing flexible magnets.
Sec. 3007. Cellar treatment of wine.

Subtitle B—Other Provisions

Sec. 3011. Consideration of certain civil actions delayed because of the terrorist attacks of September 11, 2001.
Sec. 3012. Effective date of modifications to the Harmonized Tariff Schedule.

TITLE IV—EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO THE PRODUCTS OF VIETNAM

Sec. 4001. Findings.
Sec. 4002. Termination of application of title IV of the Trade Act of 1974 to Vietnam.
Sec. 4003. Procedure for determining prohibited subsidies by Vietnam.
Sec. 4004. Consultations upon initiation of investigation.
Sec. 4005. Public participation and consultation.
Sec. 4006. Arbitration and imposition of quotas.
Sec. 4007. Definitions.

TITLE V—HAITI

Sec. 5001. Short title.
Sec. 5002. Trade benefits for Haiti.
Sec. 5003. ITC study.
Sec. 5004. Sense of Congress on interpretation of textile and apparel provisions for Haiti.
Sec. 5005. Technical amendments.
Sec. 5006. Effective date.

TITLE VI—AFRICAN GROWTH AND OPPORTUNITY ACT

Sec. 6001. Short title.

Sec. 6002. Preferential treatment of apparel products of lesser developed countries.
Sec. 6003. Technical corrections.
Sec. 6004. Effective date for AGOA.

TITLE VII—ANDEAN TRADE PREFERENCE ACT

Sec. 7001. Short title.
Sec. 7002. ATPA extension.
Sec. 7003. Technical amendments.

TITLE VIII—GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM

Sec. 8001. Limitations on waivers of competitive need limitation.
Sec. 8002. Extension of GSP program.

# TITLE I—TARIFF PROVISIONS

**SEC. 1001. REFERENCE; EXPIRED PROVISIONS.**

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this title, title II, and title III an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

(b) EXPIRED PROVISIONS.—Subchapter II of chapter 99 is amended by striking the following headings:

9902.05.34
9902.06.01
9902.06.62
9902.08.10
9902.19.80
9902.20.05
9902.21.06
9902.21.42
9902.26.11
9902.28.40
9902.28.94
9902.29.01
9902.29.04
9902.29.05
9902.29.06 (relating to racemic dl-menthol)
9902.29.13
9902.29.14
9902.29.27
9902.29.30
9902.29.31
9902.29.33
9902.29.39
9902.29.40
9902.29.41
9902.29.42
9902.29.47
9902.29.56
9902.29.63
9902.29.68
9902.29.69
9902.29.75
9902.29.76
9902.29.78
9902.29.79
9902.29.84
9902.29.85
9902.29.86
9902.29.88
9902.29.92
9902.29.94
9902.29.96
9902.29.97
9902.29.99
9902.30.08
9902.30.11
9902.30.13
9902.30.46
9902.32.05
9902.32.06
9902.32.09
9902.32.10
9902.32.15
9902.32.17
9902.32.20
9902.32.23
9902.32.24
9902.32.25
9902.32.44 (relating to CAS No. 201932–24–3)
9902.32.44 (relating to CAS No. 186537–30–4)
9902.32.46
9902.32.50
9902.32.53
9902.32.58
9902.32.59
9902.32.60
9902.32.64
9902.32.65
9902.32.66
9902.32.67
9902.32.80
9902.32.81
9902.32.84
9902.32.86
9902.32.88
9902.32.96
9902.32.98
9902.37.01
9902.37.02
9902.38.00
9902.38.01
9902.38.02
9902.38.03
9902.38.13
9902.38.20
9902.38.22
9902.38.24
9902.38.29
9902.38.30
9902.38.50
9902.38.51
9902.38.53
9902.39.07
9902.39.31
9902.39.32
9902.52.01
9902.52.03
9902.70.01
9902.84.00
9902.84.16
9902.84.19
9902.84.30
9902.84.40
9902.84.70
9902.85.00
9902.90.20
9902.98.07

# Subtitle A—New Duty Suspensions and Reductions

## CHAPTER 1—NEW DUTY SUSPENSIONS

### SEC. 1111. DIETHYL SULFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.01 | Diethyl sulfate (CAS No. 64–67–5) (provided for in subheading 2920.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1112. SORAFENIB.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.02 | 4-(4-{3-[4-Chloro-3-(trifluoromethyl) phenyl]ureido}phenoxy)-N-2-methylpyridine-2-carboxamide 4-methylbenzenesulfonate (Sorafenib tosylate) (CAS No. 475207–59–1) (provided for in subheading 2933.39.41) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1113. PROHEXADIONE CALCIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.03 | Prohexadione calcium (calcium 3-oxido-5-oxo-4-propionylcyclohexa-3-enecarboxylate) (CAS No. 127277–53–6) (provided for in subheading 2918.30.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1114. METHYL METHOXYACETATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.04 | Methyl methoxyacetate (CAS No. 6290–49–9) (provided for in subheading 2918.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1115. METHOXYACETIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.05 | Methoxyacetic acid (CAS No. 625–45–6) (provided for in subheading 2918.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1116. N-METHYLPIPERIDINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.06 | N-Methylpiperidine (CAS No. 626–67–5) (provided for in subheading 2933.39.61) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1117. QUINCLORAC TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.07 | 3,7-Dichloroquinoline-8-carboxylic acid (Quinclorac) (CAS No. 84087–01–4) (provided for in subheading 2933.49.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1118. PYRIDABEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.08 | 2-Tert-butyl-5-(4-tert-butylbenzylthio)-4-chloropyridazin-3(2H)-one (Pyridaben) (CAS No. 96489–71–3) (provided for in subheading 2933.99.22) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1119. CERTAIN RUBBER OR PLASTIC FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.09 | Footwear for persons other than women, with outer soles of leather or composition leather and with uppers of textile materials (provided for in subheading 6404.20.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1120. SODIUM ORTHO-PHENYLPHENOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.10 | 2-Phenylphenol sodium salt (CAS No. 132–27–4) (provided for in subheading 2907.19.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1121. CERTAIN CHEMICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.11 | Adsorbent resin comprised of a macroporous polymer of diethenylbenzene (CAS No. 9003–69–4) (provided for in subheading 3911.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1122. BAYPURE CX.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.12 | Iminodisuccinic acid, triammonium salt, in aqueous solutions (CAS No. 415719–09–04) (provided for in subheading 2922.49.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1123. ISOEICOSANE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.13 | Isoeicosane (CAS No. 93685–79–1) (provided for in subheading 2710.19.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1124. ISODODECANE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.14 | Isododecane (CAS No. 31807–55–3) (provided for in subheading 2710.11.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1125. ISOHEXADECANE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.15 | Isohexadecane (CAS No. 60908–77–2) (provided for in subheading 2710.19.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1126. AMINOGUANIDINE BICARBONATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.16 | Aminoguanidine bicarbonate (CAS No. 2582–30–1) (provided for in subheading 2928.00.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1127. O-CHLOROTOLUENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.17 | 2-Chlorotoluene (CAS No. 95–49–8) (provided for in subheading 2903.69.80) ..... | Free | No change | No change | On or before 12/31/2009 | |
| | 9902.22.18 | Chloromethylbenzene (CAS No. 25168–05–2) (provided for in subheading 2903.69.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1128. BAYDERM BOTTOM DLV-N.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.19 | Aqueous polyurethane dispersions containing 38 percent to 42 percent solids content of propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-,polymer with 2-[(2-aminoethyl)amino]ethanesulfonic acid monosodium salt, 1,6-diisocyanatohexane, dimethyl carbonate, 1,2-ethanediamine, 1,6-hexanediol, hydrazine, and α- hydro-ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)], polyethylene-polypropylene glycol monobutyl ether blocked (CAS No. 841251–36–3) (provided for in subheading 3909.50.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1129. 2,3-DICHLORONITROBENZENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.20 | 2,3-Dichloronitrobenzene (CAS No. 3209–22–1) (provided for in subheading 2904.90.47) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1130. 1-METHOXY-2-PROPANOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.21 | 1-Methoxy-2-propanol (CAS No. 107–98–2) (provided for in subheading 2909.49.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1131. BASIC RED 1 DYE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.22 | Basic Red 1 (CAS No. 989–38–8) (provided for in subheading 3204.13.80) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1132. BASIC RED 1:1 DYE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.23 | Basic Red 1:1 (CAS No. 3068–39–1) (provided for in subheading 3204.13.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1133. BASIC VIOLET 11 DYE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.24 | Basic Violet 11 (CAS No. 2390–63–8) (provided for in subheading 3204.13.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1134. BASIC VIOLET 11:1 DYE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.25 | Basic Violet 11:1 (CAS No. 39393–39–0) (provided for in subheading 3204.13.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1135. N-CYCLOHEXYLTHIOPHTHALIMIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.26 | N-Cyclohexylthiophthalimide (CAS No. 17796–82–6) (provided for in subheading 2930.90.24) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1136. 4,4′-DITHIODIMORPHOLINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.27 | 4,4′-Dithiodimorpholine (CAS No. 103–34–4) (provided for in subheading 2930.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1137. TETRAETHYLTHIURAM DISULFIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.28 | Tetraethylthiuram disulfide (CAS No. 97–77–8) (provided for in subheading 2930.30.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1138. CERTAIN TETRAMETHYLTHIURAM DISULFIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.29 | Tetramethylthiuram disulfide (CAS No. 137–26–8) (provided for in subheading 2930.30.60) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1139. CERTAIN AEROSOL VALVES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.30 | Aerosol valves designed to deliver a metered dose (50 microliters) of a pressurized liquid pharmaceutical product, having a mounting cup with inside diameter of 20.1 mm and height (skirt to shoulder) of 7.49 mm with a stem outside diameter of 2.79 mm, with such components of stainless steel and buna rubber and with a retaining cup of aluminum (provided for in subheading 8481.80.30) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1140. 4-METHYL-5-N-PROPOXY-2,4-DIHYDRO-1,2,4-TRIAZOL-3-ONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.31 | 4-Methyl-5-n-propoxy-2,4-dihydro-1,2,4-triazol-3-one (CAS No. 145027–96–9) (provided for in subheading 2933.99.97) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1141. ETHOXYQUIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.32 | Ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) (CAS No. 91–53–2) (provided for in subheading 2933.49.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1142. TRICHOLOROBENZENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.33 | 1,2,4-Trichlorobenzene (CAS No. 120–82–1) (provided for in subheading 2903.69.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1143. BENZOIC ACID, 3,4,5-TRIHYDROXY-, PROPYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.34 | Benzoic acid, 3,4,5-trihydroxy-, propyl ester (CAS No. 121–79–9) (propyl gallate) (provided for in subheading 2918.29.75) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1144. 2-CYANOPYRIDINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.35 | 2-Cyanopyridine (CAS No. 100–70–9) (provided for in subheading 2933.39.91) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1145. MIXED XYLIDINES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.36 | Mixed xylidines (CAS No. 1300–73–8) (provided for in subheading 2921.49.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1146. CERTAIN RECEPTION APPARATUS NOT CONTAINING A CLOCK OR CLOCK TIMER, INCORPORATING ONLY AM RADIO.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.37 | Radiobroadcast receivers capable of operating without an external source of power, not containing a clock or clock timer in the same housing, each containing only an AM radiobroadcast receiver (provided for in subheading 8527.19.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1147. PIGMENT YELLOW 219.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.38 | Pigment Yellow 219 (CAS No. 347174–87–2) (provided for in subheading 3204.17.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1148. PIGMENT BLUE 80.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.39 | Pigment Blue 80 (CAS No. 391663–82–4) (provided for in subheading 3204.17.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1149. 1-OXA-3, 20-DIAZADISPIRO-[5.1.11.2]-HENEICOSAN-21-ONE, 2,2,4,4-TETRAMETHYL-,HYDROCHLORIDE, REACTION PRODUCTS WITH EPICHLOROHYDRIN, HYDROLYZED, POLYMERIZED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.40 | 1-Oxa-3,20-diazadispiro-[5.1.11.2]-heneicosan-21-one,2,2,4,4-tetramethyl-,hydrochloride, reaction products with epichlorohydrin, hydrolyzed, polymerized (CAS No. 202483–55–4) (provided for in subheading 3911.90.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1150. ISOBUTYL PARAHYDROXYBENZOIC ACID AND ITS SODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.41 | Isobutyl 4-hydroxybenzoate (CAS No. 4247–02–3) and its sodium salt (CAS No. 84930–15–4) (provided for in subheading 2918.29.65) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1151. PHOSPHINIC ACID, DIETHYL-, ALUMINUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.42 | Phosphinic acid, diethyl-, aluminum salt (CAS No. 225789–38–8) (provided for in subheading 2931.00.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1152. EXOLIT OP 1312.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.43 | Phosphinic acid, diethyl-, aluminum salt (CAS No. 225789–38–8) with synergists and encapsulating agents (provided for in subheading 3824.90.91) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1153. SODIUM HYPOPHOSPHITE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.44 | Sodium hypophosphite monohydrate (CAS No. 10039–56–2) (provided for in subheading 2835.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1154. CYANURIC CHLORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.45 | Cyanuric chloride (CAS No. 108–77–0) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1155. CERTAIN LEATHER FOOTWEAR FOR PERSONS OTHER THAN MEN OR WOMEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.46 | Other footwear with uppers of leather or composition leather, for persons other than for men or women (provided for in subheading 6405.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1156. CERTAIN OTHER WORK FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.47 | Other work footwear for women, with outer soles and uppers of rubber or plastics, other than house slippers and other than tennis shoes, basketball shoes, gym shoes, training shoes and the like (provided for in subheading 6402.99.18) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1157. CERTAIN TURN OR TURNED FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.48 | Turn or turned footwear with outer soles of leather and uppers of leather, other than for men or women (provided for in subheading 6403.59.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1158. CERTAIN WORK FOOTWEAR WITH OUTER SOLES OF LEATHER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.49 | Footwear with outer soles of leather and uppers of leather, covering the ankle, other than for women (provided for in subheading 6403.51.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1159. CERTAIN FOOTWEAR WITH OUTER SOLES OF RUBBER OR PLASTICS AND WITH OPEN TOES OR HEELS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.50 | Footwear with outer soles of rubber or plastics and uppers of textile materials other than of vegetable fibers, with open toes or open heels, the foregoing other than house slippers and other than footwear for women (provided for in subheading 6404.19.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1160. CERTAIN ATHLETIC FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.51 | Footwear with outer soles of leather or composition leather and uppers of textile materials, valued over $2.50 per pair, the foregoing other than for men or women (provided for in subheading 6404.20.40) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1161. CERTAIN WORK FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.52 | Work footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather, not covering the ankle (provided for in subheading 6403.99.60 or 6403.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1162. CERTAIN FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.53 | Footwear with outer soles and uppers of rubber or plastics, incorporating a protective metal toecap, having uppers of which over 90 percent of the external surface area (including any accessories or reinforcements such as those mentioned in note 4(a) to chapter 64) is rubber or plastics (provided for in subheading 6402.30.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1163. 1-NAPHTHYL METHYLCARBAMATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.54 | 1-Naphthyl methylcarbamate (Carbaryl) (CAS No. 63-25-2) (provided for in subheading 2924.29.47) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1164. CERTAIN 16-INCH VARIABLE SPEED SCROLL SAW MACHINES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.55 | Variable speed scroll sawing machines each having a throat depth of approximately 406 mm, new (provided for in subheading 8465.91.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1165. 3,4-DIMETHOXYBENZALDEHYDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.56 | 3,4-Dimethoxybenzaldehyde (CAS No. 120–14–9) (provided for in subheading 2912.49.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1166. 2-AMINOTHIOPHENOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.57 | 2-Aminothiophenol (CAS No. 137–07–5) (provided for in subheading 2930.90.29) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1167. SOLVENT RED 227.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.58 | Solvent Red 227 (CI 60510) (provided for in subheading 3204.19.25) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1168. MIXTURES OF FORMALDEHYDE POLYMER AND TOLUENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.59 | Formaldehyde, polymer with toluene (CAS No. 25155–81–1) (provided for in subheading 3911.90.25) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1169. 1,2-BIS(3-AMINOPROPYL)ETHYLENEDIAMINE, POLYMER WITH N-BUTYL-2,2,6,6-TETRAMETHYL-4-PIPERIDINAMINE AND 2,4,6-TRICHLORO-1,3,5-TRIAZINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.60 | 1,2-Bis(3-aminopropyl)ethylenediamine, polymer with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine and 2,4,6-trichloro-1,3,5-triazine (CAS No. 136504–96–6) (provided for in subheading 3812.30.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1170. MIXTURE OF BARIUM CARBONATE, STRONTIUM CARBONATE, CALCIUM CARBONATE, 1-METHOXY-2-PROPANANOL ACETATE, FOR USE AS EMITTER SUSPENSION CATHODE COATING.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.61 | A mixture of barium carbonate, strontium carbonate, calcium carbonate, and 1-methoxy-2-propanol acetate, for use as emitter suspension cathode coating (CAS Nos. 513–77–9, 1633–05–2, 471–34–1, and 108–65–6) (provided for in subheading 3824.90.91) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1171. RESIN CEMENT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.62 | Resin cement based on calcium carbonate and silicone resins (CAS Nos. 471–34–1 and 68037–83–2) (provided for in subheading 3214.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1172. PHOSPHOR YOX, YTTRIUM OXIDE PHOSPHOR, ACTIVATED BY EUROPIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.63 | Yttrium oxide phosphor, activated by europium of a kind used as a luminophore (CAS No. 68585–82–0) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1173. PHOSPHOR-BAG-BARIUM MAGNESIUM ALUMINATE PHOSPHOR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.64 | Compound of barium magnesium aluminate phosphor, activated by europium or manganese, of a kind used as luminophores (CAS Nos. 63774–55–0 and 1308–96–9) (provided for in subheading 3206.50.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1174. YTTRIUM VANADATE PHOSPHOR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.65 | Yttrium vanadate phosphor, of a kind used as a luminophore (CAS No. 6874–82–7) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1175. PHOSPHOR SCAP STRONTIUM CHLOROAPATITE-EUROPIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.66 | Compound of strontium chloroapatite-europium, of a kind used as a luminophore (CAS No. 68784–77–0) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1176. PHOSPHOR ZINC SILICATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.67 | Phosphor of zinc silicate, of a kind used as a luminophore (CAS No. 68611–47–2) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1177. STRONTIUM MAGNESIUM PHOSPHATE-TIN DOPED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.68 | Strontium magnesium phosphate-tin doped inorganic products of a kind used as luminophores (CAS Nos. 1314–11–0, 1314–56–3, 1309–48–4, and 18282–10–5) (provided for in subheading 3206.50.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1178. PHOSPHOR-YOF FLU PDR YOX; YTTRIUM OXIDE PHOSPHOR, ACTIVATED BY EUROPIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.69 | Yttrium oxide phosphor, activated by europium used as a luminophore (CAS No. 68585–82–0) (provided for in subheading 3206.50.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1179. CALCIUM CHLORIDE PHOSPHATE PHOSPHOR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.70 | Calcium chloride phosphate phosphor activated by manganese and antimony used as a luminophore (CAS No. 75535–31–8) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1180. CERAMIC FRIT POWDER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.71 | A mixture of aluminum oxide, calcium oxide, barium oxide, magnesium oxide, boron oxide, butylmethacrylate resin and C.I. Solvent Red 24 used in the manufacture of ceramic arc tubes (CAS Nos. 1344–28–1, 1305–78–8, 1304–28–5, 1309–48–4, 1303–86–2, 9003–63–8, and 85–83–6) (provided for in subheading 3824.90.91) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1181. PHOSPHOR LITE WHITE AND PHOSPHOR BLUE HALO.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.72 | Calcium chloride phosphate phosphor used as a luminophore (CAS No. 75535–31–8) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1182. PHOSPHOR-SCA, STRONTIUM HALOPHOSPHATE DOPED WITH EUROPIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.73 | Strontium halophosphate doped with europium used as a luminophore (CAS Nos. 109037–74–3 and 1312–81–8) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1183. PHOSPHOR-COOL WHITE SMALL PARTICLE CALCIUM HALOPHOSPHATE PHOSPHOR ACTIVATED BY MANGANESE AND ANTIMONY.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.74 | Small particle calcium chloride phosphate phosphor activated by manganese and antimony used as a luminophore (CAS No. 75535–31–8) (provided for in subheading 3206.50.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1184. PHOSPHOR LAP LANTHANUM PHOSPHATE PHOSPHOR, ACTIVATED BY CERIUM AND TERBIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.75 | Lanthanum phosphate phosphor, activated by cerium and terbium, inorganic used as luminophores (CAS Nos. 13778–59–1, 13454–71–2, and 13863–48–4 or 95823–34–0) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1185. KASHMIR.**

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.76 | Fine animal hair of Kashmir (cashmere) goats, not processed in any manner beyond the degreased or carbonized condition (provided for in subheading 5102.11.10) .. | Free | No change | No change | On or before 12/31/2009 | |
| “ | 9902.22.77 | Fine animal hair of Kashmir (cashmere) goats (provided for in subheading 5102.11.90) .. | Free | No change | No change | On or before 12/31/2009 | ”. |

(b) CONFORMING AMENDMENT.—Subchapter II of chapter 99 is amended by striking headings 9902.51.15 (relating to articles provided for in subheading 5102.11.10) and 9902.51.16 (relating to articles provided for in subheading 5102.11.90).

**SEC. 1186. CERTAIN ARTICLES OF PLATINUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.78 | Spheres of platinum, containing approximately 18 percent by weight of iridium, of a kind used in manufacturing electrodes for spark plugs (provided for in subheading 7115.90.60) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1187. NICKEL ALLOY WIRE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.79 | Cold-formed wire of nickel alloys containing 0.09 percent or more but not more than 1.6 percent by weight of silicon, certified by the importer to be used in the manufacture of spark plug electrodes, the foregoing either round wire measuring 1.7 mm or more but not over 4.9 mm in cross-sectional diameter or flat wire of rectangular cross section measuring 0.9 mm or more but not over 2.2 mm in thickness and 1.7 mm or more but not over 3.3 mm in width (provided for in subheading 7505.22.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1188. TITANIUM MONONITRIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.80 | Titanium mononitride (CAS No. 25583–20–4) (provided for in subheading 2850.00.07) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1189. HIGH ACCURACY, METAL, MARINE SEXTANTS, USED FOR NAVIGATING BY CELESTIAL BODIES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.81 | Marine sextants of metal, designed for use in navigating by celestial bodies (provided for in subheading 9014.80.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1190. ELECTRICALLY OPERATED PENCIL SHARPENERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.82 | Electrically operated pencil sharpeners (provided for in subheading 8472.90.40) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1191. VALVE ASSEMBLIES (VACUUM RELIEF).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.83 | Pedestal assemblies for vacuum relief valves, designed for use in aircraft (provided for in subheading 8481.40.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1192. SEALS, AERODYNAMIC, FIREPROOF.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.84 | Seals of polyester fabric bonded over a silicone core, designed for use in airplanes (provided for in subheading 3926.90.00 or 5911.90.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1193. WING ILLUMINATION LIGHTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.85 | Wing illumination lights, designed for use on airplanes (provided for in subheading 9405.60.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1194. EXTERIOR EMERGENCY LIGHTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.86 | Exterior emergency lights, designed for use on airplanes (provided for in subheading 9405.60.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1195. MAGNESIUM PEROXIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.87 | Magnesium peroxide, minimum 25 percent purity (CAS No. 1335–26–8) (provided for in subheading 2816.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1196. CERTAIN FOOTWEAR OTHER THAN FOR MEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.22.88 | Footwear, other than for men, with outer soles of leather or composition leather and uppers of textile materials, valued not over $2.50 per pair (provided for in subheading 6404.20.20) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1197. GRASS SHEARS WITH ROTATING BLADE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.89 | Grass shears with swiveling heads and with rotating vertical and horizontal cutting blades of steel (provided for in subheading 8201.90.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1198. CERIUM SULFIDE PIGMENTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.90 | Cerium sulfide pigments (CAS Nos. 12014–93–6 and 12031–49–1) (provided for in subheading 3206.49.50) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1199. KRESOXIM METHYL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.91 | Mixtures of methyl (E)-methoxyimino-[α-(o-tolyloxy)-o-tolyl]acetate (Kresoxim methyl) (CAS No. 143390–89–0) and application adjuvants (provided for in subheading 3808.20.15) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1200. 4-PIECE OR 5-PIECE FIREPLACE TOOLS OF IRON OR STEEL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.92 | Packages containing 4 or 5 different fireplace tools, such tools of iron or steel, intended for sale to the ultimate consumer in such packages (provided for in subheading 8205.51.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1201. RSD 1235.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.93 | 3-Pyrrolidinol, 1-[(1R,2R)-2-[2-(3,4-dimethoxyphenyl)ethoxy]cyclohexyl]-,hydrochloride, (3R) (CAS No. 748810–28–8) (provided for in subheading 2933.99.53) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1202. MCPB ACID AND MCPB SODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.94 | 4-(4-Chloro-2-methylphenoxy) butanoic acid (CAS No. 94–81–5); 4-(4-chloro-2-methylphenoxy)butanoic acid, sodium salt (CAS No. 6062–26–6) (provided for in subheading 2918.90.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1203. GIBBERELLIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.95 | Gibberellic acid (GA3) (CAS No. 77–06–5) and a mixture of gibberellin A4 (CAS No. 468–44–0) and gibberellin A7 (CAS No. 510–75–8) (provided for in subheading 2932.29.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1204. TRIPHENYLTIN HYDROXIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.96 | Triphenyltin hydroxide (CAS No. 76–87–9) (provided for in subheading 2931.00.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1205. BROMOXYNIL OCTONOATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.97 | 3,5-Dibromo-4-hydroxybenzonitrile octonoate (CAS No. 1689–84–5) (provided for in subheading 2926.90.25) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1206. METHYL 3-(TRIFLUOROMETHYL)BENZOATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.98 | Methyl 3-(trifluoromethyl)benzoate (CAS No. 2557–13–3) (provided for in subheading 2916.39.45) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1207. 4-(TRIFLUOROMETHOXY)PHENYL ISOCYANATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.22.99 | 4-(Trifluoromethoxy)phenyl isocyanate (CAS No. 35037–73–1) (provided for in subheading 2929.10.55) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1208. 4-METHYLBENZONITRILE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.01 | 4-Methylbenzonitrile (CAS No. 104–85–8) (provided for in subheading 2926.90.43) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1209. DIAMINODECANE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.02 | Diaminodecane (CAS No. 646–25–3) (provided for in subheading 2921.29.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1210. CERTAIN COMPOUNDS OF LANTHANUM PHOSPHATES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.03 | Lanthanum phosphate (CAS No. 13778–59–1) (provided for in subheading 2846.90.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1211. CERTAIN COMPOUNDS OF YTTRIUM EUROPIUM OXIDE COPRECIPITATES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.04 | Mixtures or coprecipitates of yttrium oxide (CAS No. 1314–36–9) and europium oxide (CAS No. 1308–96–9) having a yttrium oxide content of at least 90 percent (provided for in subheading 2846.90.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1212. CERTAIN COMPOUNDS OF LANTHANUM, CERIUM, AND TERBIUM PHOSPHATES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.05 | Mixtures or coprecipitates of lanthanum phosphate, cerium phosphate, and terbium phosphate (CAS Nos. 13778–59–1, 13454–71–2, and 13863–48–4 or 95823–34–0) (provided for in subheadings 2846.10.00 and 2846.90.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1213. CERTAIN COMPOUNDS OF YTTRIUM CERIUM PHOSPHATES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.06 | Mixtures or coprecipitates of yttrium phosphate (CAS No. 13990–54–0) and cerium phosphate (CAS No. 13454–71–2) (provided for in subheadings 2846.10.00 and 2846.90.80) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1214. CANNED, BOILED OYSTERS, NOT SMOKED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.07 | Oysters (other than smoked), prepared or preserved (provided for in subheading 1605.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1215. BOOTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.08 | Boots constructed by hand of natural rubber, the foregoing with steel toes and incorporating ballistic nylon for cut protection, with self-cleaning lug soles or with "caulked" soles for slip and fall protection (provided for in subheading 6401.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1216. VINYLIDENE CHLORIDE-METHYL METHACRYLATE-ACRYLONITRILE COPOLYMER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.09 | Vinylidene chloride-methyl methacrylate-acrylonitrile copolymer (CAS No. 25214–39–5) (provided for in subheading 3904.50.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1217. 1-PROPENE, 1,1,2,3,3,3-HEXAFLUORO-, OXIDIZED, POLYMERIZED, REDUCED HYDROLYZED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.10 | 1-Propene, 1,1,2,3,3,3-hexafluoro-, oxidized, polymerized, reduced hydrolyzed (CAS No. 161075–14–5) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1218. 1-PROPENE,1,1,2,3,3,3-HEXAFLUORO-, OXIDIZED, POLYMERIZED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.11 | 1-Propene, 1,1,2,3,3,3-hexafluoro-, oxidized, polymerized (CAS No. 69991–67–9) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1219. 1-PROPENE, 1,1,2,3,3,3-HEXAFLUORO-, TELOMER WITH CHLOROTRIFLUOROETHENE, OXIDIZED, REDUCED, ETHYL ESTER, HYDROLYZED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.12 | 1-Propene, 1,1,2,3,3,3,-hexafluoro-, telomer with chlorotrifluoroethene, oxidized, reduced, ethyl ester, hydrolyzed (CAS No. 220182–27–4) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1220. INFRARED ABSORBING DYE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.13 | 1H-Benz[e]indolium, 2-[2-[2-chloro-3-[(1,3-dihydro-1,1,3-trimethyl-2H-benz[e]indol-2-ylidene)ethylidene]-1-cyclohexen-1-yl]ethenyl]-1,1,3-trimethyl-, salt with 4-methylbenzenesulfonic acid (1:1) (CAS No. 134127–48–3) (provided for in subheading 2934.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1221. 1,1,2-2-TETRAFLUOROETHENE, OXIDIZED, POLYMERIZED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.14 | 1,1,2-2-Tetrafluoroethene, oxidized, polymerized (CAS No. 69991–61–3) (provided for in subheading 3907.20.00) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1222. METHOXYCARBONYL-TERMINATED PERFLUORINATED POLYOXYMETHYLENE-POLYOXYETHYLENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.15 | Methoxycarbonyl-terminated perfluorinated polyoxymethylene-polyoxyethylene (CAS No. 107852–49–3) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1223. ETHENE, TETRAFLUORO, OXIDIZED, POLYMERIZED, REDUCED, DECARBOXYLATED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.16 | Ethene, tetrafluoro, oxidized, polymerized, reduced, decarboxylated (CAS No. 161075–02–1) (provided for in subheading 3824.90.91) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1224. ETHENE, TETRAFLUORO, OXIDIZED, POLYMERIZED REDUCED, METHYL ESTERS, REDUCED, ETHOXYLATED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.17 | Ethene, tetrafluoro, oxidized, polymerized reduced, methyl esters, reduced, ethoxylated (CAS No. 162492–15–1) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1225. OXIRANEMETHANOL, POLYMERS WITH REDUCED METHYL ESTERS OF REDUCED POLYMERIZED OXIDIZED TETRAFLUOROETHYLENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.18 | Oxiranemethanol, polymers with reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene (CAS No. 156559–18–1) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1226. ETHENE, TETRAFLUORO, OXIDIZED, POLYMERIZED REDUCED, METHYL ESTERS, REDUCED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.19 | Ethene, tetrafluoro, oxidized, polymerized reduced, methyl esters, reduced (CAS No. 88645–29–8) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1227. CERTAIN LIGHT-ABSORBING PHOTO DYES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.20 | Morpholine, 4-[4,5-dihydro-4-[3-[5-hydroxy-1-methyl-3-(4-morpholinylcarbonyl)-1H-pyrazol-4-yl]-2-propenylidene]-1-methyl-5-oxo-1H-pyrazol-3-yl]carbonyl]-, potassium salt (CAS No. 183196–57–8) (provided for in subheading 2934.99.90); 1,4-benzenedisulfonic acid, 2-[4-[5-[1-(2,5-disulfophenyl)-1,5-dihydro-3-[(methylamino)carbonyl]-5-oxo-4H-pyrazol-4-ylidene]-3-(2-oxo-1-pyrrolidinyl)-1,3-pentadienyl]-5-hydroxy-3-[(methylamino)carbonyl]-1H-pyrazol-1-yl]-, pentapotassium salt (CAS No. 202482–44–8) (provided for in subheading 2933.79.08) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1228. CERTAIN SPECIALTY MONOMERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.21 | 3,4-Dimethylbenzene, 1,1′-[2,2,2-trifluoro-1-(trifluoromethyl)ethylidene]bis- (CAS No. 65294–20–4) (provided for in subheading 2903.69.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1229. SUSPENSION OF DUTY ON EXOFLEX F BX7011.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.22 | 1,4-Benzenedicarboxylic acid, dimethyl ester, polymer with 1,4-butanediol and hexanedioic acid (CAS No. 55231–08–8) (provided for in subheading 3907.99.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1230. TRIPHENYL PHOSPHINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.23 | Triphenyl phosphine (CAS No. 603–35–0) (provided for in subheading 2931.00.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1231. CERTAIN GOLF BAG BODIES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.24 | Golf bag bodies made of woven fabrics of nylon or polyester, sewn together with rainhoods, pockets, dividers, and graphite shaft protection (provided for in subheading 6307.90.98) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1232. DICHLORPROP-P ACID, DICHLORPROP-P DIMETHYLAMINE SALT, AND DICHLORPROP-P 2-ETHYLHEXYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.25 | (+)-(R)-2-(2,4-Dichlorophenoxy) propanoic acid (CAS No. 15165–67–0); (+)-(R)-2-(2,4-dichlorophenoxy) propanoic acid, 2-ethylhexyl ester (CAS No. 79270–78–3) (provided for in subheading 2918.90.20), and (+)-(R)-2-(2,4-dichlorophenoxy)propanoic acid, dimethylamine salt (CAS No. 104786–87–0) (provided for in subheading 2921.19.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1233. 2,4-DB ACID AND 2,4-DB DIMETHYLAMINE SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.26 | 4-(2,4-Dichlorophenoxy) butyric acid (CAS No. 94–82–6) (provided for in subheading 2918.90.20); and 4-(2,4-dichlorophenoxy)butyric acid, dimethylamine salt (CAS No. 2758–42–1) (provided for in subheading 2921.19.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1234. FILAMENT FIBER TOW OF RAYON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.27 | Filament tow of rayon (provided for in heading 5502.00.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1235. PARTS FOR USE IN THE MANUFACTURE OF CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.28 | Parts (provided for in subheading 8518.90.80) certified by the importer as for use exclusively in the manufacture of loudspeakers which (when not mounted in their enclosures) meet a performance standard of not more than 1.5 dB for the average level of 3 or more octave bands when tested in a reverberant chamber ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1236. CERTAIN PLASTIC LAMP-HOLDER HOUSINGS CONTAINING SOCKETS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.29 | Lamp-holder housings of plastics, containing sockets (provided for in subheading 8536.61.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1237. CERTAIN PORCELAIN LAMP-HOLDER HOUSINGS CONTAINING SOCKETS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.30 | Lamp-holder housings of porcelain, containing sockets (provided for in subheading 8536.61.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1238. CERTAIN ALUMINUM LAMP-HOLDER HOUSINGS CONTAINING SOCKETS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.31 | Lamp-holder housings of aluminum, containing sockets (provided for in subheading 8536.61.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1239. CERTAIN BRASS LAMP-HOLDER HOUSINGS CONTAINING SOCKETS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.32 | Lamp-holder housings of brass, containing sockets (provided for in subheading 8536.61.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1240. STAPLE FIBERS OF VISCOSE RAYON, NOT CARDED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.33 | Staple fibers of viscose rayon, not carded, combed, or otherwise processed for spinning, measuring 1.67 to 16.67 decitex and having a fiber length each measuring 20 mm or more but not over 150 mm (provided for in subheading 5504.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1241. STAPLE FIBERS OF RAYON, CARDED, COMBED, OR OTHERWISE PROCESSED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.34 | Staple fibers of rayon, carded, combed, or otherwise processed for spinning, the foregoing presented in the form of top (provided for in heading 5507.00.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1242. MINI DVD CAMCORDER WITH 680K PIXEL CCD.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.35 | Camcorders each capable of recording and reproducing video images on mini-DVD media in all the following formats: DVD–R, DVD–RW, DVD–RAM, or DVD+RW, the foregoing each with 25 power optical zoom and a lens diameter of 34 mm (provided for in subheading 8525.40.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1243. MINI DVD CAMCORDER WITH 20G HDD.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.36 | Camcorders each capable of recording and reproducing video images on mini-DVD media in all the following formats: DVD–R, DVD–RW, DVD–RAM, or DVD+RW, the foregoing each with an internal 20 gigabyte (20G) hard disk drive and a USB 2.0 port (provided for in subheading 8525.40.80) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1244. METAL HALIDE LAMP.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.37 | Metal halide lamps designed for use in video projectors (provided for in subheading 8539.32.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1245. HAND-HELD ELECTRONIC CAN OPENERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.38 | Hand-held electromechanical can openers, with self-contained electric motor (provided for in subheading 8509.80.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1246. ELECTRIC KNIVES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.39 | Electromechanical knives, with self-contained electric motor (provided for in subheading 8509.80.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1247. TOASTER OVENS WITH SINGLE-SLOT TRADITIONAL TOASTER OPENING ON TOP OF OVEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.40 | Electrothermic toaster ovens, each incorporating a single-slot toaster opening on top of the oven (provided for in subheading 8516.72.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1248. ICE SHAVERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.41 | Electromechanical ice shavers, with self-contained electric motor (provided for in subheading 8509.40.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1249. DUAL-PRESS SANDWICH MAKERS WITH FLOATING UPPER LID AND LOCK.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.42 | Dual-grid electric sandwich grillers, each with lock and floating upper lid (provided for in subheading 8516.60.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1250. ELECTRIC JUICE EXTRACTORS GREATER THAN 300 WATTS BUT LESS THAN 400 WATTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.43 | Electromechanical juice extractors, each with a self-contained 2-speed electric motor rated over 300 W but not over 400 W (provided for in subheading 8509.40.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1251. ELECTRIC JUICE EXTRACTORS NOT LESS THAN 800 WATTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.44 | Electromechanical juice extractors, each with a self-contained 2-speed electric motor rated at 800 W or higher (provided for in subheading 8509.40.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1252. OPEN-TOP ELECTRIC INDOOR GRILLS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.45 | Open-top electric grills designed for indoor use (provided for in subheading 8516.60.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1253. AUTOMATIC DRIP COFFEEMAKERS OTHER THAN THOSE WITH CLOCKS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.46 | Electrothermic automatic drip coffeemakers without electronic clock, each with self-contained coffee holding chamber and designed to be used without separate carafe (provided for in subheading 8516.71.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1254. AUTOMATIC DRIP COFFEEMAKERS WITH ELECTRONIC CLOCKS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.47 | Electrothermic automatic drip coffeemakers each with electronic clock and with self-contained coffee holding chamber, the foregoing designed to be used without separate carafe (provided for in subheading 8516.71.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1255. ELECTRIC UNDER-THE-CABINET MOUNTING CAN OPENERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.48 | Electromechanical can openers, with self-contained electric motor, the foregoing designed to be mounted below kitchen cabinets (provided for in subheading 8509.80.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1256. DIMETHYL MALONATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.49 | Dimethyl malonate (CAS No. 108–59–8) (provided for in subheading 2917.19.70) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1257. LIGHTWEIGHT DIGITAL CAMERA LENSES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.50 | Lenses designed for digital cameras, the foregoing with focal length 55 mm or more but not over 200 mm and not exceeding 255.2 g in weight (provided for in subheading 9002.11.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1258. DIGITAL ZOOM CAMERA LENSES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.51 | Lenses designed for digital cameras, the foregoing with focal length 17 mm or more but not over 55 mm and not exceeding 765.5 g in weight (provided for in subheading 9002.11.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1259. COLOR FLAT PANEL SCREEN MONITORS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.52 | Color video monitors each having a flat panel screen, BNC input connection and video loop-thru connector, the foregoing with a video display diagonal of either 41.9 cm or more but not more than 44.5 cm, or 47 cm or more but not more than 49.5 cm (provided for in subheading 8528.21.70) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1260. COLOR MONITORS WITH A VIDEO DISPLAY DIAGONAL OF 35.56 CM OR GREATER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.53 | Color video monitors each having a cathode-ray tube and a video display diagonal exceeding 35.56 cm (provided for in subheading 8528.21.39) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1261. COLOR MONITORS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.54 | Color video monitors, each having a cathode-ray tube and a video display diagonal of more than 34.29 cm but not more than 35.56 cm (provided for in subheading 8528.21.29) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1262. BLACK AND WHITE MONITORS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.55 | Black and white or other monochrome monitors with cathode-ray tubes, the foregoing each with a video display diagonal of either 21.6 cm or more but not more than 24.1 cm, 29.2 cm or more but not more than 31.8 cm or 41.9 cm or more but not more than 44.5 cm (provided for in subheading 8528.22.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1263. 6 V LEAD-ACID STORAGE BATTERIES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.56 | 6 V lead-acid storage batteries with a maximum length of 8.89 cm, maximum width of 5.08 cm and maximum height of 11.43 cm, rated at less than 10 ampere-hours, certified by the importer as intended for use as the auxiliary source of power for burglar or fire alarms and similar apparatus of subheading 8531.10.00 (provided for in subheading 8507.20.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1264. ZIRCONYL CHLORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.57 | Zirconium oxychloride (zirconyl chloride or zirconium dichloride oxide) (CAS No. 15461–27–5) (provided for in subheading 2827.49.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1265. NAPHTHOL AS-CA.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.58 | 5′-Chloro-3-hydroxy-2′-methoxy-2-naphthanilide (CAS No. 137–52–0) (provided for in subheading 2924.29.36) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1266. NAPHTHOL AS-KB.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.59 | 5′-Chloro-3-hydroxy-2′-methyl-2-naphthanilide (CAS No. 135–63–7) (provided for in subheading 2924.29.36) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1267. BASIC VIOLET 1.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.60 | Basic Violet 1 (CAS No. 8004–87–3) (provided for in subheading 3204.13.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1268. BASIC BLUE 7.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.61 | Basic Blue 7 (CAS No. 2390–60–5) (provided for in subheading 3204.13.80) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1269. 3-AMINO-4-METHYLBENZAMIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.63 | 3-Amino-4-methylbenzamide (CAS No. 19406–86–1) (provided for in subheading 2924.29.76) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1270. ACETOACETYL-2,5-DIMETHOXY-4-CHLOROANILIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.64 | Acetoacetyl-2,5-dimethoxy-4-chloroanilide (CAS No. 4433–79–8) (provided for in subheading 2924.29.76) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1271. PHENYL SALICYLATE (BENZOIC ACID, 2-HYDROXY-, PHENYL ESTER).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.65 | Phenyl salicylate (benzoic acid, 2-hydroxy-, phenyl ester) (CAS No. 118–55–8) (provided for in subheading 2918.23.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1272. SYNTHETIC INDIGO POWDER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.66 | Synthetic indigo powder, (3H-indol-3-one, 2-(1,3-dihydro-3-oxo-2H-indol-2-ylidene)-1,2-dihydro-) (CAS No. 482–89–3) (provided for in subheading 3204.15.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1273. 1,3,5-TRIAZINE-2,4-DIAMINE, 6-[2-(2-METHYL-1H-IMIDAZOL-1-YL)ETHYL]-.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.67 | 1,3,5-Triazine-2,4-diamine, 6-[2-(2-methyl-1H-imidazol-1-yl)ethyl]- (CAS No. 38668–46–1) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1274. 50/50 MIXTURE OF 1,3,5-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE, 1,3,5-TRIS[(2R)-OXIRANYLMETHYL]- AND 1,3,5,-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE, 1,3,5-TRIS[(2S)-OXIRANYLMETHYL]-.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.68 | 50/50 Mixture of 1,3,5-triazine-2,4,6(1H,3H,5H)-trione, 1,3,5-tris[(2R)-oxiranylmethyl]- and 1,3,5,-triazine-2,4,6(1H,3H,5H)-trione, 1,3,5-tris[(2S)-oxirianylmethyl]- (CAS Nos. 240408–78–0 and 240408–81–5) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1275. 9H-THIOXANTHENE-2-CARBOXALDEHYDE, 9-OXO-, 2-(O-ACETYLOXIME).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.69 | 9H-Thioxanthene-2-carboxaldehyde, 9-oxo-, 2-(o-acetyloxime) (CAS No. 362624–80–4) (provided for in subheading 2934.99.39) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1276. 1H-IMIDAZOLE, 2-ETHYL-4-METHYL-.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.70 | 1H-Imidazole, 2-ethyl-4-methyl- (CAS No. 931–36–2) (provided for in subheading 2933.29.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1277. 1H-IMIDAZOLE-4-METHANOL, 5-METHYL-2-PHENYL-.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.71 | 1H-Imidazole-4-methanol, 5-methyl-2-phenyl- (CAS No. 13682–32–1) (provided for in subheading 2933.29.90) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1278. 4-CYCLOHEXENE-1,2-DICARBOXYLIC ACID, COMPD. WITH 1,3,5-TRIAZINE-2,4,6-TRIAMINE (1:1).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.72 | 4-Cyclohexene-1,2-dicarboxylic acid, compd. with 1,3,5-triazine-2,4,6-triamine (1:1) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1279. 1,3,5,-TRIAZINE-2,4-DIAMINE, 6-[2-(2-UNDECYL-1H-IMIDAZOL-1-YL)ETHYL]-.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.73 | 1,3,5,-Triazine-2,4-diamine, 6-[2-(2-undecyl-1H-imidazol-1-yl)ethyl]- (CAS No. 50729–75–4) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1280. CERTAIN FOOTWEAR VALUED OVER $20 A PAIR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.74 | Footwear (other than for men or women, and other than vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, whose height from the bottom of the outer sole to the top of the upper does not exceed 7 inches (17.78 cm), designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6402.91.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1281. CERTAIN WOMEN'S FOOTWEAR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.75 | Women's footwear with outer soles and uppers of rubber or plastics (except footwear of vulcanized rubber and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, covering the ankle, whose height from the bottom of the outer sole to the top of the upper does not exceed 8 inches (20.32 cm), such footwear designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6402.91.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1282. CERTAIN MEN'S FOOTWEAR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.76 | Men's footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, whose height from the bottom of the outer sole to the top of the upper does not exceed 8 inches (20.32 cm), designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6402.91.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1283. CERTAIN MEN'S FOOTWEAR VALUED OVER $20 A PAIR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.77 | Men’s footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6402.99.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1284. CERTAIN WOMEN’S FOOTWEAR VALUED OVER $20 A PAIR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.78 | Women’s footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6402.99.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1285. CERTAIN OTHER FOOTWEAR VALUED OVER $20 A PAIR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.79 | Footwear (other than for men or women, and other than vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6402.99.20) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1286. CERTAIN FOOTWEAR WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.80 | Footwear (other than for men or women and other than vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, not covering the ankle, designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6404.19.20) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1287. CERTAIN OTHER FOOTWEAR COVERING THE ANKLE WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.81 | Footwear (other than for men or women, and other than vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, covering the ankle, whose height from the bottom of the outer sole to the top of the upper does not exceed 7 inches (17.78 cm), designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6404.19.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1288. CERTAIN WOMEN’S FOOTWEAR COVERING THE ANKLE WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.82 | Women’s footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, covering the ankle, whose height from the bottom of the outer sole to the top of the upper does not exceed 8 inches (20.32 cm), such footwear designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6404.19.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1289. CERTAIN WOMEN’S FOOTWEAR NOT COVERING THE ANKLE WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.83 | Women's footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, not covering the ankle, designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6404.19.20) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1290. FELT-BOTTOM BOOTS FOR USE IN FISHING WADERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.84 | Vulcanized rubber felt-bottom boots for actual use in fishing waders (provided for in subheading 6405.90.90) .. | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1291. LUG BOTTOM BOOTS FOR USE IN FISHING WADERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.85 | Vulcanized rubber lug bottom boots for actual use in fishing waders (provided for in subheading 6401.92.90) .. | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1292. CERTAIN PARTS AND ACCESSORIES FOR MEASURING OR CHECKING INSTRUMENTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.23.86 | Parts or accessories of instruments or apparatus for measuring or checking electrical quantities, such instruments or apparatus specially designed for telecommunications (provided for in subheading 9030.90.88) (but not including subassemblies containing one or more printed circuit assemblies for such instruments or apparatus (provided for in subheading 9030.90.88)) ... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1293. CERTAIN PRINTED CIRCUIT ASSEMBLIES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.87 | Printed circuit assemblies for instruments or apparatus for measuring or checking electrical quantities, such instruments or apparatus specially designed for telecommunications (provided for in subheading 9030.90.68) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1294. CERTAIN SUBASSEMBLIES FOR MEASURING EQUIPMENT FOR TELECOMMUNICATIONS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.88 | Subassemblies containing one or more printed circuit assemblies for instruments or apparatus for measuring or checking electrical quantities, such instruments or apparatus specially designed for telecommunications (provided for in subheading 9030.90.88) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1295. CHLORONEB.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.89 | 1,4-Dichloro-2,5-dimethoxybenzene (Chloroneb) (CAS No. 2675–77–6) (provided for in subheading 2909.30.30) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1296. P-NITROBENZOIC ACID (PNBA).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.90 | p-Nitrobenzoic acid (CAS No. 62–23–7) (provided for in subheading 2916.39.75) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1297. ALLYL PENTAERYTHRITOL (APE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.91 | Allyl pentaerythritol (CAS No. 91648–24–7) (provided for in subheading 2909.49.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1298. BUTYL ETHYL PROPANEDIOL (BEP).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.92 | 2-Butyl-2-ethylpropane-1,3-diol (CAS No. 115–84–4) (provided for in subheading 2905.39.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1299. BEPD70L.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.93 | Mixture of 2-butyl-2-ethylpropane-1,3-diol (CAS No. 115–84–4) and neopentyl glycol (CAS No. 126–30–7) (provided for in subheading 3824.90.91) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1300. BOLTORN-1 (BOLT-1).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.94 | Polymers of propanoic acid, 3-hydroxy-2-(hydroxymethyl)–2-methyl-with 2,2-bis(hydroxymethyl)–1,3-propanediol and oxirane (CAS No. 326794–48–3) (provided for in subheading 3907.99.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1301. BOLTORN-2 (BOLT-2).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.95 | Polymer of propanoic acid, 3-hydroxy-2-(hydroxymethyl)–2-methyl-polymer with 2,2-bis(hydroxymethyl)–1,3-propanediol and oxirane, decanoate octanoate (CAS No. 326794–49–4) (provided for in subheading 3907.99.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1302. CYCLIC TMP FORMAL (CTF).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.96 | 1,3-Dioxane-5-methanol, 5-ethyl- (CAS No. 5187–23–5) (provided for in subheading 2932.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1303. DITMP.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.97 | Ditrimethylol propane (CAS No. 23235–61–2) (provided for in subheading 2909.49.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1304. POLYOL DPP (DPP).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.98 | Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-ether with 2,2'-(oxybis(methylene)) bis(2-hydroxymethyl)–1,3-propanediol) (6:1) (CAS No. 50977–32–7) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1305. HYDROXYPIVALIC ACID (HPA).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.23.99 | Hydroxypivalic acid (CAS No. 4835–90–9) (provided for in subheading 2918.19.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1306. TMPDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.01 | Trimethylolpropane diallyl ether (CAS No. 682–09–7) (provided for in subheading 2909.49.60) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1307. TMPME.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.02 | Trimethylolpropane monoallyl ether (CAS No. 682–11–1) (provided for in subheading 2909.49.60) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1308. TMP OXETANE (TMPO).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.03 | 3-Ethyl-3-oxetanemethanol (trimethylolpropane oxetane) (CAS No. 3047–32–3) (provided for in subheading 2932.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1309. TMPO ETHOXYLATE (TMPOE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.04 | Poly(oxy-1,2-ethanediyl), α-((3-ethyl-3-oxetanyl) methyl)-ω-hydroxy- (CAS No. 76996–65–1) (provided for in subheading 3907.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1310. AMYL-ANTHRAQUINONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.05 | 9, 10-Anthracenedione, 2 pentyl- (CAS No. 13936–21–5) (provided for in subheading 2914.69.90) or in organic solution (provided for in subheading 3824.90.28) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1311. T-BUTYL ACRYLATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.06 | Acrylic acid, tert-butyl ester (CAS No. 1663–39–4) (provided for in subheading 2916.12.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1312. 3-CYCLOHEXENE-1-CARBOXYLIC ACID, 6-[(DI-2-PROPENYLAMINO)CARBONYL]-, REL-(1R,6R)-, REACTION PRODUCTS WITH PENTAFLUOROIODOETHANE-TETRAFLUOROETHYLENE TELOMER, AMMONIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.07 | 3-Cyclohexene-1-carboxylic acid, 6-[(di-2-propenylamino)carbonyl]-, rel-(1R,6R)-, reaction products with pentafluoroiodoethane-tetrafluoroethylene telomer, ammonium salt (CAS No. 392286–82–7) (provided for in subheading 3809.92.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1313. MIXTURES OF PHOSPHATE AMMONIUM SALT DERIVATIVES OF A FLUOROCHEMICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.08 | 5,5-Bis[(γ,ω-perfluoro(C4–20)alkylthio)methyl]-2-hydroxy-2-oxo-1,3,2-dioxaphosphorinane, ammonium salt (CAS No. 148240–85–1) and 2,2-bis[(γ,ω-perfluoro(C4–20)alkylthio)methyl]-3-hydroxypropyl phosphate, diammonium salt (CAS No. 148240–87–3) and di-[2,2-bis[(γ,ω-perfluoro(C4–20)alkylthio)methyl]]-3-hydroxypropyl phosphate, ammonium salt (CAS No. 148240–89–5) and 2,2-bis[(γ,ω-perfluoro(C4–20)alkylthio)methyl]-1,3-di-(dihydrogenphosphate)propane, tetraammonium salt (provided for in subheading 3809.92.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1314. 1-(3H)-ISOBENZOFURANONE, 3,3-BIS(2-METHYL-1-OCTYL-1H-INDOL-3-YL)-.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.09 | 1-(3H)-Isobenzofuranone, 3,3-bis(2-methyl-1-octyl-1H-indol-3-yl)- (CAS No. 50292–95–0) (provided for in subheading 3204.19.40) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1315. MIXTURE OF POLY[[6-[(1,1,3,3-TETRAMETHYLBUTYL)AMINO]-1,3,5-TRIAZINE-2,4-DIYL] [2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)IMINO]-1,6-HEXANEDIYL[(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)IMINO]]) AND BIS(2,2,6,6-TETRAMETHYL-4-PIPERIDYL) SEBACATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.10 | Mixture of poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-1,3,5-triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidinyl)imino]-1,6-hexanediyl[(2,2,6,6-tetramethyl-4-piperidinyl)imino]]) and bis(2,2,6,6-tetramethyl-4-piperidyl) sebacate (CAS Nos. 71878–19–8 and 52829–07–9) (provided for in subheading 3812.30.90) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1316. CERTAIN BITUMEN-COATED POLYETHYLENE SLEEVES SPECIFICALLY DESIGNED TO PROTECT IN-GROUND WOOD POSTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.11 | Bitumen-coated shrink-wrap polyethylene boots for the protection of in-ground wood posts (provided for in subheading 3926.90.98) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1317. NYLON WOOLPACKS USED TO PACKAGE WOOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.12 | Sacks and bags, of undyed woven fabric of nylon multifilament yarns not to exceed 10 decitex, used for packing wool for transport, storage, or sale (provided for in subheading 6305.39.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1318. MAGNESIUM ZINC ALUMINUM HYDROXIDE CARBONATE HYDRATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.13 | Magnesium zinc aluminum hydroxide carbonate hydrate (CAS No. 169314–88–9) coated with an organic fatty acid (provided for in subheading 3812.30.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1319. C12–18 ALKENES.**

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.14 | C12–18 alkenes, polymers (TPX) with 4-methyl-1-pentene (CAS Nos. 25155–83–3, 81229–87–0, and 103908–22–1) (provided for in subheading 3902.90.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

(b) CONFORMING AMENDMENT.—Subchapter II of chapter 99 is amended by striking heading 9902.03.86.

**SEC. 1320. ACRYPET UT100.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.15 | 2-Propenoic acid, 2-methyl-, methyl ester, polymer with 1-cyclohexyl-1*H*-pyrrole-2,5-dione,ethenylbenzene and (1-methylethenyl)benzene (CAS No. 107194–09–2) (provided for in subheading 3906.90.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1321. 5-AMINO-1-[2,6-DICHLORO-4-(TRIFLUOROMETHYL)PHENYL]-4-[(1R,S)–(TRIFLUOROMETHYL)-SULFINYL]-1H-PYRAZOLE-3-CARBONITRILE (FIPRONIL).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.16 | 5-Amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)–(trifluoromethyl)-sulfinyl]-1H-pyrazole-3-carbonitrile (Fipronil) (CAS No. 120068–37–3) (provided for in subheading 2933.19.23) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1322. 2,3-PYRIDINEDICARBOXYLIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.17 | 2,3-Pyridinedicarboxylic acid (CAS No. 89–00–9) (provided for in subheading 2933.39.61) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1323. MIXTURES OF 2-AMMINO-2,3-DIMETHYLBUTYLNITRILE AND TOLUENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.18 | Mixtures of 2-amino-2,3-dimethylbutanenitrile (CAS No. 13893–53–3) and toluene (provided for in subheading 3824.90.28) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1324. 2,3-QUINOLINEDICARBOXYLIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.19 | 2,3-Quinolinedicarboxylic acid (CAS No. 643–38–9) (provided for in subheading 2933.49.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1325. 3,5-DIFLUOROANILINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.20 | 3,5-Difluoroaniline (CAS No. 372–39–4) (provided for in subheading 2921.42.65) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1326. CLOMAZONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.21 | 2-[(2-Chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone (Clomazone) (CAS No. 81777–89–1) (provided for in subheading 2934.99.15) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1327. CHLOROPIVALOYL CHLORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.22 | 3-Chloropivaloyl chloride (CAS No. 4300–97–4) (provided for in subheading 2915.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1328. N,N′-HEXANE-1,6-DIYLBIS(3-(3,5-DI-TERT-BUTYL-4-HYDROXYPHENYLPROPIONAMIDE)).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.23 | N,N′-Hexane-1,6-diylbis(3-(3,5-di-tert-butyl-4-hydroxyphenylpropionamide)) (CAS No. 23128–74–7) (provided for in subheading 2924.29.31) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1329. REACTIVE RED 268.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.24 | Reactive Red 268 (CAS No. 152397–21–2) (provided for in subheading 3204.16.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1330. REACTIVE RED 270.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.25 | Reactive Red 270 (CAS No. 155522–05–7) (provided for in subheading 3204.16.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1331. CERTAIN GLASS THERMO BULBS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.26 | Liquid-filled glass bulbs designed for sprinkler systems and other release devices (provided for in subheading 7020.00.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1332. PYRIPROXYFEN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.27 | 2-[1-Methyl-2-(4-phenoxyphenoxy) ethoxy]pyridine (Pyriproxyfen) (CAS No. 95737–68–1) (provided for in subheading 2933.39.27) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1333. UNICONAZOLE-P.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.28 | (E)–(+)–(S)–1-(4-Chlorophenyl)–4,4-dimethyl-2-(1H-1,2,4-triazol-1-yl)pent-1-en-3-ol (Uniconazole-P) (CAS No. 83657–17–4) (provided for in subheading 2933.69.60) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1334. BISPYRIBAC-SODIUM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.29 | Sodium 2,6-bis[(4,6-dimethoxypyrimidin-2-yl)oxy]benzoate (Bispyribac-sodium) (CAS No. 125401–92–5) (provided for in subheading 2933.59.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1335. DINOTEFURAN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.30 | N-Methyl-N′ -nitro-N″ -[(tetrahydro-3-furanyl)methyl]guanidine (Dinotefuran) (CAS No. 165252–70–0) (provided for in subheading 2932.19.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1336. ETOXAZOLE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.31 | 2-(2,6-Difluorophenyl)–4-[4-(1,1-dimethylethyl)–2-ethoxyphenyl]-4,5-dihydrooxazole (Etoxazole) (CAS No. 153233–91–1) (provided for in subheading 2934.99.18) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1337. BIOALLETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.32 | [1RS-[1α(S*),3β]]-2-Methyl-4-oxo-3-(2-propenyl)–2-cyclopenten-1-yl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate (Bioallethrin) (CAS No. 584–79–2) (provided for in subheading 2916.20.50) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1338. S-BIOALLETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.33 | [1R-[1a(S*),3b]]-2-Methyl-4-oxo-3-(2-propenyl)–2-cyclopenten-1-yl 2,2-dimethyl-3-(2-methylprop-1-enyl)cyclopropane carboxylate (S-Bioallethrin) (CAS No. 28434–00–6) (provided for in subheading 2916.20.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1339. TETRAMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.34 | (1,3,4,5,6,7-Hexahydro-1,3-dioxo-2H-isoindol-2-yl)methyl 2,2-dimethyl-3-(2-methylprop-1-enyl)cyclopropane carboxylate (CAS No. 7696–12–0) (Tetramethrin) (provided for in subheading 2925.19.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1340. TRALOMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.35 | Cyano(3-phenoxyphenyl)methyl 2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)-cyclopropanecarboxylate (Tralomethrin) (CAS No. 66841–25–6) and application adjuvants (provided for in subheading 3808.10.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1341. FLUMICLORAC-PENTYL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.36 | Pentyl [2-chloro-5-(cyclohex-1-ene-1,2-dicarboximido)–4-fluorophenoxy]acetate (Flumiclorac-pentyl) (CAS No. 87547–04–4) (provided for in subheading 2926.90.25) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1342. 1-PROPENE-2-METHYL HOMOPOLYMER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.37 | 1-Propene-2-methyl homopolymer (CAS No. 9003–27–4) (provided for in subheading 3902.30.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1343. ACRONAL-S-600.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.38 | 2-Propenoic acid, polymer with ethenylbenzene and 2-ethylhexyl 2-propenoate (CAS No. 25085–19–2) (provided for in subheading 3903.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1344. LUCIRIN TPO.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.39 | Diphenyl (2,4,6-trimethylbenzoyl) phosphine oxide (CAS No. 75980–60–8) (provided for in subheading 2931.00.30) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1345. SOKALAN PG IME.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.40 | 1H-Imidazole, polymer with (chloromethyl) oxirane (CAS No. 68797–57–9) (provided for in subheading 3911.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1346. LYCOPENE 10 PERCENT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.41 | Lycopene 10 percent (CAS No. 502–65–8) (provided for in subheading 2106.90.95) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1347. MIXTURES OF CAS NOS. 181274–15–7 AND 208465–21–8.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.42 | Mixtures of methyl 2-(4,5-dihydro-4-methyl-5-oxo-3-propoxy-1H-1,2,4-triazol-1-yl) carboxamidosulfonylbenzoate, sodium salt (Propoxycarbazone-sodium) (CAS No. 181274–15–7), 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]-α-(methanesulfonamido)-p-toluic acid, methyl ester (Mesosulfuron-methyl) (CAS No. 208465–21–8), and application adjuvants (provided for in subheading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1348. 2-METHYL-1-[4-(METHYLTHIO)PHENYL]-2-(4-MORPHOLINYL)–1-PROPANONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.43 | 2-Methyl-1-[4-(methylthio)phenyl]-2-(4-morpholinyl)–1-propanone (CAS No. 71868–10–5) (provided for in subheading 2934.99.39) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1349. 1,6-HEXANEDIAMINE, N,N- BIS(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-, POLYMER WITH 2,4,6-TRICHLORO-1,3,5-TRIAZINE, REACTION PRODUCTS WITH N-BUTYL-1-BUTANAMINE AND N-BUTYL- 2,2,6,6-TETRAMETHYL-4-PIPERIDINAMINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.44 | 1,6-Hexanediamine, N,N-bis(2,2,6,6-tetramethyl-4-piperidinyl)-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with N-butyl-1-butanamine and N-butyl-2,2,6,6-tetramethyl-4-piperidinamine (CAS No. 192268–64–7) (provided for in subheading 3911.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1350. VAT BLACK 25.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.45 | Vat Black 25 (CAS No. 4395–53–3) (provided for in subheading 3204.15.80) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1351. ACID ORANGE 162.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.46 | Acid Orange 162 (CAS No. 73612–40–5) (provided for in subheading 3204.12.45) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1352. METHYL SALICYLATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.47 | Methyl salicylate (CAS No. 119–36–8) (provided for in subheading 2918.23.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1353. 1,2-OCTANEDIOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.48 | 1,2-Octanediol (CAS No. 1117–86–8) (provided for in subheading 2905.39.90) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1354. MENTHONE GLYCERIN ACETAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.49 | Menthone glycerin acetal (CAS No. 63187–91–7) (provided for in subheading 2932.99.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1355. PONTAMINE GREEN 2B.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.50 | Dyestuff containing as active ingredient 2,7-naphthalenedisulfonic acid, 3,3'-[carbonylbis(imino-4,1-phenyleneazo)]bis[4-amino-5-hydroxy-6-(phenylazo)-, tetrasodium salt (CAS No. 59262–64–5) (provided for in subheading 3204.14.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1356. BAYDERM BOTTOM 10 UD.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.51 | Aqueous polyurethane dispersions containing 29 percent to 31 percent solids content of hexanedioic acid, polymer with N-(2-aminoethyl)–1,2-ethanediamine, 2-butene-1,4-diol, 1,6-diisocyanatohexane, 1,2-ethanediol, 1,3-isobenzofurandione, methyloxirane, oxirane and sodium hydrogen sulfite, 2-(2-butoxyethoxy)ethanol-blocked (CAS No. 100486–94–0) (provided for in subheading 3909.50.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1357. BAYDERM FINISH DLH.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.52 | Hexanedioic acid, polymer with 1,4-butanediol, 1,6-diisocyanatohexane and 1,6-hexanediol, 2-((2-aminoethyl)amino) ethanesulfonic acid, of 38 to 42 percent solids content in aqueous dispersion (CAS No. 68037–41–2) (provided for in subheading 3909.50.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1358. LEVAGARD DMPP.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.53 | Dimethyl propylphosphonate (CAS No. 18755–43–6) (provided for in subheading 2931.00.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1359. BAYDERM BOTTOM DLV.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.54 | Aqueous polyurethane dispersions containing 38 percent to 42 percent solids content of propanoic acid, 3-hydroxy-2-(hydroxymethyl)–2-methyl-, polymer with 2-[(2-aminoethyl) amino]ethanesulfonic acid, monosodium salt, 1,6-diisocyanatohexane, diphenyl carbonate, 1,2-ethanediamine, 1,6-hexanediol, hydrazine, methyloxirane, oxirane and 1,2-propanediol, 2-(2-butoxyethoxy)ethanol-blocked (CAS No. 137898–95–4) (provided for in subheading 3909.50.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1360. CERTAIN ETHYLENE-VINYL ACETATE COPOLYMERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.55 | Ethylene-vinyl acetate copolymers, other than those in aqueous dispersions, containing 50 percent or more by weight vinyl acetate monomer (CAS No. 24937–78–8) (provided for in subheading 3905.29.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1361. CYAZOFAMID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.56 | Mixtures of 4-chloro-2-cyano-N,N-dimethyl-5-(4-methylphenyl)–1H-imidazole-1-sulfonamide (Cyazofamid) (CAS No. 120116–88–3) and application adjuvants (provided for in subheading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1362. FLONICAMID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.57 | N-(Cyanomethyl)–4-(trifluoromethyl)–3-pyridinecarboxamide (Flonicamid) (CAS No. 158062–67–0) (provided for in subheading 2933.39.27) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1363. ZETA-CYPERMETHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.58 | (S)-Cyano-(3-phenoxyphenyl)methyl (+)cis-3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate and (S)-cyano-(3-phenoxyphenyl)methyl (+)trans-3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate (Zeta-cypermethrin) (CAS No. 52315–07–8) (provided for in subheading 2926.90.30) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1364. 2-ETHYLHEXYL 4-METHOXYCINNAMATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.60 | 2-Ethylhexyl 4-methoxycinnamate (CAS No. 5466–77–3) (provided for in subheading 2918.90.43) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1365. CERTAIN FLAME RETARDANT PLASTICIZERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.61 | Plasticizers containing diphenyl cresyl phosphate (CAS No. 26444–49–5), triphenyl phosphate (CAS No. 115–86–6), tricresyl phosphate (CAS No. 1330–78–5), and phenyl dicresyl phosphate (CAS No. 26446–73–1) (provided for in subheading 3812.20.10) ..... | Free | No change | No change | On or before 12/31/2009 | |
| | 9902.24.62 | Phosphoric acid, tris (2-ethylhexyl) ester (CAS No. 78–42–2) (provided for in subheading 2919.00.50) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1366. BAYPURE DS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.63 | Polyaspartic acid, sodium salt, in aqueous solution (CAS No. 181828–06–8) (provided for in subheading 3911.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1367. BAYOWET C4.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.64 | 1,1,2,2,3,3,4,4,4-Nonafluorobutanesulfonic acid, potassium salt (CAS No. 29420–49–3) (provided for in subheading 2904.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1368. CERTAIN BICYCLE PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.65 | Bicycle speedometers (provided for in subheading 9029.20.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1369. OTHER CYCLES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.67 | Unicycles (provided for in subheading 8712.00.50) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1370. CERTAIN BICYCLE PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.68 | Sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle (provided for in subheading 8714.91.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1371. CERTAIN BICYCLE PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.71 | Brakes designed for bicycles (other than drum brakes, caliper and cantilever brakes, and coaster brakes) and parts thereof (provided in subheading 8714.94.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1372. (2-CHLOROETHYL)PHOSPHONIC ACID (ETHEPHON).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.73 | (2-Chloroethyl)phosphonic acid (Ethephon) (CAS No. 16672–87–0) (provided for in subheading 2931.00.90) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1373. PREPARATIONS CONTAINING 2-(1-(((3-CHLORO-2-PROPENYL)OXY)IMINO)PROPYL)–5-(2-(ETHYLTHIO)PROPYL)–3-HYDROXY-2-CYCLOHEXENE-1-ONE (CLETHODIM).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.74 | Preparations containing 2-(1-(((3-chloro-2-propenyl)oxy)imino)propyl)–5-(2-(ethylthio)propyl)–3-hydroxy-2-cyclohexene-1-one (Clethodim) (CAS No. 99129–21–2) and application adjuvants (provided for in subheading 3808.30.20) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1374. UREA, POLYMER WITH FORMALDEHYDE (PERGOPAK).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.75 | Urea, polymer with formaldehyde (Pergopak) (CAS No. 9011–05–6) (provided for in subheading 3909.10.00) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1375. ORTHO NITROANILINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.76 | 2-Nitroaniline (CAS No. 88–74–4) (provided for in subheading 2921.42.90) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1376. 2,2 -(2,5-THIOPHENEDIYL)BIS(5-(1,1-DIMETHYLETHYL)BENZOXAZOLE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.77 | 2,2 -(2,5-Thiophenediyl)bis(5-(1,1-dimethylethyl)benzoxazole) (CAS No. 7128–64–5) (provided for in subheading 3204.20.80) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1377. CERTAIN CHEMICALS AND CHEMICAL MIXTURES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | |
|---|---|---|---|---|---|---|
| " | 9902.24.78 | 3-[(2-Chloro-5-thiazolyl) methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine (Thiamethoxam) (CAS No. 153719–23–4) (provided for in subheading 2934.10.90) ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.24.79 | Mixtures of (±)-(cis and trans)-1-(2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxalan-2-yl)methyl)-1H-1,2,4-triazole (Propiconazole) (CAS No. 60207–90–1) and 3-iodo-2-propynyl butylcarbamate (CAS No. 55406–53–6), and application adjuvants (provided for in subheading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.24.80 | Mixtures of 4,6-dimethyl-*N*-phenyl-2-pyrimidinamine (Pyrimethanil) (CAS No. 53112–28–0), (±)–1-[2-(2,4-dichlorophenyl)–2-(2-propenyloxy)ethyl]-1-*H*-imidazole sulfate (Imazalil Sulfate) (CAS No. 58595–72–2) and application adjuvants (provided for in subheading 3808.20.15) .... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.24.81 | (±)–3-[2-[4-(6-Fluoro-1,2-benzisoxazol-3-yl)–1-piperidinyl]ethyl]-6,7,8,9-tetrahydro-9-hydroxy-2-methyl-4*H*-pyrido[1,2-a]pyrimidin-4-one (CAS No. 144598–75–4) (provided for in subheading 2934.99.39) ..... | Free | No change | No change | On or before 12/31/2009 |
| | 9902.24.82 | 3-Benzo[b]thien-2-yl-5, 6-dihydro-1,4,2-oxathiazine 4-oxide (Bethoxazin) (CAS No. 163269–30–5) (provided for in subheading 2934.99.12) ..... | Free | No change | No change | On or before 12/31/2009 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.83 | 4-Bromo-2-(4-chlorophenyl)–1-(ethoxymethyl)–5-(trifluoromethyl)–1H-pyrrole-3-carbonitrile (Chlorfenapyr) (CAS No. 122453–73–0) (provided for in subheading 2933.99.17) ..... | Free | No change | No change | On or before 12/31/2009 | |
| | 9902.24.84 | 2-(*p*-Chlorophenyl)–3-cyano-4-bromo-5-trifluoromethylpyrrole (Tralopyril) (CAS No. 122454–29–9) (provided for in subheading 2933.99.22) ..... | Free | No change | No change | On or before 12/31/2009 | |
| | 9902.24.85 | Mixtures of 4,6-dimethyl-*N*- phenyl-2-pyrimidinamine (Pyrimethanil) (CAS No. 53112–28–0) and application adjuvants (provided for in subheading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1378. ACID RED 414.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.86 | Acid Red 414 (CAS No. 152287–09–7) (provided for in subheading 3204.12.45) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1379. SOLVENT YELLOW 163.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.87 | Solvent Yellow 163 (CAS No. 13676–91–0) (provided for in subheading 3204.19.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1380. 4-AMINO-3,6-BIS[[5-[[4-CHLORO-6-[METHYL[2-(METHYLAMINO)–2-OXOETHYL]AMINO]-1,3,5-TRIAZIN-2-YL]AMINO]-2-SULFOPHENYL]AZO]-5-HYDROXY-2,7-NAPHTHALENEDISULFONIC ACID, LITHIUM POTASSIUM SODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.88 | 4-Amino-3,6-bis[[5-[[4-chloro-6-[methyl[2-(methylamino)–2-oxoethyl]amino]-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]azo]-5-hydroxy-2,7-naphthalenedisulfonic acid, lithium potassium sodium salt (CAS No. 205764–96–1) (provided for in subheading 3204.16.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1381. REACTIVE RED 123.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.89 | Reactive Red 123 (CAS No. 85391–83–9) (provided for in subheading 3204.16.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1382. REACTIVE BLUE 250.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.90 | Reactive Blue 250 (CAS No. 93951–21–4) (provided for in subheading 3204.16.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1383. REACTIVE BLACK 5.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.91 | Reactive Black 5 (CAS No. 17095–24–8) (provided for in subheading 3204.16.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1384. 5-[(2-CYANO-4-NITROPHENYL)AZO]-2-[[2-(2-HYDROXYETHOXY)ETHYL]AMINO]-4-METHYL-6-(PHENYLAMINO)–3-PYRIDINECARBONITRILE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.93 | 5-[(2-Cyano-4-nitrophenyl)azo]-2-[[2-(2-hydroxyethoxy)ethyl]amino]-4-methyl-6-(phenylamino)–3-pyridinecarbonitrile (CAS No. 149988–44–3) (provided for in subheading 3204.11.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1385. CYANO[3-[(6-METHOXY-2-BENZOTHIAZOLYL)AMINO]-1H-ISOINDOL-1-YLIDENE]-ACETIC ACID, PENTYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.94 | Cyano[3-[(6-methoxy-2-benzothiazolyl)amino]-1H-isoindol-1-ylidene]acetic acid, pentyl ester (CAS No. 173285–74–0) (provided for in subheading 3204.11.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1386. [(9,10-DIHYDRO-9,10-DIOXO-1,4-ANTHRACENEDIYL)BIS[IMINO[3-(2-METHYLPROPYL)–3,1-PROPANEDIYL]]]BISBENZENESULFONIC ACID, DISODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.95 | [(9,10-Dihydro-9,10-dioxo-1,4-anthracenediyl)bis[imino[3-(2-methylpropyl)–3,1-propanediyl]]] bisbenzenesulfonic acid, disodium salt (CAS No. 72749–90–7) (provided for in subheading 3204.12.20) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1387. [4-(2,6-DIHYDRO-2,6-DIOXO-7-PHENYLBENZO[1,2-B:4,5-B′]DIFURAN-3-YL)PHENOXY]ACETIC ACID, 2-ETHOXYETHYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.96 | [4-(2,6-Dihydro-2,6-dioxo-7-phenylbenzo[1,2-b:4,5-b′]difuran-3-yl)phenoxy]acetic acid, 2-ethoxyethyl ester (CAS No. 126877–05–2) (provided for in subheading 3204.11.35) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1388. 3-PHENYL-7-(4-PROPOXYPHENYL)BENZO[1,2-B:4,5-B′]DIFURAN-2,6-DIONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.97 | 3-Phenyl-7-(4-propoxyphenyl)benzo[1,2-b:4,5-b′]difuran-2,6-dione (CAS No. 79694–17–0) (provided for in subheading 3204.11.35) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1389. 2-[[[2, 5-DICHLORO-4-[(2-METHYL-1H-INDOL-3-YL)AZO]PHENYL]SULFONYL]AMINO]-ETHANESULFONIC ACID, MONOSODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.98 | 2-[[[2, 5-Dichloro-4-[(2-methyl-1H-indol-3-yl)azo]phenyl] sulfonyl]amino]-ethanesulfonic acid, monosodium salt (CAS No. 68959–19–3) (provided for in subheading 3204.12.45) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1390. 2,7-NAPHTHALENEDISULFONIC ACID, 5-[[4-CHLORO-6-[(3-SULFOPHENYL)AMINO]-1,3,5-TRIAZIN-2-YL]AMINO]-4-HYDROXY-3-[[4-[[2-(SULFOXY)ETHYL]SULFONYL]PHENYL]AZO]-, SODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.99 | 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[(3-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-4-hydroxy-3-[[4-[[2-(sulfoxy)ethyl] sulfonyl]phenyl]azo]-, sodium salt. (CAS No. 78952–61–1) (provided for in subheading 3204.16.30) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1391. 7-[[2-[(AMINOCARBONYL)AMINO]-4-[[4-[4-[2-[[4-[[3-[(AMINOCARBONYL) AMINO]-4-[(3,6,8-TRISULFO-2-NAPHTHALENYL)AZO]PHENYL]AMINO]-6-CHLORO-1,3,5-TRIAZIN-2-YL]AMINO]ETHYL]- 1-PIPERAZINYL]-6-CHLORO-1,3,5-TRIAZIN-2-YL]AMINO]PHENYL]AZO]-1,3,6-NAPHTHALENETRISULFONIC ACID, LITHIUM POTASSIUM SODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.01 | 7-[[2-[(Aminocarbonyl)amino]-4-[[4-[4-[2-[[4-[[3-[(aminocarbonyl) amino]-4-[(3,6,8-trisulfo-2-naphthalenyl) azo]phenyl]amino]-6-chloro-1,3,5-triazin-2-yl]amino]ethyl]- 1-piperazinyl]-6-chloro-1,3,5-triazin-2-yl]amino] phenyl]azo]-1,3,6-naphthalenetrisulfonic acid, lithium potassium sodium salt (CAS No. 202667–43–4) (provided for in subheading 3204.16.30) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1392. 4-[[3-(ACETYLAMINO)PHENYL]AMINO]-1-AMINO-9,10-DIHYDRO-9,10-DIOXO-2-ANTHRACENESULFONIC ACID, MONOSODIUM SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.02 | 4-[[3-(Acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid, monosodium salt (CAS No. 70571–81–2) (provided for in subheading 3204.12.45) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1393. [4-[2,6-DIHYDRO-2,6-DIOXO-7-(4-PROPOXYPHENYL)BENZO[1,2-B:4,5-B ]DIFURAN-3-YL]PHENOXY]ACETIC ACID, 2-ETHOXYETHYL ESTER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.03 | [4-[2,6-Dihydro-2,6-dioxo-7-(4-propoxyphenyl)benzo[1,2-b:4,5-b ]difuran-3-yl]phenoxy]acetic acid, 2-ethoxyethyl ester (CAS No. 126877–06–3) (provided for in subheading 3204.11.35) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1394. BASIC YELLOW 40 CHLORIDE BASED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.04 | Basic Yellow 40 chloride based (CAS No. 29556–33–0) (provided for in subheading 3204.13.10) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1395. DIRECT YELLOW 119.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.05 | Direct Yellow 119 (CAS No. 4121–67–9) (provided for in subheading 3204.14.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1396. NAUGARD 412S.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.06 | Pentaerythritol tetrakis[3-(dodecylthio)propionate] (CAS No. 29598–76–3) (provided for in subheading 2930.90.90) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1397. TRIACETONAMINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.07 | 2,2,6,6-Tetramethyl-4-piperidinone (CAS No. 826–36–8) (provided for in subheading 2933.39.61) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1398. IPCONAZOLE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.08 | 2-[(4-Chlorophenyl)methyl]-5-(1-methylethyl)–1-(1H-1,2,4-triazol-1-ylmethyl) cyclopentanol (Ipconazole) (CAS No. 125225–28–7) (provided for in subheading 2933.99.22) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1399. OMITE TECH.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.09 | 2-(4-Tert-butylphenoxy)cyclohexylprop-2-ynyl sulfite (Propargite) (CAS No. 2312–35–8) (provided for in subheading 2920.90.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1400. PANTERA TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.10 | (+)-Tetrahydrofurfuryl)-(R)-2-[4-(6-chloroquinoxalin-2-yloxy)phenoxy]propionoate (Quizalofop p-tefuryl) (CAS No. 119738–06–6) (provided for in subheading 2934.99.15) and any formulations containing such compound (provided for in subheading 3808.30.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1401. P-TOLUENESULFONYL CHLORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.11 | p-Toluenesulfonyl chloride (CAS No. 98–59–9) (provided for in subheading 2904.10.10) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1402. PREFORMED PELLETS OF A MIXTURE OF SODIUM IODIDE, THALLIUM IODIDE, DYSPROSIUM TRI-IODIDE, HOLMIUM TRI-IODIDE, THULIUM TRI-IODIDE, AND SOMETIMES CALCIUM IODIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.12 | Preformed pellets of a mixture of sodium iodide, thallium iodide, dysprosium tri-iodide, holmium tri-iodide, thulium tri-iodide, and sometimes calcium iodide (CAS Nos. 7681–82–5, 7790–30–9, 15474–63–2, 13813–41–7, 1381–43–9, or 10102–68–8) (provided for in subheading 2827.60.50) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1403. P-AMINOBENZAMIDE (4-AMINOBENZAMIDE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.13 | p-Aminobenzamide (4-aminobenzamide) (CAS No. 2835–68–9) (provided for in subheading 2924.29.76) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1404. P-CHLOROANILINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.14 | p-Chloroaniline (CAS No. 106–47–8) (provided for in subheading 2921.42.90) .... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1405. 4-CHLORO-2-NITROANILINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.15 | 4-Chloro-2-nitroaniline (CAS No. 89–63–4) (provided for in subheading 2921.42.55) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1406. O-CHLORO-P-TOLUIDINE (3-CHLORO-4-METHYLANILINE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.16 | o-Chloro-p-toluidine (3-chloro-4-methylaniline) (CAS No. 95–74–9) (provided for in subheading 2921.43.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1407. 2-CHLOROACETOACETANILIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.17 | 2-Chloroacetoacetanilide (CAS No. 93–70–9) (provided for in subheading 2924.29.76) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1408. P-ACETOACETANISIDIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.18 | p-Acetoacetanisidide (CAS No. 5437–98–9) (provided for in subheading 2924.29.71) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1409. 1-HYDROXY-2-NAPHTHOIC ACID.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.19 | 1-Hydroxy-2-naphthoic acid (CAS No. 86–48–6) (provided for in subheading 2918.29.04) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1410. PIGMENT GREEN 7 CRUDE, NOT READY FOR USE AS A PIGMENT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.20 | Copper Phthalocyanine Green 7, Crude (CAS No. 1328–53–6) (provided for in subheading 3204.17.90) | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1411. 1,8-NAPHTHALIMIDE (1H-BENZ[DE]ISOQUINOLINE-1,3(2H)-DIONE).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.21 | 1,8-Naphthalimide (1H-benz[de]isoquinoline-1,3(2H)-dione) (CAS No. 81–83–4) (provided for in subheading 2925.19.42) .... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1412. DIISOPROPYL SUCCINATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.22 | Diisopropyl succinate (CAS No. 924–88–9) (provided for in subheading 2917.19.70) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1413. 2,4-DI-TERT-BUTYL-6-(5-CHLOROBENZOTRIAZOL-2-YL)PHENOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.23 | 2,4-Di-tert-butyl-6-(5-chlorobenzotriazol-2-yl)phenol (CAS No. 3864–99–1) (provided for in subheading 2933.99.12) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1414. DIRECT BLACK 22.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.25 | Direct Black 22 (CAS No. 6473–13–8) (provided for in subheading 3204.14.50) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1415. METHYLENE BIS-BENZOTRIAZOLYL TETRAMETHYLBUTYLPHENOL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.26 | 2,2′-Methylenebis[6-(2H-benzotriazol-2-yl)-4-(1,1,3,3-tetramethylbutyl)phenol] (CAS No. 103597–45–1) (provided for in subheading 3824.90.28) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1416. BIS-ETHYLHEXYLOXYPHENOL METHOXYPHENOL TRIAZINE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.27 | 2,2′-(6-(4-Methoxyphenyl)-1,3,5-triazine-2,4-diyl)bis(5-((2-ethylhexyl)oxy)phenol) (CAS No. 187393–00–6) (provided for in subheading 2933.69.60) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1417. REACTIVE ORANGE 132.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.28 | Reactive Orange 132 (CAS No. 149850–31–7) (provided for in subheading 3204.16.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1418. ACID BLACK 244.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.29 | Acid Black 244 (CAS No. 30785–74–1) (provided for in subheading 3204.12.45) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1419. CERTAIN CORES USED IN REMANUFACTURE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.30 | Used fuel, lubricating or cooling medium pumps for internal combustion piston engines (provided for in subheading 8413.30.10 or 8413.30.90) ..... | Free | No change | No change | On or before 12/31/2009 | ..... |
| | 9902.25.31 | Used compression-ignition internal combustion piston engines to be installed in vehicles of subheading 8701.20 or heading 8704 (provided for in subheading 8408.20.20) ..... | Free | No change | No change | On or before 12/31/2009 | ..... |
| | 9902.25.32 | Used gear boxes for the vehicles of subheading 8701.20 or heading 8704 (provided for in subheading 8708.40.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1420. ADTP.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.33 | 2-Amino-5,8-dimethoxy-(1,2,4)triazolo(1,5-c)pyrimidine (CAS No. 219715–62–5) (provided for in subheading 2933.59.95) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1421. DCBTF.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.34 | 3,4-Dichlorobenzotrifluoride (CAS No. 328–84–7) (provided for in subheading 2903.69.08) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1422. NOVIFLUMURON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.35 | N-[[[3,5-Dichloro-2-fluoro-4-(1,1,2,3,3,3-hexafluoropropoxy) phenyl]amino]carbonyl]-2,6-difluorobenzamide (Noviflumuron) (CAS No. 121451–02–3) (provided for in subheading 2924.29.52) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1423. PARACHLOROBENZOTRIFLUORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.36 | 1-Chloro-4-(trifluoromethyl) benzene (CAS No. 98–56–6) (provided for in subheading 2903.69.08) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1424. MIXTURES OF INSECTICIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.37 | Mixtures of insecticide containing gamma-cyhalothrin ((S)-α-cyano-3-phenoxybenzyl (Z)–(1R, 3R)–3-(2-chloro-3,3,3-trifluoropropenyl)–2,2-dimethyl cyclopropanecarboxylate) as the active ingredient and application adjuvants (CAS No. 76703–62–3) (provided for in subheading 3808.10.25) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1425. MIXTURE OF FUNGICIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.38 | Mixture of quinoxyfen (5,7-dichloro-4-(4-fluorophenoxyquinoline)) and application adjuvants (CAS No. 124495–18–7) (provided for in sub-heading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1426. 1,2-BENZISOTHIAZOL-3(2H)-ONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.39 | 1,2-Benzisothiazol-3(2H)-one (CAS No. 2634–33–5) (provided for in sub-heading 3808.40.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1427. STYRENE, AR-ETHYL-, POLYMER WITH DIVINYLBENZENE AND STYRENE (6CI) BEADS WITH LOW ASH.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.40 | Styrene, ar-ethyl-, polymer with divinylbenzene and styrene beads having low ash content and specifically manufactured for use as a specialty filler in lost wax mold casting applications and in a variety of other specialty filler applications (CAS No. 9052–95–3) (provided for in sub-heading 3903.90.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1428. MIXTURES OF FUNGICIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.41 | Mixtures of myclobutanil (α-Butyl-α-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile, and application adjuvants (CAS No. 88671–89–0) (provided for in sub-heading 3808.20.15) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1429. 2-METHYL-4-CHLOROPHENOXY-ACETIC ACID, DI-METHYLAMINE SALT.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.42 | 2-Methyl-4-chlorophenoxy-acetic acid, dimethylamine salt (CAS No. 2039–46–5) (provided for in sub-heading 2921.11.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1430. CHARGE CONTROL AGENT 7.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.43 | Charge control agent 7 Chromate(1-),bis{1-[(5-chloro-2-hydroxyphenyl)azo]-2-napthalenolato(2-)}-hydrogen (provided for in subheading 2942.00.10) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1431. PRO-JET BLACK 820 LIQUID FEED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.44 | Substituted naphthalene [[substituted pyridinyl azo] alkoxyphenyl azo]azo, potassium / sodium salt (PMN No. P04–390) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1432. PRO-JET MAGENTA M700.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.45 | Nickel [substituted naphthenyl azo] substituted triazole, sodium salt (PMN No. P–03–307) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1433. PRO-JET FAST BLACK 287 NA LIQUID FEED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.46 | Pro-jet fast black 287 NA liquid feed ([(substituted naphthalenylazo) substituted naphthalenyl azo] carboxyphenylene, sodium salt) (PMN No. P–90–391) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1434. PRO-JET FAST BLACK 286 STAGE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.47 | Pro-jet fast black 286 stage [(substituted naphthalenylazo) substituted naphthalenyl azo] carboxyphenylene, sodium salt (PMN No. P–90–394) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1435. PRO-JET CYAN 485 STAGE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.48 | Copper phthalocyanine substituted with sulphonic acids and alkyl sulphonoamides, sodium salt (PMN No. P–99–105) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1436. PRO-JET BLACK 661 LIQUID FEED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.49 | Aryl substituted pyrazonyl [[[substituted phenyl azo]substituted naphthenyl] Azo phenyl]azo, sodium salt (PMN No. P–03–78) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1437. PRO-JET BLACK CYAN 854 LIQUID FEED.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.50 | Copper phthalocyanine substituted with sulphonic acids and alkyl sulphonoamides, sodium/ammonium salts (PMN No. P02–893) (provided for in subheading 3204.14.30) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1438. ERASERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.51 | Erasers of vulcanized rubber other than hard rubber or cellular rubber (provided for in subheading 4016.92.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1439. ARTIFICIAL FLOWERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.65 | Artificial flowers of man-made fibers (provided for in subheading 6702.90.35) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1440. SUSPENSION SYSTEM STABILIZER BARS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.77 | Suspension system stabilizer bars of alloy steel of Japanese JIS grade SCM525S (26CrMo4) or SCM435H (34CrMo4), each weighing approximately 42 kg, comprising one rod measuring approximately 98.8 cm in length at each end of which is welded at approximately right angles to a rod measuring approximately 51 cm in length (provided for in subheading 8708.99.70), the foregoing designed for use in Class 7 and 8 trucks only ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1441. RATTAN WEBBING.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.78 | Rattan webbing (provided for in subheading 4601.91.20) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1442. TRACTOR BODY PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.79 | Parts and accessories of bodies (including cabs) for tractors for agricultural use (provided for in subheadings 8708.29.10, 8708.29.15, 8708.29.25, or 8708.29.50) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1443. AC ELECTRIC MOTORS OF AN OUTPUT EXCEEDING 74.6 W BUT NOT EXCEEDING 85 W.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.85.06 | AC electric motors of an output exceeding 74.6 W but not exceeding 85 W, single phase; each equipped with a capacitor, a speed control mechanism, a motor mount of plastics and a self-contained gear mechanism for oscillation (provided for in subheading 8501.40.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1444. AC ELECTRIC MOTORS OF AN OUTPUT EXCEEDING 74.6 W BUT NOT EXCEEDING 105 W.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.85.07 | AC electric motors of an output exceeding 74.6 W but not exceeding 105 W, single phase; each equipped with a capacitor, a rotary speed control mechanism, and a motor mounting cooling ring (provided for in subheading 8501.40.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1445. AC ELECTRIC MOTORS OF AN OUTPUT EXCEEDING 74.6 W BUT NOT EXCEEDING 95 W.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.85.08 | AC electric motors of an output exceeding 74.6 W but not exceeding 95 W, single phase, each equipped with a capacitor and a speed control mechanism (provided for in subheading 8501.40.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1446. CERTAIN AC ELECTRIC MOTORS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.85.09 | AC electric motors of an output exceeding 37.5 W but not exceeding 72 W, single phase; each equipped with a capacitor, a speed control mechanism, a motor mount of plastics and a self-contained gear mechanism for oscillation (provided for in subheading 8501.40.20) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1447. VISCOSE RAYON YARN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.54.03 | Single yarn of viscose rayon, untwisted or with a twist not exceeding 120 turns/m (provided for in subheading 5403.31.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1448. CERTAIN TWISTED YARN OF VISCOSE RAYON.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.54.04 | Single yarn of viscose rayon, with a twist exceeding 120 turns/m (provided for in subheading 5403.32.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1449. ALLYL UREIDO MONOMER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.06.02 | 2-Imidazolidinone, 1-(2-aminoethyl)-, reaction product with oxirane, ((2-propenyloxy)methyl)- (CAS No. 90412–00–3) (provided for in subheading 2933.29.90) ..... | Free | No change | No change | On or before 12/31/2007 | ”. |

**SEC. 1450. SYNTHETIC ELASTIC STAPLE FIBER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.55.03 | Bi-component staple fibers of elasterell-p, measuring less than 3.5 decitex (provided for in subheading 5503.20.00) ..... | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1451. CERTAIN FIBERGLASS SHEETS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.70.19 | Thin smooth nonwoven fiberglass sheets, approximately .0125 inches thick, comprised principally of glass fibers bound together in a polyvinyl alcohol matrix, of a type primarily used as acoustical facing for ceiling panels provided for in subheading 7019.32.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1452. HALOPHOSPHOR CALCIUM DIPHOSPHATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.32.33 | Halophosphor calcium diphosphate; inorganic product of a kind used as luminophores (CAS No. 7790–76–3) (provided for in subheading 3206.50.00) | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1453. CERTAIN RAYON STAPLE FIBERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.55.04 | Viscose rayon filaments having a decitex of less than 5.0 and a multi-limbed cross-section, the limbs having a length-to-width aspect ratio of at least 2:1 (provided for in subheading 5504.10.00) ..... | Free | No change | No change | On or before 12/31/2008 | ”. |

**SEC. 1454. SYNTHETIC QUARTZ OR FUSED SILICA PHOTOMASK SUBSTRATES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.70.60 | Synthetic fused silica (100 percent $SiO^2$) photomask blank substrates in squares having a surface area of 150 $cm^2$ or more but not over 522 $cm^2$ and a thickness of 2.2 mm or more but not over 6.45 mm (provided for in subheading 7006.00.40) ..... | Free | No change | No change | On or before 12/31/2008 | ”. |

**SEC. 1455. CERTAIN INTEGRATED MACHINES FOR MANUFACTURING PNEUMATIC TIRES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.84.10 | Machines for molding or forming pneumatic tires, the forgoing containing in a single housing both components for processing rubber, for positioning and assembling tire components (including but not limited to belts, cords, and other reinforcing materials) and for curing “green tires” to produce finished pneumatic tires of heading 4011; parts of such machines (including molds); or molds entered separately (provided for in 8477.59.80, 8477.90.85, or 8480.71.80, respectively) .. | Free | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1456. TRAMWAY CARS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.26.01 | Tramway cars imported pursuant to contract by or on behalf of the City of Seattle (provided for in subheading 8603.10.00) .... | Free | No change | No change | On or before 12/31/2009 | |
| | 9902.26.02 | Parts imported pursuant to contract by or on behalf of the City of Seattle, to be used in the tramway cars described in heading 9902.26.01, whether or not such parts are principally used as parts of such articles and whether or not covered by a specific provision within the meaning of additional United States rule of interpretation 1(c) (however: provided for in the tariff schedule) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1457. CERTAIN ARTIFICIAL FILAMENT SINGLE YARN (OTHER THAN SEWING THREAD).**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.26.12 | Artificial filament single yarn (other than sewing thread), not put up for retail sale, of viscose rayon, untwisted or with a twist not exceeding 120 turns/m (provided for in subheading 5403.31) ... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1458. CERTAIN ELECTRICAL TRANSFORMERS RATED AT 25VA.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.85.05 | 120 volt/60 Hz electrical transformers, each with dimensions of 77 mm by 61 mm by 50 mm, containing a layered and uncut round core with two balanced bobbins, the foregoing rated at 25VA (provided for in subheading 8504.31.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1459. CERTAIN ELECTRICAL TRANSFORMERS RATED AT 40VA.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.85.06 | 120 volt/60 Hz electrical transformers, each with dimensions of 80 mm by 71 mm by 59 mm, containing a layered and uncut round core with two balanced bobbins, the foregoing rated at 40VA (provided for in subheading 8504.31.40) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

## CHAPTER 2—REDUCTIONS

**SEC. 1461. FLOOR COVERINGS AND MATS OF VULCANIZED RUBBER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.54 | Floor coverings and mats of vulcanized rubber (provided for in subheading 4016.91.00) ..... | 2.17% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1462. MANICURE AND PEDICURE SETS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.55 | Manicure and pedicure sets, and combinations thereof, whether or not shrink-wrapped for retail display, the foregoing other than such sets or combinations in leather cases or other immediate cases or containers (provided for in subheading 8214.20.90) ..... | 2.3% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1463. NITROCELLULOSE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.56 | Cellulose nitrate (nitrocellulose) (CAS No. 9004–70–0) (provided for in subheading 3912.20.00) ..... | 4.4% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1464. SULFENTRAZONE TECHNICAL.**

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.57 | N-[2,4-Dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]phenyl]methanesulfonamide (Sulfentrazone) (CAS No. 122836–35–5) (provided for in subheading 2935.00.75) ..... | 1.2% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1465. CLOCK RADIO COMBOS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.58 | Radiobroadcast receivers capable of operating without an external source of power, incorporating a clock or clock timer (provided for in subheading 8527.19.50) ..... | 0.7% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1466. THIAMETHOXAM TECHNICAL.**

(a) CALENDAR YEARS 2007–2008.—

(1) IN GENERAL.—Heading 9902.03.11 of the Harmonized Tariff Schedule of the United States (relating to Thiamethoxam Technical) is amended—

(A) by striking “3.0%” and inserting “Free”; and

(B) by striking “12/31/2009” and inserting “12/31/2008”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(b) CALENDAR YEAR 2009.—

(1) IN GENERAL.—Heading 9902.03.11, as amended by subsection (a), is further amended—

(A) by striking “Free” and inserting “1.8%”; and

(B) by striking “12/31/2008” and inserting “12/31/2009”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2009.

**SEC. 1467. STAPLE FIBERS OF VISCOSE RAYON, NOT CARDED, COMBED, OR OTHERWISE PROCESSED FOR SPINNING.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.59 | Staple fibers of viscose rayon, not carded, combed, or otherwise processed for spinning (provided for in subheading 5504.10.00) ..... | 3.4% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1468. CERTAIN MEN’S FOOTWEAR COVERING THE ANKLE WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.60 | Men’s footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, covering the ankle, whose height from the bottom of the outer sole to the top of the upper does not exceed 8 inches (20.32 cm), designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6404.19.20) ..... | 12.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1469. CERTAIN FOOTWEAR NOT COVERING THE ANKLE WITH COATED OR LAMINATED TEXTILE FABRICS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.61 | Men’s footwear (except vulcanized footwear and footwear with waterproof molded bottoms, including bottoms comprising an outer sole and all or part of the upper), valued over $20/pair, not covering the ankle, designed to be worn in lieu of, but not over, other footwear as a protection against water, oil, grease or chemicals or cold or inclement weather where such protection includes protection against water that is imparted by the use of a coated or laminated textile fabric (provided for in subheading 6404.19.20) ..... | 15.2% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1470. ACRYLIC OR MODACRYLIC SYNTHETIC STAPLE FIBERS, NOT CARDED, COMBED, OR OTHERWISE PROCESSED FOR SPINNING.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.62 | Acrylic or modacrylic staple fibers, not carded, combed, or otherwise processed for spinning (provided for in subheading 5503.30.00) ..... | 3.7% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1471. CERTAIN WOMEN'S FOOTWEAR.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.63 | Footwear for women with outer soles of rubber or plastics and uppers of textile materials other than of vegetable fibers, with open toes or open heels or of the slip-on type (provided for in subheading 6404.19.30) ..... | 1.5% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1472. NUMEROUS OTHER SEALS MADE OF RUBBER OR SILICONE, AND COVERED WITH, OR REINFORCED WITH, A FABRIC MATERIAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.64 | Seals of textile material or fabric covering or reinforcing a core of rubber or silicone, the foregoing designed for use in airplanes (provided for in subheading 5911.90.00) ..... | 3.0% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1473. TETRAKIS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.65 | Tetrakis(2,4-di-tert-butylphenyl) 4,4'-biphenyldiphosphinate (CAS No. 38613–77–3) (provided for in subheading 2931.00.30) ..... | 3.6% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1474. GLYCINE, N,N-BIS[2-HYDROXY-3-(2-PROPENYLOXY)PROPYL]-, MONOSODIUM SALT, REACTION PRODUCTS WITH AMMONIUM HYDROXIDE AND PENTAFLUOROIODOETHANE-TETRAFLUOROETHYLENE TELOMER.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.66 | Glycine, N,N-bis[2-hydroxy-3-(2-propenyloxy)propyl]-, monosodium salt, reaction products with ammonium hydroxide and pentafluoroiodoethane-tetrafluoroethylene telomer (CAS number 220459–70–1) (provided for in subheading 3809.92.50) ..... | 1.1% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1475. DIETHYL KETONE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.67 | Diethyl ketone (CAS No. 96–22–0) (provided for in subheading 2914.19.00) .... | 1.3% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1476. ACEPHATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.68 | *O,S*-Dimethyl acetylphosphoramidothioate (Acephate) (CAS No. 30560–19–1) (provided for in subheading 2930.90.44) | 1.8% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1477. FLUMIOXAZIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.69 | 2-[7-Fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)–2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione (Flumioxazin)(CAS No. 103361–09–7) (provided for in subheading 2934.99.15) ..... | 5.3% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1478. GARENOXACIN MESYLATE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.70 | 1-Cyclopropyl-8-(difluoromethoxy)–7-[(1R)–1-methyl-2,3-dihydro-1H-5-isoindolyl]-4-oxo-1,4-dihydroquinoline-3-carboxylic acid monoethanesulfonate monohydrate (Garenoxacin mesylate) (CAS No. 223652–90–2) (provided for in subheading 2933.49.26) ..... | 3.1% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1479. BUTYLATED HYDROXYETHYLBENZENE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.71 | 2,6-Di-*tert*-butyl-4-ethylphenol (CAS No. 4130–42–1) (provided for in subheading 2907.19.20) | 2.7% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1480. CERTAIN AUTOMOTIVE CATALYTIC CONVERTER MATS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.72 | Catalytic converter mats of ceramic fibers containing over 65 percent by weight of aluminum oxide, the foregoing 4.7625 mm or more in thickness, in bulk, sheets or rolls and designed for motor vehicles of heading 8703 (provided for in subheading 6806.10.00) ..... | 1.5% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1481. 3,3′-DICHLOROBENZIDINE DIHYDROCHLORIDE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.73 | 3,3′-Dichlorobenzidine dihydrochloride ([1,1′-biphenyl]-4,4′-diamino, 3,3′-dichloro-) (CAS No. 612–83–9) (provided for in subheading 2921.59.80) .... | 5.9% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1482. TMC114.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.74 | 3-[4-Aminobenzensulfonyl)isobutylamino]-1-[benzyl-2-hydroxypropyl]carbamic acid, hexahydrofuro[2,3-b]furan-3-yl ester ethanolate (CAS No. 206361–99–1) (provided for in subheading 2932.99.61) ..... | 6.4% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1483. BIAXIALLY ORIENTED POLYPROPYLENE DIELECTRIC FILM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.75 | Biaxially oriented polypropylene film, certified by the importer as intended for use in capacitors and as produced from solvent-washed low ash content (<50 ppm) polymer resin (CAS No. 9003–07–0) (provided for in subheading 3920.20.00) ..... | 3.7% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1484. BIAXIALLY ORIENTED POLYETHYLENE TEREPHTHALATE DIELECTRIC FILM.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.25.76 | Biaxially oriented polyethylene terephthalate film, certified by the importer as intended for use in capacitors and as produced from solvent-washed low ash content (<300 ppm) polymer resin (CAS No. 25038–59–9) (provided for in subheading 3920.62.00) ..... | 3.4% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1485. CERTAIN BICYCLE PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.66 | Child carriers, chain tension adjustors, chain covers, mechanical grips with 2.223 cm internal diameter, air horns, wide-angle reflectors, saddle covers of plastics, chain tensioners, toe clips, head sets or seat posts, all the foregoing designed for use on bicycles (provided for in subheading 8714.99.80) ..... | 9.2% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1486. CERTAIN BICYCLE PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.69 | Bicycle wheel rims (provided for in subheading 8714.92.10) ..... | 1.8% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1487. BIFENTHRIN.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.72 | (2-Methyl[1,1'-biphenyl]-3-yl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)–2,2-dimethylcyclopropanecarboxylate (Bifenthrin) (CAS No. 82657–04–3) (provided for in subheading 2916.20.50) ..... | 0.7% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1488. REDUCED VAT 1.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| “ | 9902.24.92 | Reduced Vat 1 (CAS No. 207692–02–2) (provided for in subheading 3204.15.40) ..... | 1.9% | No change | No change | On or before 12/31/2009 | ”. |

**SEC. 1489. 4-CHLOROBENZONITRILE.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.24 | p-Chlorobenzonitrile (CAS No. 623–03–0) (provided for in subheading 2926.90.14) ..... | 1.5% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1490. NAIL CLIPPERS AND NAIL FILES.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.52 | Nail nippers and clippers and nail files (provided for in subheading 8214.20.30) | 3.2% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1491. ELECTRIC AUTOMATIC SHOWER CLEANERS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.98.08 | Electromechanical bath or shower cleaner devices, each designed to dispense a dilute solution of bleach substitutes and detergents using a button-activated, battery-powered piston pump controlled by a microchip to release a measured quantity of such solution (provided for in subheading 8509.80.00) .... | 2.1% | No change | No change | On or before 12/31/2009 | ". |

**SEC. 1492. MESOTRIONE TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.25.80 | 2-[4-(Methylsulfonyl)–2-nitrobenzoyl]-1,3-cyclohexanedione (Mesotrione) (CAS No. 104206–82–8) (provided for in subheading 2930.90.10) ..... | 6.04% | No change | No change | On or before 12/31/2006 | ". |

**SEC. 1493. CERTAIN CRANK-GEAR AND OTHER BICYCLE PARTS.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.24.70 | Crank-gear and parts thereof (other than cotterless-type crank sets and parts thereof) (provided for in subheading 8714.96.90) ..... | 6.1% | No change | No change | On or before 12/31/2009 | ". |

# Subtitle B—Existing Suspensions and Reductions

**SEC. 1501. EXTENSIONS OF EXISTING SUSPENSIONS AND OTHER MODIFICATIONS.**

(a) EXTENSIONS.—Each of the following headings is amended by striking the date in the effective period column and inserting "12/31/2009":

(1) Heading 9902.02.29 (relating to 10,10′-oxybisphenoxarsine).

(2) Heading 9902.84.88 (relating to certain manufacturing equipment).

(3) Heading 9902.02.48 (relating to 1,5-Naphthalenedisulfonic acid, 2-[[8- [[4-[[3-[[[2-(ethenylsulfonyl)ethyl] amino]carbonyl]phenyl]amino]-6-fluoro-1,3,5-triazin- 2-yl]amino]-1-hydroxy- 3,6-disulfo-2-naphthalenyl]azo]-, tetrasodium salt (CAS No. 116912–36–8) (provided for in subheading 3204.16.30).

(4) Heading 9902.02.47 (relating to cuprate(3-), [2-[[[[3-[[4-[[2-[2- (ethenylsulfonyl)ethoxy]ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-2-(hydroxy-κ.o)-5-sulfophenyl]azo-κ.n2]phenylmethyl]azo-κ.n1]-4-sulfobenzoato(5-)-κ.o], trisodium).

(5) Heading 9902.02.44 (relating to 2,7-naphthalenedisulfonic acid, 5-[[4-chloro-6-[[2-[[4-fluoro-6-[[5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo]-7-sulfo-2-naphthalenyl]amino]-1,3,5-triazin-2-yl] amino]-1-methylethyl]amino]-1,3,5-triazin-2-yl]amino]-3-[[4-(ethenylsulfonyl)phenyl]azo]-4-hydrox′-, sodium salt).

(6) Heading 9902.02.46 (relating to 7,7′-[1,3-propanediylbis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)amino]-4,1-phenylene]azo]]bis-, sodium salt).

(7) Heading 9902.03.79 (relating to thiophanate-methyl fungicide 70 percent wettable powder).

(8) Heading 9902.84.81 (relating to certain manufacturing equipment).

(9) Heading 9902.84.91 (relating to certain sawing machines).

(10) Heading 9902.84.85 (relating to certain extruders used in the production of radial tires).

(11) Heading 9902.84.83 (relating to certain manufacturing equipment).

(12) Heading 9902.28.20 (relating to ammonium bifluoride).

(13) Heading 9902.05.05 (relating to p-acetanisole).

(14) Heading 9902.04.15 (relating to mixture (1:1) of polyricinoleic acid homopolymer, 3-(dimethylamino)propylamide, dimethylsulfate, quaternized and polyricinoleic acid).

(15) Heading 9902.03.21 (relating to 12-hydroxyoctadecanoic acid, reaction product with *N,N*-dimethyl-1,3-propanediamine, dimethyl sulfate, quaternized).

(16) Heading 9902.03.24 (relating to 2-oxepanone, polymer with aziridine and tetrahydro-2H-pyran-2-one, dodecanoate ester).

(17) Heading 9902.02.49 (relating to p-(trifluoromethyl benzaldehyde)).

(18) Heading 9902.32.22 (relating to Pigment Red 187).

(19) Heading 9902.32.72 (relating to Solvent Blue 104).

(20) Heading 9902.29.73 (relating to 4-amino-2,5-dimethoxy-N-phenylbenzene sulfonamide).

(21) Heading 9902.02.25 (relating to electrical radio broadcast receivers not combined with a clock).

(22) Heading 9902.02.24 (relating to electrical radio broadcast receivers combined with a clock).

(23) Heading 9902.02.23 (relating to hand-held radio scanners).

(24) Heading 9902.01.36 (relating to sodium methylate powder).

(25) Heading 9902.01.41 (relating to allyl isosulfocyanate).

(26) Heading 9902.02.87 (relating to asulam sodium salt).

(27) Heading 9902.01.92 (relating to ink jet textile printing machinery).

(28) Heading 9902.04.21 (relating to Cyan 1 special liquid feed).

(29) Heading 9902.04.19 (relating to Fast Yellow 2 Stage).

(30) Heading 9902.29.91 (relating to methyl-4-trifluoromethoxyphenyl-*N*-(chlorocarbonyl)).

(31) Heading 9902.01.85 (relating to certain epoxy molding compounds).

(32) Heading 9902.01.14 (relating to 5-MPDC).

(33) Heading 9902.01.60 (relating to 2-mercaptoethanol).

(34) Heading 9902.01.61 (relating to bifenazate).

(35) Heading 9902.01.59 (relating to terrazole).

(36) Heading 9902.03.89 (relating to artichokes prepared or preserved otherwise than by vinegar or acetic acid, not frozen).

(37) Heading 9902.01.62 (relating to fluoropolymers containing 95 percent or more by weight of the 3 monomer units tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride).

(38) Heading 9902.33.63 (relating to 3-(ethylsulfonly)-2-pyridinesulfonamide).

(39) Heading 9902.03.22 (relating to 40 percent polymer acid salt/polymer amide 60 percent butyl acetate).

(40) Heading 9902.01.55 (relating to (Z)–(1RS,3RS)–3-(2-chloro-3,3,3-trifluoro-1-propenyl)–2,2-dimethylcyclopropanecarboxylic acid).

(41) Heading 9902.01.57 (relating to (S)-alpha-hydroxy-3-phenoxybenzeneacetonitrile).

(42) Heading 9902.02.98 (relating to polytetramethylene ether glycol).

(43) Heading 9902.02.99 (relating to cis-3-hexen-1-ol).

(44) Heading 9902.01.75 (relating to Acid Black 172).

(45) Heading 9902.01.76 (relating to 9,10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino) and 9,10-anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-).

(46) Heading 9902.05.22 (relating to fenpropathrin).

(47) Heading 9902.01.64 (relating to 2-azetidinone, 1-(4-fluorophenyl)–3-[(3S)–3-(4-fluorophenyl)–3-hydroxypropyl]-4-(4-hydroxyphenyl)-, (3R,4S)–(ezetimibe)).

(48) Heading 9902.01.38 (relating to p-methylacetophenone).

(49) Heading 9902.01.35 (relating to 2-phenylbenzimidazole-5-sulfonic acid).

(50) Heading 9902.05.04 (relating to methyl cinnamate).

(51) Heading 9902.01.43 (relating to thymol).

(52) Heading 9902.01.40 (relating to menthyl anthranilate).

(53) Heading 9902.01.42 (relating to 5-methyl-2-(methylethyl)cyclohexyl-2-hydroxypropanoate).

(54) Heading 9902.29.25 (relating to 2-phenylphenol).

(55) Heading 9902.38.10 (relating to mixtures of sodium salts).

(56) Heading 9902.01.47 (relating to helium).

(57) Heading 9902.03.87 (relating to certain 12V lead-acid storage batteries).

(58) Heading 9902.01.01 (relating to bitolylene diisocyanate (TODI)).

(59) Heading 9902.04.14 (relating to 1,1'-(methylimino) dipropan-2-ol).

(60) Heading 9902.28.01 (relating to thionyl chloride).

(61) Heading 9902.02.14 (relating to Mondur P).

(62) Heading 9902.02.16 (relating to P-phenylphenol).

(63) Heading 9902.32.12 (relating to DEMT).

(64) Heading 9902.02.15 (relating to Bayowet FT–248).

(65) Heading 9902.29.23 (relating to PNTOSA).

(66) Heading 9902.04.03 (relating to Baysilone Fluid).

(67) Heading 9902.32.62 (relating to iron chloro-5,6-diamino-1,3-naphthalenedisulfonate complexes).

(68) Heading 9902.32.85 (relating to bis(4-fluorophenyl) methanone).

(69) Heading 9902.29.37 (relating to polymethine photosensitizing dyes).

(70) Heading 9902.29.07 (relating to 4-hexylresorcinol).

(71) Heading 9902.85.42 (relating to certain cathode ray tubes).

(72) Heading 9902.85.41 (relating to certain cathode ray tubes).

(73) Heading 9902.32.14 (relating to 2-methyl-4,6-bis[(octylthio)methyl]phenol).

(74) Heading 9902.32.30 (relating to 4-[[4,6-bis(octylthio)–1,3,5-traizine-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol).

(75) Heading 9902.03.51 (relating to Disperse Blue 77).

(76) Heading 9902.01.65 (relating to p-cresidine sulfonic acid).

(77) Heading 9902.01.66 (relating to 2,4 disulfo benzaldehyde).

(78) Heading 9902.01.68 (relating to benzenesulfonic acid, 3-[(ethylphenylamino) methyl]-).

(79) Heading 9902.01.67 (relating to m-hydroxybenzaldehyde).

(80) Heading 9902.02.38 (relating to 2 amino 5 sulfobenzoic acid).

(81) Heading 9902.02.37 (relating to 2-amino-6-nitrophenol-4-sulfonic acid).

(82) Heading 9902.02.39 (relating to 2,5 bis benzene sulfonic acid).

(83) Heading 9902.02.40 (relating to 4 [(4 amino phenyl) azo] benzene sulfonic acid, monosodium salt).

(84) Heading 9902.02.41 (relating to 4-[(4-aminophenyl) azo] benzenesulfonic acid).

(85) Heading 9902.05.03 (relating to trimethyl cyclo hexanol).

(86) Heading 9902.01.39 (relating to 2,2-dimethyl-3-(3-methylphenyl)proponal).

(87) Heading 9902.29.08 (relating to 3-amino-5-mercapto-1,2,4-triazole).

(88) Heading 9902.32.92 (relating to β-bromo-β-nitrostyrene).

(89) Heading 9902.32.90 (relating to diiodomethyl-*p*-tolylsulfone).

(90) Heading 9902.02.95 (relating to 2-propenoic acid, polymer with diethenylbenzene).

(91) Heading 9902.29.59 (relating to *N*-butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine).

(92) Heading 9902.29.17 (relating to 2,6-dichloroaniline).

(93) Heading 9902.02.85 (relating to 3, 4-dichlorobenzonitrile).

(94) Heading 9902.29.58 (relating to *O,O*-diethyl phosphorochlorodothioate).

(95) Heading 9902.02.92 (relating to 1,2-benzenedicarboxaldehyde).

(96) Heading 9902.33.92 (relating to 2,2-dithiobis(8-fluoro-5-methoxy)–1,2,4-triazolo[1,5-*c*] pyrimidine).

(97) Heading 9902.29.26 (relating to 1,3-dimethyl-2-imidazolidinone).

(98) Heading 9902.02.96 (relating to N-[3-(1-ethyl-1-methylpropyl)–5-isoxazolyl]-2,6-dimethoxybenzamide (isoxaben)).

(99) Heading 9902.02.90 (relating to halofenozide).

(100) Heading 9902.02.89 (relating to propanamide, N-(3, 4-dichlorophenyl)-.

(101) Heading 9902.29.61 (relating to quinoline).

(102) Heading 9902.05.17 (relating to tebufenozide).

(103) Heading 9902.02.93 (relating to mixed isomers of 1,3-dichloropropene).

(104) Heading 9902.29.16 (relating to 4,4-dimethoxy-2-butanone).

(105) Heading 9902.02.94 (relating to methacrylamide).

(106) Heading 9902.32.87 (relating to fenbuconazole).

(107) Heading 9902.29.02 (relating to 2-acetylnicotinic acid).

(108) Heading 9902.29.06 (relating to diphenyl sulfide).

(109) Heading 9902.02.12 (relating to difenacanazole).

(110) Heading 9902.84.89 (relating to certain manufacturing equipment).

(b) EXTENSIONS AND OTHER MODIFICATIONS.—

(1) SNOWBOARD BOOTS.—Heading 9902.64.04 is amended—

(A) by striking the article description and inserting the following: "Ski boots, cross country ski footwear or snowboard boots, the foregoing valued over $12/pair, with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials (provided for in subheading 6404.11.90)";

(B) by striking "4%" and inserting "Free"; and

(C) by striking "12/31/2006" and inserting "12/31/2009".

(2) BENTAZON.—Heading 9902.05.10 (relating to Bentazon) is amended—

(A) by striking "(bentazon, sodium salt)" and inserting "(Bentazon, sodium salt)"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(3) METHYL N-(2-[[1-(4-CHLOROPHENYL)-1H-PYRAZOL-3-YL]-OXYMETHYL]PHENYL)-N-METHOXYCARBANOSE (PYRACLOSTROBIN).—Heading 9902.01.21 (relating to methyl *N*-(2-[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxymethyl]phenyl)-*N*-methoxycarbanose (Pyraclostrobin)) is amended—

(A) by striking the article description and inserting the following: "Methyl N-(2-[[1-(4-chlorophenyl)pyrazol-3-yl]oxymethyl]phenyl)-(N-methoxy)carbamate (Pyraclostrobin) (CAS No. 175013-18-0) (provided for in subheading 2933.19.23)";

(B) by striking "Free" and inserting "6%"; and

(C) by striking "12/31/2006" and inserting "12/31/2009".

(4) EXTENSION AND MODIFICATION RELATING TO COMBED CASHMERE.—

(A) IN GENERAL.—Heading 9902.03.01 (relating to yarn of combed Kashmir (cashmere) or yarn of camel hair) is amended by striking the date in the effective period column and inserting "12/31/2009".

(B) OTHER MODIFICATIONS.—Heading 9902.03.02 is amended—

(i) by striking "of 6 run or finer (equivalent to 19.35 metric yarn system)" and inserting "of 19.35 metric yarn count or finer"; and

(ii) by striking "12/31/2006" and inserting "12/31/2009".

(5) FLUOROBENZENE.—Heading 9902.03.05 (relating to fluorobenzene) is amended—

(A) by striking "2903.69.70" and inserting "2903.69.80"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(6) CERTAIN NEUTRALIZED PHOSPHATED POLYESTER POLYMER.—Heading 9902.03.25 (relating to 50 percent amine neutralized phosphated polyester polymer) is amended—

(A) by striking "50 percent solvesso 100" and inserting "in solvesso 100";

(B) by striking "P–99–1218,"; and

(C) by striking "12/31/2006" and inserting "12/31/2009".

(7) VINCLOZOLIN.—Heading 9902.01.19 (relating to Vinclozolin) is amended—

(A) by striking "oxazolidineidione (vinclozolin)" and inserting "oxazolidinedione (Vinclozolin)"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(8) FAST YELLOW 746 STAGE.—Heading 9902.04.26 (relating to Fast Yellow 746 Stage) is amended—

(A) by striking "Bipyridirium" and inserting "Bipyridinium";

(B) by inserting "(Fast Yellow 746 Stage)" after "salt"; and

(C) by striking "12/31/2006" and inserting "12/31/2009".

(9) YELLOW 1 STAGE.—Heading 9902.04.24 (relating to Yellow 1 Stage) is amended—

(A) by inserting "(Yellow 1 Stage)" after "salt"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(10) MAGENTA 3B–OA STAGE.—Heading 9902.04.28 (relating to magenta 3B–OA stage) is amended—

(A) by inserting "(Magenta 3B–OA Stage)" after "salts"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(11) CERTAIN ARTICHOKES.—Heading 9902.03.90 (relating to artichokes prepared or preserved by vinegar or acetic acid) is amended—

(A) by striking "7.5%" and inserting "7.9%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(12) TEXTURED ROLLED GLASS SHEETS.—Heading 9902.70.03 (relating to textured rolled glass sheets) is amended—

(A) by striking "Free" and inserting "0.7%"; and

(B) by striking "12/31/2003" and inserting "12/31/2009".

(13) MAGNESIUM ALUMINUM HYDROXIDE CARBONATE HYDRATE.—Heading 9902.05.32 is amended—

(A) by inserting "(CAS No. 12539–23–0)" after "organic fatty acid"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(14) MIXTURES OF SODIUM SALTS.—Heading 9902.29.83 is amended—

(A) by inserting ", whether or not in water" after "iminodisuccinic acid"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(15) A CERTAIN ULTRAVIOLET DYE.—Heading 9902.28.19 is amended—

(A) by inserting "(CAS No. 313482–99–4)" after "-methyl ester"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(16) CARFENTRAZONE.—Heading 9902.01.54 is amended—

(A) by striking "4.9%" and inserting "Free"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(17) CERTAIN EDUCATIONAL DEVICES.—Heading 9902.85.43 is amended—

(A) by striking "1.67%" and inserting "0.55%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(18) CYHALOFOP.—Heading 9902.02.86 is amended—

(A) by striking "Free" and inserting "1.5%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(19) α,α,α-TRIFLUORO-2,6-DINITRO-*p*-TOLUIDINE.—Heading 9902.05.33 is amended—

(A) by striking "Free" and inserting "2.6%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(20) CERTAIN MIXTURES OF FLORASULAM.—Heading 9902.02.88 is amended—

(A) by striking "Free" and inserting "1.5%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(21) METHOXYFENOZIDE.—Heading 9902.32.93 is amended—

(A) by striking "Free" and inserting "1.0%"; and

(B) striking "12/31/2006" and inserting "12/31/2009".

(22) MYCLOBUTANIL.—Heading 9902.02.91 is amended—

(A) by striking "1.9%" and inserting "3.0%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(23) FLUOROXYPYR.—Heading 9902.29.77 is amended—

(A) by striking "1.5%" and inserting "2.5%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(24) PRO-JET BLACK 263 STAGE.—Heading 9902.03.09 is amended—

(A) by striking the article description and inserting "[[Substituted naphthalenylazol] alkoxyl phenyl azo] carboxyphenylene, lithium salt (PMN No. P–00–351) (provided for in subheading 3204.14.30)"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(25) ETHALFLURALIN.—Heading 9902.30.49 is amended—

(A) by inserting "(Ethalfluralin)" after "benzenamine"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(26) DIRECT BLACK 175.—Heading 9902.03.56 is amended by striking "subheading 3204.12.50" and inserting "subheading 3204.14.50".

(27) CERTAIN ORGANIC PIGMENTS AND DYES.—Heading 9902.32.07 is amended—

(A) by inserting ", and excluding the dyestuff bearing the CAS No. 6359–10–0" after "fluorescent pigments and dyes"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(28) COPPER 8-HYDROXYQUINOLINE (OXINE COPPER).—Heading 9902.02.31 is amended—

(A) in the article description, by striking "Copper 8-quinolinolate (oxine copper)" and inserting "Copper 8-hydroxyquinoline (oxine copper)"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

## Subtitle C—Effective Date

**SEC. 1511. EFFECTIVE DATE.**

Except as otherwise provided in this title, the amendments made by this title apply to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

# TITLE II—RELIQUIDATIONS

**SEC. 2001. RELIQUIDATION OF CERTAIN ENTRIES OF CERTAIN SMALL DIAMETER CARBON AND ALLOY SEAMLESS STANDARD, LINE AND PRESSURE PIPE FROM ROMANIA.**

Deadline.

(a) RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act—

(1) reliquidate the entries of certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania produced by S.C. Silcotub S.A. (Silcotub), imported by Duferco Steel, Inc., listed in subsection (b) in accordance with the final results of the antidumping duty administrative review of the Department of Commerce (68 Fed. Reg. 12672 (March 17, 2003)) and Message No. 3087205, dated March 28, 2003, issued by the Bureau of Customs and Border Protection; and

(2) refund any antidumping duties with interest which were previously paid on such entries not later than 90 days after the date of reliquidation.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a) are the following:

| Entry number | Date of entry | Port |
|---|---|---|
| 558–1171537–8 | 01/20/01 | Houston |
| 558–2014403–2 | 07/24/00 | Mobile |

**SEC. 2002. CERTAIN ENTRIES OF PASTA.**

Deadlines.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Bureau of Customs and Border Protection of the Department of Homeland Security shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) in accordance with Department of Commerce case A–475–818 for the period 7/1/2001 through 6/30/2002 under Customs Service message numbered 4068201.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Bureau of Customs and Border Protection within 90 days after the date of the enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) ENTRIES.—The entries referred to in subsection (a) are the following:

| Entry number | Date of entry | Date of liquidation |
|---|---|---|
| FD630105373 | 07/06/2001 | 11/22/2002 |
| FD630105399 | 07/06/2001 | 11/22/2002 |
| FD630105415 | 07/06/2001 | 11/22/2002 |
| FD630110282 | 07/26/2001 | 11/22/2002 |
| FD630110274 | 07/26/2001 | 11/22/2002 |
| FD630110860 | 07/30/2001 | 11/22/2002 |
| FD630112338 | 08/09/2001 | 11/22/2002 |
| FD630115208 | 08/15/2001 | 11/22/2002 |
| FD630114128 | 08/15/2001 | 11/22/2002 |
| FD630114110 | 08/21/2001 | 11/22/2002 |
| FD630116537 | 08/22/2001 | 11/22/2002 |
| FD630122402 | 09/26/2001 | 11/22/2002 |
| FD630123533 | 10/03/2001 | 11/22/2002 |
| FD630126577 | 10/17/2001 | 11/22/2002 |
| FD630129712 | 10/31/2001 | 11/22/2002 |
| FD630132088 | 11/20/2001 | 11/22/2002 |
| FD630133987 | 11/29/2001 | 11/22/2002 |
| FD630134043 | 12/05/2001 | 11/22/2002 |
| FD630136972 | 12/14/2001 | 11/22/2002 |
| FD630136998 | 12/14/2001 | 11/22/2002 |
| FD630136980 | 12/14/2001 | 11/22/2002 |
| FD630137806 | 12/14/2001 | 11/22/2002 |
| FD630137822 | 12/27/2001 | 11/22/2002 |
| FD630137814 | 12/27/2001 | 11/22/2002 |

**SEC. 2003. CLARIFICATION OF RELIQUIDATION PROVISION.**

(a) INCLUSION OF INTEREST.—The term "any amounts owed" in section 1511(b) of the Miscellaneous Trade and Technical Corrections Act of 2004 (118 Stat. 2542; Public Law 108–429), includes interest accrued from the date of deposit of duties made in connection with entries described in section 1511(c) of that Act, to the

date of the reliquidation of the entries pursuant to section 1511 of that Act.

Deadline.

(b) RELIQUIDATIONS WITH INTEREST.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, to the extent that the entries listed in section 1511(d) of the Act referred to in subsection (a) were reliquidated by the Bureau of Customs and Border Protection, before the date of the enactment of this Act, without the payment of interest required under subsection (a), the Bureau shall, within 90 days after the date of the enactment of this Act, reliquidate the affected entries with the interest required under subsection (a), calculated at the interest rates provided for in section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)).

Deadlines.

**SEC. 2004. RELIQUIDATION OF CERTAIN DRAWBACK CLAIM.**

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate the drawback claim described in subsection (c).

(b) PAYMENT OF AMOUNTS DUE.—Any amounts due pursuant to the liquidation or reliquidation of the claim described in subsection (c) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(c) DRAWBACK CLAIM.—The drawback claim referred to in subsection (a) is the following: drawback claim number, AA6–0303556–6, filed on December 2, 1997.

**SEC. 2005. PAYMENT OF INTEREST ON AMOUNTS OWED PURSUANT TO RELIQUIDATION OF CERTAIN ENTRIES.**

(a) AMENDMENTS.—Sections 1404(b), 1405(b), and subsection (c) of each of sections 1408 through 1411 of the Tariff Suspension and Trade Act of 2000 (Public Law 106–476; 19 U.S.C. 1654 note) and subsection (c) of each of sections 1517 through 1536 of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429; 19 U.S.C. 1654 note) are amended by inserting ", with interest provided for by law on the liquidation or reliquidation of the entries," after "under subsection (a)".

Deadline.

(b) RELIQUIDATION AND PAYMENT OF INTEREST.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security shall—

(1) reliquidate each of the entries specified in the provisions of law amended by subsection (a); and

(2) provide payment of interest owed by the United States by reason of the amendments made by subsection (a) for the period beginning on the date of deposit of estimated duties and ending on the date of reliquidation under paragraph (1).

# TITLE III—TECHNICAL CORRECTIONS AND OTHER PROVISIONS

## Subtitle A—Technical Corrections

**SEC. 3001. AMENDMENTS TO THE HTS.**

(a) CORRECTIONS TO THE COLUMN 1 SPECIAL RATE OF DUTY COLUMN.—Each of the following headings is amended by striking "Free" in the column 1 special rate of duty column and inserting "No change":

(1) Heading 9902.01.59.
(2) Heading 9902.01.60.
(3) Heading 9902.01.61.
(4) Heading 9902.01.86.
(5) Heading 9902.01.87.
(6) Heading 9902.01.90.
(7) Heading 9902.01.91.
(8) Heading 9902.03.20.
(9) Heading 9902.03.40.
(10) Heading 9902.03.41.
(11) Heading 9902.03.43.
(12) Heading 9902.04.05.
(13) Heading 9902.04.06.
(14) Heading 9902.04.07.
(15) Heading 9902.05.18.
(16) Heading 9902.05.19.
(17) Heading 9902.05.21.
(18) Heading 9902.05.35.
(19) Heading 9902.28.01.
(20) Heading 9902.29.03.

(b) CORRECTIONS TO THE COLUMN 2 RATE OF DUTY COLUMN.—Each of the following headings is amended by striking "Free" in the column 2 rate of duty column and inserting "No change":

(1) Heading 9902.03.78.
(2) Heading 9902.05.08.
(3) Heading 9902.05.09.
(4) Heading 9902.05.10.

(c) ADDITIONAL CORRECTIONS.—

(1) The article description for heading 9902.01.12 is amended—

(A) by striking "32846–21–2), acid red" and inserting "66786–14–5), acid red"; and

(B) by striking "67786–14–5) (provided for" and inserting "32846–21–2) (provided for".

(2) Heading 9902.01.49 is amended to read as follows:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.01.49 | (S)-α,-Cyano-3- phenoxybenzyl (1R,3R)-3-(2,2- dibromovinyl)-2,2-di-methyl cyclo- propanecarb- oxylate (Deltamethrin) (CAS No. 52918–63–5) in bulk or unmixed in forms or packings for retail sale (provided for in subheading 2926.90.30 or 3808.10.25). | Free | No change | No change | On or before 12/31/2009 | ". |

(3) The article description for heading 9902.01.61 is amended by striking "methoxy-[1,1-" and inserting "methoxy-[1,1′-".

(4) The article description for heading 9902.01.69 is amended—

(A) by striking "2-8 percent water" and inserting "2-8 percent by weight of water"; and

(B) by striking "denier" and inserting "decitex".

(5) The article description for heading 9902.01.75 is amended—

(A) by striking "Acid black 194" and inserting "Acid Black 172"; and

(B) by striking "subheading 3204.12.20" and inserting "subheading 3204.12.45".

(6) The article description for heading 9902.01.90 is amended by striking "between 4 and 68" and inserting "from 4 through 68".

(7) The article description for heading 9902.01.91 is amended by striking "between 4 and 68" and inserting "from 4 through 68".

(8) Heading 9902.02.17 is amended to read as follows:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.02.17 | Boots with outer soles and uppers of rubber, extending above the ankle but below the knee, specifically designed for horseback riding, and having a spur rest on the heel counter (provided for in subheading 6401.92.90) ..... | Free | No change | No change | On or before 12/31/2009 | ". |

(9) The article description for heading 9902.02.28 is amended—

(A) by striking "polymide" and inserting "polyimide"; and

(B) by striking "3911.90.35 or".

(10) The article description for heading 9902.02.59 is amended by striking "A mixture" and inserting "Mixture".

(11) The article description for heading 9902.02.65 is amended—

(A) by striking "bis(3" and inserting "bis(3′′"; and

(B) by striking "4-amino-)" and inserting "4-amino-))".

(12) The article description for headings 9902.84.81, 9902.84.83, 9902.84.85, 9902.84.88, and 9902.84.89 are each amended—

(A) by inserting "4011.62.00," after "4011.61.00,"; and

(B) by striking "or parts thereof" and inserting "and parts thereof".

(13) The article description for heading 9902.03.40 is amended by striking "subheading 2835.29.50" and inserting "subheading 2931.00.30".

(14) Heading 9902.03.60 (relating to acid black 172) is repealed.

(15) The article description for heading 9902.03.99 is amended by striking "subheading 2933.99.12" and inserting "subheading 2933.99.22".

(16) Heading 9902.04.02 is amended to read as follows:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.04.02 | Polysiloxane, dimethyl (CAS No. 63148–62–9) solution, greater than 85 percent, with less than 15 percent paraffin (mineral) oil (CAS No 8042–47–5), less than 5 percent magnesium stearate (CAS No. 557–04–0) and less than 5 percent finely dispersed metal ethoxylated phosphoric ester (provided for in subheading 3910.00.00) ..... | Free | No change | No change | On or before 12/31/2006 | ". |

(17) Heading 9902.05.21 is repealed.

(18) Heading 9902.05.29 is amended to read as follows:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.05.29 | 3-[2-Chloro-4-(trifluoromethyl)-phenoxy]benzoic acid, sodium salt (CAS No. 95251–52–8) (provided for in subheading 2918.90.43) ..... | Free | No change | No change | On or before 12/31/2006 | ". |

(19) Heading 9902.29.26 is amended by striking the chemical name in the article description and inserting "1,3-Dimethyl-2-imidazolidinone".

(20) The article description for heading 9902.84.14 (relating to ceiling fans) is amended by striking "8414.51.00" and inserting "8414.51.30".

(21) The article description for heading 9902.86.11 is amended by striking "specifications each, having" and inserting "specifications, each having".

**SEC. 3002. TECHNICAL CORRECTION TO THE TARIFF ACT OF 1930.**

Section 516A(g)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 151a(g)(1)(B)) is amended by striking "or (vi)" and inserting "(vi), or (vii)". 19 USC 1516a.

**SEC. 3003. AMENDMENTS TO THE PENSION PROTECTION ACT OF 2006.**

(a) IN GENERAL.—Subtitle A of chapter 1 of title XIV of the Pension Protection Act of 2006 (Public Law 109–280) is amended—

(1) in section 1412— *Ante*, p. 1114.

(A) by striking "vehicles provided for in" and inserting "vehicles of"; and

(B) by striking "in that" and inserting "over";

(2) in section 1413, by amending the article description to read as follows: "Acrylic or modacrylic filament tow (provided for in subheading 5501.30.00)"; *Ante*, p. 1115.

(3) in section 1414, by amending the article description to read as follows: "Acrylic or modacrylic staple fibers, carded combed or otherwise processed for spinning (provided for in subheading 5506.30.00)"; *Ante*, p. 1115.

(4) in section 1418, by striking "vinegar" and inserting "vinegar,"; *Ante*, p. 1116.

(5) in section 1420, by striking "vinegar" and inserting "vinegar,"; *Ante*, p. 1116.

(6) in section 1433, by striking "90–04–4" and inserting "90–04–0"; *Ante*, p. 1119.

(7) in section 1456, by striking "2929.90.20" and inserting "2928.00.25"; *Ante*, p. 1123.

*Ante*, p. 1135.
(8) in section 1510, by inserting "in solvents" after "Hexane, 1,6-diisocyanato-, homopolymer, 3,5-dimethyl-1H-pyrazole-blocked";

*Ante*, p. 1135.
(9) in section 1511, by amending the article description to read as follows: "Polyisocyanate cross linking agent products containing triphenylmethane triisocyanate in solvents (provided for in subheading 3824.90.28)";

*Ante*, p. 1136.
(10) in section 1518, by striking "4402.12.80" and inserting "4202.12.80";

*Ante*, p. 1141.
(11) in section 1542, by striking "hair" and inserting "hair,";

*Ante*, p. 1142.
(12) in section 1548, by striking "$10^{7}$" and inserting "$10^{-7}$";

*Ante*, p. 1143.
(13) in section 1549, by striking "$10^{7}$" and inserting "$10^{-7}$";

*Ante*, p. 1144.
(14) in section 1555, by striking "2933.39.91" and inserting "2933.39.20";

*Ante*, p. 1149.
(15) in section 1572, by striking ", rubber, or synthetic" and inserting "or rubber";

*Ante*, p. 1155.
(16) in section 1597—

(A) in the heading, by striking "**WORK FOOTWEAR**" and inserting "**HOUSE SLIPPERS**"; and

(B) by striking "; Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like, all the foregoing with outer soles of rubber or plastics and uppers of textile materials for women (provided for in subheading 6404.11.20)";

*Ante*, p. 1155.
(17) in section 1598, by striking "50 mm" and inserting "60 mm";

*Ante*, p. 1156.
(18) in section 1605—

(A) in the article description, by striking "Device" and inserting "Display"; and

(B) in the heading, by striking "**DEVICE**" and inserting "**DISPLAY**";

*Ante*, p. 1156.
(19) in section 1606—

(A) in subsection (a), by striking "facilities" and inserting "facilities,"; and

(B) in subsection (b), by striking "reactors" and inserting "reactors,";

(20) by adding at the end of such subtitle the following:

**"SEC. 1607. CERTAIN SPORTS FOOTWEAR FOR WOMEN.**

"Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| " | 9902.90.01 | Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like, all the foregoing with outer soles of rubber or plastics and uppers of textile materials for women (provided for in subheading 6404.11.20) .... | Free | No change | No change | On or before 12/31/2009 | " |

; and

*Ante*, p. 1160.
(21) in section 1621, by striking "December 31, 2006" and inserting "March 31, 2007".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply as if included in the enactment of the Pension Protection Act of 2006 (Public Law 109–280).

*Ante*, p. 780.

**SEC. 3004. NMSBA**

(a) IN GENERAL.—Section 1434 (b) and (c) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2524) are amended to read as follows:

"(b) CALENDAR YEAR 2005.—

"(1) IN GENERAL.—Heading 9902.05.30, as added by subsection (a), is amended—

"(A) by striking "0.28%" and inserting "0.16%"; and

"(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

"(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to goods entered on or after January 1, 2005, and before January 1, 2006.

"(c) CALENDAR YEARS 2006 THROUGH 2008.—

"(1) IN GENERAL.—Heading 9902.05.30, as added by subsection (a) and amended by subsection (b), is further amended—

"(A) by striking "0.16%" and inserting "1.1%"; and

"(B) by striking "On or before 12/31/2005" and inserting "on or before 12/31/2008".

"(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to goods entered on or after January 1, 2006.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect as if included in the enactment of section 1434 of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429).

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Bureau of Customs and Border Protection before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any good—

(A) that was made on or after January 1, 2005 and before the date of the enactment of this Act; and

(B) with respect to which there would have been a lower rate of duty if the amendment made by this subsection applied to such entry or withdrawal, shall be liquidated or reliquidated as if such amendment applied to such entry or withdrawal.

**SEC. 3005. CERTAIN MONOCHROME GLASS ENVELOPES.**

(a) AMENDMENT TO SUBHEADING 7011.20.40.—The article description of subheading 7011.20.40 is amended to read as follows: "Monochrome glass envelopes, the foregoing certified by the importer as being for actual use in automatic data processing machine data or graphic display cathode ray tubes".

(b) CONFORMING AMENDMENTS.—(1) Subheading 7011.20.40, as amended by subsection (a), is redesignated as subheading 7011.20.45.

(2) Subheading 7011.20.80 is redesignated as subheading 7011.20.85.

(3) Heading 9902.02.97 is amended in the article description column by striking "7011.20.80" and inserting "7011.20.85".

(c) STAGED RATE REDUCTIONS.—Any staged rate reduction of a rate of duty proclaimed by the President before the date of the enactment of this Act, that—

(1) would take effect on or after such date of enactment; and

(2) would, but for the amendment made by subsection (b)(2), apply to subheading 7011.20.80,

applies to the corresponding rate of duty set forth in subheading 7011.20.85 (as added by subsection (b)(2)).

**SEC. 3006. FLEXIBLE MAGNETS AND COMPOSITE GOODS CONTAINING FLEXIBLE MAGNETS.**

(a) IN GENERAL.—Chapter 85 is amended by striking subheadings 8505.19.10, 8505.19.20, and 8505.19.30 and inserting the following new subheadings, with the article description for subheading 8505.19 having the same degree of indentation as the article description for subheading 8505.11.00:

| | | | | | | |
|---|---|---|---|---|---|---|
| " | 8505.19 | Other: | | | | |
| | 8505.19.10 | Flexible magnets ..... | 4.9% | Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, P, SG) | 45% | |
| | 8505.19.20 | Composite goods containing flexible magnets | 4.9% | Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, P, SG) | 45% | |
| | 8505.19.30 | Other ..... | 4.9% | Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, P, SG) | 45% | ". |

(b) STAGED RATE REDUCTIONS.—Any staged reduction of a rate of duty proclaimed by the President before the date of the enactment of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429), that—

(1) takes effect on or after such date of enactment; and

(2) would, but for the amendment made by this section, apply to subheading 8505.19, applies to the corresponding rate of duty set forth in subheadings 8505.19.10, 8505.19.20, and 8505.19.30 of such Schedule (as added by subsection (a)).

19 USC 1654 note.

(c) APPLICABILITY.—The amendments made by this section shall take effect as if included in the enactment of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429).

**SEC. 3007. CELLAR TREATMENT OF WINE.**

26 USC 5382.

Section 5382(a)(1)(A) of the Internal Revenue Code of 1986 (relating to cellar treatment of natural wine) is amended by striking "stabilize" and inserting "correct or stabilize".

# Subtitle B—Other Provisions

**SEC. 3011. CONSIDERATION OF CERTAIN CIVIL ACTIONS DELAYED BECAUSE OF THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.**

(a) IN GENERAL.—Notwithstanding any period of limitations, lapse of time, or any other provision of law, the United States Court of International Trade shall treat any civil action contesting the denial of a protest described in subsection (b) as having been filed in accordance with section 514 of the Tariff Act of 1930

(19 U.S.C. 1514) and within the time limit provided in section 2636 of title 28, United States Code.

(b) AFFECTED PROTESTS.—The protests referred to in subsection (a) are as follows:

| Entry Number | Protest Number | Protest Date | Denial Date |
|---|---|---|---|
| 2704-442-1562415-4 | 2704.01.100001 | 12/22/00 | 03/23/01 |
| 2704-442-1559965-3 | 2704.00.103269 | 12/12/00 | 03/23/01 |
| 2704-442-1561096-3 | 2704.00.103270 | 12/12/00 | 03/23/01 |
| 2704-442-1562411-3 | 2704.01.100002 | 12/22/00 | 03/23/01 |
| 2704-442-1562408-9 | 2704.01.100003 | 12/22/00 | 03/23/01 |
| 2704-442-1562416-2 | 2704.01.100009 | 12/22/00 | 03/23/01 |
| 2704-442-1564132-3 | 2704.01.100033 | 01/03/01 | 03/23/01 |
| 2704-442-1564387-3 | 2704.01.100034 | 01/03/01 | 03/23/01 |
| 2704-442-1564389-9 | 2704.01.100035 | 01/03/01 | 03/23/01 |
| 2704-442-1564390-7 | 2704.01.100036 | 01/03/01 | 03/23/01 |
| 2704-442-1564870-8 | 2704.01.100038 | 01/03/01 | 03/23/01 |
| 2704-442-1565099-3 | 2704.01.100039 | 01/03/01 | 03/23/01 |
| 2704-442-1563549-9 | 2704.01.100042 | 01/03/01 | 03/23/01 |
| 2704-442-1554152-3 | 2704.01.100043 | 12/22/00 | 03/23/01 |
| 2704-442-1562418-8 | 2704.01.100072 | 12/22/00 | 03/27/01 |
| 2704-442-1562419-6 | 2704.01.100073 | 12/22/00 | 03/27/01 |
| 2704-442-1562872-6 | 2704.01.100074 | 12/22/00 | 03/27/01 |
| 2704-442-1570239-8 | 2704.01.100392 | 02/09/01 | 03/23/01 |
| 2704-442-1570423-8 | 2704.01.100400 | 02/06/01 | 03/27/01 |
| 2704-442-1570431-1 | 2704.01.100401 | 02/06/01 | 03/27/01 |
| 2704-442-1571191-0 | 2704.01.100403 | 02/06/01 | 04/05/01 |
| 2704-442-1565424-3 | 2704.01.100411 | 02/05/01 | 03/27/01 |
| 2704-442-1565513-3 | 2704.01.100422 | 02/05/01 | 03/26/01 |
| 2704-442-1565516-6 | 2704.01.100423 | 02/05/01 | 03/23/01 |
| 2704-442-1565518-2 | 2704.01.100424 | 02/05/01 | 03/23/01 |
| 2704-442-1566265-9 | 2704.01.100425 | 02/05/01 | 03/23/01 |
| 2704-442-1567197-3 | 2704.01.100427 | 02/05/01 | 03/23/01 |
| 2704-442-1573049-8 | 2704.01.100723 | 03/13/01 | 04/05/01 |
| 2704-442-1572011-9 | 2704.01.100725 | 03/13/01 | 04/05/01 |
| 2704-442-1572003-6 | 2704.01.100726 | 03/13/01 | 04/05/01 |
| 2704-442-1572000-2 | 2704.01.100727 | 03/13/01 | 04/05/01 |
| 2704-442-1571470-8 | 2704.01.100728 | 03/13/01 | 04/05/01 |

**SEC. 3012. EFFECTIVE DATE OF MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE.**

Section 1206(c) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3006(c)) is amended by striking "15th" and inserting "30th".

# TITLE IV—EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO THE PRODUCTS OF VIETNAM

**SEC. 4001. FINDINGS.**

19 USC 2434 note.

Congress finds the following:

(1) In July 1995, President Bill Clinton announced the formal normalization of diplomatic relations between the United States and Vietnam.

(2) Vietnam has taken cooperative steps with the United States under the United States Joint POW/MIA Accounting Command (formerly the Joint Task Force-Full Accounting)

established in 1992 by President George H.W. Bush to provide the fullest possible accounting of MIA and POW cases.

(3) In 2000, the United States and Vietnam concluded a bilateral trade agreement that included commitments on goods, services, intellectual property rights, and investment. The agreement was approved by joint resolution enacted pursuant to section 405(c) of the Trade Act of 1974 (19 U.S.C. 2435(c)), and entered into force in December 2001.

(4) Since 2001, normal trade relations treatment has consistently been extended to Vietnam pursuant to title IV of the Trade Act of 1974.

(5) Vietnam has undertaken significant market-based economic reforms, including the reduction of government subsidies, tariffs and nontariff barriers, and extensive legal reform. These measures have dramatically improved Vietnam's business and investment climate.

(6) Vietnam has completed its negotiations to join the World Trade Organization (WTO). On May 31, 2006, the United States and Vietnam signed a comprehensive bilateral agreement providing greater market access for goods and services and other trade liberalizing commitments. On November 7, 2006, the WTO General Council approved Vietnam's membership. Vietnam's National Assembly ratified Vietnam's WTO accession commitments on November 28, 2006, and Vietnam will become the 150th Member of the WTO 30 days thereafter.

(7) On November 13, 2006, the Department of State removed Vietnam from its list of Countries of Particular Concern (CPC) for severe violations of religious freedom. In reaching this determination, the Department of State cited significant improvements in Vietnam toward advancing religious freedom, though problems remain that merit immediate attention and important work remains to be done to fully protect religious freedom in Vietnam.

19 USC 2434 note.

**SEC. 4002. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO VIETNAM.**

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NON-DISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Vietnam; and

(2) after making a determination under paragraph (1) with respect to Vietnam, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) TERMINATION OF THE APPLICABILITY OF TITLE IV.—On and after the effective date of the extension of nondiscriminatory treatment to the products of Vietnam under subsection (a), title IV of the Trade Act of 1974 shall cease to apply to that country.

**SEC. 4003. PROCEDURE FOR DETERMINING PROHIBITED SUBSIDIES BY VIETNAM.**

(a) AUTHORITY OF TRADE REPRESENTATIVE.—The Trade Representative may conduct proceedings under this section to determine whether the Government of Vietnam is providing, on or after the date on which Vietnam accedes to the World Trade Organization, a prohibited subsidy to its textile or apparel industry, if such

proceedings are begun, and consultations under section 4004 are initiated, during the 1-year period beginning on the date on which Vietnam accedes to the World Trade Organization.

(b) PETITIONS.—

(1) FILING.—Any interested person may file a petition with the Trade Representative requesting that the Trade Representative make a determination under subsection (a). The petition shall set forth the allegations in support of the request.

(2) REVIEW BY TRADE REPRESENTATIVE.—The Trade Representative shall review the allegations in any petition filed under paragraph (1) and, not later than 20 days after the date on which the Trade Representative receives the petition, shall determine whether to initiate proceedings to make a determination under subsection (a). Deadline.

(3) PROCEDURES.—

(A) DETERMINATION TO INITIATE PROCEEDINGS.—If the Trade Representative makes an affirmative determination under paragraph (2) with respect to a petition, the Trade Representative shall publish a summary of the petition in the Federal Register and notice of the initiation of proceedings under this section. Federal Register, publication. Notice.

(B) DETERMINATION NOT TO INITIATE PROCEEDINGS.—If the Trade Representative determines not to initiate proceedings with respect to a petition, the Trade Representative shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of those reasons, in the Federal Register.

(c) INITIATION OF PROCEEDINGS BY OTHER MEANS.—If the Trade Representative determines, in the absence of a petition, that proceedings should be initiated under this section, the Trade Representative shall publish in the Federal Register that determination, together with the reasons therefor, and notice of the initiation of proceedings under this section. Federal Register, publication. Notice.

**SEC. 4004. CONSULTATIONS UPON INITIATION OF INVESTIGATION.** Notification.

If the Trade Representative initiates a proceeding under subsection (b)(3)(A) or (c) of section 4003, the Trade Representative, on behalf of the United States, shall, on the day on which notice thereof is published under the applicable subsection, so notify the Government of Vietnam and request consultations with that government regarding the subsidy.

**SEC. 4005. PUBLIC PARTICIPATION AND CONSULTATION.**

(a) PUBLIC PARTICIPATION.—In the notice published under subsection (b)(3)(A) or (c) of section 4003, the Trade Representative shall provide an opportunity to the public for the presentation of views concerning the issues—

(1) within the 30-day period beginning on the date of the notice (or on a date after such period if agreed to by the petitioner), or Deadline.

(2) at such other time if a timely request therefor is made by the petitioner or by any interested person,

with a public hearing if requested by an interested person.

(b) CONSULTATION.—The Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and with the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), with respect to whether

to initiate proceedings under section 4003 and, if proceedings are conducted, with respect to making the determination under subsection (c).

Deadline.

(c) DETERMINATION.—After considering all comments submitted, and within 30 days after the close of the comment period under subsection (a), the Trade Representative shall determine whether the Government of Vietnam is providing, on or after the date on which Vietnam accedes to the World Trade Organization, a prohibited subsidy to its textile or apparel industry. The Trade Representative shall publish that determination in the Federal Register, together with the justification for the determination.

(d) RECORD.—The Trade Representative shall make available to the public a complete record of all nonconfidential information presented in proceedings conducted under this section, together with a summary of confidential information so submitted.

**SEC. 4006. ARBITRATION AND IMPOSITION OF QUOTAS.**

Deadline.

(a) ARBITRATION.—If, within 60 days after consultations are requested under section 4004, in a case in which the Trade Representative makes an affirmative determination under section 4005(c), the matter in dispute is not resolved, the Trade Representative shall request arbitration of the matter under the Dispute Settlement Understanding.

(b) IMPOSITION OF QUOTAS.—

Limitations.

(1) IN GENERAL.—The Trade Representative shall impose, for a period of not more than 1 year, the quantitative limitations described in paragraph (2) on textile and apparel products of Vietnam—

(A) if, pursuant to arbitration under subsection (a), the arbitrator determines that the Government of Vietnam is providing, on or after the date on which Vietnam accedes to the World Trade Organization, a prohibited subsidy to its textile or apparel industry; or

Deadline.

(B) if the arbitrator does not issue a decision within 120 days after the request for arbitration, in which case the limitations cease to be effective if the arbitrator, after such limitations are imposed, determines that the Government of Vietnam is not providing, on or after the date on which Vietnam accedes to the World Trade Organization, a prohibited subsidy to its textile or apparel industry.

(2) LIMITATIONS DESCRIBED.—The quantitative limitations referred to in paragraph (1) are those quantitative limitations that were in effect under the Bilateral Textile Agreement during the most recent full calendar year in which the Bilateral Textile Agreement was in effect.

Termination date.

(c) DETERMINATION OF COMPLIANCE.—If, after imposing quantitative limitations under subsection (b) because of a prohibited subsidy, the Trade Representative determines that the Government of Vietnam is not providing, on or after the date on which Vietnam accedes to the World Trade Organization, a prohibited subsidy to its textile or apparel industry, the quantitative limitations shall cease to be effective on the date on which that determination is made.

**SEC. 4007. DEFINITIONS.**

In this title:

(1) BILATERAL TEXTILE AGREEMENT.—The term "Bilateral Textile Agreement" means the Agreement Relating to Trade

in Cotton, Wool, Man-Made Fiber, Non-Cotton Vegetable Fiber and Silk Blend Textiles and Textile Products Between the Governments of the United States of America and the Socialist Republic of Vietnam, entered into on July 17, 2003.

(2) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(3) INTERESTED PERSON.—The term "interested person" includes, but is not limited to, domestic firms and workers, representatives of consumer interests, United States product exporters, and any industrial user of any goods or services that may be affected by action taken under section 4006(b).

(4) PROHIBITED SUBSIDY.—

(A) IN GENERAL.—The term "prohibited subsidy" means a subsidy described in article 3.1 of the Agreement on Subsidies and Countervailing Measures.

(B) SUBSIDY.—The term "subsidy" means a subsidy within the meaning of article 1.1 of the Agreement on Subsidies and Countervailing Measures.

(C) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—The term "Agreement on Subsidies and Countervailing Measures" means the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(5) TEXTILE OR APPAREL PRODUCT.—The term "textile or apparel product" means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(6) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

# TITLE V—HAITI

Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006. 19 USC 2701 note.

**SEC. 5001. SHORT TITLE.**

This title may be cited as the "Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006".

**SEC. 5002. TRADE BENEFITS FOR HAITI.**

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 213 the following new section:

**"SEC. 213A. SPECIAL RULES FOR HAITI.** 19 USC 2703a.

"(a) DEFINITIONS.—In this section:

"(1) APPLICABLE 1-YEAR PERIOD.—

"(A) IN GENERAL.—The term "applicable 1-year period" means each of the 1-year periods described in subparagraphs (B) through (F).

"(B) INITIAL APPLICABLE 1-YEAR PERIOD.—The term 'initial applicable 1-year period' means the 1-year period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

"(C) SECOND APPLICABLE 1-YEAR PERIOD.—The term 'second applicable 1-year period' means the 1-year period beginning on the day after the last day of the initial applicable 1-year period.

"(D) THIRD APPLICABLE 1-YEAR PERIOD.—The term 'third applicable 1-year period' means the 1-year period beginning on the day after the last day of the second applicable 1-year period.

"(E) FOURTH APPLICABLE 1-YEAR PERIOD.—The term 'fourth applicable 1-year period' means the 1-year period beginning on the day after the last day of the third applicable 1-year period.

"(F) FIFTH APPLICABLE 1-YEAR PERIOD.—The term 'fifth applicable 1-year period' means the 1-year period beginning on the day after the last day of the fourth applicable 1-year period.

"(2) ENTER; ENTRY.—The terms 'enter' and 'entry' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

"(b) APPAREL ARTICLES.—

"(1) IN GENERAL.—In addition to any other preferential treatment under this title, apparel articles described in paragraph (2) of a producer or entity controlling production that are imported directly from Haiti shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in paragraphs (2) and (3), if Haiti has met the requirements of subsections (d) and (e).

"(2) APPAREL ARTICLES DESCRIBED.—

"(A) IN GENERAL.—In any applicable 1-year period, apparel articles described in this paragraph are apparel articles that are wholly assembled, or are knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, only if, for each entry in the applicable 1-year period, the sum of—

"(i) the cost or value of the materials produced in Haiti or one or more countries described in subparagraph (C), or any combination thereof, plus

"(ii) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or one or more countries described in subparagraph (C), or any combination thereof,

is not less than the applicable percentage (as defined in subparagraph (E)(i)) of the declared customs value of such apparel articles.

"(B) DEDUCTIONS.—In calculating cost or value under subparagraph (A)(i), there shall be deducted the cost or value of—

"(i) any foreign materials that are used in the production of the apparel articles in Haiti; and

"(ii) any foreign materials that are used in the production of the materials described in subparagraph (A)(i).

"(C) COUNTRIES DESCRIBED.—The countries referred to in subparagraph (A) are the following:

"(i) The United States.

"(ii) Any country that is a party to a free trade agreement with the United States that is in effect

on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, or that enters into force under the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3801 et seq.).

"(iii) Any country designated as a beneficiary country under section 213(b)(5)(B) of this Act.

"(iv) Any country designated as a beneficiary country under section 506A(a)(1) of the Trade Act of 1974 (19 U.S.C. 2466a(a)(1)), if a finding has been made by the President or the President's designee, and published in the Federal Register, that the country has satisfied the requirements of section 113 of the African Growth and Opportunity Act (19 U.S.C. 3722).

President. Federal Register, publication.

"(v) Any country designated as a beneficiary country under section 204(b)(6)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)).

"(D) ANNUAL AGGREGATION.—

"(i) INITIAL APPLICABLE 1-YEAR PERIOD.—In the initial applicable 1-year period, the requirements under subparagraph (A) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the initial applicable 1-year period by aggregating—

"(I) the cost or value of materials under clause (i) of subparagraph (A), and

"(II) the direct costs of processing operations under clause (ii) of subparagraph (A),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the initial applicable 1-year period.

"(ii) OTHER APPLICABLE 1-YEAR PERIODS.—In each of the second, third, fourth, and fifth applicable 1-year periods, the requirements under subparagraph (A) relating to applicable percentage may also be met for articles of a producer or an entity controlling production that enter during the applicable 1-year period by aggregating—

"(I) the cost or value of materials under clause (i) of subparagraph (A), and

"(II) the direct costs of processing operations under clause (ii) of subparagraph (A),

of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding applicable 1-year period.

"(iii) DEDUCTIONS.—In calculating cost or value under clause (i)(I) or (ii)(I), there shall be deducted the cost or value of—

"(I) any foreign materials that are used in the production of the apparel articles in Haiti; and

"(II) any foreign materials that are used in the production of the materials described in clause (i)(I) or (ii)(I) (as the case may be).

"(iv) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—(I) The entry of a woven apparel article receiving preferential treatment under paragraph (4) is not included in an annual aggregation under clause (i) or (ii).

"(II) Entries of articles receiving preferential treatment under paragraph (5) are not included in an annual aggregation under clause (i) or (ii) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation.

"(III) Entries of apparel articles that receive preferential treatment under any provision of law other than this subsection or are subject to the 'General' column 1 rate of duty under the HTS are not included in an annual aggregation under clause (i) or (ii) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation.

"(E) DEFINITIONS.—In this paragraph:

"(i) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(I) 50 percent or more during the initial applicable 1-year period, the second applicable 1-year period, and the third applicable 1-year period;

"(II) 55 percent or more during the fourth applicable 1-year period; and

"(III) 60 percent or more during the fifth applicable 1-year period.

"(ii) FOREIGN MATERIAL.—The term 'foreign material' means a material produced in a country other than Haiti or any country described in subparagraph (C).

"(F) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—

"(i) IN GENERAL.—The Bureau of Customs and Border Protection of the Department of Homeland Security shall develop and implement methods and procedures to ensure ongoing compliance with the requirements set forth in subparagraphs (A) and (D).

"(ii) NONCOMPLIANCE.—If the Bureau of Customs and Border Protection finds that a producer or an entity controlling production has not satisfied such requirements in any applicable 1-year period, either for individual entries entered pursuant to subparagraph (A) or for entries entered in aggregate pursuant to subparagraph (D), then apparel articles described in subparagraph (A) of that producer or entity shall be ineligible for preferential treatment under paragraph (1) during any succeeding applicable 1-year period until—

"(I) the cost or value of materials under clause (i) of subparagraph (A), plus

"(II) the direct costs of processing operations under clause (ii) of subparagraph (A),

of that producer or entity controlling production, is not less than the applicable percentage under subparagraph (E)(i), plus 10 percent, of the aggregate declared customs value of all apparel articles of that producer or entity controlling production that are wholly assembled, or are knit-to-shape, in Haiti and are entered during the preceding applicable 1-year period.

"(iii) RETROACTIVE APPLICATION OF DUTY-FREE TREATMENT.—If—

"(I) a producer or an entity controlling production is ineligible for preferential treatment under paragraph (1) in an applicable 1-year period because that producer or entity controlling production did not satisfy the requirements of subparagraph (A) or (D), and

"(II) that producer or entity controlling production satisfies the requirements of clause (ii) of this subparagraph in that applicable 1-year period,

then, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Bureau of Customs and Border Protection before the 90th day after the Bureau of Customs and Border Protection determines that subclause (II) applies, the entry of any articles—

"(aa) that was made during that applicable 1-year period, and

"(bb) with respect to which there would have been preferential treatment under paragraph (1) if the producer or entity controlling production had satisfied the requirements in subparagraph (A) or (D) (as the case may be),

shall be liquidated or reliquidated as though such preferential treatment under paragraph (1) applied to such entry.

"(G) FABRICS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—

"(i) IN GENERAL.—For purposes of determining the applicable percentage under subparagraph (A) or (D), there may be included in that percentage—

"(I) the cost of fabrics or yarns to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA; and

"(II) the cost of fabrics or yarns that are designated as not being available in commercial quantities for purposes of—

"(aa) section 213(b)(2)(A)(v) of this Act,

"(bb) section 112(b)(5) of the African Growth and Opportunity Act,

"(cc) section 204(b)(3)(B)(i)(III) or (ii) of the Andean Trade Preference Act, or

"(dd) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements

a free trade agreement that enters into force under the Bipartisan Trade Promotion Authority Act of 2002,

without regard to the source of the fabrics or yarns.

"(ii) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

President.

"(I) any fabric or yarn described in clause (i)(I) was determined to be eligible for preferential treatment, or

"(II) any fabric or yarn described in clause (i)(II) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

"(3) QUANTITATIVE LIMITATIONS.—The preferential treatment described in paragraph (1) shall be extended, during each of the applicable 1-year periods set forth in the following table, to not more than the corresponding percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available:

| "During the: | the corresponding percentage is: |
|---|---|
| "initial applicable 1-year period | 1 percent. |
| "second applicable 1-year period | 1.25 percent. |
| "third applicable 1-year period | 1.5 percent. |
| "fourth applicable 1-year period | 1.75 percent. |
| "fifth applicable 1-year period | 2 percent. |

No preferential treatment shall be provided under paragraph (1) after the last day of the fifth applicable 1-year period.

"(4) SPECIAL RULE FOR WOVEN APPAREL.—In the case of apparel articles classifiable under chapter 62 of the HTS (other than articles classifiable under subheading 6212.10 of the HTS), as in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, that do not qualify for preferential treatment under paragraph (1) because they do not meet the percentage requirements under paragraph (2)(A), (2)(B), or (2)(D), the preferential treatment under paragraph (1)—

Extension.
Deadlines.

"(A) shall be extended, in addition to the quantities permitted under paragraph (3) to—

"(i) not more than 50,000,000 square meter equivalents of such apparel articles for the initial applicable 1-year period;

"(ii) not more than 50,000,000 square meter equivalents of such apparel articles for the second applicable 1-year period; and

"(iii) not more than 33,500,000 square meter equivalents for the third applicable 1-year period; and

"(B) may not be extended to such apparel articles after the last day of the third applicable 1-year period.

"(5) SPECIAL RULE FOR BRASSIERES.—The preferential treatment under paragraph (1) shall, subject to the limitations under

paragraph (3), be extended to any article classifiable under heading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in Haiti or the United States, or both, without regard to the source of the fabric or components from which the article is made, and if Haiti has met the requirements of subsections (d) and (e).

"(c) SPECIAL RULE FOR CERTAIN WIRE HARNESS AUTOMOTIVE COMPONENTS.—

(1) IN GENERAL.—Any wire harness automotive component that is the product or manufacture of Haiti and is imported directly from Haiti into the customs territory of the United States shall enter the United States free of duty, during the 5-year period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, if Haiti has met the requirements of subsection (d) and if the sum of—

"(A) the cost or value of the materials produced in Haiti or one or more countries described in subsection (b)(2)(C), or any combination thereof, plus

"(B) the direct costs of processing operations (as defined in section 213(a)(3)) performed in Haiti or the United States, or both,

is not less than 50 percent of the declared customs value of such wire harness automotive component.

"(2) WIRE HARNESS AUTOMOTIVE COMPONENT.—For purposes of this subsection, the term "wire harness automotive component" means any article provided for in subheading 8544.30.00 of the HTS, as in effect on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

"(d) ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti— President. Certification.

"(A) has established, or is making continual progress toward establishing—

"(i) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

"(ii) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

"(iii) the elimination of barriers to United States trade and investment, including by—

"(I) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

"(II) the protection of intellectual property; and

"(III) the resolution of bilateral trade and investment disputes;

"(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage

the formation of capital markets through microcredit or other programs;

"(v) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

"(vi) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

"(B) does not engage in activities that undermine United States national security or foreign policy interests; and

"(C) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

President.

"(2) TIME LIMIT FOR DETERMINATION.—The President shall determine whether Haiti meets the requirements of paragraph (1) not later than 90 days after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006.

President. Termination.

"(3) CONTINUING COMPLIANCE.—If the President determines that Haiti is not making continual progress in meeting the requirements described in paragraph (1)(A), the President shall terminate the preferential treatment under this section.

"(e) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

President. Certification.

"(1) IN GENERAL.—The preferential treatment under subsection (b)(1) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

"(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

"(B) Haiti has enacted legislation or promulgated regulations that would permit the Bureau of Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

Reports.

"(C) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

"(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing.

"(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of such articles, including materials used in the production, for at least 5 years after the production or export (as the case may be). Records.

"(F) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system. Reports.

"(2) DEFINITION OF TRANSSHIPMENT.—Transshipment within the meaning of this subsection has occurred when preferential treatment for a textile or apparel article under this section has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under this section.

"(f) REGULATIONS.—The President shall issue regulations to carry out this section not later than 180 days after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in preparing such regulations.". President. Deadline.

**SEC. 5003. ITC STUDY.**

The International Trade Commission shall, not later than 18 months after the date of the enactment of this Act, submit a report to Congress on the effects of the amendments made by this Act on the trade markets and industries, involving textile and apparel articles, of Haiti, the countries described in clauses (ii) and (iii) of section 213A(b)(2)(C) of the Caribbean Basin Economic Recovery Act (as added by section 5002 of this Act), and the United States. Reports.

**SEC. 5004. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.**

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), the Bureau of Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as added by section 5002 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from Haiti.

**SEC. 5005. TECHNICAL AMENDMENTS.**

(a) CBI.—Section 213(b)(2)(A)(v) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)(v)) is amended by adding at the end the following new subclause:

"(III) If the President determines that any fabric or yarn was determined to be eligible for preferential President.

treatment under subclause (I) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with respect to articles entered after such removal.".

(b) ATPA.—Section 204(b)(3)(B) of the Andean Trade Preference Act (19 U.S.C. 3202(b)(3)(B)) is amended by adding at the end the following new clause:

19 USC 3203.

"(viii) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that any fabric or yarn was determined to be eligible for preferential treatment under clause (i)(III) or (ii) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with respect to articles entered after such removal.".

President.

19 USC 2703 note.

**SEC. 5006. EFFECTIVE DATE.**

This title and the amendments made by this title apply to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Africa Investment Incentive Act of 2006.

# TITLE VI—AFRICAN GROWTH AND OPPORTUNITY ACT

19 USC 3701 note.

**SEC. 6001. SHORT TITLE.**

This title may be referred to as the "Africa Investment Incentive Act of 2006".

**SEC. 6002. PREFERENTIAL TREATMENT OF APPAREL PRODUCTS OF LESSER DEVELOPED COUNTRIES.**

(a) IN GENERAL.—Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g);

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "The" and inserting "Subject to subsection (c), the" ; and

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

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

"(c) LESSER DEVELOPED COUNTRIES.—

"(1) PREFERENTIAL TREATMENT OF PRODUCTS THROUGH SEPTEMBER 30, 2012.—

"(A) PRODUCTS COVERED.—In addition to the products described in subsection (b), and subject to paragraph (2), the preferential treatment described in subsection (a) shall apply through September 30, 2012, to apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of

the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) 2.9285 percent for the 1-year period beginning on October 1, 2005; and

"(ii) 3.5 percent for the 1-year period beginning on October 1, 2006, and each 1-year period thereafter through September 30, 2012.

"(2) SPECIAL RULES FOR PRODUCTS IN COMMERCIAL QUANTITIES IN AFRICA.—

"(A) PETITION PROCESS.—Upon a petition filed by an interested party (which may include a foreign manufacturer), the Commission shall determine whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries.

"(B) EFFECT OF AFFIRMATIVE DETERMINATION.—

"(i) DETERMINATION OF QUANTITY AVAILABLE.—If the Commission determines under subparagraph (A) that a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries, the Commission shall determine the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period beginning after the determination is made.

"(ii) DETERMINATIONS.—In each case in which the Commission determines that a fabric or yarn is available in commercial quantities under subparagraph (A) for an applicable 1-year period, the Commission shall determine, before the end of that applicable 1-year period—

"(I) whether the fabric or yarn produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding applicable 1-year period; and

"(II) if so, the quantity of the fabric or yarn that will be so available in that succeeding 1-year period, subject to clause (iii).

"(iii) DETERMINATION REGARDING IMPORTED ARTICLES.—After the end of each applicable 1-year period for which a determination under clause (i) is in effect, the Commission shall determine to what extent the quantity of the fabric or yarn determined under clause (i) to be available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries was used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered in that applicable 1-year period. To the extent that the quantity so determined was not so used, then the Commission shall add to the quantity of that fabric or yarn determined to be available in the next applicable 1-year period the quantity not so used in the preceding applicable 1-year period.

"(C) DENIM.—Denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule of the United States shall be deemed to have been determined to be in abundant supply under subparagraph (A) in an amount of 30,000,000 square meter equivalents for the 1-year period beginning October 1, 2006.

"(D) PRESIDENTIAL AUTHORITY TO RESTRICT IMPORTS.—

"(i) IN GENERAL.—Subject to clause (ii), the President may by proclamation provide that apparel articles otherwise eligible for preferential treatment under paragraph (1) that contain a fabric or yarn determined to be available in commercial quantities under subparagraph (A) may not receive such preferential treatment in an applicable 1-year period unless—

"(I) the fabric or yarn in such articles was produced in 1 or more beneficiary sub-Saharan African countries; or

"(II) the Commission has determined that the quantity of the fabric or yarn determined under subparagraph (B) (or (C), as the case may be) to be available in lesser developed beneficiary sub-Saharan African countries for that applicable 1-year period has already been used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered in that applicable 1-year period.

"(ii) MANDATORY RESTRICTION.—If a fabric or yarn is determined to be available in commercial quantities under subparagraph (A) in an applicable 1-year period, and for 2 consecutive applicable 1-year periods the quantities determined to be so available are not used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered during those 2 applicable 1-year periods, then beginning in the succeeding applicable 1-year period, apparel articles containing that fabric or yarn are ineligible for preferential treatment under paragraph (1) in any succeeding applicable 1-year period unless the Commission has determined that the quantity of the fabric or yarn determined under subparagraph (B) (or (C), as the case may be) to be available in lesser developed beneficiary sub-Saharan African countries for that applicable 1-year period has already been used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered in that applicable 1-year period.

"(E) PROCEDURES.—The Commission shall use the procedures prescribed in subsection (b)(3)(C)(iv) for the Secretary of Commerce in making determinations under this paragraph.

"(3) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

"(A) any fabric or yarn described in paragraph (2)(A) was determined to be eligible for preferential treatment, or

"(B) any fabric or yarn described in paragraph (2)(B) was designated as not being available in commercial quantities,

on the basis of fraud, the President may remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

"(4) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(3)(C) applies to apparel articles eligible for preferential treatment under this subsection to the same extent as that subsection applies to apparel articles eligible for preferential treatment under subsection (b)(3).

"(5) DEFINITIONS.—In this subsection:

"(A) APPLICABLE 1-YEAR PERIOD.—The term 'applicable 1-year period' means each of the 12-month periods beginning on October 1 of each year and ending on September 30 of the following year.

"(B) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

"(C) ENTER; ENTRY.—The terms 'enter' and 'entry' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

"(D) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—The term 'lesser developed beneficiary sub-Saharan African country' means—

"(i) a beneficiary sub-Saharan African country that had a per capita gross national product of less than $1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

"(ii) Botswana; and

"(iii) Namibia.".

(b) ADDITIONAL PREFERENTIAL TREATMENT.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended by adding at the end the following new paragraph:

"(8) TEXTILE ARTICLES ORIGINATING ENTIRELY IN ONE OR MORE LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Textile and textile articles classifiable under chapters 50 through 60 or chapter 63 of the Harmonized Tariff Schedule of the United States that are products of a lesser developed beneficiary sub-Saharan African country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries.".

(c) TECHNICAL AMENDMENT.—Section 112(e)(3) of the African Growth and Opportunity Act (as redesignated by subsection (a)(1) of this section) is amended by striking "subsection (b)" and inserting "subsections (b) and (c)".

**SEC. 6003. TECHNICAL CORRECTIONS.**

Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended as follows:

(1) Subsection (b)(5) is amended by adding at the end the following new subparagraph:

"(C) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that any fabric or yarn was determined to be eligible for preferential treatment under subparagraph (A) on the basis of fraud, the President is authorized

President.

to remove that designation from that fabric or yarn with respect to articles entered after such removal.".

(2) Subsection (f), as redesignated by section 6002(a)(1), is amended by adding at the end the following:

"(5) ENTER; ENTERED.—The terms 'enter' and 'entered' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.".

**SEC. 6004. EFFECTIVE DATE FOR AGOA.**

Subsection (g) of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), as redesignated by section 6002(a)(1), is amended by striking "2008" and inserting "2015".

Andean Trade Preferences Extension Act.

# TITLE VII—ANDEAN TRADE PREFERENCE ACT

19 USC 3201 note.

**SEC. 7001. SHORT TITLE.**

This title may be cited as the "Andean Trade Preferences Extension Act".

**SEC. 7002. ATPA EXTENSION.**

(a) TEMPORARY EXTENSION.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended by striking "December 31, 2006" and inserting "June 30, 2007".

(b) CONDITIONAL EXTENSIONS.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206), as amended by subsection (a), is further amended—

(1) by striking "No" and inserting "(a) TERMINATION.—Subject to subsection (b), no"; and

(2) by adding at the end the following:

"(b) CONDITIONAL EXTENSIONS.—Duty-free treatment and other preferential treatment under this title shall remain in effect with respect to a beneficiary country, during the period beginning on July 1, 2007, and ending on December 31, 2007, only if on or before June 30, 2007—

"(1) an implementing bill with respect to a trade agreement with that country has been enacted into law pursuant to the Bipartisan Trade Promotion Authority Act of 2002; and

"(2) the President determines that the legislature of that country has approved such trade agreement.".

**SEC. 7003. TECHNICAL AMENDMENTS.**

Section 204(b)(3)(B) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)) is amended—

(1) in clause (iii)(II), by striking "The preferential" and inserting "Subject to section 208, the preferential"; and

(2) in clause (v)(II), by striking "During" and inserting "Subject to section 208, during".

# TITLE VIII—GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM

**SEC. 8001. LIMITATIONS ON WAIVERS OF COMPETITIVE NEED LIMITATION.**

Section 503(d)(4)(B) of the Trade Act of 1974 (19 U.S.C. 2463(d)(4)(B)) is amended—

(1) by striking "The President" and inserting "(i) The President";

(2) by striking "(i) had" and inserting "(I) had" and by striking "(ii) had" and inserting "(II) had"; and

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

"(ii) Not later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article— Deadline.

"(I) having an appraised value in excess of 1.5 times the applicable amount set forth in subsection (c)(2)(A)(ii) for that calendar year; or

"(II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year.".

**SEC. 8002. EXTENSION OF GSP PROGRAM.**

Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking "December 31, 2006" and inserting "December 31, 2008".

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 6111:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 5, considered and passed House.
Dec. 7, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendment with amendments. Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 20, Presidential remarks and statement.

# Public Law 109–433
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 6131]

To permit certain expenditures from the Leaking Underground Storage Tank Trust Fund.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXPENDITURES PERMITTED FROM THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.**

26 USC 9508.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking "section 9003(h)" and inserting "sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013", and

(2) by striking "Superfund Amendments and Reauthorization Act of 1986" and inserting "Public Law 109–168".

42 USC 6991m.

(b) CONFORMING AMENDMENTS.—Section 9014(2) of the Solid Waste Disposal Act is amended by striking "Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986" and inserting "Fund".

26 USC 9508 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 6131:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 26, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–434
# 109th Congress

## An Act

To extend through December 31, 2008, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

Dec. 20, 2006
[H.R. 6316]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FUNDING TO PROCESS PERMITS.**

Section 214(c) of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note; 114 Stat. 2594; 117 Stat. 1836; 119 Stat. 2169; 120 Stat. 318) is amended by striking "December 31, 2006" and inserting "December 31, 2008".

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 6316:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 5, considered and passed House.
Dec. 6, considered and passed Senate.

# Public Law 109–435
# 109th Congress

## An Act

Dec. 20, 2006
[H.R. 6407]

To reform the postal laws of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Postal Accountability and Enhancement Act.
39 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.
Sec. 102. Postal Services.

TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.
Sec. 202. Provisions relating to competitive products.
Sec. 203. Provisions relating to experimental and new products.
Sec. 204. Reporting requirements and related provisions.
Sec. 205. Complaints; appellate review and enforcement.
Sec. 206. Clerical amendment.

TITLE III—MODERN SERVICE STANDARDS

Sec. 301. Establishment of modern service standards.
Sec. 302. Postal service plan.

TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 401. Postal Service Competitive Products Fund.
Sec. 402. Assumed Federal income tax on competitive products income.
Sec. 403. Unfair competition prohibited.
Sec. 404. Suits by and against the Postal Service.
Sec. 405. International postal arrangements.

TITLE V—GENERAL PROVISIONS

Sec. 501. Qualification and term requirements for Governors.
Sec. 502. Obligations.
Sec. 503. Private carriage of letters.
Sec. 504. Rulemaking authority.
Sec. 505. Noninterference with collective bargaining agreements.
Sec. 506. Bonus authority.

TITLE VI—ENHANCED REGULATORY COMMISSION

Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.
Sec. 603. Authorization of appropriations from the Postal Service Fund.
Sec. 604. Redesignation of the Postal Rate Commission.
Sec. 605. Inspector General of the Postal Regulatory Commission.

TITLE VII—EVALUATIONS

Sec. 701. Assessments of ratemaking, classification, and other provisions.

Sec. 702. Report on universal postal service and the postal monopoly.
Sec. 703. Study on equal application of laws to competitive products.
Sec. 704. Report on postal workplace safety and workplace-related injuries.
Sec. 705. Study on recycled paper.
Sec. 706. Greater diversity in Postal Service executive and administrative schedule management positions.
Sec. 707. Contracts with women, minorities, and small businesses.
Sec. 708. Rates for periodicals.
Sec. 709. Assessment of certain rate deficiencies.
Sec. 710. Assessment of future business model of the Postal Service.
Sec. 711. Provisions relating to cooperative mailings.
Sec. 712. Definition.

TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Sec. 801. Short title.
Sec. 802. Civil Service Retirement System.
Sec. 803. Health insurance.
Sec. 804. Repeal of disposition of savings provision.
Sec. 805. Effective dates.

TITLE IX—COMPENSATION FOR WORK INJURIES

Sec. 901. Temporary disability; continuation of pay.

TITLE X—MISCELLANEOUS

Sec. 1001. Employment of postal police officers.
Sec. 1002. Obsolete provisions.
Sec. 1003. Reduced rates.
Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.
Sec. 1005. Contracts for transportation of mail by air.
Sec. 1006. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
Sec. 1007. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
Sec. 1008. Hazardous matter.
Sec. 1009. ZIP codes and retail hours.
Sec. 1010. Technical and conforming amendments.

# TITLE I—DEFINITIONS; POSTAL SERVICES

**SEC. 101. DEFINITIONS.**

Section 102 of title 39, United States Code, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

"(5) 'postal service' refers to the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36;

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36; and

"(10) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

**SEC. 102. POSTAL SERVICES.**

(a) IN GENERAL.—Section 404 of title 39, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

"(c)(1) In this subsection, the term 'nonpostal service' means any service that is not a postal service defined under section 102(5).

"(2) Nothing in this section shall be considered to permit or require that the Postal Service provide any nonpostal service, except that the Postal Service may provide nonpostal services which were offered as of January 1, 2006, as provided under this subsection.

Deadline.

"(3) Not later than 2 years after the date of enactment of the Postal Accountability and Enhancement Act, the Postal Regulatory Commission shall review each nonpostal service offered by the Postal Service on the date of enactment of that Act and determine whether that nonpostal service shall continue, taking into account—

"(A) the public need for the service; and

"(B) the ability of the private sector to meet the public need for the service.

"(4) Any nonpostal service not determined to be continued by the Postal Regulatory Commission under paragraph (3) shall terminate.

"(5) If the Postal Regulatory Commission authorizes the Postal Service to continue a nonpostal service under this subsection, the Postal Regulatory Commission shall designate whether the service shall be regulated under this title as a market dominant product, a competitive product, or an experimental product.".

(b) CONFORMING AMENDMENTS.—Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking "404(a)(8)" and inserting "404(a)(7)".

# TITLE II—MODERN RATE REGULATION

**SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.**

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

## "§ 3621. Applicability; definitions

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) first-class mail letters and sealed parcels;
"(2) first-class mail cards;
"(3) periodicals;
"(4) standard mail;
"(5) single-piece parcel post;
"(6) media mail;
"(7) bound printed matter;
"(8) library mail;
"(9) special services; and
"(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**"§ 3622. Modern rate regulation**

Deadline.

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

"(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

"(1) To maximize incentives to reduce costs and increase efficiency.

"(2) To create predictability and stability in rates.

"(3) To maintain high quality service standards established under section 3691.

"(4) To allow the Postal Service pricing flexibility.

"(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

"(6) To reduce the administrative burden and increase the transparency of the ratemaking process.

"(7) To enhance mail security and deter terrorism.

"(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

"(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

"(A) either—

"(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

"(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and

"(B) do not cause unreasonable harm to the marketplace.

"(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

"(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

"(14) the policies of this title as well as such other factors as the Commission determines appropriate.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

"(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

"(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

Deadline.

"(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

"(i) require the Postal Service to provide public notice of the adjustment;

"(ii) provide an opportunity for review by the Postal Regulatory Commission;

"(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and Notification.

"(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

"(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and Procedures.

"(E) notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Deadline.

"(2) LIMITATIONS.—

"(A) CLASSES OF MAIL.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

"(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

"(C) USE OF UNUSED RATE AUTHORITY.—

"(i) DEFINITION.—In this subparagraph, the term 'unused rate adjustment authority' means the difference between—

"(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

"(II) the amount of the rate adjustment the Postal Service actually makes in that year.

"(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

"(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

"(I) may use unused rate adjustment authority from more than 1 year;

"(II) may use any part of the unused rate adjustment authority from any year;

"(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

"(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

Deadline.

"(3) REVIEW.—Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

Public comment.

"(e) WORKSHARE DISCOUNTS.—

"(1) DEFINITION.—In this subsection, the term 'workshare discount' refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

"(2) SCOPE.—The Postal Regulatory Commission shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

"(A) the discount is—

"(i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and

"(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

"(B) the amount of the discount above costs avoided—

"(i) is necessary to mitigate rate shock; and

"(ii) will be phased out over time;

"(C) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

"(D) reduction or elimination of the discount would impede the efficient operation of the Postal Service.

"(3) LIMITATION.—Nothing in this subsection shall require that a work share discount be reduced or eliminated if the reduction or elimination of the discount would—

"(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or

"(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount.

"(4) REPORT.—Whenever the Postal Service establishes a workshare discount rate, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

"(A) explains the Postal Service's reasons for establishing the rate;

"(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

"(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

Certification.

"(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.".

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS".

**SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

**"§ 3631. Applicability; definitions and updates**

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) priority mail;

"(2) expedited mail;

"(3) bulk parcel post;

"(4) bulk international mail; and

"(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

"(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**"§ 3632. Action of the Governors**

"(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

Federal Register, publication. Deadline.

"(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

Filing date.

"(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

"(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

"(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

**"§ 3633. Provisions applicable to rates for competitive products**

Deadline. Regulations.

"(a) IN GENERAL.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

"(1) prohibit the subsidization of competitive products by market-dominant products;

"(2) ensure that each competitive product covers its costs attributable; and

"(3) ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

"(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.". Deadline.

**SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.**

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

**"§ 3641. Market tests of experimental products**

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

"(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

"(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

"(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

"(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

"(c) NOTICE.—

"(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file Deadline. Federal Register, publication.

with the Postal Regulatory Commission and publish in the Federal Register a notice—

"(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

"(B) describing the nature and scope of the market test.

"(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

"(d) DURATION.—

"(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

"(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

"(e) DOLLAR-AMOUNT LIMITATION.—

"(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined under subsection (b)(2)).

"(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

"(A) the product is likely to benefit the public and meet an expected demand;

"(B) the product is likely to contribute to the financial stability of the Postal Service; and

"(C) the product is not likely to result in unfair or otherwise inappropriate competition.

"(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet 1 or more of the requirements of this section, it may order the cancellation of the

test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

"(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

"(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

"(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

### "§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail

"(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

"(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

"(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.

"(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term 'product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

"(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

"(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

"(B) the views of those who use the product involved on the appropriateness of the proposed action; and

"(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

"(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

"(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

Federal Register, publication.

"(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

Federal Register, publication.

"(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

"(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or

"(2) by or under any other provision of law.".

**SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW"; and

(2) by striking the heading for subchapter V and inserting the following:

"SUBCHAPTER VI—GENERAL".

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

**"§ 3651. Annual reports by the Commission**

"(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

"(b) ADDITIONAL INFORMATION.—

"(1) IN GENERAL.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

"(A) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

"(B) free or reduced rates for postal services as required by this title; and

"(C) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

"(2) BASIS FOR ESTIMATES.—The Commission shall detail the basis for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

"(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**"§ 3652. Annual reports to the Commission**

"(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

"(1) which shall analyze costs, revenues, rates, and quality of service, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

"(2) which shall, for each market-dominant product provided in such year, provide—

"(A) product information, including mail volumes; and

"(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

"(i) the level of service (described in terms of speed of delivery and reliability) provided; and

"(ii) the degree of customer satisfaction with the service provided.

Audits.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

"(1) The per-item cost avoided by the Postal Service by virtue of such discount.

"(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(3) The per-item contribution made to institutional costs.

"(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service shall—

"(1) report data on the costs, revenues, and quality of service by market test, which may be reported in summary form; and

"(2) report such data as the Postal Regulatory Commission requires.

Regulations.

"(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

"(e) CONTENT AND FORM OF REPORTS.—

Regulations.

"(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

"(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

"(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

"(C) protecting the confidentiality of commercially sensitive information.

Regulations.

"(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

"(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

"(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or under subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

"(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

"(1) comprehensive statement under section 2401(e);

"(2) performance plan under section 2803; and

"(3) program performance reports under section 2804.

**"§ 3653. Annual determination of compliance**

"(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

"(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

"(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

"(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

"(c) NONCOMPLIANCE WITH REGARD TO RATES OR SERVICES.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c) and (e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

"(d) REVIEW OF PERFORMANCE GOALS.—The Postal Regulatory Commission shall also evaluate annually whether the Postal Service has met the goals established under sections 2803 and 2804, and may provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in this title.

"(e) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.

**"§ 3654. Additional financial reporting**

"(a) ADDITIONAL FINANCIAL REPORTING.—

"(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

"(A) within 40 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78*o*(d)) on Form 10–Q, as such Form (or any successor form) may be revised from time to time;

"(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10–K, as such Form (or any successor form) may be revised from time to time; and

"(C) periodic reports within the time frame and containing the information prescribed in Form 8–K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

"(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the 'registrant' described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

"(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2010.

"(b) FINANCIAL REPORTING.—

"(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service's pension and postretirement health obligations—

"(A) the funded status of the Postal Service's pension and postretirement health obligations;

"(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

"(C) components of net periodic costs;

"(D) cost methods and assumptions underlying the relevant actuarial valuations;

"(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

"(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

"(G) the composition of plan assets reflected in the fund balances; and

"(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

"(2) The Office of Personnel Management shall provide the data listed under paragraph (1) to the Postal Service not later than 30 days after the end of each fiscal year.

"(3)(A) Beginning with reports for the fiscal year 2010, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

"(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

"(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

"(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

"(e) REVISED REQUIREMENTS.—The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required under this section whenever it shall appear that— Regulations.

"(1) the data have become significantly inaccurate or can be significantly improved; or

"(2) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).".

**SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.**

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

**"§ 3662. Rate and service complaints**

"(a) IN GENERAL.—Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

Deadline.

"(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

"(A) either—

"(i) upon a finding that such complaint raises material issues of fact or law, begin proceedings on such complaint; or

"(ii) issue an order dismissing the complaint; and

"(B) with respect to any action taken under subparagraph (A) (i) or (ii), issue a written statement setting forth the bases of its determination.

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

"(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

"(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products

Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

**"§ 3663. Appellate review**

Deadline.

"A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

**"§ 3664. Enforcement of orders**

"The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.".

**SEC. 206. CLERICAL AMENDMENT.**

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

**"CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

"Sec.
"3621. Applicability; definitions.
"3622. Modern rate regulation.
"[3623. Repealed.]
"[3624. Repealed.]
"[3625. Repealed.]
"3626. Reduced Rates.
"3627. Adjusting free rates.
"[3628. Repealed.]
"3629. Reduced rates for voter registration purposes.

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"3631. Applicability; definitions and updates.
"3632. Action of the Governors.
"3633. Provisions applicable to rates for competitive products.
"3634. Assumed Federal income tax on competitive products.

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"3641. Market tests of experimental products.
"3642. New products and transfers of products between the market-dominant and competitive categories of mail.

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"3651. Annual reports by the Commission.
"3652. Annual reports to the Commission.
"3653. Annual determination of compliance.
"3654. Additional financial reporting.

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

"3661. Postal Services.
"3662. Rate and service complaints.
"3663. Appellate review.
"3664. Enforcement of orders.

"SUBCHAPTER VI—GENERAL

"3681. Reimbursement.
"3682. Size and weight limits.
"3683. Uniform rates for books; films, other materials.
"3684. Limitations.
"3685. Filing of information relating to periodical publications.
"3686. Bonus authority.

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"3691. Establishment of modern service standards.".

# TITLE III—MODERN SERVICE STANDARDS

**SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.**

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

**"§ 3691. Establishment of modern service standards**

Deadline.

"(a) AUTHORITY GENERALLY.—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products.

"(b) OBJECTIVES.—

"(1) IN GENERAL.—Such standards shall be designed to achieve the following objectives:

"(A) To enhance the value of postal services to both senders and recipients.

"(B) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

"(C) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

"(D) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

"(2) IMPLEMENTATION OF PERFORMANCE MEASUREMENTS.—With respect to paragraph (1)(D), with the approval of the Postal Regulatory Commission an internal measurement system may be implemented instead of an external measurement system.

"(c) FACTORS.—In establishing or revising such standards, the Postal Service shall take into account—

"(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

"(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

"(3) the needs of Postal Service customers, including those with physical impairments;

"(4) mail volume and revenues projected for future years;

"(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

"(6) the current and projected future cost of serving Postal Service customers;

"(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

"(8) the policies of this title and such other factors as the Postal Service determines appropriate.

"(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto), and any violations thereof, shall be subject to review upon complaint under sections 3662 and 3663.".

**SEC. 302. POSTAL SERVICE PLAN.**

39 USC 3691 note. Deadline.

(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENTS.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

(4) describe the long-term vision of the Postal Service for rationalizing its infrastructure and workforce, and how the Postal Service intends to implement that vision.

(c) POSTAL FACILITIES.—

(1) FINDINGS.—Congress finds that—

(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

(B) as noted by the President's Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

(D) Congress strongly encourages the Postal Service to—

(i) expeditiously move forward in its streamlining efforts; and

(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

(2) IN GENERAL.—The Postal Service plan shall include a description of—

(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

(B) how the Postal Service intends to implement that vision.

(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes;

(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan; and

(D) procedures that the Postal Service will use to—

(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

(ii) make available information regarding any service changes in the affected communities, any other effects on customers, any effects on postal employees, and any cost savings;

(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

(iv) take such comments into account in making a final decision.

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

(B) CONTENTS.—Each report under this paragraph shall include—

(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

(v) such additional topics and recommendations as the Postal Service considers appropriate.

(5) EXISTING EFFORTS.—Effective on the date of enactment of this Act, the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D). Effective date.

(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

(1) vending machines;

(2) the Internet;

(3) postage meters;

(4) Stamps by Mail;

(5) Postal Service employees on delivery routes;

(6) retail facilities in which overhead costs are shared with private businesses and other government agencies;

(7) postal kiosks; or

(8) any other nonpost office access channel providing market retail access to postal services.

(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

(1) a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of automation of any of its functions, the closing and consolidation of any of its facilities, or such other reasons as the Postal Service may determine; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) CONTINUED AUTHORITY.—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

# TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

### SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

### "§ 2011. Provisions relating to competitive products

"(a)(1) In this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(A) costs attributable to competitive products; and

"(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

"(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

"(1) revenues from competitive products;

"(2) amounts received from obligations issued by Postal Service under subsection (e);

"(3) interest and dividends earned on investments of the Competitive Products Fund; and

"(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

"(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, the Postal Service may request the investment of such amounts as the Postal Service determines advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as the Postal Service determines appropriate.

"(d) With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the Competitive Products Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

"(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

"(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

"(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

"(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

"(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

"(A) the establishment of reserve, sinking, and other funds;

"(B) application and use of revenues and receipts of the Competitive Products Fund;

"(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

"(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

"(3) Obligations issued by the Postal Service under this subsection—

"(A) shall be in such forms and denominations;

"(B) shall be sold at such times and in such amounts;

"(C) shall mature at such time or times;

"(D) shall be sold at such prices;

"(E) shall bear such rates of interest;

"(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

"(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

"(H) shall be subject to such other terms and conditions, as the Postal Service determines.

"(4) Obligations issued by the Postal Service under this subsection—

"(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

"(B) shall contain a recital that such obligations are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

"(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

"(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

"(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

"(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)), or for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

"(A) the assets related to the provision of competitive products as calculated under subsection (h); or

"(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

"(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

"(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

Recommendations.

"(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

"(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

"(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

"(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

"(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year (within the meaning of section 3634).

Submission period.

"(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

"(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

"(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

"(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

"(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

Reports.

"(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Deadline.

"(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission is authorized to promulgate regulations revising such rules.

"(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

Regulations.

"(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

"(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

"(II) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

"(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

Reports.

"(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

"(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) COMPETITIVE PRODUCTS FUND.—The term 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title." and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).".

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking "There" and inserting "Except as otherwise provided in section 2011, there".

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting "or 2011" after "section 2005";

(B) in subsection (b)—

(i) in the first sentence, by inserting "under section 2005" before "in such amounts"; and

(ii) in the second sentence, by inserting "under section 2005" before "in excess of such amount."; and

(C) in subsection (c), by inserting "or 2011(e)(4)(E)" after "section 2005(d)(5)".

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**"§ 3634. Assumed Federal income tax on competitive products income**

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

"(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

"(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

"(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

"(1) compute its assumed Federal income tax on competitive products income for such year; and

"(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

"(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.".

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**"§ 404a. Specific limitations**

"(a) Except as specifically authorized by law, the Postal Service may not—

"(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

"(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

"(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or

obtainable) from an independent source or is otherwise obtained (or obtainable).

"(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section. Regulations.

"(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.".

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking "The" and inserting "Subject to the provisions of section 404a, the".

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking "Without" and inserting "Subject to the provisions of section 404a, but otherwise without".

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

"404a. Specific limitations.".

**SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

"(A) shall be considered to be a 'person', as used in the provisions of law involved; and

"(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

"(2) This subsection applies with respect to— Applicability.

"(A) the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' (15 U.S.C. 1051 and following)); and

"(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

"(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

"(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

"(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

"(i) the antitrust laws (as defined in such subsection); and

"(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

"(2) No damages, interest on damages, costs or attorney's fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

"(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

"(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.

"(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

"(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

"(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

Deadline.

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

"(i) a copy of such schedule before construction of the building is begun; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

"(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

"(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

Procedures.

"(6) For purposes of this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

"(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

"(A) Subsection (d) or (e) of this section.

"(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

"(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

"(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

"(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

"(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

"(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).".

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking "Except as provided in section 3628 of this title," and inserting "Except as otherwise provided in this title,".

**SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.**

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

**"§ 407. International postal arrangements**

"(a) It is the policy of the United States—

"(1) to promote and encourage communications between peoples by efficient operation of international postal services

and other international delivery services for cultural, social, and economic purposes;

"(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

"(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

"(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

"(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services and shall have the power to conclude postal treaties, conventions, and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

"(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

"(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

"(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

"(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

"(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection

with international postal services and international delivery services.

"(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2). Establishment.

"(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with the views submitted by the Commission pursuant to paragraph (1), except if, or to the extent, the Secretary determines, in writing, that it is not in the foreign policy or national security interest of the United States to ensure consistency with the Commission's views. Such written determination shall be provided to the Commission together with a full explanation of the reasons thereof, provided that the Secretary may designate which portions of the determination or explanation shall be kept confidential for reasons of foreign policy or national security.

"(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

"(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

"(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

"(e)(1) In this subsection, the term 'private company' means a private company substantially owned or controlled by persons who are citizens of the United States.

"(2) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

"(3) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United

States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

Effective date.

"(4) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.".

39 USC 407 note.

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

# TITLE V—GENERAL PROVISIONS

## SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their experience in the field of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; except that at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) that employ at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.".

39 USC 202 note.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

Effective date.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

"(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives,

the majority leader of the Senate, and the minority leader of the Senate.".

(c) 7-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended in the first sentence by striking "9 years" and inserting "7 years".

(2) APPLICABILITY.— 39 USC 202 note.

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 7 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 7 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 7-year term.

(C) VACANCY BY INCUMBENT AFTER 7 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 7 years or more of that term, that term shall be deemed to have been a 7-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 7-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be a 7-year term under this subparagraph.

(d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following:

"(2) No person may serve more than 2 terms as a Governor.".

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply. 39 USC 202 note.

**SEC. 502. OBLIGATIONS.**

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "title." and inserting "title, other than

any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.".

(b) LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: "In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of $3,000,000,000.".

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

(1) IN GENERAL.—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

"(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.".

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "any such obligations" and inserting "obligations issued by the Postal Service which may be".

(d) AMOUNTS WHICH MAY BE PLEDGED.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking "such obligations," and inserting "obligations issued by the Postal Service under this section,".

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

"(2) Notwithstanding any other provision of this section—

"(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

**SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A letter may also be carried out of the mails when—

"(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

"(2) the letter weighs at least 12½ ounces; or

"(3) such carriage is within the scope of services described by regulations of the United States Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2005) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

"(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.". Regulations.

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect. 39 USC 601 note.

**SEC. 504. RULEMAKING AUTHORITY.**

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

"(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;".

**SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

**"§ 1207. Labor disputes** Deadlines.

"(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time. Notice. Notification.

"(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

"(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board

shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less then 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

"(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

"(3) Costs of the arbitration board and mediation shall be shared equally by the Postal Service and the bargaining representative.

"(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.".

39 USC 1201 note.

(b) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

39 USC 1217 note.

(c) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**SEC. 506. BONUS AUTHORITY.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

### "§ 3686. Bonus authority

"(a) IN GENERAL.—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

"(b) LIMITATION ON TOTAL COMPENSATION.—

"(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

"(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

"(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

"(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

"(3) REVOCATION AUTHORITY.—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

"(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

Notification. Deadline.

"(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

"(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

"(2) the amount of the bonus or other payment; and

"(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

"(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.".

# TITLE VI—ENHANCED REGULATORY COMMISSION

**SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

## "CHAPTER 5—POSTAL REGULATORY COMMISSION

"Sec.
"501. Establishment.
"502. Commissioners.
"503. Rules; regulations; procedures.
"504. Administration.
"505. Officer of the Postal Regulatory Commission representing the general public.

### "§ 501. Establishment

"The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

### "§ 502. Commissioners

President.

"(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

"(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

"(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

"(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

"(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

"(f) The Commissioners shall serve for terms of 6 years.";

39 USC 3601, 3602.

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and

(4) by adding after such section 504 the following:

**"§ 505. Officer of the Postal Regulatory Commission representing the general public**

"The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.".

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. 39 USC 501 note.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**"5. Postal Regulatory Commission ..... 501"**

**SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

"(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title or to obtain information to be used to prepare a report under this title—

"(A) issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person; and

"(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

"(3) In the case of contumacy or failure to obey a subpoena issued under this subsection, upon application by the Commission, the district court of the United States for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) For purposes of this subsection, the term 'covered person' means an officer, employee, agent, or contractor of the Postal Service.

Notification.

"(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

"(2) Except as provided in paragraph (3), no officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

"(A) use such information for purposes other than the purposes for which it is supplied; or

"(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

Confidentiality.

"(3)(A) Paragraph (2) shall not prohibit the Commission from publicly disclosing relevant information in furtherance of its duties under this title, provided that the Commission has adopted regulations under section 553 of title 5, that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.

"(B) Paragraph (2) shall not prevent the Commission from requiring production of information in the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for information furnished to any party.".

Regulations.

**SEC. 603. AUTHORIZATION OF APPROPRIATIONS FROM THE POSTAL SERVICE FUND.**

(a) POSTAL REGULATORY COMMISSION.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

"(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.".

Budget.

(b) OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.—Section 8G(f) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

5 USC app. 8G.

(1) by redesignating paragraph (4) as paragraph (5);

(2) by redesignating the second paragraph (3) (relating to employees and labor organizations) as paragraph (4); and

(3) by adding at the end the following:

"(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.".

(c) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: "The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.".

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: "The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.".

(d) EFFECTIVE DATE.— 5 USC app. 8G note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2008.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, and the Inspector General Act of 1978 (5 U.S.C. App.) that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted. Applicability.

**SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.**

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission";

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. 5 USC app. 101.

App.) is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking "Postal Rate Office" and inserting "Postal Regulatory Commission".

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

39 USC 404 note.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**SEC. 605. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.**

5 USC app. 8G.

(a) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 is amended by inserting "the Postal Regulatory Commission," after "the United States International Trade Commission,".

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding after subsection (g) (as added by section 602) the following:

"(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

"(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments, and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.".

5 USC app. 8G note.

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

Establishment.

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

# TITLE VII—EVALUATIONS

39 USC 501 note.

**SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.**

Deadline.
Reports.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

**SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.** 39 USC 501 note.

(a) REPORT BY THE POSTAL REGULATORY COMMISSION.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as "universal service and the postal monopoly"), including the monopoly on the delivery of mail and on access to mailboxes.

(2) CONTENTS.—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

(c) CONSULTATION.—In preparing the report required by this section, the Postal Regulatory Commission—

(1) shall solicit written comments from the Postal Service and consult with the Postal Service and other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of the mail, and the general public; and

(2) shall address in the report any written comments received under this section.

(d) CLARIFYING PROVISION.—Nothing in this section shall be considered to relate to any services that are not postal services within the meaning of section 102 of title 39, United States Code, as amended by section 101 of this Act.

39 USC 3633 note.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

Deadline. Reports.

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and to private companies providing similar products.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic effects provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

**SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.**

(a) REPORT BY THE INSPECTOR GENERAL.—

(1) IN GENERAL.—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

(2) CONTENTS.—The report under this subsection shall also—

(A) discuss any injury reduction goals established by the Postal Service;

(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

(C) identify areas where the Postal Service has failed to meet its injury reduction goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

(b) REPORT BY THE POSTAL SERVICE.—

(1) REPORT TO CONGRESS.—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics.

(2) PROBLEM AREAS.—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

**SEC. 705. STUDY ON RECYCLED PAPER.**

Deadline.
Reports.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

(1) a description and analysis of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including efforts by the Postal Service to recycle undeliverable and discarded mail and other materials and its public affairs efforts to promote the increased recycling of paper products; and

(2) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives, including consultation with the paper recycling industry and encouraging mailers to increase both the recycling of paper products and the use of recycled paper, and the projected costs and revenues of undertaking such opportunities.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

**SEC. 706. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.**

Deadline. Reports.

(a) IN GENERAL.—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

39 USC 1001 note.

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon as is practicable, take such measures as may be necessary to incorporate the affirmative action and equal opportunity criteria contained in 4313(5) of title 5, United States Code, into the performance appraisals of senior supervisory or managerial employees.

**SEC. 707. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.**

Deadline. Reports.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

**SEC. 708. RATES FOR PERIODICALS.**

Reports.

(a) IN GENERAL.—The United States Postal Service, acting jointly with the Postal Regulatory Commission, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative action or legislation that might be appropriate.

**SEC. 709. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

Deadline. Reports.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) SPECIFIC REQUIREMENTS.—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

**SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.**

Reports.

(a) GOVERNMENT ACCOUNTABILITY OFFICE MANDATE.—The Comptroller General of the United States shall prepare and submit to the President and Congress a report that builds upon the work of the 2002 President's Commission on the United States Postal Service by evaluating in-depth various options and strategies for the long-term structural and operational reforms of the United States Postal Service. The final report required by this section shall be submitted within 5 years of the date of enactment of this Act.

(b) PROTECTION OF UNIVERSAL SERVICE.—The Government Accountability Office may include such recommendations as it considers appropriate with respect to how the Postal Service's business model can be maintained or transformed in an orderly manner that will minimize adverse effects on all interested parties and assure continued availability of affordable, universal postal service throughout the United States. The Government Accountability Office shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States.

(c) ELEMENTS OF REPORT.—

(1) TOPICS TO ADDRESS.—The report shall address at least the following:

(A) Specification of nature and bases of one or more sets of reasonable assumptions about the development of the postal services market, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the Government Accountability Office.

(B) Specification of the nature and bases of one or more sets of reasonable assumptions about the development of the regulatory framework for postal services, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the Government Accountability Office.

(C) Qualitative and, to the extent possible, quantitative effects that each strategy identified by the Government Accountability Office may have on universal service generally, the Postal Service, mailers, postal employees, private companies that provide delivery services, and the general public.

(D) Financial effects that each strategy identified by the Government Accountability Office may have on the Postal Service, postal employees, the Treasury of the United States, and other affected parties, including the American mailing consumer.

(E) Feasible and appropriate procedural steps and timetables for implementing each strategy identified by the Government Accountability Office.

(F) Such additional topics as the Comptroller General shall consider necessary and appropriate.

(2) MATTERS TO CONSIDER.—For each strategy identified, the Government Accountability Office shall assess how each business model might—

(A) address the human-capital challenges facing the Postal Service, including how employee-management relations within the Postal Service may be improved;

(B) optimize the postal infrastructure, including the best methods for providing retail services that ensure convenience and access to customers;

(C) ensure the safety and security of the mail and of postal employees;

(D) minimize areas of inefficiency or waste and improve operations involved in the collection, processing, or delivery of mail; and

(E) impact other matters that the Comptroller General determines are relevant to evaluating a viable long-term business model for the Postal Service.

(3) EXPERIENCES OF OTHER COUNTRIES.—In preparing the report required by subsection (a), the Government Accountability Office shall comprehensively and quantitatively investigate the experiences of other industrialized countries that have transformed the national post office. The Government Accountability Office shall undertake such original research as it deems necessary. In each case, the Government Accountability Office shall describe as fully as possible the costs and benefits of transformation of the national post office on all affected parties and shall identify any lessons that foreign experience may imply for each strategy identified by the research organization.

(d) OUTSIDE EXPERTS.—In preparing its study, the Government Accountability Office may retain the services of additional experts and consultants.

(e) CONSULTATION.—In preparing its report, the Government Accountability Office shall consult fully with the Postal Service, the Postal Regulatory Commission, other Federal agencies, postal employee unions and management associations, mailers, private companies that provide delivery services, and the general public. The Government Accountability Office shall include with its final report a copy of all formal written comments received under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Postal Service Fund such sums as may be necessary to carry out this section.

39 USC 501 note.

**SEC. 711. PROVISIONS RELATING TO COOPERATIVE MAILINGS.**

(a) STUDY.—

(1) IN GENERAL.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against—

(A) abuses of rates for nonprofit mail; and

(B) deception of consumers.

(2) REPORT.—The Commission shall report the results of its examination to the Postal Service, along with any recommendations that the Commission determines appropriate.

(b) FAILURE TO ACT.—If the Postal Service fails to act on the recommendations of the Commission, the Commission may take such action as it determines necessary to prevent abuse of rates or deception of consumers.

**SEC. 712. DEFINITION.**

For purposes of this title, the term "Board of Governors" has the meaning given such term by section 102 of title 39, United States Code.

# TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006.
5 USC 101 note.

**SEC. 801. SHORT TITLE.**

This title may be cited as the "Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006".

**SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

"(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph."; and

(2) by amending section 8348(h) to read as follows:

"(h)(1) In this subsection, the term 'Postal surplus or supplemental liability' means the estimated difference, as determined by the Office, between—

"(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

"(B) the sum of—

"(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

"(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

"(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

Deadlines.

"(2)(A) Not later than June 15, 2007, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2006. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2007.

Redetermination period.

"(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2007, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C). Beginning June 15, 2017, if the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

Effective date.
Deadline.

"(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

"(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

"(E) The United States Postal Service shall pay the amounts so determined to the Office, with payments due not later than the date scheduled by the Office.

"(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based upon the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.".

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2007, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2006 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

5 USC 8348 note.

(c) REVIEW.—

(1) IN GENERAL.—

(A) REQUEST FOR REVIEW.—Notwithstanding any other provision of this section (including any amendment made by this section), any determination or redetermination made by the Office of Personnel Management under this section (including any amendment made by this section) shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this subsection.

(B) REPORT.—Upon receiving a request under subparagraph (A), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of pension obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the results of the review. The Commission, upon determining that the report satisfies the requirements of this paragraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

(2) RECONSIDERATION.—Upon receiving the report from the Commission under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the

Reports.

results of its reconsideration to the Commission, the Postal Service, and Congress.

**SEC. 803. HEALTH INSURANCE.**

(a) IN GENERAL.—

(1) FUNDING.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8906(g)(2)(A), by striking "shall be paid by the United States Postal Service." and inserting "shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service."; and

(B) by inserting after section 8909 the following:

**"§ 8909a. Postal Service Retiree Health Benefit Fund**

"(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

"(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

"(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

Deadlines.

"(d)(1) Not later than June 30, 2007, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

"(2)(A) Not later than June 30, 2007, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

"(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

"(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

"(II) the net present value computed under paragraph (1).

"(B) Not later than June 30, 2017, the Office shall compute, and by June 30 of each succeeding year shall recompute, a schedule including a series of annual installments which provide for the liquidation of any liability or surplus by September 30, 2056, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

"(3)(A) The United States Postal Service shall pay into such Fund—

"(i) $5,400,000,000, not later than September 30, 2007;

"(ii) $5,600,000,000, not later than September 30, 2008;

"(iii) $5,400,000,000, not later than September 30, 2009;

"(iv) $5,500,000,000, not later than September 30, 2010;

"(v) $5,500,000,000, not later than September 30, 2011;

"(vi) $5,600,000,000, not later than September 30, 2012;

"(vii) $5,600,000,000, not later than September 30, 2013;

"(viii) $5,700,000,000, not later than September 30, 2014;

"(ix) $5,700,000,000, not later than September 30, 2015; and

"(x) $5,800,000,000, not later than September 30, 2016.

"(B) Not later than September 30, 2017, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund the sum of—

"(i) the net present value computed under paragraph (1); and

"(ii) any annual installment computed under paragraph (2)(B).

"(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

"(5)(A)(i) Any computation or other determination of the Office under this subsection shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

Reports.

"(ii) Upon receiving a request under clause (i), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of healthcare insurance obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the results of the review. The Commission, upon determining that the report satisfies the requirements of this subparagraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

"(B) Upon receiving the report under subparagraph (A), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

Reports.

Regulatioins.

"(6) After consultation with the United States Postal Service, the Office shall promulgate any regulations the Office determines necessary under this subsection.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

"8909a. Postal Service Retiree Health Benefits Fund.".

5 USC 8909a.

(b) REVIEW.—

(1) IN GENERAL.—

(A) REQUEST FOR REVIEW.—Any regulation established under section 8909a(d)(5) of title 5, United States Code (as added by subsection (a)), shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

(B) REPORT.—Upon receiving a request under subparagraph (A), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of healthcare insurance obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the results of the review. The Commission, upon determining that the report satisfies the requirements of this paragraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

(2) RECONSIDERATION.—Upon receiving the report under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress. Reports.

**SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

(a) IN GENERAL.—Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) is repealed. 39 USC note prec. 2001.

(b) SAVINGS.—Savings accrued to the Postal Service as a result of enactment of Public Law 108–18 and attributable to fiscal year 2006 shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a of title 5, United States Code, as added by section 803 of this Act.

**SEC. 805. EFFECTIVE DATES.** 5 USC 8334 note.

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2006.

(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2006.

# TITLE IX—COMPENSATION FOR WORK INJURIES

**SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of title 5, United States Code, is amended—

(1) by striking "An employee" and inserting "(a) An employee other than a Postal Service employee"; and

(2) by adding at the end the following:

"(b) A Postal Service employee is not entitled to compensation or continuation of pay for the first 3 days of temporary disability, except as provided under paragraph (3) of subsection (a). A Postal Service employee may use annual leave, sick leave, or leave without pay during that 3-day period, except that if the disability exceeds 14 days or is followed by permanent disability, the employee may have their sick leave or annual leave reinstated or receive pay for the time spent on leave without pay under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

"(1) without a break in time, except as provided under section 8117(b), unless controverted under regulations of the Secretary;".

# TITLE X—MISCELLANEOUS

**SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on that property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) With respect to such property, such officers shall have the power to—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms; and

"(C) make arrests without a warrant for any offense against the Unites States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

"(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

"(A) serve warrants and subpoenas issued under the authority of the United States; and

"(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

"(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

Penalty.

"(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.".

**SEC. 1002. OBSOLETE PROVISIONS.**

(a) REPEAL.—

(1) IN GENERAL.—Chapter 52 of title 39, United States Code, is repealed.

39 USC 5201 *et seq.*

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking "(as defined in section 5201(6) of this title)".

(B) Section 5005(b) of such title 39 is amended by striking "(a)(4)" each place it appears and inserting "(a)(3)".

(C) Section 5005(c) of such title 39 is amended by striking "by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or" and inserting "by contract under subsection (a)(3) of this section or".

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking "(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)" and inserting "(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)".

(2) Section 5402(d) of such title 39 is amended by striking "for a period of not more than 4 years".

(3) Section 5605 of such title 39 is amended by striking "for periods of not in excess of 4 years".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

**SEC. 1003. REDUCED RATES.**

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

"(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

"(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

"(3) Rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title shall be established so that postage on each mailing of such mail reflects its preferred status as compared to the postage for the most closely corresponding regular-rate category mailing.";

(2) in subsection (g), by adding at the end the following:

"(3) For purposes of this section and former section 4358(a) through (c) of this title, those copies of an issue of a publication entered within the county in which it is published, but distributed outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

"(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

"(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

"(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000."; and

(3) by adding at the end the following:

"(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).".

**SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.**

It is the sense of Congress that the Postal Service should—

(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings by taking full advantage of private-sector partnerships as recommended in July 2003 by the President's Commission on the United States Postal Service.

**SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY AIR.**

(a) DEFINITIONS.—Section 5402(a) of title 39, United States Code, is amended—

(1) in paragraph (4), by striking "(g)(1)(D)(i)" and inserting "(g)(1)(A)(iv)(I)";

(2) in paragraph (5), by striking "(g)(1)(D)(i)" and inserting "(g)(1)(A)(iv)(I)";

(3) in paragraph (8), by striking "rates paid to a bush carrier" and inserting "linehaul rates and a single terminal handling payment at a bush terminal handling rate paid to a bush carrier";

(4) in paragraph (11), by striking "(g)(1)(D)(ii)" and inserting "(g)(1)(A)(iv)(II)"; and

(5) in paragraph (13)—

(A) in subparagraph (A)—

(i) by striking "clause (i) or (ii) of subsection (g)(1)(D)" and inserting "subclause (I) or (II) of subsection (g)(1)(A)(iv)"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (B), by adding "and" after the semicolon; and

(C) by adding at the end the following:

"(C) is not comprised of previously qualified existing mainline carriers as a result of merger or sale;".

(b) NONPRIORITY BYPASS MAIL.—Section 5402(g) of title 39, United States Code, is amended—

(1) in paragraph (3), by adding at the end the following:

"(C) When a new hub results from a change in a determination under subparagraph (B), mail tender from that hub during the 12-month period beginning on the

effective date of that change shall be based on the passenger and freight shares to the destinations of the affected hub or hubs resulting in the new hub."; and

(2) in paragraph (5)(A)(i), by striking "(g)(1)(D)(ii)" and inserting "(g)(1)(A)(iv)(II)".

(c) EQUITABLE TENDER.—Section 5402(h) of title 39, United States Code, is amended—

(1) in paragraph (1), by inserting "bush" after "providing scheduled";

(2) by striking paragraph (3) and inserting the following:

"(3)(A) Except as provided under subparagraph (C), a new or existing 121 bush passenger carrier qualified under subsection (g)(1) shall be exempt from the requirements under paragraphs (1)(B) and (2)(A) on a city pair route for a period which shall extend for—

"(i) 1 year;

"(ii) 1 year in addition to the extension under clause (i) if, as of the conclusion of the first year, such carrier has been providing not less than 5 percent of the passenger service on that route (as calculated under paragraph (5)); and

"(iii) 1 year in addition to the extension under clause (ii) if, as of the conclusion of the second year, such carrier has been providing not less than 10 percent of the passenger service on that route (as calculated under paragraph (5)).

"(B)(i) The first 3 121 bush passenger carriers entitled to the exemptions under subparagraph (A) on any city pair route shall divide no more than an additional 10 percent of the mail, apportioned equally, comprised of no more than—

"(I) 5 percent of the share of each qualified passenger carrier servicing that route that is not a 121 bush passenger carrier; and

"(II) 5 percent of the share of each nonpassenger carrier servicing that route that transports 25 percent or more of the total nonmail freight under subsection (i)(1).

"(ii) Additional 121 bush passenger carriers entering service on that city pair route after the first 3 shall not receive any additional mail share.

"(iii) If any 121 bush passenger carrier on a city pair route receiving an additional share of the mail under clause (ii) discontinues service on that route, the 121 bush passenger carrier that has been providing the longest period of service on that route and is otherwise eligible but is not receiving a share by reason of clause (ii), shall receive the share of the carrier discontinuing service.

"(C) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing at least 10 percent of the passenger service on such route.";

(3) in paragraph (5)(A)—

(A) by striking "(i)" after "(A)"; and

(B) by striking clause (ii).

(d) PERCENT OF NONMAIL FREIGHT.—Section 5402(i)(6) of title 39, United States Code, is amended—

(1) by striking "(A)" after "(6)"; and

(2) by striking subparagraph (B).

(e) PERCENT OF TENDER RATE.—Section 5402(j)(3)(B) of title 39, United States Code, is amended by striking "bush routes in the State of Alaska" and inserting "routes served exclusively by bush carriers in the State of Alaska".

(f) DETERMINATION OF RATES.—Section 5402(k) of title 39, United States Code, is amended by striking paragraph (5).

(g) TECHNICAL AND CONFORMING AMENDMENT.—Section 5402(p)(3) of title 39, United States Code, is amended by striking "(g)(1)(D)" and inserting "(g)(1)(A)(iv)".

39 USC 5402 note.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the date of enactment of this Act.

(2) EQUITABLE TENDER.—Subsection (c) shall take effect on December 1, 2006.

**SEC. 1006. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.**

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

"(6) For purposes of paragraph (5), any appeal received by the Commission shall—

"(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

"(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).".

39 USC 404 note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

**SEC. 1007. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.**

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting "(a)" after "8." and by adding at the end the following:

"(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.".

39 USC 1001 note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

**SEC. 1008. HAZARDOUS MATTER.**

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.".

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

**"§ 3018. Hazardous material**

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail. Regulations.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with each violation; and

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) SEPARATE VIOLATIONS.—

"(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—

"(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

"(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.".

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking "and" after the semicolon;

(B) in paragraph (8), by striking "purposes." and inserting "purposes; and"; and

(C) by adding at the end the following:

"(9) any amounts collected under section 3018.".

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after "explosives," the following: "hazardous materials,".

**SEC. 1009. ZIP CODES AND RETAIL HOURS.**

Deadlines.

(a) ZIP CODES.—Not later than September 30, 2007, the United States Postal Service shall assign a single, unified ZIP code to serve, as nearly as practicable, each of the following communities:

(1) Auburn Township, Ohio.

(2) Hanahan, South Carolina.

(3) Bradbury, California.

(4) Discovery Bay, California.

(b) RETAIL HOURS.—Not later than 60 days after the date of the enactment of this Act, the United States Postal Service shall provide the same window service hours for the Fairport Harbor Branch of the United States Post Office in Painesville, Ohio, as were in effect as of December 1, 2005.

**SEC. 1010. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking "section 3628" and inserting "sections 3662 through 3664".

(b) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

**"§ 3682. Size and weight limits**

"The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.".

(c) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

(1) in section 503 (as so redesignated by section 601), by striking "this chapter." and inserting "this title."; and

(2) in section 2401(d), by inserting "(as last in effect before enactment of the Postal Accountability and Enhancement Act)" after "3626(a)" and after "3626(a)(3)(B)(ii)".

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking "Committee on Post Office and Civil Service" each place it appears and inserting "Committee on Government Reform"; and

(B) by striking "Not later than March 15 of each year," and inserting "Each year,".

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking "2401(g)" and inserting "2401(e)".

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

"(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable

and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

"(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.".

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows "any provision" and inserting "of this title.".

(g) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 1005(d)(2)—

(A) by striking "subsection (g) of section 5532,"; and

(B) by striking "8344," and inserting "8344";

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

**"28. Strategic Planning and Performance Management ..... 2801";**

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under section 3001(d),"; and

(B) in the sentence following paragraph (3), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under such section 3001(d),";

(4) in section 3210(a)(6)(C), by striking the matter after "if such mass mailing" and before "than 60 days" and inserting "is postmarked fewer"; and

(5) by striking the heading for section 3627 and inserting the following:

**"§ 3627. Adjusting free rates".**

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—H.R. 6407 (S. 662):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 8, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 20, Presidential statement.

# Public Law 109–436
# 109th Congress

## An Act

Dec. 20, 2006
[S. 1346]

To direct the Secretary of the Interior to conduct a study of maritime sites in the State of Michigan.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Michigan Lighthouse and Maritime Heritage Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Michigan Lighthouse and Maritime Heritage Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means the State of Michigan.

**SEC. 3. STUDY.**

(a) IN GENERAL.—The Secretary, in consultation with the State, the State Historic Preservation Officer, and other appropriate State and local public agencies and private organizations, shall conduct a special resource study of resources related to the maritime heritage of the State.

(b) PURPOSE.—The purpose of the study is to determine—

(1) suitable and feasible options for the long-term protection of significant maritime heritage resources in the State; and

(2) the manner in which the public can best learn about and experience the resources.

(c) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) review Federal, State, and local maritime resource inventories and studies to establish the potential for interpretation and preservation of maritime heritage resources in the State;

(2) recommend management alternatives that would be most effective for long-term resource protection and providing for public enjoyment of maritime heritage resources;

(3) address how to assist regional, State, and local partners in increasing public awareness of and access to maritime heritage resources;

(4) identify sources of financial and technical assistance available to communities for the preservation and interpretation of maritime heritage resources; and

(5) identify opportunities for the National Park Service and the State to coordinate the activities of appropriate units

of national, State, and local parks and historic sites in furthering the preservation and interpretation of maritime heritage resources.

(d) REPORT.—Not later than 3 years after the date on which funds are made available to carry out the study under subsection (a), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes—

(1) the results of the study; and

(2) any findings and recommendations of the Secretary.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved December 20, 2006.

LEGISLATIVE HISTORY—S. 1346:

SENATE REPORTS: No. 109–234 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate.
Dec. 6, considered and passed House.

# Public Law 109–437
# 109th Congress

## An Act

Dec. 20, 2006
[S. 1998]

To amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Stolen Valor Act of 2005.
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Stolen Valor Act of 2005".

18 USC 704 note.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Fraudulent claims surrounding the receipt of the Medal of Honor, the distinguished-service cross, the Navy cross, the Air Force cross, the Purple Heart, and other decorations and medals awarded by the President or the Armed Forces of the United States damage the reputation and meaning of such decorations and medals.

(2) Federal law enforcement officers have limited ability to prosecute fraudulent claims of receipt of military decorations and medals.

(3) Legislative action is necessary to permit law enforcement officers to protect the reputation and meaning of military decorations and medals.

**SEC. 3. ENHANCED PROTECTION OF MEANING OF MILITARY DECORATIONS AND MEDALS.**

(a) EXPANSION OF GENERAL CRIMINAL OFFENSE.—Subsection (a) of section 704 of title 18, United States Code, is amended by striking "manufactures, or sells" and inserting "purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges for anything of value".

(b) ESTABLISHMENT OF CRIMINAL OFFENSE RELATING TO FALSE CLAIMS ABOUT RECEIPT OF DECORATIONS AND MEDALS.—Such section 704 is further amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following:

"(b) FALSE CLAIMS ABOUT RECEIPT OF MILITARY DECORATIONS OR MEDALS.—Whoever falsely represents himself or herself, verbally or in writing, to have been awarded any decoration or medal authorized by Congress for the Armed Forces of the United States, any of the service medals or badges awarded to the members of such forces, the ribbon, button, or rosette of any such badge, decoration,

or medal, or any colorable imitation of such item shall be fined under this title, imprisoned not more than six months, or both."; and

(3) in paragraph (1) of subsection (c), as redesignated by paragraph (1) of this subsection, by inserting "or (b)" after "subsection (a)".

(c) ENHANCED PENALTY FOR OFFENSES INVOLVING CERTAIN OTHER MEDALS.—Such section 704 is further amended by adding at the end the following:

"(d) ENHANCED PENALTY FOR OFFENSES INVOLVING CERTAIN OTHER MEDALS.—If a decoration or medal involved in an offense described in subsection (a) or (b) is a distinguished-service cross awarded under section 3742 of title 10, a Navy cross awarded under section 6242 of title 10, an Air Force cross awarded under section 8742 of section 10, a silver star awarded under section 3746, 6244, or 8746 of title 10, a Purple Heart awarded under section 1129 of title 10, or any replacement or duplicate medal for such medal as authorized by law, in lieu of the punishment provided in the applicable subsection, the offender shall be fined under this title, imprisoned not more than 1 year, or both.".

(d) CONFORMING AMENDMENTS.—Subsection (c) of such section 704, as so redesignated, is further amended—

(1) by inserting "ENHANCED PENALTY FOR OFFENSES INVOLVING" before "CONGRESSIONAL MEDAL OF HONOR"; and

(2) by striking paragraph (2) and inserting the following:

"(2) CONGRESSIONAL MEDAL OF HONOR DEFINED.—In this subsection, the term 'Congressional Medal of Honor' means—

"(A) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;

"(B) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or

"(C) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.".

Approved December 20, 2006.

---

LEGISLATIVE HISTORY—S. 1998:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 7, considered and passed Senate.
Dec. 6, considered and passed House.

# Public Law 109–438
# 109th Congress

## An Act

Dec. 20, 2006
[S. 3938]

To reauthorize the Export-Import Bank of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Export-Import Bank Reauthorization Act of 2006.
12 USC 635 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Export-Import Bank Reauthorization Act of 2006".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Extension of authority.
Sec. 3. Sub-Saharan Africa Advisory Committee.
Sec. 4. Extension of authority to provide financing for the export of nonlethal defense articles or services the primary end use of which will be for civilian purposes.
Sec. 5. Designation of sensitive commercial sectors and products.
Sec. 6. Increasing exports by small business.
Sec. 7. Anti-circumvention.
Sec. 8. Transparency.
Sec. 9. Aggregate loan, guarantee, and insurance authority.
Sec. 10. Tied aid credit program.
Sec. 11. Prohibition on assistance to develop or promote certain railway connections and railway-related connections.
Sec. 12. Process for notifying applicants of application status; implementation of Ex-Im Online.
Sec. 13. Competitiveness initiatives.
Sec. 14. Office of financing for socially and economically disadvantaged small business concerns and small business concerns owned by women.
Sec. 15. Governance.
Sec. 16. Sense of Congress regarding multi-buyer insurance and capital guarantee programs.
Sec. 17. Sense of Congress regarding office of renewable energy promotion.
Sec. 18. Environmental matters.
Sec. 19. Government Accountability Office study of bank performance standards for assistance to small businesses, especially those owned by social and economically disadvantaged individuals and those owned by women.
Sec. 20. Reports.
Sec. 21. Study of how Export-Import Bank could assist United States exporters to meet import needs of new or impoverished democracies; report.

**SEC. 2. EXTENSION OF AUTHORITY.**

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2006" and inserting "2011".

**SEC. 3. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.**

(a) EXTENSION OF AUTHORITY.—Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking "2006" and inserting "2011".

(b) IMPROVED LIAISON WITH AFRICAN REGIONAL FINANCIAL INSTITUTIONS.—

Deadline.
Contracts.
12 USC 635 note.

(1) MASTER GUARANTEE AGREEMENTS.—Within 1 year after the date of the enactment of this Act, the Export-Import Bank

of the United States shall seek to ensure that there is in effect a contract between each approved lender in Africa and the Bank, which sets forth the Bank's guarantee undertakings and related obligations between the Bank and each lender.

(2) REPORT ON WORKING RELATIONSHIPS WITH THE AFRICAN DEVELOPMENT BANK, THE AFRICAN EXPORT-IMPORT BANK, AND OTHER INSTITUTIONS.—Section 2(b)(9) of such Act (12 U.S.C. 635(b)(9)) is amended by adding at the end the following:

"(C) The Bank shall include in the annual report to the Congress submitted under section 8(a) a separate section that contains a report on the efforts of the Bank to—

"(i) improve its working relationships with the African Development Bank, the African Export-Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph; and

"(ii) coordinate closely with the United States Foreign Service and Foreign Commercial Service, and with the overall strategy of the United States Government for economic engagement with Africa pursuant to the African Growth and Opportunity Act.".

(c) INCREASING THE NUMBER OF QUALIFIED AFRICAN ENTITIES.—Section 2(b)(9) of such Act (12 U.S.C. 635(b)(9)), as amended by subsection (b), is amended by adding at the end the following:

"(D) Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek to qualify a greater number of appropriate African entities for participation in programs of the Bank.".

**SEC. 4. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.**

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking "2001" and inserting "2011".

**SEC. 5. DESIGNATION OF SENSITIVE COMMERCIAL SECTORS AND PRODUCTS.**

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended by adding at the end the following new paragraph:

"(5) DESIGNATION OF SENSITIVE COMMERCIAL SECTORS AND PRODUCTS.—Not later than 120 days after the date of the enactment of this Act, the Bank shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such sectors and products.".

Deadline.
Records.

**SEC. 6. INCREASING EXPORTS BY SMALL BUSINESS.**

(a) IN GENERAL.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

"(f) SMALL BUSINESS DIVISION.—

"(1) ESTABLISHMENT.—There is established a Small Business Division (in this subsection referred to as the 'Division') within the Bank in order to—

"(A) carry out the provisions of subparagraphs (E) and (I) of section 2(b)(1) relating to outreach, feedback, product improvement, and transaction advocacy for small business concerns (as defined in section 3(a) of the Small Business Act);

"(B) advise and seek feedback from small business concerns on the opportunities and benefits for small business concerns in the financing products offered by the Bank, with particular emphasis on conducting outreach, enhancing the tailoring of products to small business needs and increasing loans to small business concerns;

"(C) maintain liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; and

"(D) provide oversight of the development, implementation, and operation of technology improvements to strengthen small business outreach, including the technology improvement required by section 2(b)(1)(E)(x).

"(2) MANAGEMENT.—The President of the Bank shall appoint an officer, who shall rank not lower than senior vice president and whose sole executive function shall be to manage the Division. The officer shall—

"(A) have substantial recent experience in financing exports by small business concerns; and

"(B) advise the Board, particularly the director appointed under section 3(c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business.

"(g) SMALL BUSINESS SPECIALISTS.—

"(1) DEDICATED PERSONNEL.—The President of the Bank shall ensure that each operating division within the Bank has staff that specializes in processing transactions that primarily benefit small business concerns (as defined in section 3(a) of the Small Business Act).

"(2) RESPONSIBILITIES.—The small business specialists shall be involved in all aspects of processing applications for loans, guarantees, and insurance to support exports by small business concerns, including the approval or disapproval, or staff recommendations of approval or disapproval, as applicable, of such applications. In carrying out these responsibilities, the small business specialists shall consider the unique business requirements of small businesses and shall develop exporter performance criteria tailored to small business exporters.

"(3) APPROVAL AUTHORITY.—In an effort to maximize the speed and efficiency with which the Bank processes transactions primarily benefitting small business concerns, the small business specialists shall be authorized to approve applications for working capital loans and guarantees, and insurance in accordance with policies and procedures established by the

Board. It is the sense of Congress that the policies and procedures should not prohibit, where appropriate, small business specialists from approving applications for working capital loans and guarantees, and for insurance, in support of exports which have a value of less than $10,000,000.

"(4) IDENTIFICATION.—The Bank shall prominently identify the small business specialists on its website and in promotional material.

"(5) EMPLOYEE EVALUATIONS.—The evaluation of staff designated by the President of the Bank under paragraph (1), including annual reviews of performance of duties related to transactions in support of exports by small business concerns, and any resulting recommendations for salary adjustments, promotions, and other personnel actions, shall address the criteria established pursuant to subsection (h)(2)(B)(iii) and shall be conducted by the manager of the relevant operating division following consultation with the officer appointed to manage the Small Business Division pursuant to subsection (f)(2).

"(6) STAFF RECOMMENDATIONS.—Staff recommendations of denial or withdrawal for medium-term applications, exporter held multi-buyer policies, single buyer policies, and working capital applications processed by the Bank shall be transmitted to the officer appointed to manage the Small Business Division pursuant to subsection (f)(2) not later than 2 business days before a final decision. Deadline.

"(7) RULE OF INTERPRETATION.—Nothing in this Act shall be construed to prevent the delegation to the Division of any authority necessary to carry out subparagraphs (E) and (I) of section 2(b)(1).

"(h) SMALL BUSINESS COMMITTEE.—

"(1) ESTABLISHMENT.—There is established a management committee to be known as the 'Small Business Committee'.

"(2) PURPOSE AND DUTIES.—

"(A) PURPOSE.—The purpose of the Small Business Committee shall be to coordinate the Bank's initiatives and policies with respect to small business concerns (as defined in section 3(a) of the Small Business Act), including the timely processing and underwriting of transactions involving direct exports by small business concerns, and the development and coordination of efforts to implement new or enhanced Bank products and services pertaining to small business concerns.

"(B) DUTIES.—The duties of the Small Business Committee shall be determined by the President of the Bank and shall include the following: Reports.

"(i) Assisting in the development of the Bank's small business strategic plans, including the Bank's plans for carrying out section 2(b)(1)(E) (v) and (x), and measuring and reporting in writing to the President of the Bank, at least once a year, on the Bank's progress in achieving the goals set forth in the plans.

"(ii) Evaluating and reporting in writing to the President of the Bank, at least once a year, with respect to—

"(I) the performance of each operating division of the Bank in serving small business concerns;

"(II) the impact of processing and underwriting standards on transactions involving direct exports by small business concerns; and

"(III) the adequacy of the staffing and resources of the Small Business Division.

"(iii) Establishing criteria for evaluating the performance of staff designated by the President of the Bank under subsection (g)(1).

"(iv) Coordinating the provision of services with other United States Government departments and agencies to small business concerns.

"(3) COMPOSITION.—

"(A) CHAIRPERSON.—The Chairperson of the Small Business Committee shall be the officer appointed to manage the Small Business Division pursuant to subsection (f)(2). The Chairperson shall have the authority to call meetings of the Small Business Committee, set the agenda for Committee meetings, and request policy recommendations from the Committee's members.

"(B) OTHER MEMBERS.—Except as otherwise provided in this subsection, the President of the Bank shall determine the composition of the Small Business Committee, and shall appoint or remove the members of the Small Business Committee. In making such appointments, the President of the Bank shall ensure that the Small Business Committee is comprised of—

"(i) the senior managing officers responsible for underwriting and processing transactions; and

"(ii) other officers and employees of the Bank with responsibility for outreach to small business concerns and underwriting and processing transactions that involve small business concerns.

"(4) REPORTING.—The Chairperson shall provide to the President of the Bank minutes of each meeting of the Small Business Committee, including any recommendations by the Committee or its individual members.".

(b) ENHANCE DELEGATED LOAN AUTHORITY FOR MEDIUM TERM TRANSACTIONS.—

12 USC 635 note.

(1) IN GENERAL.—The Export-Import Bank of the United States shall seek to expand the exercise of authority under section 2(b)(1)(E)(vii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(vii)) with respect to medium term transactions for small business concerns.

(2) CONFORMING AMENDMENT.—Section 2(b)(1)(E)(vii)(III) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(vii)(III)) is amended by inserting "or other financing institutions or entities" after "consortia".

12 USC 635 note.

(3) DEADLINE.—Not later than 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall make available lines of credit and guarantees to carry out section 2(b)(1)(E)(vii) of the Export-Import Bank Act of 1945 pursuant to policies and procedures established by the Board of Directors of the Export-Import Bank of the United States.

**SEC. 7. ANTI-CIRCUMVENTION.**

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)), as amended by section 5 of this Act, is amended—

(1) by inserting after paragraph (1), the following flush paragraph:

"In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce a commodity in addition to, or other than, the commodity specified in the application and whether the production of the additional commodity may cause substantial injury to United States producers of the same, or a similar or competing, commodity.";

(2) in paragraph (2), by adding at the end the following:

"(E) ANTI-CIRCUMVENTION.—The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of an order or determination referred to in subparagraph (A)."; and

(3) by adding at the end the following:

"(6) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.".

**SEC. 8. TRANSPARENCY.**

(a) IN GENERAL.—Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)), as amended by sections 5 and 7 of this Act, is amended by adding at the end the following:

"(7) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON INDUSTRIES AND EMPLOYMENT IN UNITED STATES.—

"(A) CONSIDERATION OF ECONOMIC EFFECTS OF PROPOSED TRANSACTIONS.—If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of—

"(i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the views of the public and interested parties.

"(B) NOTICE AND COMMENT REQUIREMENTS.—

"(i) IN GENERAL.—If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall publish in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee, including comments on the factors set forth in subparagraphs (A)

Federal Register, publication.

and (B) of paragraph (1). In addition, the Bank shall seek comments on the economic effects from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

"(ii) CONTENT OF NOTICE.—The notice shall include appropriate, nonproprietary information about—

"(I) the country to which the goods involved in the transaction will be shipped;

"(II) the type of goods being exported;

"(III) the amount of the loan or guarantee involved;

"(IV) the goods that would be produced as a result of the provision of the loan or guarantee;

"(V) the amount of increased production that will result from the transaction;

"(VI) the potential sales market for the resulting goods; and

"(VII) the value of the transaction.

"(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

Federal Register, publication.

"(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

"(II) MATERIAL CHANGE DEFINED.—As used in subclause (I), the term 'material change', with respect to an application, includes—

"(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and

"(bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

"(C) REQUIREMENT TO ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.—Before taking final action on an application for a loan or guarantee to which this section applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments pursuant to subparagraph (B).

Deadline.

"(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

"(E) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

"(F) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.".

(b) CONFORMING AMENDMENT.—Section 2(e)(2)(C) of such Act (12 U.S.C. 635(e)(2)(C)) is amended by inserting "of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days)" after "comment period".

**SEC. 9. AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.**

Subparagraph (E) of section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended to read as follows:

"(E) during fiscal year 2006, and each fiscal year thereafter through fiscal year 2011,".

**SEC. 10. TIED AID CREDIT PROGRAM.**

(a) IN GENERAL.—Section 10(b)(5)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(b)(5)(B)(ii)) is amended to read as follows:

Applicability.

"(ii) PROCESS.—In handling individual applications involving the use or potential use of the Tied Aid Credit Fund the following process shall exclusively apply pursuant to subparagraph (A):

"(I) The Bank shall process an application for tied aid in accordance with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

"(II) Twenty days prior to the scheduled meeting of the Board of Directors at which an application will be considered (unless the Bank determines that an earlier discussion is appropriate based on the facts of a particular financing), the Bank shall brief the Secretary on the application and deliver to the Secretary such documents, information, or data as may reasonably be necessary to permit the Secretary to review the application to determine if the application complies with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

"(III) The Secretary may request a single postponement of the consideration by the Board of Directors of the application for up to 14 days to allow the Secretary to submit to the Board of Directors a memorandum objecting to the application.

Deadline.

"(IV) Case-by-case decisions on whether to approve the use of the Tied Aid Credit Fund shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in subclause (V)), if the Secretary indicates to the President of the Bank in writing the Secretary's intention to appeal the decision of the Board of Directors to the President of the United States and makes

the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.

President. Deadline.

"(V) The Bank shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of the Bank and the Secretary, determines within 30 days of an appeal by the Secretary under subclause (IV) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). If no such Presidential determination is made during the 30-day period, the approval by the Bank of the application (or related commitment letter) that was the subject of such appeal shall become final.".

(b) CLARIFICATION OF USE OF TIED AID CREDIT FUND TO MATCH.—Section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is amended—

(1) in subsection (a), in paragraph (6)—

(A) in the matter preceding subparagraph (A), by inserting ", including those that are not a party to the Arrangement," after "countries";

(B) in subparagraph (B), by adding "and" at the end; and

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

"(C) promoting compliance with Arrangement rules among foreign export credit agencies that are not a party to the Arrangement;"; and

(2) in subsection (b), in paragraph (5)(B)—

(A) in clause (i)—

(i) in subclause (I), by striking "and" and by inserting ", and to seek compliance by those countries that are not a party to the Arrangement" before the period; and

(ii) in subclause (III), by adding at the end the following: "In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject to the reporting requirements under the Arrangement, then the Bank may decide to use the Tied Aid Credit Fund based on credible evidence of a history of such offers under similar circumstances or other forms of credible evidence.".

**SEC. 11. PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.**

Section 2(b) of the Export-Import Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following new paragraph:

"(13) PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.—The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of

any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.".

**SEC. 12. PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS; IMPLEMENTATION OF EX-IM ONLINE.**

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

"(g) PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS.—The Bank shall establish and adhere to a clearly defined process for—

"(1) acknowledging receipt of applications;

"(2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and

"(3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.

"(h) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.— Deadlines.

"(1) RESPONSE TO APPLICATIONS.—Within 5 days after the Bank receives an application for financing, the Bank shall notify the applicant that the application has been received, and shall include in the notice—

"(A) a request for such additional information as may be necessary to make the application complete;

"(B) the name of a Bank employee who may be contacted with questions relating to the application; and

"(C) a unique identification number which may be used to review the status of the application at a website established by the Bank.

"(2) WEBSITE.—Not later than September 1, 2007, the Bank shall exercise the authority granted by subparagraphs (E)(x) and (J) of subsection (b)(1) to establish, and thereafter to maintain, a website through which—

"(A) Bank products may be applied for; and

"(B) information may be obtained with respect to—

"(i) the status of any such application;

"(ii) the Small Business Division of the Bank; and

"(iii) incentives, preferences, targets, and goals relating to small business concerns (as defined in section 3(a) of the Small Business Act), including small business concerns exporting to Africa.".

**SEC. 13. COMPETITIVENESS INITIATIVES.**

(a) EXPANSION OF SCOPE OF ANNUAL COMPETITIVENESS REPORT.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by inserting after section 8 the following:

**"SEC. 8A. ANNUAL COMPETITIVENESS REPORT.** 12 USC 635g–1.

"(a) IN GENERAL.—Not later than June 30 of each year, the Bank shall submit to the appropriate congressional committees a report that includes the following:

Surveys.

"(1) ACTIONS OF BANK IN PROVIDING FINANCING ON A COMPETITIVE BASIS, AND TO MINIMIZE COMPETITION IN GOVERNMENT-SUPPORTED EXPORT FINANCING.—A description of the actions of the Bank in complying with the second and third sentences of section 2(b)(1)(A). In this part of the report, the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows (as defined pursuant to section 10(h)(7))) and, to the extent such information is available to the Bank, indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each such government and government-related agency. In this part of the report, the Bank shall include a survey of a representative number of United States exporters and United States commercial lending institutions which provide export credit on the experience of the exporters and institutions in meeting financial competition from other countries whose exporters compete with United States exporters.

"(2) ROLE OF BANK IN IMPLEMENTING STRATEGIC PLAN PREPARED BY THE TRADE PROMOTION COORDINATING COMMITTEE.—A description of the role of the Bank in implementing the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.

"(3) TIED AID CREDIT PROGRAM AND FUND.—The report required by section 10(g).

"(4) PURPOSE OF ALL BANK TRANSACTIONS.—A description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.

"(5) EFFORTS OF BANK TO PROMOTE EXPORT OF GOODS AND SERVICES RELATED TO RENEWABLE ENERGY SOURCES.—A description of the activities of the Bank with respect to financing renewable energy projects undertaken under section 2(b)(1)(K), and an analysis comparing the level of credit extended by the Bank for renewable energy projects with the level of credit so extended for the preceding fiscal year.

"(6) SIZE OF BANK PROGRAM ACCOUNT.—A separate section which—

"(A) compares, to the extent practicable, the size of the Bank program account with the size of the program accounts of the other major export-financing facilities referred to in paragraph (1); and

"(B) makes recommendations, if appropriate, with respect to the relative size of the Bank program account, based on factors including whether the size differences are in the best interests of the United States taxpayer.

"(7) CO-FINANCING PROGRAMS OF THE BANK AND OF OTHER EXPORT CREDIT AGENCIES.—A description of the co-financing programs of the Bank and of the other major export-financing facilities referred to in paragraph (1), which includes a list

of countries with which the United States has in effect a memorandum of understanding relating to export credit agency cofinancing and, if such a memorandum is not in effect with any country with a major export credit-financing facility, an explanation of why such a memorandum is not in effect.

"(8) SERVICES SUPPORTED BY THE BANK AND BY OTHER EXPORT CREDIT AGENCIES.—A separate section which describes the participation of the Bank in providing funding, guarantees, or insurance for services, which shall include appropriate information on the involvement of the other major export-financing facilities referred to in paragraph (1) in providing such support for services, and an explanation of any differences among the facilities in providing the support.

"(9) EXPORT FINANCE CASES NOT IN COMPLIANCE WITH THE ARRANGEMENT.—Detailed information on cases reported to the Bank of export financing that appear not to comply with the Arrangement (as defined in section 10(h)(3)) or that appear to exploit loopholes in the Arrangement for the purpose of obtaining a commercial competitive advantage. The President of the Bank, in consultation with the Secretary of the Treasury, may provide to the appropriate congressional committees the information required by this subsection in a separate and confidential report, instead of providing such information in the report required by this subsection.

"(10) FOREIGN EXPORT CREDIT AGENCY ACTIVITIES NOT CONSISTENT WITH THE WTO AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—A description of the extent to which the activities of foreign export credit agencies and other entities sponsored by a foreign government, particularly those that are not members of the Arrangement (as defined in section 10(h)(3)), appear not to comply with the Arrangement and appear to be inconsistent with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)), and a description of the actions taken by the United States Government to address the activities. The President of the Bank, in consultation with the Secretary of the Treasury, may provide to the appropriate congressional committees, the information required by this subsection in a separate and confidential report, instead of providing such information in the report required by this subsection.

"(b) INCLUSION OF ADDITIONAL COMMENTS.—The report required by subsection (a) shall include such additional comments as any member of the Board of Directors may submit to the Board for inclusion in the report.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(b) CONFORMING AMENDMENT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended by striking all that follows the third sentence.

(c) EXPANSION OF COUNTRIES IN COMPETITION WITH WHICH THE BANK IS TO PROVIDE EXPORT FINANCING.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended in the second sentence by inserting ", including countries the governments of

which are not members of the Arrangement (as defined in section 10(h)(3))" before the period.

(d) SENSE OF CONGRESS REGARDING NEGOTIATION OF THE OECD ARRANGEMENT.—It is the sense of Congress that in the negotiation of the Arrangement (as defined in section 10(h)(3) of the Export-Import Bank Act of 1945) the goals of the United States include the following:

(1) Seeking compliance with the Arrangement among countries with significant export credit programs who are not members of the Arrangement.

(2) Seeking to identify within the World Trade Organization the extent to which countries that are not a party to the Arrangement are not in compliance with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)) with respect to export finance, and seeking appropriate action within the World Trade Organization for each country that is not in such compliance.

(3) Implementing new disciplines on the use of untied aid, market windows, and other forms of export finance that seek to exploit loopholes in the Arrangement for purposes of obtaining a commercial competitive advantage.

**SEC. 14. OFFICE OF FINANCING FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.**

(a) IN GENERAL.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a), as added by section 6, is amended by adding at the end the following:

"(i) OFFICE OF FINANCING FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED BY WOMEN.—

"(1) ESTABLISHMENT.—The President of the Bank shall establish in the Small Business Division an office whose sole functions shall be to continue and enhance the outreach activities of the Bank with respect to, and increase the total amount of loans, guarantees, and insurance provided by the Bank to support exports by, socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act) and small business concerns owned by women.

"(2) MANAGEMENT.—The office shall be managed by a Bank officer of appropriate rank who shall report to the Bank officer designated under subsection (f)(2).

"(3) STAFFING.—To the maximum extent practicable, the President of the Bank shall ensure that qualified minority and women applicants are considered when filling any position in the office.".

(b) FINANCING DIRECTED TOWARD SMALL BUSINESSES OWNED BY MINORITIES OR WOMEN.—Section 2(b)(1)(E)(v) of such Act (12 U.S.C. 635(b)(1)(E)(v)) is amended by adding at the end the following: "From the amount made available under the preceding sentence, it shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 3(i)(1).".

**SEC. 15. GOVERNANCE.**

Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended by adding at the end the following:

"(9) At the request of any 2 members of the Board of Directors, the Chairman of the Board shall place an item pertaining to the policies or procedures of the Bank on the agenda for discussion by the Board. Within 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which the item shall be discussed.". Deadline.

**SEC. 16. SENSE OF CONGRESS REGARDING MULTI-BUYER INSURANCE AND WORKING CAPITAL GUARANTEE PROGRAMS.**

It is the sense of Congress that the Export-Import Bank of the United States should seek to expand the number and size of the regional multi-buyer insurance programs and working capital guarantee programs operated by, through, or in conjunction with the Bank.

**SEC. 17. SENSE OF CONGRESS REGARDING AN OFFICE OF RENEWABLE ENERGY PROMOTION.**

It is the sense of Congress that—

(1) the Export-Import Bank of the United States should establish, within 2 years of the date of the enactment of this Act, an Office of Renewable Energy Promotion staffed by individuals with appropriate expertise in renewable energy technologies to proactively identify new opportunities for renewable energy financing and to carry out section 2(b)(1)(K) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(K));

(2) in carrying out the purposes of such an Office of Renewable Energy Promotion, the head of such Office should consider the recommendations of the Renewable Energy Exports Advisory Committee of the Bank to promote renewable energy technologies; and

(3) the Bank should include in its annual report a description of the activities carried out by such an Office of Renewable Energy Promotion, including for each year a description of the amount of credit extended by the Bank for renewable energy technologies during that year and a comparison between that amount and the amount of such credit extended by the Bank in previous years.

**SEC. 18. ENVIRONMENTAL MATTERS.**

(a) ENVIRONMENTAL REPRESENTATIVES ON THE ADVISORY COMMITTEE.—Section 3(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "15" and inserting "17"; and

(B) in subparagraph (B), by inserting "environment," before "production,"; and

(2) in paragraph (2), by adding at the end the following:

"(C) Not less than 2 members appointed to the Advisory Committee shall be representative of the environmental nongovernmental organization community, except that no 2 of the members shall be from the same environmental organization.".

(b) PUBLIC DISCLOSURE OF CERTAIN DOCUMENTS.—Section 11(a)(1) of the Export-Import Bank of 1945 (12 U.S.C. 635i–5(a)(1)) is amended by inserting after the first sentence the following:

"Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18, United States Code.".

12 USC 635 note.

**SEC. 19. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF BANK PERFORMANCE STANDARDS FOR ASSISTANCE TO SMALL BUSINESSES, ESPECIALLY THOSE OWNED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS AND THOSE OWNED BY WOMEN.**

(a) PERFORMANCE STANDARDS.—The Bank shall develop a set of performance standards for determining the extent to which the Bank has carried out successfully subparagraphs (E) and (I) of section 2(b)(1) of the Export-Import Bank Act of 1945, and the functions described in subsections (f)(1), (g)(1), (h)(1), and (i)(1) of section 3 of such Act.

Deadline.

(b) ASSESSMENT OF STANDARDS.—Within 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall transmit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(1) an assessment of the performance standards developed by the Bank pursuant to subsection (a); and

(2) using the performance standards developed pursuant to subsection (a), an assessment of the Bank's efforts to carry out subparagraphs (E) and (I) of section 2(b)(1) of the Export-Import Bank Act of 1945, and the functions described in subsections (f)(1), (g)(1), (h)(1), and (i)(1) of section 3 of such Act.

**SEC. 20. REPORTS.**

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) is amended by adding at the end the following:

"(f) ADDITIONAL REPORTS.—Not later than March 31 of each year, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate reports on—

"(1) the extent to which the Bank has been able to use the authority provided, and has complied with the mandates contained, in section 2(b)(1)(E), and to the extent the Bank has been unable to fully use such authority and comply with such mandates, a report on the reasons for the Bank's inability to do so and the steps the Bank is taking to remedy such inability;

"(2) the extent to which financing has been made available to small business concerns (described in subsection (e)) to enable them to participate in exports by major contractors, including through access to the supply chains of the contractors through direct or indirect funding;

"(3) the specific measures the Bank will take in the upcoming year to achieve the small business objectives of the Bank, including expanded outreach, product improvements, and related actions;

"(4) the progress made by the Bank in supporting exports by socially and economically disadvantaged small business concerns (defined in section 8(a)(4) of the Small Business Act)

and small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, including estimates of the amounts made available to finance exports directly by such small business concerns, a comparison of these amounts with the amounts made available to all small business concerns, and a comparison of such amounts with the amounts so made available during the 2 preceding years;

"(5) with respect to each type of transaction, the interest and fees charged by the Bank to exporters (including a description of fees and interest, if any, charged to small business concerns), buyers, and other applicants in connection with each financing program of the Bank, and the highest, lowest, and average fees charged by the Bank for short term insurance transactions;

"(6) the effects of the fees on the ability of the Bank to achieve the objectives of the Bank relating to small business;

"(7) the fee structure of the Bank as compared with those of foreign export credit agencies; and

"(8)(A) the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 2(b)(1) of the Export-Import Bank Act of 1945, including the total amount expended by the Bank to do so; and

"(B) if the Bank has been unable to comply with such subparagraphs—

"(i) an analysis of the reasons therefor; and

"(ii) what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such compliance.".

**SEC. 21. STUDY OF HOW EXPORT-IMPORT BANK COULD ASSIST UNITED STATES EXPORTERS TO MEET IMPORT NEEDS OF NEW OR IMPOVERISHED DEMOCRACIES; REPORT.**

Liberia.
Haiti.

(a) STUDY.—The Export-Import Bank of the United States shall conduct a study designed to assess the needs of new or impoverished democracies, such as Liberia and Haiti, for imports from the United States, and shall determine what role the Bank can play a role in helping United States exporters seize the opportunities presented by the need for such imports.

(b) REPORT TO CONGRESS.—Within 12 months after the date of the enactment of this Act, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the

Senate, in writing, a final report that contains the results of the study required by subsection (a).

Approved December 20, 2006.

LEGISLATIVE HISTORY—S. 3938 (H.R. 5068):

HOUSE REPORTS: No. 109–566 accompanying H.R. 5068 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Sept. 29, considered and passed Senate.

Dec. 6, considered and passed House, amended. Senate concurred in House amendment.

Public Law 109–439
109th Congress

# An Act

To clarify the treatment of certain charitable contributions under title 11, United States Code.

Dec. 20, 2006
[S. 4044]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Religious Liberty and Charitable Donation Clarification Act of 2006.
11 USC 101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Religious Liberty and Charitable Donation Clarification Act of 2006".

**SEC. 2. TREATMENT OF CERTAIN CONTRIBUTIONS IN BANKRUPTCY.**

Section 1325(b)(3) of title 11, United States Code, is amended by inserting ", other than subparagraph (A)(ii) of paragraph (2)," after "paragraph (2)".

Approved December 20, 2006.

LEGISLATIVE HISTORY—S. 4044:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate.
Dec. 6, considered and passed House.

# Public Law 109–440
# 109th Congress

## An Act

Dec. 20, 2006
[S. 4046]

To extend oversight and accountability related to United States reconstruction funds and efforts in Iraq by extending the termination date of the Office of the Special Inspector General for Iraq Reconstruction.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Iraq Reconstruction Accountability Act of 2006.
5 USC app. 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Iraq Reconstruction Accountability Act of 2006".

**SEC. 2. MODIFICATION OF THE TERMINATION DATE FOR THE OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.**

Section 3001(o) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1238; 5 U.S.C. App., note to section 8G of Public Law 95–452), as amended by section 1054(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), is amended to read as follows:

"(o) TERMINATION.—(1)(A) The Office of the Inspector General shall terminate 10 months after 80 percent of the funds appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund have been expended.

"(B) For purposes of calculating the termination of the Office of the Inspector General under this subsection, any United States funds appropriated or otherwise made available for fiscal year 2006 for the reconstruction of Iraq, irrespective of the designation of such funds, shall be deemed to be amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.

Reports.

"(2) The Special Inspector General for Iraq Reconstruction shall, prior to the termination of the Office of the Special Inspector General under paragraph (1), prepare a final forensic audit report

on all funds deemed to be amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.”.

Approved December 20, 2006.

LEGISLATIVE HISTORY—S. 4046:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–441
# 109th Congress

## An Act

Dec. 21, 2006
[H.R. 1492]

To provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

16 USC 461 note.

**SECTION 1. PRESERVATION OF HISTORIC CONFINEMENT SITES.**

(a) PRESERVATION PROGRAM.—The Secretary shall create a program within the National Park Service to encourage, support, recognize, and work in partnership with citizens, Federal agencies, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the purpose of identifying, researching, evaluating, interpreting, protecting, restoring, repairing, and acquiring historic confinement sites in order that present and future generations may learn and gain inspiration from these sites and that these sites will demonstrate the Nation's commitment to equal justice under the law.

(b) GRANTS.—

(1) CRITERIA.—The Secretary, after consultation with State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations (including organizations involved in the preservation of historic confinement sites), shall develop criteria for making grants under paragraph (2) to assist in carrying out subsection (a).

Deadline.

(2) PROVISION OF GRANTS.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall, subject to the availability of appropriations, make grants to the entities described in paragraph (1) only in accordance with the criteria developed under that paragraph.

(c) PROPERTY ACQUISITION.—

(1) AUTHORITY.—Federal funds made available under this section may be used to acquire non-Federal property for the purposes of this section, in accordance with section 3, only if that property is within the areas described in paragraph (2).

(2) PROPERTY DESCRIPTIONS.—The property referred to in paragraph (2) is the following:

(A) Jerome, depicted in Figure 7.1 of the Site Document.

(B) Rohwer, depicted in Figure 11.2 of the Site Document.

(C) Topaz, depicted in Figure 12.2 of the Site Document.

(D) Honouliuli, located on the southern part of the Island of Oahu, Hawaii, and within the land area bounded by H1 to the south, Route 750 (Kunia Road) to the east, the Honouliuli Forest Reserve to the west, and Kunia town and Schofield Barracks to the north.

(3) NO EFFECT ON PRIVATE PROPERTY.—The authority granted in this subsection shall not constitute a Federal designation or have any effect on private property ownership.

(d) MATCHING FUND REQUIREMENT.—The Secretary shall require a 50 percent non-Federal match for funds provided under this section.

(e) SUNSET OF AUTHORITY.—This Act shall have no force or effect on and after the date that is 2 years after the disbursement to grantees under this section of the total amount of funds authorized to be appropriated under section 4.

**SEC. 2. DEFINITIONS.** 16 USC 461 note.

For purposes of this Act the following definitions apply:

(1) HISTORIC CONFINEMENT SITES.—(A) The term "historic confinement sites" means the 10 internment camp sites referred to as Gila River, Granada, Heart Mountain, Jerome, Manzanar, Minidoka, Poston, Rohwer, Topaz, and Tule Lake and depicted in Figures 4.1, 5.1, 6.1, 7.1, 8.4, 9.2, 10.6, 11.2, 12.2, and 13.2, respectively, of the Site Document; and

(B) other historically significant locations, as determined by the Secretary, where Japanese Americans were detained during World War II.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) SITE DOCUMENT.—The term "Site Document" means the document titled "Confinement and Ethnicity: An Overview of World War II Japanese American Relocation Sites", published by the Western Archeological and Conservation Center, National Park Service, in 1999.

**SEC. 3. PRIVATE PROPERTY PROTECTION.** 16 USC 461 note.

No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the owner or owners of that property or interest in property.

16 USC 461 note.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary $38,000,000 to carry out this Act. Such sums shall remain available until expended.

Approved December 21, 2006.

LEGISLATIVE HISTORY—H.R. 1492:

HOUSE REPORTS: No. 109–142 (Comm. on Resources).
SENATE REPORTS: No. 109–314 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed House.
Vol. 152 (2006): Nov. 16, considered and passed Senate, amended.
Dec. 5, House concurred in Senate amendments.

Public Law 109–442
109th Congress

# An Act

To amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

Dec. 21, 2006
[H.R. 3248]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Lifespan Respite Care Act of 2006. 42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lifespan Respite Care Act of 2006".

**SEC. 2. LIFESPAN RESPITE CARE.**

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

# "TITLE XXIX—LIFESPAN RESPITE CARE

**"SEC. 2901. DEFINITIONS.**

42 USC 300ii.

"In this title:

"(1) ADULT WITH A SPECIAL NEED.—The term 'adult with a special need' means a person 18 years of age or older who requires care or supervision to—

"(A) meet the person's basic needs;

"(B) prevent physical self-injury or injury to others; or

"(C) avoid placement in an institutional facility.

"(2) AGING AND DISABILITY RESOURCE CENTER.—The term 'aging and disability resource center' means an entity administering a program established by the State, as part of the State's system of long-term care, to provide a coordinated system for providing—

"(A) comprehensive information on available public and private long-term care programs, options, and resources;

"(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

"(C) consumer access to the range of publicly supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

"(3) CHILD WITH A SPECIAL NEED.—The term 'child with a special need' means an individual less than 18 years of

age who requires care or supervision beyond that required of children generally to—

"(A) meet the child's basic needs; or

"(B) prevent physical injury, self-injury, or injury to others.

"(4) ELIGIBLE STATE AGENCY.—The term 'eligible State agency' means a State agency that—

"(A) administers the State's program under the Older Americans Act of 1965, administers the State's program under title XIX of the Social Security Act, or is designated by the Governor of such State to administer the State's programs under this title;

"(B) is an aging and disability resource center;

"(C) works in collaboration with a public or private nonprofit statewide respite care coalition or organization; and

"(D) demonstrates—

"(i) an ability to work with other State and community-based agencies;

"(ii) an understanding of respite care and family caregiver issues across all age groups, disabilities, and chronic conditions; and

"(iii) the capacity to ensure meaningful involvement of family members, family caregivers, and care recipients.

"(5) FAMILY CAREGIVER.—The term 'family caregiver' means an unpaid family member, a foster parent, or another unpaid adult, who provides in-home monitoring, management, supervision, or treatment of a child or adult with a special need.

"(6) LIFESPAN RESPITE CARE.—The term 'lifespan respite care' means a coordinated system of accessible, community-based respite care services for family caregivers of children or adults with special needs.

"(7) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to a child or adult with a special need in order to provide temporary relief to the family caregiver of that child or adult.

"(8) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Intergovernmental relations.
42 USC 300ii–1.

**"SEC. 2902. LIFESPAN RESPITE CARE GRANTS AND COOPERATIVE AGREEMENTS.**

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

"(1) to expand and enhance respite care services to family caregivers;

"(2) to improve the statewide dissemination and coordination of respite care; and

"(3) to provide, supplement, or improve access and quality of respite care services to family caregivers, thereby reducing family caregiver strain.

"(b) AUTHORIZATION.—Subject to subsection (e), the Secretary is authorized to award grants or cooperative agreements for the purposes described in subsection (a) to eligible State agencies for which an application is submitted pursuant to subsection (d).

"(c) FEDERAL LIFESPAN APPROACH.—In carrying out this section, the Secretary shall work in cooperation with the National Family Caregiver Support Program of the Administration on Aging and other respite care programs within the Department of Health and Human Services to ensure coordination of respite care services for family caregivers of children and adults with special needs.

"(d) APPLICATION.—

"(1) SUBMISSION.—Each Governor desiring the eligible State agency of his or her State to receive a grant or cooperative agreement under this section shall submit an application on behalf of such agency to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

"(2) CONTENTS.—Each application submitted under this section shall include—

"(A) a description of the eligible State agency's—

"(i) ability to work with other State and community-based agencies;

"(ii) understanding of respite care and family caregiver issues across all age groups, disabilities, and chronic conditions; and

"(iii) capacity to ensure meaningful involvement of family members, family caregivers, and care recipients;

"(B) with respect to the population of family caregivers to whom respite care information or services will be provided or for whom respite care workers and volunteers will be recruited and trained, a description of—

"(i) the population of family caregivers;

"(ii) the extent and nature of the respite care needs of that population;

"(iii) existing respite care services for that population, including numbers of family caregivers being served and extent of unmet need;

"(iv) existing methods or systems to coordinate respite care information and services to the population at the State and local level and extent of unmet need;

"(v) how respite care information dissemination and coordination, respite care services, respite care worker and volunteer recruitment and training programs, or training programs for family caregivers that assist such family caregivers in making informed decisions about respite care services will be provided using grant or cooperative agreement funds;

"(vi) a plan for administration, collaboration, and coordination of the proposed respite care activities with other related services or programs offered by public or private, nonprofit entities, including area agencies on aging;

"(vii) how the population, including family caregivers, care recipients, and relevant public or private agencies, will participate in the planning and implementation of the proposed respite care activities;

"(viii) how the proposed respite care activities will make use, to the maximum extent feasible, of other

Federal, State, and local funds, programs, contributions, other forms of reimbursements, personnel, and facilities;

"(ix) respite care services available to family caregivers in the eligible State agency's State or locality, including unmet needs and how the eligible State agency's plan for use of funds will improve the coordination and distribution of respite care services for family caregivers of children and adults with special needs;

"(x) the criteria used to identify family caregivers eligible for respite care services;

"(xi) how the quality and safety of any respite care services provided will be monitored, including methods to ensure that respite care workers and volunteers are appropriately screened and possess the necessary skills to care for the needs of the care recipient in the absence of the family caregiver; and

"(xii) the results expected from proposed respite care activities and the procedures to be used for evaluating those results;

"(C) assurances that, where appropriate, the eligible State agency will have a system for maintaining the confidentiality of care recipient and family caregiver records; and

"(D) a memorandum of agreement regarding the joint responsibility for the eligible State agency's lifespan respite program between—

"(i) the eligible State agency; and

"(ii) a public or private nonprofit statewide respite coalition or organization.

"(e) PRIORITY; CONSIDERATIONS.—When awarding grants or cooperative agreements under this section, the Secretary shall—

"(1) give priority to eligible State agencies that the Secretary determines show the greatest likelihood of implementing or enhancing lifespan respite care statewide; and

"(2) give consideration to eligible State agencies that are building or enhancing the capacity of their long-term care systems to respond to the comprehensive needs, including respite care needs, of their residents.

"(f) USE OF GRANT OR COOPERATIVE AGREEMENT FUNDS.—

"(1) IN GENERAL.—

"(A) REQUIRED USES OF FUNDS.—Each eligible State agency awarded a grant or cooperative agreement under this section shall use all or part of the funds—

"(i) to develop or enhance lifespan respite care at the State and local levels;

"(ii) to provide respite care services for family caregivers caring for children or adults;

"(iii) to train and recruit respite care workers and volunteers;

"(iv) to provide information to caregivers about available respite and support services; and

"(v) to assist caregivers in gaining access to such services.

"(B) OPTIONAL USES OF FUNDS.—Each eligible State agency awarded a grant or cooperative agreement under this section may use part of the funds for—

"(i) training programs for family caregivers to assist such family caregivers in making informed decisions about respite care services;

"(ii) other services essential to the provision of respite care as the Secretary may specify; or

"(iii) training and education for new caregivers.

"(2) SUBCONTRACTS.—Each eligible State agency awarded a grant or cooperative agreement under this section may carry out the activities described in paragraph (1) directly or by grant to, or contract with, public or private entities.

"(3) MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the costs of the activities to be carried out under paragraph (1), a condition for the receipt of a grant or cooperative agreement under this section is that the eligible State agency agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs.

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required by subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) TERM OF GRANTS OR COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall award grants or cooperative agreements under this section for terms that do not exceed 5 years.

"(2) RENEWAL.—The Secretary may renew a grant or cooperative agreement under this section at the end of the term of the grant or cooperative agreement determined under paragraph (1).

"(h) MAINTENANCE OF EFFORT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available for respite care services.

**"SEC. 2903. NATIONAL LIFESPAN RESPITE RESOURCE CENTER.** 42 USC 300ii–2.

"(a) ESTABLISHMENT.—The Secretary may award a grant or cooperative agreement to a public or private nonprofit entity to establish a National Resource Center on Lifespan Respite Care (referred to in this section as the 'center').

"(b) PURPOSES OF THE CENTER.—The center shall—

"(1) maintain a national database on lifespan respite care;

"(2) provide training and technical assistance to State, community, and nonprofit respite care programs; and

"(3) provide information, referral, and educational programs to the public on lifespan respite care.

**"SEC. 2904. REPORT.** 42 USC 300ii–3.

"Not later than January 1, 2009, the Secretary shall report to the Congress on the activities undertaken under this title. Such report shall evaluate—

"(1) the number of States that have lifespan respite care programs;

"(2) the demographics of the caregivers receiving respite care services through grants or cooperative agreements under this title; and

"(3) the effectiveness of entities receiving grants or cooperative agreements under this title.

42 USC 300ii–4.

**"SEC. 2905. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this title—

"(1) $30,000,000 for fiscal year 2007;

"(2) $40,000,000 for fiscal year 2008;

"(3) $53,330,000 for fiscal year 2009;

"(4) $71,110,000 for fiscal year 2010; and

"(5) $94,810,000 for fiscal year 2011.".

**SEC. 3. GAO REPORT ON LIFESPAN RESPITE CARE PROGRAMS.**

Evaluation.

Not later than January 1, 2011, the Comptroller General of the United States shall conduct an evaluation and submit a report to the Congress on the effectiveness of lifespan respite programs, including an analysis of cost benefits and improved efficiency in service delivery.

Approved December 21, 2006.

---

LEGISLATIVE HISTORY—H.R. 3248:

HOUSE REPORTS: No. 109–716 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–443
# 109th Congress

## An Act

To amend title 49, United States Code, to authorize appropriations for fiscal years 2007 and 2008, and for other purposes.

Dec. 21, 2006
[H.R. 5076]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Transportation Safety Board Reauthorization Act of 2006.
49 USC 1101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "National Transportation Safety Board Reauthorization Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. Reports.
Sec. 3. Investigation services.
Sec. 4. Expenses of DOT Inspector General.
Sec. 5. Evaluation and audit of the National Transportation Safety Board.
Sec. 6. Audit procedures.
Sec. 7. Implementation of NTSB's "Most Wanted Transportation Safety Improvements, 2006".
Sec. 8. Authorization of appropriations.
Sec. 9. Technical corrections.
Sec. 10. Safety review.
Sec. 11. DOT Inspector General oversight and investigations related to Central Artery tunnel project.

**SEC. 2. REPORTS.**

(a) ANNUAL REPORTS.—

(1) IN GENERAL.—Section 1117 of title 49, United States Code, is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking "State." and inserting "State;"; and

(C) by adding at the end the following:

"(4) a description of the activities and operations of the National Transportation Safety Board Academy during the prior calendar year;

"(5) a list of accidents, during the prior calendar year, that the Board was required to investigate under section 1131 but did not investigate and an explanation of why they were not investigated; and

"(6) a list of ongoing investigations that have exceeded the expected time allotted for completion by Board order and an explanation for the additional time required to complete each such investigation.".

(2) UTILIZATION PLAN.—

49 USC 1111 note.

(A) PLAN.—Within 90 days after the date of enactment of this Act, the National Transportation Safety Board shall—

(i) develop a plan to achieve, to the maximum extent feasible, the self-sufficient operation of the National Transportation Safety Board Academy and utilize the Academy's facilities and resources;

(ii) submit a draft of the plan to the Comptroller General for review and comment; and

(iii) submit a draft of the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) PLAN DEVELOPMENT CONSIDERATIONS.—The Board shall—

(i) give consideration in developing the plan under subparagraph (A)(i) to other revenue-generating measures, including subleasing the facility to another entity; and

(ii) include in the plan a detailed financial statement that covers current Academy expenses and revenues and an analysis of the projected impact of the plan on the Academy's expenses and revenues.

(C) REPORT.—Within 180 days after the date of enactment of this Act, the National Transportation Safety Board shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(i) an updated copy of the plan developed pursuant to subparagraph (A)(i);

(ii) any comments and recommendations made by the Comptroller General pursuant to the Government Accountability Office's review of the draft plan; and

(iii) a response to the Comptroller General's comments and recommendations, including a description of any modifications made to the plan in response to those comments and recommendations.

(D) IMPLEMENTATION.—The plan developed pursuant to subparagraph (A)(i) shall be implemented within 2 years after the date of enactment of this Act.

(b) DOT REPORT ON COMPLIANCE WITH RECOMMENDATIONS.—Section 1135(d)(3) of title 49, United States Code, is amended to read as follows:

"(3) COMPLIANCE REPORT WITH RECOMMENDATIONS.—Within 90 days after the date on which the Secretary submits a report under this subsection, the Board shall review the Secretary's report and transmit comments on the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

**SEC. 3. INVESTIGATION SERVICES.**

(a) IN GENERAL.—Section 4(a) of the National Transportation Safety Board Reauthorization Act of 2003 (Public Law 108–168; 49 U.S.C. 1113 note) is amended by striking "From the date of

enactment of this Act through September 30, 2006, the" and inserting "The".

(b) REPORT.—Section 4(b) of such Act is amended—

(1) by striking "On February 1, 2006," and inserting "On July 1 of each year, as part of the annual report required by section 1117 of title 49, United States Code,"; and

(2) in paragraph (1) by striking "for $25,000 or more".

**SEC. 4. EXPENSES OF DOT INSPECTOR GENERAL.**

Section 1137(d) of title 49, United States Code, is amended to read as follows:

"(d) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation such sums as may be necessary to cover expenses associated with activities pursuant to the authority exercised under this section.

"(2) REIMBURSABLE AGREEMENT.—In the absence of an appropriation under this subsection for an expense referred to in paragraph (1), the Inspector General and the Board shall have a reimbursable agreement to cover such expense.".

**SEC. 5. EVALUATION AND AUDIT OF THE NATIONAL TRANSPORTATION SAFETY BOARD.**

(a) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

### "§ 1138. Evaluation and audit of National Transportation Safety Board

"(a) IN GENERAL.—To promote economy, efficiency, and effectiveness in the administration of the programs, operations, and activities of the National Transportation Safety Board, the Comptroller General of the United States shall evaluate and audit the programs and expenditures of the National Transportation Safety Board. Such evaluation and audit shall be conducted at least annually, but may be conducted as determined necessary by the Comptroller General or the appropriate congressional committees.

"(b) RESPONSIBILITY OF COMPTROLLER GENERAL.—The Comptroller General shall evaluate and audit Board programs, operations, and activities, including—

"(1) information management and security, including privacy protection of personally identifiable information;

"(2) resource management;

"(3) workforce development;

"(4) procurement and contracting planning, practices and policies;

"(5) the extent to which the Board follows leading practices in selected management areas; and

"(6) the extent to which the Board addresses management challenges in completing accident investigations.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section the term 'appropriate congressional committees' means the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 1137 the following:

"1138. Evaluation and audit of National Transportation Safety Board".

49 USC 1111 note.

**SEC. 6. AUDIT PROCEDURES.**

The National Transportation Safety Board, in consultation with the Inspector General of the Department of Transportation, shall continue to develop and implement comprehensive internal audit controls for its operations. The audit controls shall address, at a minimum, Board asset management systems, including systems for accounting management, debt collection, travel, and property and inventory management and control.

Deadline. Reports.

**SEC. 7. IMPLEMENTATION OF NTSB'S "MOST WANTED TRANSPORTATION SAFETY IMPROVEMENTS, 2006".**

Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives explaining why the Federal Aviation Administration has not implemented the aviation recommendations in the "Most Wanted Transportation Safety Improvements, 2006" of the National Transportation Safety Board.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking "and" after "2005,"; and

(2) by striking "2006." and inserting "2006, $81,594,000 for fiscal year 2007, and $92,625,000 for fiscal year 2008.".

(b) FEES, REFUNDS, AND REIMBURSEMENTS.—

(1) IN GENERAL.—Section 1118(c) of such title is amended to read as follows:

"(c) FEES, REFUNDS, AND REIMBURSEMENTS.—

"(1) IN GENERAL.—The Board may impose and collect such fees, refunds, and reimbursements as it determines to be appropriate for services provided by or through the Board.

"(2) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee, refund, or reimbursement collected under this subsection—

"(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed or with which the refund or reimbursement is associated;

"(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed or with which the refund or reimbursement is associated; and

"(C) shall remain available until expended.

"(3) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.".

49 USC 1118 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 2005.

(c) REPORT.—Section 1118(d) of title 49, United States Code, is repealed.

**SEC. 9. TECHNICAL CORRECTIONS.**

(a) FUNCTIONAL UNIT FOR MARINE INVESTIGATIONS.—Section 1111(g) of title 49, United States Code, is amended by adding at the end the following:

"(5) marine.".

(b) MARINE CASUALTY INVESTIGATIONS.—Section 1131(a)(1)(E) of such title is amended—

(1) by striking "on the navigable waters or territorial sea of the United States," and inserting "on or under the navigable waters, internal waters, or the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988,"; and

(2) by inserting "(as defined in section 2101(46) of title 46)" after "vessel of the United States".

(c) REFERENCE TO DEPARTMENTAL AUTHORITY.—Section 1131(c)(1) of such title is amended by inserting "or the Secretary of the department in which the Coast Guard is operating" after "Transportation".

(d) APPOINTMENT OF STAFF.—Section 1111 of such title is amended—

(1) by striking paragraph (1) of subsection (e) and inserting the following:

"(1) appoint and supervise officers and employees, other than regular and full-time employees in the immediate offices of another member, necessary to carry out this chapter;";

(2) by redesignating paragraphs (2) and (3) of subsection (e) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) of subsection (e) the following:

"(2) fix the pay of officers and employees necessary to carry out this chapter;";

(4) by redesignating subsection (i) as subsection (j); and

(5) by inserting after subsection (h) the following:

"(i) BOARD MEMBER STAFF.—Each member of the Board shall select and supervise regular and full-time employees in his or her immediate office as long as any such employee has been approved for employment by the designated agency ethics official under the same guidelines that apply to all employees of the Board. Except for the Chairman, the appointment authority provided by this subsection is limited to the number of full-time equivalent positions, in addition to 1 senior professional staff at a level not to exceed the GS 15 level and 1 administrative staff, allocated to each member through the Board's annual budget and allocation process.".

(e) SPELLING CORRECTION.—Section 1113(a) of such title is amended in paragraphs (3) and (4) by striking "subpena" and inserting "subpoena".

(f) BOARD REVIEW.—Section 1113(c) of such title is amended by inserting after the period at the end the following: "The Board shall develop and approve a process for the Board's review and comment or approval of documents submitted to the President, Director of the Office of Management and Budget, or Congress under this subsection.".

(g) INVESTIGATIVE OFFICERS.—Section 1113 of such title is amended by adding at the end the following:

"(h) INVESTIGATIVE OFFICERS.—The Board shall maintain at least 1 full-time employee in each State located more than 1,000

miles from the nearest Board regional office to provide initial investigative response to accidents the Board is empowered to investigate under this chapter that occur in that State.".

Alaska.

**SEC. 10. SAFETY REVIEW.**

(a) SAFETY AREA ALTERNATIVES.—With regard to an environmental review of a project to improve runway safety areas on Runway 8/26 at Juneau International Airport, the Secretary of Transportation may only select as the preferred alternative the least expensive runway safety area alternative that meets the standards of the Federal Aviation Administration and that maintains the length of the runway as of the date of enactment of this Act.

(b) COSTS TO BE CONSIDERED.—In determining what is the least expensive runway safety area for purposes of subsection (a), the Secretary shall consider, at a minimum, the initial development costs and life cycle costs of the project.

(c) SATISFACTION OF REQUIREMENT.—With respect to the project described in subsection (a), the requirements of section 303(c)(1) of title 49, United States Code, shall be considered to be satisfied by the selection of the least expensive safety area alternative.

Massachusetts.

**SEC. 11. DOT INSPECTOR GENERAL OVERSIGHT AND INVESTIGATIONS RELATED TO CENTRAL ARTERY TUNNEL PROJECT.**

(a) OVERSIGHT OF SAFETY REVIEW.—The Inspector General of the Department of Transportation shall provide objective and independent oversight of the activities performed by the Federal Highway Administration, the Massachusetts Executive Office of Transportation, and the Massachusetts Department of Transportation for the project-wide safety review initiated as a result of the July 10, 2006, accident in the Central Artery tunnel project in Boston, Massachusetts. The Inspector General shall ensure that such oversight is comprehensive, complete, and carried out in a rigorous manner.

(b) INVESTIGATIONS OF CRIMINAL AND FRAUDULENT ACTIVITIES.—In cooperation with the Attorney General of the United States and the Attorney General of the Commonwealth of Massachusetts, the Inspector General shall investigate criminal or fraudulent acts committed in the design, expenditure of funds, and construction of the Central Artery tunnel project.

(c) REPORTS TO CONGRESS.—The Inspector General shall submit to Congress periodically reports on the oversight and investigative activities conducted pursuant to this section, together with any recommendations and observations of the Inspector General. If the Inspector General identifies any safety issues of a time sensitive

and critical nature in carrying out this section, the Inspector General shall promptly notify Congress.

Approved December 21, 2006.

LEGISLATIVE HISTORY—H.R. 5076 (S. 3679):

HOUSE REPORTS: No. 109–512 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 109–335 accompanying S. 3679 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed House.
Dec. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 21, Presidential statement.

# Public Law 109–444
# 109th Congress

## An Act

Dec. 21, 2006
[H.R. 6342]

To amend title 38, United States Code, to extend certain expiring provisions of law administered by the Secretary of Veterans Affairs, to expand eligibility for the Survivors' and Dependents' Educational Assistance program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans Programs Extension Act of 2006.
38 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans Programs Extension Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. Extension of certain expiring provisions of law administered by the Secretary of Veterans Affairs.
Sec. 3. Expansion of eligibility for Survivors' and Dependents' Educational Assistance program.
Sec. 4. Deadline and permanent requirement for report on educational assistance program.
Sec. 5. Reauthorization of biennial report of Advisory Committee on Women Veterans.
Sec. 6. Parkinson's Disease research, education, and clinical centers and multiple sclerosis centers of excellence.
Sec. 7. Authorization of major medical facility leases.
Sec. 8. Technical and clerical amendments.
Sec. 9. Codification of cost-of-living adjustment provided in Public Law 109–361.

**SEC. 2. EXTENSION OF CERTAIN EXPIRING PROVISIONS OF LAW ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.**

(a) AUTHORITY FOR HEALTH CARE FOR PARTICIPATION IN DOD CHEMICAL AND BIOLOGICAL WARFARE TESTING.—Section 1710(e)(3)(D) of title 38, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2007".

(b) GRANT AND PER DIEM GRANT ASSISTANCE FOR HOMELESS VETERANS.—Section 2011(a)(2) of such title is amended by striking "September 30, 2005" and inserting "September 30, 2007".

(c) TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.—Section 2031(b) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) ADDITIONAL SERVICES FOR HOMELESS AND SERIOUSLY MENTALLY ILL VETERANS.—Section 2033(d) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) ADVISORY COMMITTEE ON HOMELESS VETERANS.—Section 2066(d) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) GOVERNMENT MARKERS IN PRIVATE CEMETERIES.—Section 2306(d)(3) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(g) ADDITIONAL EDUCATIONAL ASSISTANCE ALLOWANCE FOR WORK-STUDY.—Section 3485(a)(4) of such title is amended in subparagraphs (A), (C), and (F) by striking "December 27, 2006" and inserting "June 30, 2007".

**SEC. 3. EXPANSION OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.**

(a) EXPANSION OF ELIGIBILITY.—Section 3501(a)(1) of title 38, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking "means—" and inserting "means any of the following:";

(2) in each of subparagraphs (A) through (D), by capitalizing the first letter of the first word;

(3) in subparagraph (A)—

(A) by inserting after "a person who" the following: ", as a result of qualifying service";

(B) by striking the comma at the end of clause (i) and inserting "; or";

(C) by striking ", or" at the end of clause (ii) and inserting a period; and

(D) by striking clause (iii);

(4) in subparagraph (B) by striking the comma at the end and inserting the following: "sustained during a period of qualifying service.";

(5) in subparagraph (C)—

(A) by inserting "or child" after "the spouse"; and

(B) by striking ", or" at the end and inserting a period;

(6) in subparagraph (D)—

(A) in clause (i), by inserting before the comma the following: "sustained during a period of qualifying service"; and

(B) by striking the comma at the end and inserting a period;

(7) by inserting after subparagraph (D) the following new subparagraph:

"(E) The spouse or child of a person who—

"(i) at the time of the Secretary's determination under clause (ii), is a member of the Armed Forces who is hospitalized or receiving outpatient medical care, services, or treatment;

"(ii) the Secretary determines has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; and

"(iii) is likely to be discharged or released from such service for such disability."; and

(8) by striking "arising out of" and all that follows through the end.

(b) CONFORMING AMENDMENTS TO CHAPTER 35.—Chapter 35 of such title is further amended as follows:

(1) Section 3501(a) is amended by adding at the end the following new paragraph:

"(12) The term 'qualifying service' means service in the active military, naval, or air service after the beginning of

the Spanish-American War that did not terminate under dishonorable conditions.".

38 USC 3511.

(2) Section 3511 is amended—

(A) in subsection (a)(1)—

(i) by striking "Each eligible person" and inserting the following: "Each eligible person, whether made eligible by one or more of the provisions of section 3501(a)(1) of this title,";

(ii) by striking "a period" and inserting "an aggregate period"; and

(iii) by striking the second sentence;

(B) in subsection (b)—

(i) in paragraph (2)—

(I) by striking "the provisions of section 3501(a)(1)(A)(iii) or" and inserting "section"; and

(II) by striking "or" at the end;

(ii) in paragraph (3)—

(I) by striking "section 3501(a)(1)(D)" and inserting "subparagraph (D) or (E) of section 3501(a)(1)"; and

(II) by inserting "or" after the comma at the end; and

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) the parent or spouse from whom such eligibility is derived based upon subparagraph (E) of section 3501(a)(1) of this title no longer meets a requirement under clause (i), (ii), or (iii) of that subparagraph,"; and

(C) by striking subsection (c).

(3) Section 3512 is amended—

(A) in subsection (a)—

(i) by striking "an eligible person (within the meaning of section 3501(a)(1)(A) of this title)" and inserting "an eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title"; and

(ii) in paragraph (6), by striking "the provisions of section 3501(a)(1)(A)(iii)" and inserting "a parent being listed in one of the categories referred to in section 3501(a)(1)(C)";

(B) in subsection (b)—

(i) in paragraph (1)(A)—

(I) by inserting after "section 3501(a)(1) of this title" the following: "or a person made eligible by the disability of a spouse under section 3501(a)(1)(E) of this title"; and

(II) by striking "or 3501(a)(1)(D)(ii) of this title" and inserting "3501(a)(1)(D)(ii), or 3501(a)(1)(E) of this title";

(ii) in paragraph (1)(B), by adding at the end the following new clause:

"(iii) The date on which the Secretary notifies the member of the Armed Forces from whom eligibility is derived that the member has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service."; and

(iii) in paragraph (2)—

(I) by striking "or (D) of this title" and inserting "(D), or (E) of this title"; and

(II) by inserting "whose eligibility is based on the death or disability of a spouse or on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title" after "of this title)";

(C) in subsection (d), by striking "veteran" and inserting "person"; and

(D) in subsection (e)—

(i) by inserting "based on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title" after "of this title";

(ii) by inserting "so" after "the spouse was"; and

(iii) by striking "by the Secretary" and all that follows through "occurs".

(4) Section 3540 is amended by striking "(as defined in subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title)" and inserting "(other than a person made eligible under subparagraph (C) of such section by reason of a spouse being listed in one of the categories referred to in that subparagraph)". 38 USC 3540.

(5) Section 3563 is amended by striking "each eligible person defined in section 3501(a)(1)(A) of this title" and inserting "each eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title".

(c) OTHER CONFORMING AMENDMENTS.—Such title is further amended as follows:

(1) Sections 3686(a)(1) is amended by striking "or (D)" and inserting "(D), or (E)".

(2) Section 5113(b)(3) is amended—

(A) in subparagraph (B) by striking "section 3501(a)(1)" and all that follows through the end and inserting the following: "subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title."; and

(B) in subparagraph (C)—

(i) by striking "such veteran's death" and inserting "the death of the person from whom such eligibility is derived"; and

(ii) by striking "such veteran's service-connected total disability permanent in nature" and inserting "the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service) of the person from whom such eligibility is derived".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to a payment of educational assistance for a course of education pursued after the date of the enactment of this Act. 38 USC 3501 note.

**SEC. 4. DEADLINE AND PERMANENT REQUIREMENT FOR REPORT ON EDUCATIONAL ASSISTANCE PROGRAM.**

(a) DEADLINE FOR REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall each submit to Congress a report containing the information specified in subsections (b) and (c) of section 3036 of title 38, United States Code.

(b) REPEAL OF TERMINATION.—Section 3036 of title 38, United States Code, is amended by striking subsection (d).

**SEC. 5. REAUTHORIZATION OF BIENNIAL REPORT OF ADVISORY COMMITTEE ON WOMEN VETERANS.**

Section 542(c)(1) of title 38, United States Code, is amended by striking "2004" and inserting "2008".

**SEC. 6. PARKINSON'S DISEASE RESEARCH, EDUCATION, AND CLINICAL CENTERS AND MULTIPLE SCLEROSIS CENTERS OF EXCELLENCE.**

(a) REQUIREMENT FOR ESTABLISHMENT OF CENTERS.—

(1) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new sections:

**"§ 7329. Parkinson's Disease research, education, and clinical centers**

"(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary, upon the recommendation of the Under Secretary for Health, shall designate not less than six Department health-care facilities as the locations for centers of Parkinson's Disease research, education, and clinical activities.

"(2) Subject to the appropriation of sufficient funds for such purpose, the Secretary shall establish and operate centers of Parkinson's Disease research, education, and clinical activities at the locations designated pursuant to paragraph (1) for such centers.

"(b) CRITERIA FOR DESIGNATION OF FACILITIES.—(1) In designating Department health-care facilities for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall assure appropriate geographic distribution of such facilities.

"(2) Except as provided in paragraph (3), the Secretary shall designate as the location for a center of Parkinson's Disease research, education, and clinical activities pursuant to subsection (a)(1) each Department health-care facility that as of January 1, 2005, was operating a Parkinson's Disease research, education, and clinical center.

"(3) The Secretary may not under subsection (a) designate a facility described in paragraph (2) if (on the recommendation of the Under Secretary for Health) the Secretary determines that such facility—

"(A) does not meet the requirements of subsection (c); or

"(B) has not demonstrated—

"(i) effectiveness in carrying out the established purposes of such center; or

"(ii) the potential to carry out such purposes effectively in the reasonably foreseeable future.

"(c) REQUIREMENTS FOR DESIGNATION.—(1) The Secretary may not designate a Department health-care facility as a location for

a center under subsection (a) unless the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals that meet the highest competitive standards of scientific and clinical merit.

"(2) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the Secretary (upon the recommendation of the Under Secretary for Health) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

"(A) An arrangement with an accredited medical school that provides education and training in neurology and with which the Department health-care facility is affiliated under which residents receive education and training in innovative diagnosis and treatment of chronic neurodegenerative diseases and movement disorders, including Parkinson's Disease.

"(B) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts.

"(C) An advisory committee composed of veterans and appropriate health-care and research representatives of the Department health-care facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of the center during the period of the operation of such center.

"(D) The capability to conduct effectively evaluations of the activities of such center.

"(E) The capability to coordinate (as part of an integrated national system) education, clinical, and research activities within all facilities with such centers.

"(F) The capability to jointly develop a consortium of providers with interest in treating neurodegenerative diseases, including Parkinson's Disease and other movement disorders, at facilities without such centers in order to ensure better access to state-of-the-art diagnosis, care, and education for neurodegenerative disorders throughout the health care system of the Department.

"(G) The capability to develop a national repository in the health care system of the Department for the collection of data on health services delivered to veterans seeking care for neurodegenerative diseases, including Parkinson's Disease, and other movement disorders.

"(d) PEER REVIEW PANEL.—(1) The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of centers under this section. Establishment.

"(2)(A) The membership of the panel shall consist of experts in neurodegenerative diseases, including Parkinson's Disease, and other movement disorders.

"(B) Members of the panel shall serve for a period of no longer than two years, except as specified in subparagraph (C).

"(C) Of the members first appointed to the panel, one half shall be appointed for a period of three years and one half shall be appointed for a period of two years, as designated by the Under Secretary at the time of appointment.

"(3) The panel shall review each proposal submitted to the panel by the Under Secretary and shall submit its views on the relative scientific and clinical merit of each such proposal to the Under Secretary.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.

"(e) PRIORITY OF FUNDING.—Before providing funds for the operation of a center designated under subsection (a) at a Department health-care facility other than at a facility designated pursuant to subsection (b)(2), the Secretary shall ensure that each Parkinson's Disease center at a facility designated pursuant to subsection (b)(2) is receiving adequate funding to enable that center to function effectively in the areas of Parkinson's Disease research, education, and clinical activities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department medical services account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

"(g) AWARD COMPETITIONS.—Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account. Such activities shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in Parkinson's Disease and other movement disorders.

**"§ 7330. Multiple sclerosis centers of excellence**

"(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary, upon the recommendation of the Under Secretary for Health, shall designate not less than two Department health-care facilities as the locations for multiple sclerosis centers of excellence.

"(2) Subject to the appropriation of sufficient funds for such purpose, the Secretary shall establish and operate multiple sclerosis centers of excellence at the locations designated pursuant to paragraph (1) for such centers.

"(b) CRITERIA FOR DESIGNATION OF FACILITIES.—(1) In designating Department health-care facilities for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall assure appropriate geographic distribution of such facilities.

"(2) Except as provided in paragraph (3), the Secretary shall designate as the location for a multiple sclerosis center of excellence pursuant to subsection (a)(1) each Department health-care facility that as of January 1, 2005, was operating a multiple sclerosis center of excellence.

"(3) The Secretary may not under subsection (a) designate a facility described in paragraph (2) if (on the recommendation of the Under Secretary for Health) the Secretary determines that such facility—

"(A) does not meet the requirements of subsection (c); or

"(B) has not demonstrated—

"(i) effectiveness in carrying out the established purposes of such center; or

"(ii) the potential to carry out such purposes effectively in the reasonably foreseeable future.

"(c) REQUIREMENTS FOR DESIGNATION.—(1) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals that meet the highest competitive standards of scientific and clinical merit.

"(2) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the Secretary (upon the recommendation of the Under Secretary for Health) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

"(A) An arrangement with an accredited medical school that provides education and training in neurology and with which the Department health-care facility is affiliated under which residents receive education and training in innovative diagnosis and treatment of chronic neurodegenerative diseases, including multiple sclerosis.

"(B) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts.

"(C) An advisory committee composed of veterans and appropriate health-care and research representatives of the Department health-care facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of the center during the period of the operation of such center.

"(D) The capability to conduct effectively evaluations of the activities of such center.

"(E) The capability to coordinate (as part of an integrated national system) education, clinical, and research activities within all facilities with such centers.

"(F) The capability to jointly develop a consortium of providers with interest in treating multiple sclerosis at facilities without such centers in order to ensure better access to state-of-the-art diagnosis, care, and education for autoimmune disease affecting the central nervous system throughout the health care system of the Department.

"(G) The capability to develop a national repository in the health care system of the Department for the collection of data on health services delivered to veterans seeking care for autoimmune disease affecting the central nervous system.

"(d) PEER REVIEW PANEL.—(1) The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of centers under this section.

Establishment.

"(2)(A) The membership of the panel shall consist of experts in autoimmune disease affecting the central nervous system.

"(B) Members of the panel shall serve for a period of no longer than two years, except as specified in subparagraph (C).

"(C) Of the members first appointed to the panel, one half shall be appointed for a period of three years and one half shall be appointed for a period of two years, as designated by the Under Secretary at the time of appointment.

"(3) The panel shall review each proposal submitted to the panel by the Under Secretary and shall submit its views on the relative scientific and clinical merit of each such proposal to the Under Secretary.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.

"(e) PRIORITY OF FUNDING.—Before providing funds for the operation of a center designated under subsection (a) at a Department health-care facility other than at a facility designated pursuant to subsection (b)(2), the Secretary shall ensure that each multiple sclerosis center at a facility designated pursuant to subsection (b)(2) is receiving adequate funding to enable that center to function effectively in the areas of multiple sclerosis research, education, and clinical activities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department medical services account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

"(g) AWARD COMPETITIONS.—Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account. Such activities shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in multiple sclerosis and other neurodegenerative disorders.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7328 the following new items:

"7329. Parkinson's Disease research, education, and clinical centers.
"7330. Multiple sclerosis centers of excellence.".

38 USC 7329 note.

(b) EFFECTIVE DATE.—Sections 7329 and 7330 of title 38, United States Code, as added by subsection (a), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

**SEC. 7. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.**

(a) FISCAL YEAR 2006 LEASES.—The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2006 at the locations specified, in an amount for each lease not to exceed the amount specified for that location:

(1) For an outpatient clinic, Baltimore, Maryland, $10,908,000.

(2) For an outpatient clinic, Evansville, Indiana, $8,989,000.

(3) For an outpatient clinic, Smith County, Texas, $5,093,000.

(b) FISCAL YEAR 2007 LEASES.—The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2007 at the locations specified, in an amount for each lease not to exceed the amount specified for that location:

(1) For an outpatient and specialty care clinic, Austin, Texas, $6,163,000.

(2) For an outpatient clinic, Lowell, Massachusetts, $2,520,000.

(3) For an outpatient clinic, Grand Rapids, Michigan, $4,409,000.

(4) For up to four outpatient clinics, Las Vegas, Nevada, $8,518,000.

(5) For an outpatient clinic, Parma, Ohio, $5,032,000.

(c) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY LEASES.—

(1) FISCAL YEAR 2006 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2006 for the Medical Care account, $24,990,000 for the leases authorized in subsection (a).

(2) FISCAL YEAR 2007 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Medical Care account, $26,642,000 for the leases authorized in subsection (b).

**SEC. 8. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) CITATION CORRECTION.—Section 1718(c)(2) is amended by inserting "of 1938" after "Act".

(2) CITATION CORRECTION.—Section 1785(b)(1) is amended by striking "Robert B." and inserting "Robert T.".

(3) PUNCTUATION CORRECTION.—Section 2002(1) is amended by inserting a closing parenthesis before the period at the end.

(4) PUNCTUATION CORRECTION.—Section 2011(a)(1)(C) is amended by inserting a period at the end.

(5) CROSS REFERENCE CORRECTION.—Section 2041(a)(3)(A)(i) is amended by striking "under this chapter" and inserting "established under section 3722 of this title".

(6) CITATION CORRECTION.—Section 8111(b)(1) is amended by striking "into the strategic" and all that follows through "and Results Act of 1993" and inserting "into the strategic plan of each Department under section 306 of title 5 and the performance plan of each Department under section 1115 of title 31".

(7) REPEAL OF OBSOLETE TEXT.—Section 8111 is further amended—

(A) in subsection (d)(2), by striking "effective October 1, 2003,"; and

(B) in subsection (e)(2)—

(i) in the second sentence, by striking "shall be implemented no later than October 1, 2003, and"; and

(ii) in the third sentence, by striking ", following implementation of the schedule,".

(8) CITATION CORRECTION.—Section 8111A(a)(2)(B)(i) is amended by striking "Robert B." and inserting "Robert T.".

(b) PUBLIC LAW 107–296.—Effective as of November 25, 2002, section 1704(d) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2315) is amended— Effective date.

(1) by striking "101(25)(d)" and inserting "101(25)(D)"; and 38 USC 101 note. 38 USC 101.

(2) by striking "3011(a)(1)(A)(ii)(II)" and inserting "3011(a)(1)(A)(ii)(III)". 38 USC 3011.

**SEC. 9. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 109–361.**

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking "$112" and inserting "$115";

(2) in subsection (b), by striking "$218" and inserting "$225";

(3) in subsection (c), by striking "$337" and inserting "$348";

(4) in subsection (d), by striking "$485" and inserting "$501";

(5) in subsection (e), by striking "$690" and inserting "$712";

(6) in subsection (f), by striking "$873" and inserting "$901";

(7) in subsection (g), by striking "$1,099" and inserting "$1,135";

(8) in subsection (h), by striking "$1,277" and inserting "$1,319";

(9) in subsection (i), by striking "$1,436" and inserting "$1,483";

(10) in subsection (j), by striking "$2,393" and inserting "$2,471";

(11) in subsection (k)—

(A) by striking "$87" both places it appears and inserting "$89"; and

(B) by striking "$2,977" and "$4,176" and inserting "$3,075" and "$4,313", respectively;

(12) in subsection (l), by striking "$2,977" and inserting "$3,075";

(13) in subsection (m), by striking "$3,284" and inserting "$3,392";

(14) in subsection (n), by striking "$3,737" and inserting "$3,860";

(15) in subsections (o) and (p), by striking "$4,176" each place it appears and inserting "$4,313";

(16) in subsection (r)—

(A) in paragraph (1), by striking "$1,792" and inserting "$1,851"; and

(B) in paragraph (2), by striking "2,669" and inserting "$2,757"; and

(17) in subsection (s), by striking "$2,678" and inserting "$2,766".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking "$135" and inserting "$139";

(2) in subparagraph (B), by striking "$233" and "$68" and inserting "$240" and "$70", respectively;

(3) in subparagraph (C), by striking "$91" and "$68" and inserting "$94" and "$70", respectively;

(4) in subparagraph (D), by striking "$109" and inserting "$112";

(5) in subparagraph (E), by striking "$257" and inserting "$265"; and

(6) in subparagraph (F), by striking "$215" and inserting "$222".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking "$641" and inserting "$662".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Subsection (a) of section 1311 of such title is amended—

(A) in paragraph (1), by striking "$1,033" and inserting "$1,067"; and

(B) in paragraph (2), by striking "$221" and inserting "$228".

(2) OLD LAW DIC.—The table in paragraph (3) of such subsection is amended to read as follows:

| Pay grade | Monthly rate | Pay grade | Monthly rate |
|---|---|---|---|
| E–1 | $1,067 | W–4 | $1,276 |
| E–2 | $1,067 | O–1 | $1,128 |
| E–3 | $1,067 | O–2 | $1,165 |
| E–4 | $1,067 | O–3 | $1,246 |
| E–5 | $1,067 | O–4 | $1,319 |
| E–6 | $1,067 | O–5 | $1,452 |
| E–7 | $1,104 | O–6 | $1,637 |
| E–8 | $1,165 | O–7 | $1,768 |
| E–9 | $1,215[1] | O–8 | $1,941 |
| W–1 | $1,128 | O–9 | $2,076 |
| W–2 | $1,172 | O–10 | $2,276[2] |
| W–3 | $1,207 | | |

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,312.

[2] If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,443.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Such section is further amended—

(A) in subsection (b), by striking "$257" and inserting "$265";

(B) in subsection (c), by striking "$257" and inserting "$265"; and

(C) in subsection (d), by striking "$122" and inserting "$126".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking "$438" and inserting "$452";

(B) in paragraph (2), by striking "$629" and inserting "$649";

(C) in paragraph (3), by striking "$819" and inserting "$846"; and

(D) in paragraph (4), by striking "$819" and "$157" and inserting "$846" and "$162", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking "$257" and inserting "$265";

(B) in subsection (b), by striking "$438" and inserting "$452"; and

(C) in subsection (c), by striking "$218" and inserting "$225".

Approved December 21, 2006.

LEGISLATIVE HISTORY—H.R. 6342:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed House.
Dec. 7, considered and passed Senate.

# Public Law 109–445
# 109th Congress

## An Act

To treat payments by charitable organizations with respect to certain firefighters as exempt payments.

Dec. 21, 2006
[H.R. 6429]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Fallen Firefighters Assistance Tax Clarification Act of 2006.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fallen Firefighters Assistance Tax Clarification Act of 2006".

**SEC. 2. PAYMENTS BY CHARITABLE ORGANIZATIONS WITH RESPECT TO CERTAIN FIREFIGHTERS TREATED AS EXEMPT PAYMENTS.**

California.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, payments made on behalf of any firefighter who died as the result of the October 2006 Esperanza Incident fire in southern California to any family member of such firefighter by an organization described in paragraph (1) or (2) of section 509(a) of such Code shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made in good faith using a reasonable and objective formula which is consistently applied.

(b) APPLICATION.—Subsection (a) shall apply only to payments made on or after October 26, 2006, and before June 1, 2007.

Approved December 21, 2006.

---

LEGISLATIVE HISTORY—H.R. 6429:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 8, considered and passed House and Senate.

# Public Law 109–446
# 109th Congress

## An Act

Dec. 21, 2006
[S. 2370]

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Palestinian Anti-Terrorism Act of 2006.
22 USC 2378b note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Palestinian Anti-Terrorism Act of 2006".

22 USC 2378b note.

**SEC. 2. LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY.**

(a) DECLARATION OF POLICY.—It shall be the policy of the United States—

(1) to support a peaceful, two-state solution to end the conflict between Israel and the Palestinians in accordance with the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the "Roadmap");

(2) to oppose those organizations, individuals, and countries that support terrorism and violently reject a two-state solution to end the Israeli-Palestinian conflict;

(3) to promote the rule of law, democracy, the cessation of terrorism and incitement, and good governance in institutions and territories controlled by the Palestinian Authority; and

(4) to urge members of the international community to avoid contact with and refrain from supporting the terrorist organization Hamas until it agrees to recognize Israel, renounce violence, disarm, and accept prior agreements, including the Roadmap.

(b) AMENDMENTS.—Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is amended—

22 USC 2378a.

(1) by redesignating the second section 620G (as added by section 149 of Public Law 104–164 (110 Stat. 1436)) as section 620J; and

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

22 USC 2378b.

**"SEC. 620K. LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY.**

"(a) LIMITATION.—Assistance may be provided under this Act to the Hamas-controlled Palestinian Authority only during a period for which a certification described in subsection (b) is in effect.

President.

"(b) CERTIFICATION.—A certification described in subsection (a) is a certification transmitted by the President to Congress that contains a determination of the President that—

"(1) no ministry, agency, or instrumentality of the Palestinian Authority is effectively controlled by Hamas, unless the Hamas-controlled Palestinian Authority has—

"(A) publicly acknowledged the Jewish state of Israel's right to exist; and

"(B) committed itself and is adhering to all previous agreements and understandings with the United States Government, with the Government of Israel, and with the international community, including agreements and understandings pursuant to the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the 'Roadmap'); and

"(2) the Hamas-controlled Palestinian Authority has made demonstrable progress toward—

"(A) completing the process of purging from its security services individuals with ties to terrorism;

"(B) dismantling all terrorist infrastructure within its jurisdiction, confiscating unauthorized weapons, arresting and bringing terrorists to justice, destroying unauthorized arms factories, thwarting and preempting terrorist attacks, and fully cooperating with Israel's security services;

"(C) halting all anti-American and anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing educational materials, including textbooks, with materials that promote peace, tolerance, and coexistence with Israel;

"(D) ensuring democracy, the rule of law, and an independent judiciary, and adopting other reforms such as ensuring transparent and accountable governance; and

"(E) ensuring the financial transparency and accountability of all government ministries and operations.

"(c) RECERTIFICATIONS.—Not later than 90 days after the date on which the President transmits to Congress an initial certification under subsection (b), and every six months thereafter— Deadlines. President.

"(1) the President shall transmit to Congress a recertification that the conditions described in subsection (b) are continuing to be met; or

"(2) if the President is unable to make such a recertification, the President shall transmit to Congress a report that contains the reasons therefor. Reports.

"(d) CONGRESSIONAL NOTIFICATION.—Assistance made available under this Act to the Palestinian Authority may not be provided until 15 days after the date on which the President has provided notice thereof to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act. Effective date.

"(e) NATIONAL SECURITY WAIVER.—

"(1) IN GENERAL.—Subject to paragraph (2), the President may waive subsection (a) with respect to—

"(A) the administrative and personal security costs of the Office of the President of the Palestinian Authority;

"(B) the activities of the President of the Palestinian Authority to fulfill his or her duties as President, including to maintain control of the management and security of

border crossings, to foster the Middle East peace process, and to promote democracy and the rule of law; and

"(C) assistance for the judiciary branch of the Palestinian Authority and other entities.

"(2) CERTIFICATION.—The President may only exercise the waiver authority under paragraph (1) after—

"(A) consulting with, and submitting a written policy justification to, the appropriate congressional committees; and

"(B) certifying to the appropriate congressional committees that—

"(i) it is in the national security interest of the United States to provide assistance otherwise prohibited under subsection (a); and

"(ii) the individual or entity for which assistance is proposed to be provided is not a member of, or effectively controlled by (as the case may be), Hamas or any other foreign terrorist organization.

President.

"(3) REPORT.—Not later than 10 days after exercising the waiver authority under paragraph (1), the President shall submit to the appropriate congressional committees a report describing how the funds provided pursuant to such waiver will be spent and detailing the accounting procedures that are in place to ensure proper oversight and accountability.

"(4) TREATMENT OF CERTIFICATION AS NOTIFICATION OF PROGRAM CHANGE.—For purposes of this subsection, the certification required under paragraph (2)(B) shall be deemed to be a notification under section 634A and shall be considered in accordance with the procedures applicable to notifications submitted pursuant to that section.

"(f) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(2) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a foreign terrorist organization by the Secretary of State in accordance with section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

"(3) PALESTINIAN AUTHORITY.—The term 'Palestinian Authority' means the interim Palestinian administrative organization that governs part of the West Bank and all of the Gaza Strip (or any successor Palestinian governing entity), including the Palestinian Legislative Council.".

Applicability.

(c) PREVIOUSLY OBLIGATED FUNDS.—The provisions of section 620K of the Foreign Assistance Act of 1961, as added by subsection (b), shall be applicable to the unexpended balances of funds obligated prior to the date of the enactment of this Act.

22 USC 2378b note.

**SEC. 3. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA.**

(a) AMENDMENT.—Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2351 et seq.), as amended by section

2(b)(2), is further amended by adding at the end the following new section:

**"SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA.** 22 USC 2378c.

"(a) LIMITATION.—Assistance may be provided under this Act to nongovernmental organizations for the West Bank and Gaza only during a period for which a certification described in section 620K(b) is in effect with respect to the Palestinian Authority.

"(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following:

"(1) ASSISTANCE TO MEET BASIC HUMAN NEEDS.—Assistance to meet food, water, medicine, health, or sanitation needs, or other assistance to meet basic human needs.

"(2) ASSISTANCE TO PROMOTE DEMOCRACY.—Assistance to promote democracy, human rights, freedom of the press, nonviolence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or any other foreign terrorist organization.

"(3) ASSISTANCE FOR INDIVIDUAL MEMBERS OF THE PALESTINIAN LEGISLATIVE COUNCIL.—Assistance, other than funding of salaries or salary supplements, to individual members of the Palestinian Legislative Council who the President determines are not members of Hamas or any other foreign terrorist organization, for the purposes of facilitating the attendance of such members in programs for the development of institutions of democratic governance, including enhancing the transparent and accountable operations of such institutions, and providing support for the Middle East peace process.

"(4) OTHER TYPES OF ASSISTANCE.—Any other type of assistance if the President— President.

"(A) determines that the provision of such assistance is in the national security interest of the United States; and

"(B) not less than 30 days prior to the obligation of amounts for the provision of such assistance— Deadline.

"(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

"(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A).

"(c) MARKING REQUIREMENT.—Assistance provided under this Act to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the American people or the United States Government unless the Secretary of State or, as appropriate, the Administrator of the United States Agency for International Development, determines that such marking will endanger the lives or safety of persons delivering such assistance or would have an adverse effect on the implementation of that assistance.

"(d) CONGRESSIONAL NOTIFICATION.—Assistance made available under this Act to nongovernmental organizations for the West Bank and Gaza may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee Effective date.

on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of this Act.

"(e) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—the term 'appropriate congressional committees' means—

"(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(2) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a foreign terrorist organization by the Secretary of State in accordance with section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).".

(b) OVERSIGHT AND RELATED REQUIREMENTS.—

Certification. Deadline.

(1) OVERSIGHT.—For each of the fiscal years 2007 and 2008, the Secretary of State shall certify to the appropriate congressional committees not later than 30 days prior to the initial obligation of amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 that procedures have been established to ensure that the Comptroller General of the United States will have access to appropriate United States financial information in order to review the use of such assistance.

(2) VETTING.—Prior to any obligation of amounts for each of the fiscal years 2007 and 2008 for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual or entity that the Secretary knows, or has reason to believe, advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this paragraph and shall terminate assistance to any individual or entity that the Secretary has determined advocates, plans, sponsors, or engages in terrorist activity.

(3) PROHIBITION.—No amounts made available for fiscal year 2007 or 2008 for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

(4) AUDITS.—

(A) IN GENERAL.—The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, that receive amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 are conducted for each of the fiscal years 2007 and 2008 to ensure, among other things, compliance with this subsection.

(B) AUDITS BY INSPECTOR GENERAL OF USAID.—Of the amounts available for each of the fiscal years 2007 and 2008 for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, up to $1,000,000 for each such fiscal year may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of subparagraph (A). Such amounts are in addition to amounts otherwise available for such purposes.

**SEC. 4. DESIGNATION OF TERRITORY CONTROLLED BY THE PALESTINIAN AUTHORITY AS TERRORIST SANCTUARY.**

22 USC 2378b note.

It is the sense of Congress that, during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority, the territory controlled by the Palestinian Authority should be deemed to be in use as a sanctuary for terrorists or terrorist organizations for purposes of section 6(j)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(5)) and section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f).

**SEC. 5. DENIAL OF VISAS FOR OFFICIALS OF THE PALESTINIAN AUTHORITY.**

22 USC 2378b note.

(a) IN GENERAL.—Except as provided in subsection (b), a visa should not be issued to any alien who is an official of, under the control of, or serving as a representative of the Hamas-led Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) EXCEPTION.—The restriction under subsection (a) should not apply to—

(1) the President of the Palestinian Authority and his or her personal representatives, provided that the President and his or her personal representatives are not affiliated with Hamas or any other foreign terrorist organization; and

(2) members of the Palestinian Legislative Council who are not members of Hamas or any other foreign terrorist organization.

**SEC. 6. TRAVEL RESTRICTIONS ON OFFICIALS AND REPRESENTATIVES OF THE PALESTINIAN AUTHORITY AND THE PALESTINE LIBERATION ORGANIZATION STATIONED AT THE UNITED NATIONS IN NEW YORK CITY.**

22 USC 2378b note.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), the President should restrict the travel of officials and representatives of the Palestinian Authority and of the Palestine Liberation Organization, who are stationed at the United Nations in New York City to a 25-mile radius of the United Nations headquarters building during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) EXCEPTION.—The travel restrictions described in subsection (a) should not apply to the President of the Palestinian Authority and his or her personal representatives, provided that the President

and his or her personal representatives are not affiliated with Hamas or any other foreign terrorist organization.

22 USC 2378b note.

**SEC. 7. PROHIBITION ON PALESTINIAN AUTHORITY REPRESENTATION IN THE UNITED STATES.**

(a) PROHIBITION.—Notwithstanding any other provision of law, it shall be unlawful to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by, the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) ENFORCEMENT.—

(1) ATTORNEY GENERAL.—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of subsection (a).

(2) RELIEF.—Any district court of the United States for a district in which a violation of subsection (a) occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of subsection (a).

(c) WAIVER.—Subsection (a) shall not apply if the President determines and certifies to the appropriate congressional committees that the establishment or maintenance of an office, headquarters, premises, or other facilities is vital to the national security interests of the United States.

22 USC 2378b note.

**SEC. 8. INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a) REQUIREMENT.—The President should direct the United States Executive Director at each international financial institution to use the voice, vote, and influence of the United States to prohibit assistance to the Palestinian Authority (other than assistance described under subsection (b)) during any period for which a certification described in section 620K(b) of the Foreign Assistance of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

(b) EXCEPTIONS.—The prohibition on assistance described in subsection (a) should not apply with respect to the following types of assistance:

(1) Assistance to meet food, water, medicine, or sanitation needs, or other assistance to meet basic human needs.

(2) Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or other foreign terrorist organizations.

(c) DEFINITION.—In this section, the term "international financial institution" has the meaning given the term in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

22 USC 2378b note.

**SEC. 9. DIPLOMATIC CONTACTS WITH PALESTINIAN TERROR ORGANIZATIONS.**

No funds authorized or available to the Department of State may be used for or by any officer or employee of the United States Government to negotiate with members or official representatives of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, al-Aqsa Martyrs Brigade, or any other

Palestinian terrorist organization (except in emergency or humanitarian situations), unless and until such organization—

(1) recognizes Israel's right to exist;

(2) renounces the use of terrorism;

(3) dismantles the infrastructure in areas within its jurisdiction necessary to carry out terrorist acts, including the disarming of militias and the elimination of all instruments of terror; and

(4) recognizes and accepts all previous agreements and understandings between the State of Israel and the Palestinian Authority.

**SEC. 10. ISRAELI–PALESTINIAN PEACE, RECONCILIATION AND DEMOCRACY FUND.**

22 USC 2378b note.

(a) ESTABLISHMENT OF FUND.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall establish a fund to be known as the "Israeli-Palestinian Peace, Reconciliation and Democracy Fund" (in this section referred to as the "Fund"). The purpose of the Fund shall be to support, primarily, through Palestinian and Israeli organizations, the promotion of democracy, human rights, freedom of the press, and non-violence among Palestinians, and peaceful coexistence and reconciliation between Israelis and Palestinians.

Deadline.

(b) ANNUAL REPORT.—Not later than 60 days after the date of the enactment of this Act, and annually thereafter for so long as the Fund remains in existence, the Secretary of State shall submit to the appropriate congressional committees a report on programs sponsored and proposed to be sponsored by the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State $20,000,000 for fiscal year 2007 for purposes of the Fund.

**SEC. 11. REPORTING REQUIREMENT.**

22 USC 2378b note.

Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report that—

(1) describes the steps that have been taken by the United States Government to ensure that other countries and international organizations, including multilateral development banks, do not provide direct assistance to the Palestinian Authority for any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority; and

(2) identifies any countries and international organizations, including multilateral development banks, that are providing direct assistance to the Palestinian Authority during such a period, and describes the nature and amount of such assistance.

**SEC. 12. DEFINITIONS.**

22 USC 2378b note.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) PALESTINIAN AUTHORITY.—The term "Palestinian Authority" has the meaning given the term in section 620K(e)(2) of the Foreign Assistance Act of 1961 (as added by section 2(b)(2) of this Act).

Approved December 21, 2006.

LEGISLATIVE HISTORY—S. 2370 (H.R. 4681):

HOUSE REPORTS: No. 109–462, Pt. 1 (Comm. on International Relations) and Pt. 2 (Comm. on the Judiciary), both accompanying H.R. 4681.
CONGRESSIONAL RECORD, Vol. 152 (2006):
June 23, considered and passed Senate.
Dec. 7, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 21, Presidential statement.

Public Law 109–447
109th Congress

# Joint Resolution

Appointing the day for the convening of the first session of the One Hundred Tenth Congress.

Dec. 22, 2006
[H.J. Res. 101]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first regular session of the One Hundred Tenth Congress shall begin at noon on Thursday, January 4, 2007.

Approved December 22, 2006.

LEGISLATIVE HISTORY—H.J. Res. 101:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Nov. 15, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–448
# 109th Congress

## An Act

Dec. 22, 2006
[S. 214]

To authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States-Mexico Transboundary Aquifer Assessment Act.
42 USC 1962 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "United States-Mexico Transboundary Aquifer Assessment Act".

42 USC 1962 note.

**SEC. 2. PURPOSE.**

The purpose of this Act is to direct the Secretary of the Interior to establish a United States-Mexico transboundary aquifer assessment program to systematically assess priority transboundary aquifers.

42 USC 1962 note.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AQUIFER.—The term "aquifer" means a subsurface water-bearing geologic formation from which significant quantities of water may be extracted.

(2) IBWC.—The term "IBWC" means the International Boundary and Water Commission, an agency of the Department of State.

(3) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community—

(A) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(B) the reservation of which includes a transboundary aquifer within the exterior boundaries of the reservation.

(4) PARTICIPATING STATE.—The term "Participating State" means each of the States of Arizona, New Mexico, and Texas.

(5) PRIORITY TRANSBOUNDARY AQUIFER.—The term "priority transboundary aquifer" means a transboundary aquifer that has been designated for study and analysis under the program.

(6) PROGRAM.—The term "program" means the United States-Mexico transboundary aquifer assessment program established under section 4(a).

(7) RESERVATION.—The term "reservation" means land that has been set aside or that has been acknowledged as having been set aside by the United States for the use of an Indian

tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(9) TRANSBOUNDARY AQUIFER.—The term "transboundary aquifer" means an aquifer that underlies the boundary between a Participating State and Mexico.

(10) TRI-REGIONAL PLANNING GROUP.—The term "Tri-Regional Planning Group" means the binational planning group comprised of—

(A) the Junta Municipal de Agua y Saneamiento de Ciudad Juarez;

(B) the El Paso Water Utilities Public Service Board; and

(C) the Lower Rio Grande Water Users Organization.

(11) WATER RESOURCES RESEARCH INSTITUTES.—The term "water resources research institutes" means the institutes within the Participating States established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

**SEC. 4. ESTABLISHMENT OF PROGRAM.**

42 USC 1962 note.

(a) IN GENERAL.—The Secretary, in consultation and cooperation with the Participating States, the water resources research institutes, Sandia National Laboratories, and other appropriate entities in the United States and Mexico, and the IBWC, as appropriate, shall carry out the United States-Mexico transboundary aquifer assessment program to characterize, map, and model priority transboundary aquifers along the United States-Mexico border at a level of detail determined to be appropriate for the particular aquifer.

(b) OBJECTIVES.—The objectives of the program are to—

(1) develop and implement an integrated scientific approach to identify and assess priority transboundary aquifers, including—

(A) for purposes of subsection (c)(2), specifying priority transboundary aquifers for further analysis by assessing—

(i) the proximity of a proposed priority transboundary aquifer to areas of high population density;

(ii) the extent to which a proposed priority transboundary aquifer would be used;

(iii) the susceptibility of a proposed priority transboundary aquifer to contamination; and

(iv) any other relevant criteria;

(B) evaluating all available data and publications as part of the development of study plans for each priority transboundary aquifer;

(C) creating a new, or enhancing an existing, geographic information system database to characterize the spatial and temporal aspects of each priority transboundary aquifer; and

(D) using field studies, including support for and expansion of ongoing monitoring and metering efforts, to develop—

(i) the additional data necessary to adequately define aquifer characteristics; and

(ii) scientifically sound groundwater flow models to assist with State and local water management and administration, including modeling of relevant groundwater and surface water interactions;

(2) consider the expansion or modification of existing agreements, as appropriate, between the United States Geological Survey, the Participating States, the water resources research institutes, and appropriate authorities in the United States and Mexico, to—

(A) conduct joint scientific investigations;

(B) archive and share relevant data; and

(C) carry out any other activities consistent with the program; and

(3) produce scientific products for each priority transboundary aquifer that—

(A) are capable of being broadly distributed; and

(B) provide the scientific information needed by water managers and natural resource agencies on both sides of the United States-Mexico border to effectively accomplish the missions of the managers and agencies.

(c) DESIGNATION OF PRIORITY TRANSBOUNDARY AQUIFERS.—

(1) IN GENERAL.—For purposes of the program, the Secretary shall designate as priority transboundary aquifers—

(A) the Hueco Bolson and Mesilla aquifers underlying parts of Texas, New Mexico, and Mexico;

(B) the Santa Cruz River Valley aquifers underlying Arizona and Sonora, Mexico; and

(C) the San Pedro aquifers underlying Arizona and Sonora, Mexico.

(2) ADDITIONAL AQUIFERS.—The Secretary may, using the criteria under subsection (b)(1)(A), evaluate and designate additional priority transboundary aquifers which underlie New Mexico or Texas.

(d) COOPERATION WITH MEXICO.—To ensure a comprehensive assessment of priority transboundary aquifers, the Secretary shall, to the maximum extent practicable, work with appropriate Federal agencies and other organizations to develop partnerships with, and receive input from, relevant organizations in Mexico to carry out the program.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may provide grants or enter into cooperative agreements and other agreements with the water resources research institutes and other Participating State entities to carry out the program.

42 USC 1962 note.

**SEC. 5. IMPLEMENTATION OF PROGRAM.**

(a) COORDINATION WITH STATES, TRIBES, AND OTHER ENTITIES.—The Secretary shall coordinate the activities carried out under the program with—

(1) the appropriate water resource agencies in the Participating States;

(2) any affected Indian tribes;

(3) any other appropriate entities that are conducting monitoring and metering activity with respect to a priority transboundary aquifer; and

(4) the IBWC, as appropriate.

(b) NEW ACTIVITY.—After the date of enactment of this Act, the Secretary shall not initiate any new field studies or analyses under the program before consulting with, and coordinating the activity with, any Participating State water resource agencies that have jurisdiction over the aquifer.

(c) STUDY PLANS; COST ESTIMATES.—

(1) IN GENERAL.—The Secretary shall work closely with appropriate Participating State water resource agencies, water resources research institutes, and other relevant entities to develop a study plan, timeline, and cost estimate for each priority transboundary aquifer to be studied under the program.

(2) REQUIREMENTS.—A study plan developed under paragraph (1) shall, to the maximum extent practicable—

(A) integrate existing data collection and analyses conducted with respect to the priority transboundary aquifer;

(B) if applicable, improve and strengthen existing groundwater flow models developed for the priority transboundary aquifer; and

(C) be consistent with appropriate State guidelines and goals.

**SEC. 6. EFFECT.**

42 USC 1962 note.

(a) IN GENERAL.—Nothing in this Act affects—

(1) the jurisdiction or responsibility of a Participating State with respect to managing surface or groundwater resources in the Participating State;

(2) the water rights of any person or entity using water from a transboundary aquifer; or

(3) State water law, or an interstate compact or international treaty governing water.

(b) TREATY.—Nothing in this Act shall delay or alter the implementation or operation of any works constructed, modified, acquired, or used within the territorial limits of the United States relating to the waters governed by the Treaty Between the United States and Mexico Regarding Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Series 994 (59 Stat. 1219).

**SEC. 7. REPORTS.**

42 USC 1962 note.

Not later than 5 years after the date of enactment of this Act, and on completion of the program in fiscal year 2016, the Secretary shall submit to the appropriate water resource agency in the Participating States, an interim and final report, respectively, that describes—

(1) any activities carried out under the program;

(2) any conclusions of the Secretary relating to the status of priority transboundary aquifers; and

(3) the level of participation in the program of entities in Mexico.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 1962 note.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $50,000,000 for the period of fiscal years 2007 through 2016.

(b) DISTRIBUTION OF FUNDS.—Of the amounts made available under subsection (a), 50 percent shall be made available to the water resources research institutes to provide funding to appropriate entities in the Participating States (including Sandia

National Laboratories, State agencies, universities, the Tri-Regional Planning Group, and other relevant organizations) and to implement cooperative agreements entered into with appropriate entities in Mexico to conduct specific authorized activities in furtherance of the program, including the binational collection and exchange of scientific data.

(c) CRITERIA.—Funding provided to an appropriate entity in Mexico pursuant to subsection (b) shall be contingent on that entity providing 50 percent of the necessary resources (including in-kind services) to further assist in carrying out the authorized activity.

42 USC 1962 note.

**SEC. 9. SUNSET OF AUTHORITY.**

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of enactment of this Act.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 214:

SENATE REPORTS: No. 109–17 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): July 26, considered and passed Senate.
Vol. 152 (2006): Dec. 6, considered and passed House, amended.
Dec. 8, Senate concurred in House amendment.

# Public Law 109–449
# 109th Congress

## An Act

To establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

Dec. 22, 2006
[S. 362]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Marine Debris Research, Prevention, and Reduction Act.
33 USC 1951 note.

This Act may be cited as the "Marine Debris Research, Prevention, and Reduction Act".

**SEC. 2. PURPOSES.**

33 USC 1951.

The purposes of this Act are—

(1) to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety;

(2) to reactivate the Interagency Marine Debris Coordinating Committee; and

(3) to develop a Federal marine debris information clearinghouse.

**SEC. 3. NOAA MARINE DEBRIS PREVENTION AND REMOVAL PROGRAM.**

33 USC 1952.

(a) ESTABLISHMENT OF PROGRAM.—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety.

(b) PROGRAM COMPONENTS.—The Administrator, acting through the Program and subject to the availability of appropriations, shall carry out the following activities:

(1) MAPPING, IDENTIFICATION, IMPACT ASSESSMENT, REMOVAL, AND PREVENTION.—The Administrator shall, in consultation with relevant Federal agencies, undertake marine debris mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources and navigation safety, including—

(A) the establishment of a process, building on existing information sources maintained by Federal agencies such as the Environmental Protection Agency and the Coast Guard, for cataloguing and maintaining an inventory of marine debris and its impacts found in the navigable waters of the United States and the United States exclusive economic zone, including location, material, size, age, and

origin, and impacts on habitat, living marine resources, human health, and navigation safety;

(B) measures to identify the origin, location, and projected movement of marine debris within United States navigable waters, the United States exclusive economic zone, and the high seas, including the use of oceanographic, atmospheric, satellite, and remote sensing data; and

(C) development and implementation of strategies, methods, priorities, and a plan for preventing and removing marine debris from United States navigable waters and within the United States exclusive economic zone, including development of local or regional protocols for removal of derelict fishing gear and other marine debris.

(2) REDUCING AND PREVENTING LOSS OF GEAR.—The Administrator shall improve efforts to reduce adverse impacts of lost and discarded fishing gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment, and methods for marking gear used in specific fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

(B) development of effective nonregulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in its recovery.

(3) OUTREACH.—The Administrator shall undertake outreach and education of the public and other stakeholders, such as the fishing industry, fishing gear manufacturers, and other marine-dependent industries, and the plastic and waste management industries, on sources of marine debris, threats associated with marine debris and approaches to identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigational safety, including outreach and education activities through public-private initiatives. The Administrator shall coordinate outreach and education activities under this paragraph with any outreach programs conducted under section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915).

(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

(1) IN GENERAL.—The Administrator, acting through the Program, shall enter into cooperative agreements and contracts and provide financial assistance in the form of grants for projects to accomplish the purpose set forth in section 2(1).

(2) GRANT COST SHARING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), Federal funds for any grant under this section may not exceed 50 percent of the total cost of such project. For purposes of this subparagraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(B) WAIVER.—The Administrator may waive all or part of the matching requirement under subparagraph (A) if the Administrator determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such

project outweighs the public interest in such matching requirement.

(3) AMOUNTS PAID AND SERVICES RENDERED UNDER CONSENT.—

(A) CONSENT DECREES AND ORDERS.—If authorized by the Administrator or the Attorney General, as appropriate, the non-Federal share of the cost of a project carried out under this Act may include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

(B) OTHER DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may not include any money paid pursuant to, or the value of any in-kind service performed under, any other administrative order or court order.

(4) ELIGIBILITY.—Any State, local, or tribal government whose activities affect research or regulation of marine debris, and any institution of higher education, nonprofit organization, or commercial organization with expertise in a field related to marine debris, is eligible to submit to the Administrator a marine debris proposal under the grant program.

(5) GRANT CRITERIA AND GUIDELINES.—Within 180 days after the date of the enactment of this Act, the Administrator shall promulgate necessary guidelines for implementation of the grant program, including development of criteria and priorities for grants. In developing those guidelines, the Administrator shall consult with— Deadline.

(A) the Interagency Committee;

(B) regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(C) State, regional, and local governmental entities with marine debris experience;

(D) marine-dependent industries; and

(E) nongovernmental organizations involved in marine debris research, prevention, or removal activities.

(6) PROJECT REVIEW AND APPROVAL.—The Administrator shall—

(A) review each marine debris project proposal to determine if it meets the grant criteria and supports the goals of this Act;

(B) after considering any written comments and recommendations based on the review, approve or disapprove the proposal; and

(C) provide notification of that approval or disapproval to the person who submitted the proposal. Notification.

(7) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports as required by the Administrator. Each report shall include all information required by the Administrator for evaluating the progress and success in meeting its stated goals, and impact of the grant activities on the marine debris problem.

**SEC. 4. COAST GUARD PROGRAM.** 33 USC 1953.

(a) STRATEGY.—The Commandant of the Coast Guard, in consultation with the Interagency Committee, shall—

(1) take actions to reduce violations of and improve implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to the discard of plastics and other garbage from vessels;

(2) take actions to cost-effectively monitor and enforce compliance with MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), including through cooperation and coordination with other Federal and State enforcement programs;

(3) take actions to improve compliance with requirements under MARPOL Annex V and section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) that all United States ports and terminals maintain and monitor the adequacy of receptacles for the disposal of plastics and other garbage, including through promoting voluntary government-industry partnerships;

Plan.

(4) develop and implement a plan, in coordination with industry and recreational boaters, to improve ship-board waste management, including recordkeeping, and access to waste reception facilities for ship-board waste;

(5) take actions to improve international cooperation to reduce marine debris; and

(6) establish a voluntary reporting program for commercial vessel operators and recreational boaters to report incidents of damage to vessels and disruption of navigation caused by marine debris, and observed violations of laws and regulations relating to the disposal of plastics and other marine debris.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report evaluating the Coast Guard's progress in implementing subsection (a).

(c) EXTERNAL EVALUATION AND RECOMMENDATIONS ON ANNEX V.—

Contracts.
Deadline.
Reports.

(1) IN GENERAL.—The Commandant of the Coast Guard shall enter into an arrangement with the National Research Council under which the National Research Council shall submit, by not later than 18 months after the date of the enactment of this Act and in consultation with the Commandant and the Interagency Committee, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive report on the effectiveness of international and national measures to prevent and reduce marine debris and its impact.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of international and domestic implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) and recommendations of cost-effective actions to improve implementation and compliance with such measures to reduce impacts of marine debris;

(B) recommendation of additional Federal or international actions, including changes to international and

domestic law or regulations, needed to further reduce the impacts of marine debris; and

(C) evaluation of the role of floating fish aggregation devices in the generation of marine debris and existing legal mechanisms to reduce impacts of such debris, focusing on impacts in the Western Pacific and Central Pacific regions.

**SEC. 5. INTERAGENCY COORDINATION.**

33 USC 1954.

(a) INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is amended—

(1) by striking subsection (a) and inserting the following: "(a) ESTABLISHMENT OF INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—There is established an Interagency Marine Debris Coordinating Committee to coordinate a comprehensive program of marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, States, Indian tribes, and other nations, as appropriate."; and

(2) in subsection (c), by inserting "public, interagency" before "forum".

Regulations.

(b) DEFINITION OF MARINE DEBRIS.—The Administrator and the Commandant of the Coast Guard, in consultation with the Interagency Committee established under subsection (a), shall jointly develop and promulgate through regulations a definition of the term "marine debris" for purposes of this Act.

(c) REPORTS.—

(1) INTERAGENCY REPORT ON MARINE DEBRIS IMPACTS AND STRATEGIES.—

(A) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Interagency Committee, through the chairperson, shall complete and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives a report that—

(i) identifies sources of marine debris;

(ii) the ecological and economic impact of marine debris;

(iii) alternatives for reducing, mitigating, preventing, and controlling the harmful affects of marine debris;

(iv) the social and economic costs and benefits of such alternatives; and

(v) recommendations to reduce marine debris both domestically and internationally.

(B) RECOMMENDATIONS.—The report shall provide strategies and recommendations on—

(i) establishing priority areas for action to address leading problems relating to marine debris;

(ii) developing strategies and approaches to prevent, reduce, remove, and dispose of marine debris, including through private-public partnerships;

(iii) establishing effective and coordinated education and outreach activities; and

(iv) ensuring Federal cooperation with, and assistance to, the coastal States (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), Indian tribes, and local governments in the identification, determination of sources, prevention, reduction, management, mitigation, and control of marine debris and its adverse impacts.

(2) ANNUAL PROGRESS REPORTS.—Not later than 3 years after the date of the enactment of this Act, and biennially thereafter, the Interagency Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives a report that evaluates United States and international progress in meeting the purpose of this Act. The report shall include—

(A) the status of implementation of any recommendations and strategies of the Interagency Committee and analysis of their effectiveness;

(B) a summary of the marine debris inventory to be maintained by the National Oceanic and Atmospheric Administration;

(C) a review of the National Oceanic and Atmospheric Administration program authorized by section 3, including projects funded and accomplishments relating to reduction and prevention of marine debris;

(D) a review of Coast Guard programs and accomplishments relating to marine debris removal, including enforcement and compliance with MARPOL requirements; and

(E) estimated Federal and non-Federal funding provided for marine debris and recommendations for priority funding needs.

33 USC 1955.

**SEC. 6. FEDERAL INFORMATION CLEARINGHOUSE.**

The Administrator, in coordination with the Interagency Committee, shall—

(1) maintain a Federal information clearinghouse on marine debris that will be available to researchers and other interested persons to improve marine debris source identification, data sharing, and monitoring efforts through collaborative research and open sharing of data; and

(2) take the necessary steps to ensure the confidentiality of such information (especially proprietary information), for any information required by the Administrator to be submitted by the fishing industry under this section.

33 USC 1956.

**SEC. 7. DEFINITIONS.**

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) INTERAGENCY COMMITTEE.—The term "Interagency Committee" means the Interagency Marine Debris Coordinating Committee established under section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914).

(3) UNITED STATES EXCLUSIVE ECONOMIC ZONE.—The term "United States exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

(4) MARPOL; ANNEX V; CONVENTION.—The terms "MARPOL", "Annex V", and "Convention" have the meaning given those terms under section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

(5) NAVIGABLE WATERS.—The term "navigable waters" means waters of the United States, including the territorial sea.

(6) TERRITORIAL SEA.—The term "territorial sea" means the waters of the United States referred to in Presidential Proclamation No. 5928, dated December 27, 1988.

(7) PROGRAM.—The term "Program" means the Marine Debris Prevention and Removal Program established under section 3.

(8) STATE.—The term "State" means—

(A) any State of the United States that is impacted by marine debris within its seaward or Great Lakes boundaries;

(B) the District of Columbia;

(C) American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands; and

(D) any other territory or possession of the United States, or separate sovereign in free association with the United States, that is impacted by marine debris within its seaward boundaries.

**SEC. 8. RELATIONSHIP TO OUTER CONTINENTAL SHELF LANDS ACT.** 33 USC 1957.

Nothing in this Act supersedes, or limits the authority of the Secretary of the Interior under, the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.** 33 USC 1958.

There are authorized to be appropriated for each fiscal year 2006 through 2010—

(1) to the Administrator for carrying out sections 3 and 6, $10,000,000, of which no more than 10 percent may be for administrative costs; and

(2) to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the

Coast Guard in carrying out section 4, $2,000,000, of which no more than 10 percent may be used for administrative costs.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 362:

HOUSE REPORTS: No. 109–332, Pt. 1 (Comm. on Resources) and Pt. 2 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 109–56 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 151 (2005): July 1, considered and passed Senate.

Vol. 152 (2006): Sept. 27, considered and passed House, amended.
Dec. 8, Senate concurred in House amendment.

# Public Law 109–450
# 109th Congress

## An Act

To reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

Dec. 22, 2006
[S. 707]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act.
42 USC 201 note.
42 USC 247b–4f note.

This Act may be cited as the "Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act" or the "PREEMIE Act".

**SEC. 2. PURPOSE.**

It is the purpose of this Act to—

(1) reduce rates of preterm labor and delivery;

(2) work toward an evidence-based standard of care for pregnant women at risk of preterm labor or other serious complications, and for infants born preterm and at a low birthweight; and

(3) reduce infant mortality and disabilities caused by prematurity.

**SEC. 3. RESEARCH RELATING TO PRETERM LABOR AND DELIVERY AND THE CARE, TREATMENT, AND OUTCOMES OF PRETERM AND LOW BIRTHWEIGHT INFANTS.**

42 USC 247b–4f.

(a) GENERAL EXPANSION OF CDC RESEARCH.—Section 301 of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"(e) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall expand, intensify, and coordinate the activities of the Centers for Disease Control and Prevention with respect to preterm labor and delivery and infant mortality.".

(b) STUDIES ON RELATIONSHIP BETWEEN PREMATURITY AND BIRTH DEFECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall, subject to the availability of appropriations, conduct ongoing epidemiological studies on the relationship between prematurity, birth defects, and developmental disabilities.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall submit

to the appropriate committees of Congress reports concerning the progress and any results of studies conducted under paragraph (1).

(c) PREGNANCY RISK ASSESSMENT MONITORING SURVEY.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall establish systems for the collection of maternal-infant clinical and biomedical information, including electronic health records, electronic databases, and biobanks, to link with the Pregnancy Risk Assessment Monitoring System (PRAMS) and other epidemiological studies of prematurity in order to track pregnancy outcomes and prevent preterm birth.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1) $3,000,000 for each of fiscal years 2007 through 2011.

(d) EVALUATION OF EXISTING TOOLS AND MEASURES.—The Secretary of Health and Human Services shall review existing tools and measures to ensure that such tools and measures include information related to the known risk factors of low birth weight and preterm birth.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, except for subsection (c), $5,000,000 for each of fiscal years 2007 through 2011.

**SEC. 4. PUBLIC AND HEALTH CARE PROVIDER EDUCATION AND SUPPORT SERVICES.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended—

42 USC 280g–4.

(1) by redesignating the second section 399O (relating to grants to foster public health responses to domestic violence, dating violence, sexual assault, and stalking) as section 399P; and

(2) by adding at the end the following:

42 USC 280g–5.

**"SEC. 399Q. PUBLIC AND HEALTH CARE PROVIDER EDUCATION AND SUPPORT SERVICES.**

"(a) IN GENERAL.—The Secretary, directly or through the awarding of grants to public or private nonprofit entities, may conduct demonstration projects for the purpose of improving the provision of information on prematurity to health professionals and other health care providers and the public and improving the treatment and outcomes for babies born preterm.

"(b) ACTIVITIES.—Activities to be carried out under the demonstration project under subsection (a) may include the establishment of—

"(1) programs to test and evaluate various strategies to provide information and education to health professionals, other health care providers, and the public concerning—

"(A) the signs of preterm labor, updated as new research results become available;

"(B) the screening for and the treating of infections;

"(c) counseling on optimal weight and good nutrition, including folic acid;

"(D) smoking cessation education and counseling;

"(E) stress management; and

"(F) appropriate prenatal care;

"(2) programs to improve the treatment and outcomes for babies born premature, including the use of evidence-based standards of care by health care professionals for pregnant women at risk of preterm labor or other serious complications and for infants born preterm and at a low birthweight;

"(3) programs to respond to the informational needs of families during the stay of an infant in a neonatal intensive care unit, during the transition of the infant to the home, and in the event of a newborn death; and

"(4) such other programs as the Secretary determines appropriate to achieve the purpose specified in subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2007 through 2011.".

**SEC. 5. INTERAGENCY COORDINATING COUNCIL ON PREMATURITY AND LOW BIRTHWEIGHT.** 42 USC 247b–4g.

(a) PURPOSE.—It is the purpose of this section to stimulate multidisciplinary research, scientific exchange, and collaboration among the agencies of the Department of Health and Human Services and to assist the Department in targeting efforts to achieve the greatest advances toward the goal of reducing prematurity and low birthweight.

(b) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an Interagency Coordinating Council on Prematurity and Low Birthweight (referred to in this section as the Council) to carry out the purpose of this section.

(c) COMPOSITION.—The Council shall be composed of members to be appointed by the Secretary, including representatives of the agencies of the Department of Health and Human Services.

(d) ACTIVITIES.—The Council shall—

(1) annually report to the Secretary of Health and Human Services and Congress on current Departmental activities relating to prematurity and low birthweight; Reports.

(2) carry out other activities determined appropriate by the Secretary of Health and Human Services; and

(3) oversee the coordination of the implementation of this Act.

**SEC. 6. SURGEON GENERAL'S CONFERENCE ON PRETERM BIRTH.**

(a) CONVENING OF CONFERENCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Surgeon General of the Public Health Service, shall convene a conference on preterm birth. Deadline.

(b) PURPOSE OF CONFERENCE.—The purpose of the conference convened under subsection (a) shall be to—

(1) increase awareness of preterm birth as a serious, common, and costly public health problem in the United States;

(2) review the findings and reports issued by the Interagency Coordinating Council, key stakeholders, and any other relevant entities; and

(3) establish an agenda for activities in both the public and private sectors that will speed the identification of, and treatments for, the causes of and risk factors for preterm labor and delivery.

(c) REPORT.—The Secretary of Health and Human Services shall submit to the Congress and make available to the public a report on the agenda established under subsection (b)(3), including Public information.

recommendations for activities in the public and private sectors that will speed the identification of, and treatments for, the causes of and risk factors for preterm labor and delivery.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section (other than subsection (c)) $125,000.

**SEC. 7. EFFECTIVE DATE OF CERTAIN HEAD START REGULATIONS.**

Section 1310.12(a) of title 45 of the Code of Federal Regulations (October 1, 2004) shall not be effective until June 30, 2007, or 60 days after the date of the enactment of a statute that authorizes appropriations for fiscal year 2007 to carry out the Head Start Act, whichever date is earlier.

Approved December 22, 2006.

---

LEGISLATIVE HISTORY—S. 707:

SENATE REPORTS: No. 109–298 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Aug. 1, considered and passed Senate.

Dec. 8, considered and passed House, amended. Senate concurred in House amendment.

# Public Law 109–451
# 109th Congress

## An Act

To authorize the Secretary of the Interior to carry out a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

Dec. 22, 2006
[S. 895]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Rural Water Supply Act of 2006.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

43 USC 2401 note.

(a) SHORT TITLE.—This Act may be cited as the "Rural Water Supply Act of 2006".

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

Sec. 1. Short title; table of contents.

TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2006

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Rural water supply program.
Sec. 104. Rural water programs assessment.
Sec. 105. Appraisal investigations.
Sec. 106. Feasibility studies.
Sec. 107. Miscellaneous.
Sec. 108. Reports.
Sec. 109. Authorization of appropriations.
Sec. 110. Termination of authority.

TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Project eligibility.
Sec. 204. Loan guarantees.
Sec. 205. Defaults.
Sec. 206. Operations, maintenance, and replacement costs.
Sec. 207. Title to newly constructed facilities.
Sec. 208. Water rights.
Sec. 209. Interagency coordination and cooperation.
Sec. 210. Records; audits.
Sec. 211. Full faith and credit.
Sec. 212. Report.
Sec. 213. Effect on the reclamation laws.
Sec. 214. Authorization of appropriations.
Sec. 215. Termination of authority.

TITLE III—REPORT ON TRANSFER OF RECLAMATION FACILITIES

Sec. 301. Report.

Reclamation Rural Water Supply Act of 2006.

# TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2006

43 USC 2401 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Reclamation Rural Water Supply Act of 2006".

43 USC 2401.

**SEC. 102. DEFINITIONS.**

In this title:

(1) CONSTRUCTION.—The term "construction" means the installation of infrastructure and the upgrading of existing facilities in locations in which the infrastructure or facilities are associated with the new infrastructure of a rural water project recommended by the Secretary pursuant to this title.

(2) FEDERAL RECLAMATION LAW.—The term "Federal reclamation law" means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(3) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

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

(5) NON-FEDERAL PROJECT ENTITY.—The term "non-Federal project entity" means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

(6) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term "operations, maintenance, and replacement costs" means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

(B) INCLUSIONS.—The term "operations, maintenance, and replacement costs" includes—

(i) repairs of a routine nature that maintain a rural water supply project in a well kept condition;

(ii) replacement of worn-out project elements; and

(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

(C) EXCLUSION.—The term "operations, maintenance, and replacement costs" does not include construction costs.

(7) PROGRAM.—The term "Program" means the rural water supply program carried out under section 103.

(8) RECLAMATION STATES.—The term "Reclamation States" means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

(9) RURAL WATER SUPPLY PROJECT.—

(A) IN GENERAL.—The term "rural water supply project" means a project that is designed to serve a community or group of communities, each of which has a population of not more than 50,000 inhabitants, which may include Indian tribes and tribal organizations, dispersed

homesites, or rural areas with domestic, industrial, municipal, and residential water.

(B) INCLUSION.—The term "rural water supply project" includes—

(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

(ii) a project to improve rural water infrastructure, including—

(I) pumps, pipes, wells, and other diversions;

(II) storage tanks and small impoundments;

(III) water treatment facilities for potable water supplies, including desalination facilities;

(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

(V) appurtenances.

(C) EXCLUSION.—The term "rural water supply project" does not include—

(i) commercial irrigation; or

(ii) major impoundment structures.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(11) TRIBAL ORGANIZATION.—The term "tribal organization" means—

(A) the recognized governing body of an Indian tribe; and

(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

**SEC. 103. RURAL WATER SUPPLY PROGRAM.**

43 USC 2402.

(a) IN GENERAL.—The Secretary, in cooperation with non-Federal project entities and consistent with this title, may carry out a rural water supply program in Reclamation States to—

(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for domestic, municipal, and industrial use in small communities and rural areas of the Reclamation States;

(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in Reclamation States; and

(3) oversee, as appropriate, the construction of rural water supply projects in Reclamation States that are recommended by the Secretary in a feasibility report developed pursuant to section 106 and subsequently authorized by Congress.

(b) NON-FEDERAL PROJECT ENTITY.—Any activity carried out under this title shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this title.

Deadline.
Federal Register, publication.

(c) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this title, develop and publish in the Federal Register criteria for—

(1) determining the eligibility of a rural community for assistance under the Program; and

(2) prioritizing requests for assistance under the Program.

(d) FACTORS.—The criteria developed under subsection (c) shall take into account such factors as whether—

(1) a rural water supply project—

(A) serves—

(i) rural areas and small communities; or

(ii) Indian tribes; or

(B) promotes and applies a regional or watershed perspective to water resources management;

(2) there is an urgent and compelling need for a rural water supply project that would—

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs;

(3) a rural water supply project helps meet applicable requirements established by law; and

(4) a rural water supply project is cost effective.

(e) INCLUSIONS.—The Secretary may include—

(1) to the extent that connection provides a reliable water supply, a connection to pre-existing infrastructure (including impoundments and conveyance channels) as part of a rural water supply project; and

(2) notwithstanding the limitation on population under section 102(9)(A), a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

43 USC 2403.

**SEC. 104. RURAL WATER PROGRAMS ASSESSMENT.**

(a) IN GENERAL.—In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Director of the Indian Health Service, the Secretary of Housing and Urban Development, and the Secretary of the Army, the Secretary shall develop an assessment of—

(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to the date of enactment of this Act, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

(2) the current plan (including projected financial and workforce requirements) for the completion of the projects identified in paragraph (1) within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

(3) the demand for new rural water supply projects;

(4) rural water programs within other agencies and a description of the extent to which those programs provide support for rural water supply projects and water treatment programs in Reclamation States, including an assessment of the requirements, funding levels, and conditions of eligibility for the programs assessed;

(5) the extent of the demand that the Secretary can meet with the Program;

(6) how the Program will complement authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults; and

(7) improvements that can be made to coordinate and integrate the authorities of the agencies with programs evaluated under paragraph (4), including any recommendations to consolidate some or all of the activities of the agencies with respect to rural water supply.

(b) CONSULTATION WITH STATES.—Before finalizing the assessment developed under subsection (a), the Secretary shall solicit comments from States with identified rural water needs.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

**SEC. 105. APPRAISAL INVESTIGATIONS.** 43 USC 2404.

(a) IN GENERAL.—On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 103(c) and subject to the availability of appropriations, the Secretary may—

(1) receive and review an appraisal investigation that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity;

(2) conduct an appraisal investigation; or

(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that—

(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 103(c); and

(B) using the non-Federal project entity to conduct the appraisal investigation is a cost-effective alternative for completing the appraisal investigation.

(b) DEADLINE.—An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

(c) APPRAISAL REPORT.—In accordance with subsection (f), after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that—

(1) considers—

(A) whether the project meets—

(i) the appraisal criteria developed under subsection (d); and

(ii) the eligibility criteria developed under section 103(c);

(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

(C) whether the project has a positive effect on public health and safety;

(D) whether the project will meet water demand, including projected future needs;

(E) the extent to which the project provides environmental benefits, including source water protection;

(F) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

(G) whether the project—

(i)(I) implements an integrated resources management approach; or

(II) enhances water management flexibility, including providing for—

(aa) local control to manage water supplies under varying water supply conditions; and

(bb) participation in water banking and markets for domestic and environmental purposes; and

(ii) promotes long-term protection of water supplies;

(H) preliminary cost estimates for the project; and

(I) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

(2) provides recommendations on whether a feasibility study should be initiated under section 106(a).

(d) APPRAISAL CRITERIA.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

(2) INCLUSIONS.—To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

(e) REVIEW OF APPRAISAL INVESTIGATION.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the date of submission of an appraisal investigation under paragraph (1) or (3) of subsection (a), the Secretary shall provide to the non-Federal entity that conducted the investigation a determination of whether the investigation has included the information necessary to determine whether the proposed rural water supply project satisfies the criteria promulgated under subsection (d).

(2) NO SATISFACTION OF CRITERIA.—If the Secretary determines that the appraisal investigation submitted by a non-Federal entity does not satisfy the criteria promulgated under subsection (d), the Secretary shall inform the non-Federal entity of the reasons why the appraisal investigation is deficient.

(3) RESPONSIBILITY OF SECRETARY.—If an appraisal investigation as first submitted by a non-Federal entity does not provide all necessary information, as defined by the Secretary, the Secretary shall have no obligation to conduct further analysis until the non-Federal project entity submitting the appraisal study conducts additional investigation and resubmits the appraisal investigation under this subsection.

(f) APPRAISAL REPORT.—Once the Secretary has determined that an investigation provides the information necessary under subsection (e), the Secretary shall—

(1) complete the appraisal report required under subsection (c);

(2) make available to the public, on request, the appraisal report prepared under this title; and

Public information.

(3) promptly publish in the Federal Register a notice of the availability of the results.

Federal Register, publication. Notice.

(g) COSTS.—

(1) FEDERAL SHARE.—The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than $200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

(B) EXCEPTION.—The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

(C) FORM.—The non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the appraisal investigation.

(h) CONSULTATION; IDENTIFICATION OF FUNDING SOURCES.—In conducting an appraisal investigation under subsection (a)(2), the Secretary shall—

(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

(2) consult with the heads of appropriate Federal agencies to—

(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

(3) identify what funding sources are available for the proposed rural water supply project.

**SEC. 106. FEASIBILITY STUDIES.**

43 USC 2405.

(a) IN GENERAL.—On completion of an appraisal report under section 105(c) that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall—

(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

(2) receive and review a feasibility study that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity; or

Grants.
Contracts.

(3)(A) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that—

(i) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

(ii) using the non-Federal project entity to conduct the feasibility study is a cost-effective alternative for completing the appraisal investigation; or

(B) if the Secretary determines not to provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity under subparagraph (A), provide to the non-Federal project entity notice of the determination, including an explanation of the reason for the determination.

(b) REVIEW OF NON-FEDERAL FEASIBILITY STUDIES.—

(1) IN GENERAL.—In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall—

(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

Notification.

(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

(2) REVISIONS.—If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

(c) FEASIBILITY FACTORS.—Feasibility studies authorized or reviewed under this title shall include an assessment of—

(1) near- and long-term water demand in the area to be served by the rural water supply project;

(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

(4) environmental quality and source water protection issues related to the rural water supply project;

(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

(A) nonstructural approaches to reduce the need for the project; and

(B) demonstration technologies;

(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

(8) the availability of guaranteed loans for a proposed rural water supply project;

(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project that includes a schedule identifying the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the project;

(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

(12) the extent to which assistance for rural water supply is available under other Federal authorities;

(13) the engineering, environmental, and economic activities to be undertaken to carry out the proposed rural water supply project;

(14) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

(15) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

(d) FEASIBILITY STUDY CRITERIA.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection (c)) under which the feasibility studies shall be assessed for completeness and appropriateness. Deadline.

(2) INCLUSIONS.—The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

(e) FEASIBILITY REPORT.—

(1) IN GENERAL.—After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall—

(A) develop a feasibility report that includes—

(i) a recommendation of the Secretary on—

(I) whether the rural water supply project should be authorized for construction; and

(II) the appropriate non-Federal share of construction costs, which shall be—

(aa) at least 25 percent of the total construction costs; and

(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

(ii) if the Secretary recommends that the project should be authorized for construction—

(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

(C) make the report publicly available, along with associated study documents; and

Federal Register, publication. Notice.

(D) publish in the Federal Register a notice of the availability of the results.

(f) CAPABILITY-TO-PAY.—

(1) IN GENERAL.—In evaluating a proposed rural water supply project under this section, the Secretary shall—

(A) consider the financial capability of any non-Federal project entities participating in the rural water supply project to pay 25 percent or more of the capital construction costs of the rural water supply project; and

(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

(2) FACTORS.—In determining the financial capability of non-Federal project entities to pay for a rural water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State average, including—

(A) per capita income;

(B) median household income;

(C) the poverty rate;

(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;

(E) the strength of the balance sheet of the non-Federal project entity; and

(F) the existing cost of water in the region.

(3) INDIAN TRIBES.—In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay—

(A) the costs allocated to the beneficiaries; or

(B) an appropriate portion of the costs.

(g) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

(2) FORM.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

(3) FINANCIAL HARDSHIP.—The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

(4) LARGER COMMUNITIES.—In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the non-Federal project entity to pay more than 50 percent of the costs of the study.

(h) CONSULTATION AND COOPERATION.—In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this title.

**SEC. 107. MISCELLANEOUS.** 43 USC 2406.

(a) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this title.

(b) TRANSFER OF PROJECTS.—Nothing in this title authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

(c) FEDERAL RECLAMATION LAW.—Nothing in this title supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

(d) INTERAGENCY COORDINATION.—The Secretary shall coordinate the Program carried out under this title with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

(e) MULTIPLE INDIAN TRIBES.—In any case in which a contract is entered into with, or a grant is made, to an organization to perform services benefitting more than 1 Indian tribe under this title, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

(f) OWNERSHIP OF FACILITIES.—Title to any facility planned, designed, and recommended for construction under this title shall be held by the non-Federal project entity.

(g) EXPEDITED PROCEDURES.—If the Secretary determines that a community to be served by a proposed rural water supply project has urgent and compelling water needs, the Secretary shall, to the maximum extent practicable, expedite appraisal investigations and reports conducted under section 105 and feasibility studies and reports conducted under section 106.

(h) EFFECT ON STATE WATER LAW.—

(1) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

(2) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title.

(i) NO ADDITIONAL REQUIREMENTS.—Nothing in this title requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before the date of enactment of this Act.

43 USC 2407.

**SEC. 108. REPORTS.**

Beginning in fiscal year 2007, and each fiscal year thereafter through fiscal year 2012, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report that describes the number and type of full-time equivalent positions in the Department of the Interior and the amount of overhead costs of the Department of the Interior that are allocated to carrying out this title for the applicable fiscal year.

43 USC 2408.

**SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $15,000,000 for each of fiscal years 2007 through 2016, to remain available until expended.

(b) RURAL WATER PROGRAMS ASSESSMENT.—Of the amounts made available under subsection (a), not more than $1,000,000 may be made available to carry out section 104 for each of fiscal years 2007 and 2008.

(c) CONSTRUCTION COSTS.—No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

**SEC. 110. TERMINATION OF AUTHORITY.**

The authority of the Secretary to carry out this title terminates on September 30, 2016.

Twenty-First Century Water Works Act.

# TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

43 USC 2401 note.

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Twenty-First Century Water Works Act".

43 USC 2421.

**SEC. 202. DEFINITIONS.**

In this title:

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

(2) LENDER.—The term "lender" means—

(A) a non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)); or

(B) a clean renewable energy bond lender (as defined in section 54(j)(2) of the Internal Revenue Code of 1986 (as in effect on the date of enactment of this Act)).

(3) LOAN GUARANTEE.—The term "loan guarantee" has the meaning given the term "loan guarantee" in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(4) NON-FEDERAL BORROWER.—The term "non-Federal borrower" means—

(A) a State (including a department, agency, or political subdivision of a State); or

(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(5) OBLIGATION.—The term "obligation" means a loan or other debt obligation that is guaranteed under this section.

(6) PROJECT.—The term "project" means—

(A) a rural water supply project (as defined in section 102(9));

(B) an extraordinary operation and maintenance activity for, or the rehabilitation or replacement of, a facility—

(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law; or

(C) an improvement to water infrastructure directly associated with a reclamation project that, based on a determination of the Secretary—

(i) improves water management; and

(ii) fulfills other Federal goals.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 203. PROJECT ELIGIBILITY.** 43 USC 2422.

(a) ELIGIBILITY CRITERIA.—

(1) IN GENERAL.—The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 204. Federal Register, publication.

(2) INCLUSIONS.—Eligibility criteria shall include—

(A) submission of an application by the lender to the Secretary;

(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

(E) such other criteria as the Secretary determines to be appropriate.

(b) WAIVER.—The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

(c) PROJECTS PREVIOUSLY AUTHORIZED.—A project that was authorized for construction under Federal reclamation laws prior to the date of enactment of this Act shall be eligible for assistance under this title, subject to the criteria established by the Secretary under subsection (a).

(d) CRITERIA FOR RURAL WATER SUPPLY PROJECTS.—A rural water supply project that is determined to be feasible under section 106 is eligible for a loan guarantee under section 204.

43 USC 2423.

**SEC. 204. LOAN GUARANTEES.**

(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 203 loan guarantees to supplement private-sector or lender financing for the project.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

(2) AMOUNT.—Loan guarantees by the Secretary shall not exceed an amount equal to 90 percent of the cost of the project that is the subject of the loan guarantee, as estimated at the time at which the loan guarantee is issued.

(3) INTEREST RATE.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines to be appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(4) AMORTIZATION.—A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

(5) NONSUBORDINATION.—An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(c) PREPAYMENT AND REFINANCING.—Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

43 USC 2424.

**SEC. 205. DEFAULTS.**

(a) PAYMENTS BY SECRETARY.—

(1) IN GENERAL.—If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(2) PAYMENT REQUIRED.—By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.

(3) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the non-Federal borrower that may be agreed on by the parties to the obligation and approved by the Secretary.

(b) SUBROGATION.—

(1) IN GENERAL.—If the Secretary makes a payment under subsection (a), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the loan guarantee or related agreements, including, as appropriate, the authority (notwithstanding any other provision of law) to—

(A) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to the loan guarantee or related agreements; or

(B) permit the non-Federal borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines the purposes to be in the public interest.

(2) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreement, shall be superior to the rights of any other person with respect to the property.

(c) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the non-Federal borrower, from funds appropriated for that purpose, the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(1)(A) the non-Federal borrower is unable to meet the payments and is not in default;

(B) it is in the public interest to permit the non-Federal borrower to continue to pursue the purposes of the project; and

(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the non-Federal borrower is obligated to pay under the agreement being guaranteed; and

(3) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(d) ACTION BY ATTORNEY GENERAL.—

(1) NOTIFICATION.—If the non-Federal borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(2) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(A) such assets of the defaulting non-Federal borrower as are associated with the obligation; or

(B) any other security pledged to secure the obligation.

43 USC 2425.

**SEC. 206. OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.**

(a) IN GENERAL.—The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this title shall be 100 percent.

(b) PLAN.—On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

43 USC 2426.

**SEC. 207. TITLE TO NEWLY CONSTRUCTED FACILITIES.**

(a) NEW PROJECTS AND FACILITIES.—All new projects or facilities constructed in accordance with this title shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

(b) EXISTING PROJECTS AND FACILITIES.—Nothing in this title affects the title of—

(1) reclamation projects authorized prior to the date of enactment of this Act;

(2) works supplemental to existing reclamation projects; or

(3) works constructed to rehabilitate existing reclamation projects.

43 USC 2427.

**SEC. 208. WATER RIGHTS.**

(a) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

(b) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title. Nothing in this title affects or preempts State water law or an interstate compact governing water.

43 USC 2428.

**SEC. 209. INTERAGENCY COORDINATION AND COOPERATION.**

(a) CONSULTATION.—The Secretary shall consult with the Secretary of Agriculture before promulgating criteria with respect to financial appraisal functions and loan guarantee administration for activities carried out under this title.

(b) MEMORANDUM OF AGREEMENT.—The Secretary and the Secretary of Agriculture shall enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this title.

43 USC 2429.

**SEC. 210. RECORDS; AUDITS.**

Regulations.

(a) IN GENERAL.—A recipient of a loan guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(b) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

43 USC 2430.

**SEC. 211. FULL FAITH AND CREDIT.**

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

**SEC. 212. REPORT.** 43 USC 2431.

Not later than 1 year after the date on which the eligibility criteria are published in the Federal Register under section 203(a), and every 2 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the implementation of the loan guarantee program under section 204.

**SEC. 213. EFFECT ON THE RECLAMATION LAWS.** 43 USC 2432.

(a) RECLAMATION PROJECTS.—Nothing in this title supersedes or amends any Federal law associated with a project, or a portion of a project, constructed under the reclamation laws.

(b) NO NEW OR SUPPLEMENTAL BENEFITS.—Any assistance provided under this title shall not—

(1) be considered to be a new or supplemental benefit for purposes of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.); or

(2) affect any contract in existence on the date of enactment of this Act that is executed under the reclamation laws.

**SEC. 214. AUTHORIZATION OF APPROPRIATIONS.** 43 USC 2433.

There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

**SEC. 215. TERMINATION OF AUTHORITY.** 43 USC 2434.

(a) IN GENERAL.—Subject to subsection (b), the authority of the Secretary to carry out this title terminates on the date that is 10 years after the date of enactment of this Act.

(b) EXCEPTION.—The termination of authority under subsection (a) shall have no effect on—

(1) any loans guaranteed by the United States under this title; or

(2) the administration of any loan guaranteed under this title before the effective date of the termination of authority.

# TITLE III—REPORT ON TRANSFER OF RECLAMATION FACILITIES

**SEC. 301. REPORT.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes any impediments and activities that significantly delay the ability of the Secretary to complete timely transfers of title to reclamation facilities to qualified non-Federal entities under laws authorizing the transfers.

(b) CONSULTATION.—In preparing the report under subsection (a), the Secretary shall consult with any appropriate non-Federal parties, including reclamation water and power customers.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 895:

SENATE REPORTS: No. 109–148 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Nov. 16, considered and passed Senate.
Vol. 152 (2006): Dec. 6, considered and passed House, amended.
Dec. 8, Senate concurred in House amendment.

# Public Law 109–452
# 109th Congress

## An Act

To amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes.

Dec. 22, 2006
[S. 1096]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Musconetcong Wild and Scenic Rivers Act. 16 USC 1271 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Musconetcong Wild and Scenic Rivers Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Secretary of the Interior, in cooperation and consultation with appropriate Federal, State, regional, and local agencies, is conducting a study of the eligibility and suitability of the Musconetcong River in the State of New Jersey for inclusion in the Wild and Scenic Rivers System;

(2) the Musconetcong Wild and Scenic River Study Task Force, with assistance from the National Park Service, has prepared a river management plan for the study area entitled "Musconetcong River Management Plan" and dated April 2003 that establishes goals and actions to ensure long-term protection of the outstanding values of the river and compatible management of land and water resources associated with the Musconetcong River; and

(3) 13 municipalities and 3 counties along segments of the Musconetcong River that are eligible for designation have passed resolutions in which the municipalities and counties—

(A) express support for the Musconetcong River Management Plan;

(B) agree to take action to implement the goals of the management plan; and

(C) endorse designation of the Musconetcong River as a component of the Wild and Scenic Rivers System.

**SEC. 3. DEFINITIONS.**

16 USC 1274 note.

In this Act:

(1) ADDITIONAL RIVER SEGMENT.—The term "additional river segment" means the approximately 4.3-mile Musconetcong River segment designated as "C" in the management plan, from Hughesville Mill to the Delaware River Confluence.

(2) MANAGEMENT PLAN.—The term "management plan" means the river management plan prepared by the Musconetcong River Management Committee, the National

Park Service, the Heritage Conservancy, and the Musconetcong Watershed Association entitled "Musconetcong River Management Plan" and dated April 2003 that establishes goals and actions to—

(A) ensure long-term protection of the outstanding values of the river segments; and

(B) compatible management of land and water resources associated with the river segments.

(3) RIVER SEGMENT.—The term "river segment" means any segment of the Musconetcong River, New Jersey, designated as a scenic river or recreational river by section 3(a)(167) of the Wild and Scenic Rivers Act (as added by section 4).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 4. DESIGNATION OF PORTIONS OF MUSCONETCONG RIVER, NEW JERSEY, AS SCENIC AND RECREATIONAL RIVERS.**

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(167) MUSCONETCONG RIVER, NEW JERSEY.—

"(A) DESIGNATION.—The 24.2 miles of river segments in New Jersey, consisting of—

"(i) the approximately 3.5-mile segment from Saxton Falls to the Route 46 bridge, to be administered by the Secretary of the Interior as a scenic river; and

"(ii) the approximately 20.7-mile segment from the Kings Highway bridge to the railroad tunnels at Musconetcong Gorge, to be administered by the Secretary of the Interior as a recreational river.

"(B) ADMINISTRATION.—Notwithstanding section 10(c), the river segments designated under subparagraph (A) shall not be administered as part of the National Park System.".

16 USC 1274 note.

**SEC. 5. MANAGEMENT.**

(a) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall manage the river segments in accordance with the management plan.

(2) SATISFACTION OF REQUIREMENTS FOR PLAN.—The management plan shall be considered to satisfy the requirements for a comprehensive management plan for the river segments under section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(3) RESTRICTIONS ON WATER RESOURCE PROJECTS.—For purposes of determining whether a proposed water resources project would have a direct and adverse effect on the values for which a river segment is designated as part of the Wild and Scenic Rivers System under section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), the Secretary shall consider the extent to which the proposed water resources project is consistent with the management plan.

(4) IMPLEMENTATION.—The Secretary may provide technical assistance, staff support, and funding to assist in the implementation of the management plan.

(b) COOPERATION.—

(1) IN GENERAL.—The Secretary shall manage the river segments in cooperation with appropriate Federal, State, regional, and local agencies, including—

(A) the Musconetcong River Management Committee;

(B) the Musconetcong Watershed Association;

(C) the Heritage Conservancy;

(D) the National Park Service; and

(E) the New Jersey Department of Environmental Protection.

(2) COOPERATIVE AGREEMENTS.—Any cooperative agreement entered into under section 10(e) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e)) relating to a river segment—

(A) shall be consistent with the management plan; and

(B) may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the river segment.

(c) LAND MANAGEMENT.—

(1) IN GENERAL.—The Secretary may provide planning, financial, and technical assistance to local municipalities and nonprofit organizations to assist in the implementation of actions to protect the natural and historic resources of the river segments.

(2) PLAN REQUIREMENTS.—After adoption of recommendations made in section IV of the management plan, the zoning ordinances of the municipalities bordering the segments shall be considered to satisfy the standards and requirements under section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)).

(d) DESIGNATION OF ADDITIONAL RIVER SEGMENT.—

(1) FINDING.—Congress finds that the additional river segment is suitable for designation as a recreational river if the Secretary determines that there is adequate local support for the designation of the additional river segment in accordance with paragraph (3).

(2) DESIGNATION AND ADMINISTRATION.—If the Secretary determines that there is adequate local support for designating the additional river segment as a recreational river—

(A) the Secretary shall publish in the Federal Register notice of the designation of the segment;

Federal Register, publication. Notice.

(B) the segment shall be designated as a recreational river in accordance with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); and

(C) the Secretary shall administer the additional river segment as a recreational river.

(3) CRITERIA FOR LOCAL SUPPORT.—In determining whether there is adequate local support for the designation of the additional river segment, the Secretary shall consider the preferences of local governments expressed in resolutions concerning designation of the additional river segment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 1096 (H.R. 1307):

HOUSE REPORTS: No. 109–427 accompanying H.R. 1307 (Comm. on Resources).
SENATE REPORTS: No. 109–193 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Dec. 16, considered and passed Senate.
Vol. 152 (2006): Dec. 8, considered and passed House.

# Public Law 109–453
# 109th Congress

## An Act

To amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation.

Dec. 22, 2006
[S. 1378]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National Historic Preservation Act Amendments Act of 2006.
16 USC 470 note.

**SECTION 1. NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS.**

(a) SHORT TITLE.—This Act may be cited as the "National Historic Preservation Act Amendments Act of 2006".

(b) REFERENCE.—A reference in this Act to "the Act" shall be a reference to the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(c) HISTORIC PRESERVATION FUND.—Section 108 of the Act (16 U.S.C. 470h) is amended by striking "2005" and inserting "2015".

(d) MEMBERSHIP OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.—

(1) ADDITIONAL MEMBERS.—Section 201(a)(4) of the Act (16 U.S.C. 470i(a)(4)) is amended by striking "four" and inserting "seven".

(2) ALLOWING DESIGNEE FOR GOVERNOR MEMBER.—Section 201(b) of the Act (16 U.S.C. 470i(b)) is amended by striking "(5) and".

(3) QUORUM.—Section 201(f) of the Act (16 U.S.C. 470i(f)) is amended by striking "Nine" and inserting "12".

(e) FINANCIAL AND ADMINISTRATIVE SERVICES FOR THE ADVISORY COUNCIL ON HISTORIC PRESERVATION.—Section 205(f) of the Act (16 U.S.C. 470m(f)) is amended to read as follows:

"(f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior or, at the discretion of the Council, such other agency or private entity that reaches an agreement with the Council, for which payments shall be made in advance or by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the head of the agency or, in the case of a private entity, the authorized representative of the private entity that will provide the services. When a Federal agency affords such services, the regulations of that agency for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514(b)) shall apply to the collection of erroneous payments made to or on behalf of a Council employee and regulations of that agency for the administrative control of funds (31 U.S.C. 1513(d), 1514) shall apply to appropriations of the Council. The Council shall not be required to prescribe such regulations.".

Applicability.

(f) APPROPRIATION AUTHORIZATION OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION.—Section 212(a) of the Act (16 U.S.C. 470t(a)) is amended by striking "for purposes of this title not to exceed $4,000,000 for each fiscal year 1997 through 2005" and inserting "such amounts as may be necessary to carry out this title".

(g) EFFECTIVENESS OF FEDERAL GRANT AND ASSISTANCE PROGRAMS IN MEETING THE PURPOSES AND POLICIES OF THE NATIONAL HISTORIC PRESERVATION ACT.—Title II of the Act is amended by adding at the end the following new section:

16 USC 470v–2.

**"SEC. 216. EFFECTIVENESS OF FEDERAL GRANT AND ASSISTANCE PROGRAMS.**

"(a) COOPERATIVE AGREEMENTS.—The Council may enter into a cooperative agreement with any Federal agency that administers a grant or assistance program for the purpose of improving the effectiveness of the administration of such program in meeting the purposes and policies of this Act. Such cooperative agreements may include provisions that modify the selection criteria for a grant or assistance program to further the purposes of this Act or that allow the Council to participate in the selection of recipients, if such provisions are not inconsistent with the grant or assistance program's statutory authorization and purpose.

"(b) REVIEW OF GRANT AND ASSISTANCE PROGRAMS.—The Council may—

"(1) review the operation of any Federal grant or assistance program to evaluate the effectiveness of such program in meeting the purposes and policies of this Act;

"(2) make recommendations to the head of any Federal agency that administers such program to further the consistency of the program with the purposes and policies of the Act and to improve its effectiveness in carrying out those purposes and policies; and

"(3) make recommendations to the President and Congress regarding the effectiveness of Federal grant and assistance programs in meeting the purposes and policies of this Act, including recommendations with regard to appropriate funding levels.".

Approved December 22, 2006.

---

LEGISLATIVE HISTORY—S. 1378:

SENATE REPORTS: No. 109–235 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 29, considered and passed Senate.
Dec. 8, considered and passed House.

Public Law 109–454
109th Congress

# An Act

To provide for the conveyance of certain Federal land in the city of Yuma, Arizona.

Dec. 22, 2006
[S. 1529]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

City of Yuma Improvement Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "City of Yuma Improvement Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CITY.—The term "City" means the city of Yuma, Arizona.

(2) FEDERAL LAND.—The term "Federal land" means the Bureau of Reclamation land depicted on the map and more particularly described as—

(A) parcels 2 and 3 of tract 1;

(B) a portion of parcel 110–73–019;

(C) the old Arizona Department of Transportation weigh station;

(D) portions of blocks 52, 53, 54, and 55;

(E) the future drying bed location; and

(F) the future Arizona Welcome Center.

(3) MAP.—The term "map" means the map entitled "City of Yuma Proposed Property Ownership" and dated July 25, 2005.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means the non-Federal land depicted on the map and generally known as the "Railroad Parcels".

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. CONVEYANCE OF FEDERAL LAND AND NON-FEDERAL LAND.**

(a) IN GENERAL.—Subject to valid existing rights, easements, and rights-of-way, and in accordance with this Act, the Secretary shall convey all right, title, and interest of the United States in and to the Federal land to the City in exchange for the non-Federal land.

(b) TITLE TO NON-FEDERAL LAND.—

(1) IN GENERAL.—On receipt of a deed conveying to the United States fee simple title to the non-Federal land that meets the requirements under paragraph (2), the Secretary shall record a deed from the United States that conveys to the City fee simple title to the Federal land.

(2) REQUIREMENTS.—Title to the non-Federal land shall—

(A) conform with the regulations and title approval standards of the Attorney General that are applicable to Federal land acquisitions; and

(B) include all valid existing rights, easements, and rights-of-way.

(c) ADMINISTRATION OF ACQUIRED LAND.—The Secretary, acting through the Commissioner of Reclamation, shall administer the non-Federal land acquired by the Secretary.

Effective date.

(d) RELEASE FROM LIABILITY.—Effective on the date of conveyance to the City of the parcel of Federal land under subsection (a), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the Federal land and facilities conveyed, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

(e) ADMINISTRATIVE COSTS.—All administrative costs relating to the conveyance of the Federal land and non-Federal land under subsection (a) shall be paid by the City to the United States.

(f) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) IN GENERAL.—The value of the Federal and the non-Federal land—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if not equal, shall be equalized in accordance with paragraph (3).

(2) APPRAISALS.—

(A) IN GENERAL.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretary.

(B) REQUIREMENTS.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisition; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(C) EQUALIZATION OF VALUES.—

(i) IN GENERAL.—If the value of the Federal land and the non-Federal land is not equal, the value may be equalized by—

(I) the Secretary making a cash equalization payment to the City;

(II) the City making a cash equalization payment to the Secretary; or

(III) reducing the acreage of the Federal land or non-Federal land, as appropriate.

(ii) DISPOSITION OF PROCEEDS.—Any cash equalization payments received by the Secretary under clause (i)(II) shall be deposited in the general fund of the Treasury.

**SEC. 4. CONVEYANCE OF UNITED STATES FISH AND WILDLIFE SERVICE LAND TO THE CITY OF YUMA.**

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall convey to the City by quitclaim deed, all right, title, and interest of the United States in and to the parcel of United States

Fish and Wildlife Service land located at 356 West First Street, Yuma, Arizona.

(b) CONSIDERATION.—In exchange for the conveyance of land under subsection (a), the City shall pay to the Secretary consideration in an amount that reflects the fair market value of the land conveyed to the City under that subsection, as determined by an appraisal prepared in accordance with—

(1) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(2) the Uniform Standards of Professional Appraisal Practice.

(c) ADMINISTRATIVE COSTS.—Any administrative costs relating to the conveyance of land under subsection (a) shall be paid by the City to the United States.

(d) DISPOSITION AND USE OF PROCEEDS.—Amounts paid to the Secretary under subsection (b) shall be available to the Secretary, without further appropriation and until expended, to pay—

(1) the administrative costs of the conveyance under subsection (a); and

(2) the costs of constructing the Kofa National Wildlife Refuge headquarters and visitor center in Yuma, Arizona.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 1529:

SENATE REPORTS: No. 109–300 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–455
# 109th Congress

## An Act

Dec. 22, 2006
[S. 1608]

To enhance Federal Trade Commission enforcement against illegal spam, spyware, and cross-border fraud and deception, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Undertaking Spam, Spyware, and Fraud With Enforcers beyond Borders Act of 2006.
15 USC 58 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2006" or the "U.S. SAFE WEB Act of 2006".

**SEC. 2. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.**

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

" 'Foreign law enforcement agency' means—

"(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

"(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1).".

**SEC. 3. AVAILABILITY OF REMEDIES.**

Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by adding at the end the following:

"(4)(A) For purposes of subsection (a), the term 'unfair or deceptive acts or practices' includes such acts or practices involving foreign commerce that—

"(i) cause or are likely to cause reasonably foreseeable injury within the United States; or

"(ii) involve material conduct occurring within the United States.

"(B) All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in this paragraph, including restitution to domestic or foreign victims.".

**SEC. 4. POWERS OF THE COMMISSION.**

(a) PUBLICATION OF INFORMATION; REPORTS.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by inserting "(1)" after "such information" the first place it appears; and

(2) by striking "purposes." and inserting "purposes, and (2) to any officer or employee of any foreign law enforcement

agency under the same circumstances that making material available to foreign law enforcement agencies is permitted under section 21(b).".

(b) OTHER POWERS OF THE COMMISSION.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by inserting after subsection (i) and before the proviso the following:

"(j) INVESTIGATIVE ASSISTANCE FOR FOREIGN LAW ENFORCEMENT AGENCIES.—

"(1) IN GENERAL.—Upon a written request from a foreign law enforcement agency to provide assistance in accordance with this subsection, if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (as defined in section 12(5) of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211(5))), to provide the assistance described in paragraph (2) without requiring that the conduct identified in the request constitute a violation of the laws of the United States.

"(2) TYPE OF ASSISTANCE.—In providing assistance to a foreign law enforcement agency under this subsection, the Commission may—

"(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

"(B) when the request is from an agency acting to investigate or pursue the enforcement of civil laws, or when the Attorney General refers a request to the Commission from an agency acting to investigate or pursue the enforcement of criminal laws, seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

"(3) CRITERIA FOR DETERMINATION.—In deciding whether to provide such assistance, the Commission shall consider all relevant factors, including—

"(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission;

"(B) whether compliance with the request would prejudice the public interest of the United States; and

"(C) whether the requesting agency's investigation or enforcement proceeding concerns acts or practices that cause or are likely to cause injury to a significant number of persons.

"(4) INTERNATIONAL AGREEMENTS.—If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for provision of materials or information to the Commission, the Commission, with prior approval and ongoing oversight of the Secretary of State, and with final approval of the agreement by the Secretary of State,

may negotiate and conclude an international agreement, in the name of either the United States or the Commission, for the purpose of obtaining such assistance, materials, or information. The Commission may undertake in such an international agreement to—

"(A) provide assistance using the powers set forth in this subsection;

"(B) disclose materials and information in accordance with subsection (f) and section 21(b); and

"(C) engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

"(5) ADDITIONAL AUTHORITY.—The authority provided by this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.

"(6) LIMITATION.—The authority granted by this subsection shall not authorize the Commission to take any action or exercise any power with respect to a bank, a savings and loan institution described in section 18(f)(3) (15 U.S.C. 57a(f)(3)), a Federal credit union described in section 18(f)(4) (15 U.S.C. 57a(f)(4)), or a common carrier subject to the Act to regulate commerce, except in accordance with the undesignated proviso following the last designated subsection of section 6 (15 U.S.C. 46).

"(7) ASSISTANCE TO CERTAIN COUNTRIES.—The Commission may not provide investigative assistance under this subsection to a foreign law enforcement agency from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

"(k) REFERRAL OF EVIDENCE FOR CRIMINAL PROCEEDINGS.—

"(1) IN GENERAL.—Whenever the Commission obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, to transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate statutes. Nothing in this paragraph affects any other authority of the Commission to disclose information.

"(2) INTERNATIONAL INFORMATION.—The Commission shall endeavor to ensure, with respect to memoranda of understanding and international agreements it may conclude, that material it has obtained from foreign law enforcement agencies acting to investigate or pursue the enforcement of foreign criminal laws may be used for the purpose of investigation, prosecution, or prevention of violations of United States criminal laws.

"(l) EXPENDITURES FOR COOPERATIVE ARRANGEMENTS.—To expend appropriated funds for—

"(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

"(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel and transportation to or from such meetings; and

"(C) any other related lodging or subsistence.".

(c) AUTHORIZATION OF APPROPRIATIONS.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(l) of the Federal Trade Commission Act (15 U.S.C. 46(l)) (as added by subsection (b) of this section), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement agencies and organizations:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

(d) CONFORMING AMENDMENT.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking "clauses (a) and (b)" in the proviso following subsection (l) (as added by subsection (b) of this section) and inserting "subsections (a), (b), and (j)".

**SEC. 5. REPRESENTATION IN FOREIGN LITIGATION.**

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

"(c) FOREIGN LITIGATION.—

"(1) COMMISSION ATTORNEYS.—With the concurrence of the Attorney General, the Commission may designate Commission attorneys to assist the Attorney General in connection with litigation in foreign courts on particular matters in which the Commission has an interest.

"(2) REIMBURSEMENT FOR FOREIGN COUNSEL.—The Commission is authorized to expend appropriated funds, upon agreement with the Attorney General, to reimburse the Attorney General for the retention of foreign counsel for litigation in foreign courts and for expenses related to litigation in foreign courts in which the Commission has an interest.

"(3) LIMITATION ON USE OF FUNDS.—Nothing in this subsection authorizes the payment of claims or judgments from any source other than the permanent and indefinite appropriation authorized by section 1304 of title 31, United States Code.

"(4) OTHER AUTHORITY.—The authority provided by this subsection is in addition to any other authority of the Commission or the Attorney General.".

**SEC. 6. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.**

(a) MATERIAL OBTAINED PURSUANT TO COMPULSORY PROCESS.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b–2(b)(6)) is amended by adding at the end "The custodian may make such material available to any foreign law enforcement agency upon the prior certification of an appropriate official of any such foreign law enforcement agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement purposes, if—

"(A) the foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

"(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

"(i) foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any law administered by the Commission;

"(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

"(iii) with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government;

"(C) the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) or, in the case of a Federal credit union, the National Credit Union Administration, has given its prior approval if the materials to be provided under subparagraph (B) are requested by the foreign law enforcement agency for the purpose of investigating, or engaging in enforcement proceedings based on, possible violations of law by a bank, a savings and loan institution described in section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)), or a Federal credit union described in section 18(f)(4) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(4)); and

"(D) the foreign law enforcement agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in

paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.".

(b) INFORMATION SUPPLIED BY AND ABOUT FOREIGN SOURCES.—Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b–2(f)) is amended to read as follows:

"(f) EXEMPTION FROM PUBLIC DISCLOSURE.—

"(1) IN GENERAL.—Any material which is received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and which is provided pursuant to any compulsory process under this Act or which is provided voluntarily in place of such compulsory process shall not be required to be disclosed under section 552 of title 5, United States Code, or any other provision of law, except as provided in paragraph (2)(B) of this section.

"(2) MATERIAL OBTAINED FROM A FOREIGN SOURCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

"(i) any material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

"(ii) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

"(iii) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

"(B) SAVINGS PROVISION.—Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

**SEC. 7. CONFIDENTIALITY; DELAYED NOTICE OF PROCESS.**

(a) IN GENERAL.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 the following:

**"SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.** 15 USC 57b–2a.

"(a) APPLICATION WITH OTHER LAWS.—The Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) and chapter 121 of title 18, United States Code, shall apply with respect to the Commission, except as otherwise provided in this section.

"(b) PROCEDURES FOR DELAY OF NOTIFICATION OR PROHIBITION OF DISCLOSURE.—The procedures for delay of notification or prohibition of disclosure under the Right to Financial Privacy Act (12

U.S.C. 3401 et seq.) and chapter 121 of title 18, United States Code, including procedures for extensions of such delays or prohibitions, shall be available to the Commission, provided that, notwithstanding any provision therein—

"(1) a court may issue an order delaying notification or prohibiting disclosure (including extending such an order) in accordance with the procedures of section 1109 of the Right to Financial Privacy Act (12 U.S.C. 3409) (if notification would otherwise be required under that Act), or section 2705 of title 18, United States Code, (if notification would otherwise be required under chapter 121 of that title), if the presiding judge or magistrate judge finds that there is reason to believe that such notification or disclosure may cause an adverse result as defined in subsection (g) of this section; and

"(2) if notification would otherwise be required under chapter 121 of title 18, United States Code, the Commission may delay notification (including extending such a delay) upon the execution of a written certification in accordance with the procedures of section 2705 of that title if the Commission finds that there is reason to believe that notification may cause an adverse result as defined in subsection (g) of this section.

"(c) EX PARTE APPLICATION BY COMMISSION.—

"(1) IN GENERAL.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the Commission may apply ex parte to a presiding judge or magistrate judge for an order prohibiting the recipient of compulsory process issued by the Commission from disclosing to any other person the existence of the process, notwithstanding any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia. The presiding judge or magistrate judge may enter such an order granting the requested prohibition of disclosure for a period not to exceed 60 days if there is reason to believe that disclosure may cause an adverse result as defined in subsection (g). The presiding judge or magistrate judge may grant extensions of this order of up to 30 days each in accordance with this subsection, except that in no event shall the prohibition continue in force for more than a total of 9 months.

"(2) APPLICATION.—This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

"(3) LIMITATION.—No order issued under this subsection shall prohibit any recipient from disclosing to a Federal agency that the recipient has received compulsory process from the Commission.

"(d) NO LIABILITY FOR FAILURE TO NOTIFY.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the recipient of compulsory process issued by the Commission under this Act shall not be liable under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or

the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice to any person that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not exempt any recipient from liability for—

"(1) the underlying conduct reported;

"(2) a failure to comply with the record retention requirements under section 1104(c) of the Right to Financial Privacy Act (12 U.S.C. 3404), where applicable; or

"(3) any failure to comply with any obligation the recipient may have to disclose to a Federal agency that the recipient has received compulsory process from the Commission or intends to provide or has provided information to the Commission in response to such process.

"(e) VENUE AND PROCEDURE.—

"(1) IN GENERAL.—All judicial proceedings initiated by the Commission under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), chapter 121 of title 18, United States Code, or this section may be brought in the United States District Court for the District of Columbia or any other appropriate United States District Court. All ex parte applications by the Commission under this section related to a single investigation may be brought in a single proceeding.

"(2) IN CAMERA PROCEEDINGS.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit. Records.

"(f) SECTION NOT TO APPLY TO ANTITRUST INVESTIGATIONS OR PROCEEDINGS.—This section shall not apply to an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)).

"(g) ADVERSE RESULT DEFINED.—For purposes of this section the term 'adverse result' means—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) the destruction of, or tampering with, evidence;

"(4) the intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or proceeding related to fraudulent or deceptive commercial practices or persons involved in such practices, or unduly delaying a trial related to such practices or persons involved in such practices, including, but not limited to, by—

"(A) the transfer outside the territorial limits of the United States of assets or records related to fraudulent or deceptive commercial practices or related to persons involved in such practices;

"(B) impeding the ability of the Commission to identify persons involved in fraudulent or deceptive commercial practices, or to trace the source or disposition of funds related to such practices; or

"(C) the dissipation, fraudulent transfer, or concealment of assets subject to recovery by the Commission.".

(b) CONFORMING AMENDMENT.—Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (C) by striking "or" after the semicolon;

(2) in subparagraph (D) by inserting "or" after the semicolon; and

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

"(E) under section 21A of this Act;".

**SEC. 8. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.**

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is further amended by adding after section 21A (as added by section 7 of this Act) the following:

15 USC 57b–2b.

**"SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.**

"(a) IN GENERAL.—

"(1) NO LIABILITY FOR PROVIDING CERTAIN MATERIAL.—An entity described in paragraphs (2) or (3) of subsection (d) that voluntarily provides material to the Commission that such entity reasonably believes is relevant to—

"(A) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act; or

"(B) assets subject to recovery by the Commission, including assets located in foreign jurisdictions;

shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material.

"(2) LIMITATIONS.—Nothing in this subsection shall be construed to exempt any such entity from liability—

"(A) for the underlying conduct reported; or

"(B) to any Federal agency for providing such material or for any failure to comply with any obligation the entity may have to notify a Federal agency prior to providing such material to the Commission.

"(b) CERTAIN FINANCIAL INSTITUTIONS.—An entity described in paragraph (1) of subsection (d) shall, in accordance with section 5318(g)(3) of title 31, United States Code, be exempt from liability for making a voluntary disclosure to the Commission of any possible violation of law or regulation, including—

"(1) a disclosure regarding assets, including assets located in foreign jurisdictions—

"(A) related to possibly fraudulent or deceptive commercial practices;

"(B) related to persons involved in such practices; or

"(C) otherwise subject to recovery by the Commission; or

"(2) a disclosure regarding suspicious chargeback rates related to possibly fraudulent or deceptive commercial practices.

"(c) CONSUMER COMPLAINTS.—Any entity described in subsection (d) that voluntarily provides consumer complaints sent to it, or information contained therein, to the Commission shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material

or of intention to so provide material. This subsection shall not provide any exemption from liability for the underlying conduct.

"(d) APPLICATION.—This section applies to the following entities, whether foreign or domestic:

"(1) A financial institution as defined in section 5312 of title 31, United States Code.

"(2) To the extent not included in paragraph (1), a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, money orders, or similar instruments.

"(3) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar or registry acting as such, and a provider of alternative dispute resolution services.

"(4) An Internet service provider or provider of telephone services.".

**SEC. 9. STAFF EXCHANGES.**

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by adding after section 25 the following new section:

**"SEC. 25A. STAFF EXCHANGES.** 15 USC 57c–1.

"(a) IN GENERAL.—The Commission may—

"(1) retain or employ officers or employees of foreign government agencies on a temporary basis as employees of the Commission pursuant to section 2 of this Act or section 3101 or section 3109 of title 5, United States Code; and

"(2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies.

"(b) RECIPROCITY AND REIMBURSEMENT.—The staff arrangements described in subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.

"(c) STANDARDS OF CONDUCT.—A person appointed under subsection (a)(1) shall be subject to the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees that are applicable to the type of appointment.".

**SEC. 10. INFORMATION SHARING WITH FINANCIAL REGULATORS.**

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended by inserting "the Federal Trade Commission," after "the Securities and Exchange Commission,".

**SEC. 11. AUTHORITY TO ACCEPT REIMBURSEMENTS.**

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and 15 USC 58.

(2) by inserting after section 25A, as added by section 9 of this Act, the following:

15 USC 57c–2.

**"SEC. 26. REIMBURSEMENT OF EXPENSES.**

"The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement agency, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.".

15 USC 44 note.

**SEC. 12. PRESERVATION OF EXISTING AUTHORITY.**

The authority provided by this Act, and by the Federal Trade Commission Act (15 U.S.C. 41 et seq.) and the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as such Acts are amended by this Act, is in addition to, and not in lieu of, any other authority vested in the Federal Trade Commission or any other officer of the United States.

15 USC 44 note.

**SEC. 13. SUNSET.**

This Act, and the amendments made by this Act, shall cease to have effect on the date that is 7 years after the date of enactment of this Act.

**SEC. 14. REPORT.**

Not later than 3 years after the date of enactment of this Act, the Federal Trade Commission shall transmit to Congress a report describing its use of and experience with the authority granted by this Act, along with any recommendations for additional legislation. The report shall include—

(1) the number of cross-border complaints received by the Commission;

(2) identification of the foreign agencies to which the Commission has provided nonpublic investigative information under this Act;

(3) the number of times the Commission has used compulsory process on behalf of foreign law enforcement agencies pursuant to section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 4 of this Act;

(4) a list of international agreements and memoranda of understanding executed by the Commission that relate to this Act;

(5) the number of times the Commission has sought delay of notice pursuant to section 21A of the Federal Trade Commission Act, as added by section 7 of this Act, and the number of times a court has granted a delay;

(6) a description of the types of information private entities have provided voluntarily pursuant to section 21B of the Federal Trade Commission Act, as added by section 8 of this Act;

(7) a description of the results of cooperation with foreign law enforcement agencies under section 21 of the Federal Trade Commission Act (15 U.S.C. 57–2) as amended by section 6 of this Act;

(8) an analysis of whether the lack of an exemption from the disclosure requirements of section 552 of title 5, United States Code, with regard to information or material voluntarily

provided relevant to possible unfair or deceptive acts or practices, has hindered the Commission in investigating or engaging in enforcement proceedings against such practices; and

(9) a description of Commission litigation brought in foreign courts.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 1608:

SENATE REPORTS: No. 109–219 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Mar. 16, considered and passed Senate.

Dec. 8, considered and passed House, amended. Senate concurred in House amendment.

Public Law 109–456
109th Congress

An Act

Dec. 22, 2006
[S. 2125]

To promote relief, security, and democracy in the Democratic Republic of the Congo.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006.
22 USC 2151 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006".

# TITLE I—BILATERAL ACTION ON ADDRESSING URGENT NEEDS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

22 USC 2151 note.

**SEC. 101. FINDINGS.**

Congress makes the following findings:

(1) The National Security Strategy of the United States, dated September 17, 2002, concludes that "[i]n Africa, promise and opportunity sit side-by-side with disease, war, and desperate poverty. This threatens both a core value of the United States preserving human dignity and our strategic priority combating global terror. American interests and American principles, therefore, lead in the same direction: we will work with others for an African continent that lives in liberty, peace, and growing prosperity.".

(2) On February 16, 2005, the Director of the Central Intelligence Agency testified, "In Africa, chronic instability will continue to hamper counterterrorism efforts and pose heavy humanitarian and peacekeeping burdens.".

(3) According to the United States Agency for International Development, "Given its size, population, and resources, the Congo is an important player in Africa and of long-term interest to the United States.".

(4) The Democratic Republic of the Congo is 2,345,410 square miles (approximately ¼ the size of the United States), lies at the heart of Africa, and touches every major region of sub-Saharan Africa. Therefore, a secure, peaceful, and prosperous Democratic Republic of the Congo would have a profound impact on progress throughout Africa.

(5) The most recent war in the Democratic Republic of the Congo, which erupted in 1998, spawned some of the world's

worst human rights atrocities and drew in six neighboring countries.

(6) Despite the conclusion of a peace agreement and subsequent withdrawal of foreign forces in 2003, both the real and perceived presence of armed groups hostile to the Governments of Uganda, Rwanda, and Burundi continue to serve as a major source of regional instability and an apparent pretext for continued interference in the Democratic Republic of the Congo by its neighbors.

(7) A mortality study completed in December 2004 by the International Rescue Committee found that 31,000 people were dying monthly and 3,800,000 people had died in the previous six years because of the conflict in the Democratic Republic of the Congo and resulting disintegration of the social service infrastructure, making this one of the deadliest conflicts since World War II.

(8) In 2004, Amnesty International estimated that at least 40,000 women and girls were systematically raped and tortured in the Democratic Republic of the Congo since 1998, and nearly two-thirds of ongoing abuses against women and girls are perpetrated by members of the security forces, particularly the Forces Armes de la Republique Democratique du Congo (FARDC) and the Police Nationale Congolaise (PNC).

(9) According to the Department of State, "returning one of Africa's largest countries [the Democratic Republic of the Congo] to full peace and stability will require significant United States investments in support of national elections, the reintegration of former combatants, the return and reintegration of refugees and [internally displaced persons], establishment of central government control over vast territories, and promotion of national reconciliation and good governance".

**SEC. 102. STATEMENT OF POLICY.**

22 USC 2151 note.

It is the policy of the United States—

(1) to help promote, reinvigorate, and support the political process in the Democratic Republic of the Congo in order to press all parties in the Transitional National Government and the succeeding government to implement fully and to institutionalize mechanisms, including national and international election observers, fair and transparent voter registration procedures, and a significant civic awareness and public education campaign created for the July 30, 2006, elections and future elections in the Democratic Republic of the Congo, to ensure that elections are carried out in a fair and democratic manner;

(2) to urge the Government of the Democratic Republic of the Congo to recognize and act upon its responsibilities to immediately bring discipline to its security forces, hold those individuals responsible for atrocities and other human rights violations, particularly the rape of women and girls as an act of war, accountable and bring such individuals to justice;

(3) to help ensure that, once a stable national government is established in the Democratic Republic of the Congo, it is committed to multiparty democracy, open and transparent governance, respect for human rights and religious freedom, ending the violence throughout the country, promoting peace and stability with its neighbors, rehabilitating the national judicial system and enhancing the rule of law, combating

corruption, instituting economic reforms to promote development, and creating an environment to promote private investment;

(4) to assist the Government of the Democratic Republic of the Congo as it seeks to meet the basic needs of its citizens, including security, safety, and access to health care, education, food, shelter, and clean drinking water;

(5) to support security sector reform by assisting the Government of the Democratic Republic of the Congo to establish a viable and professional national army and police force that respects human rights and the rule of law, is under effective civilian control, and possesses a viable presence throughout the entire country, provided the Democratic Republic of the Congo meets all requirements for United States military assistance under existing law;

(6) to help expedite planning and implementation of programs associated with the disarmament, demobilization, repatriation, reintegration, and rehabilitation process in the Democratic Republic of the Congo;

(7) to support efforts of the Government of the Democratic Republic of the Congo, the United Nations Peacekeeping Mission in the Democratic Republic of the Congo (MONUC), and other entities, as appropriate, to disarm, demobilize, and repatriate the Democratic Forces for the Liberation of Rwanda and other illegally armed groups;

(8) to make all efforts to ensure that the Government of the Democratic Republic of the Congo—

(A) is committed to responsible and transparent management of natural resources across the country; and

(B) takes active measures—

(i) to promote economic development;

(ii) to hold accountable individuals who illegally exploit the country's natural resources; and

(iii) to implement the Extractive Industries Transparency Initiative by enacting laws requiring disclosure and independent auditing of company payments and government receipts for natural resource extraction;

(9) to promote a viable civil society and to enhance nongovernmental organizations and institutions, including religious organizations, the media, political parties, trade unions, and trade and business associations, that can act as a stabilizing force and effective check on the government;

(10) to help rebuild and enhance infrastructure, communications, and other mechanisms that will increase the ability of the central government to manage internal affairs, encourage economic development, and facilitate relief efforts of humanitarian organizations;

(11) to help halt the high prevalence of sexual abuse and violence perpetrated against women and children in the Democratic Republic of the Congo and mitigate the detrimental effects from acts of this type of violence by undertaking a number of health, education, and psycho-social support programs;

(12) to work aggressively on a bilateral basis to urge governments of countries contributing troops to the United Nations Peacekeeping Mission in the Democratic Republic of the Congo (MONUC) to enact and enforce laws on trafficking

in persons and sexual abuse that meet international standards, promote codes of conduct for troops serving as part of United Nations peacekeeping missions, and immediately investigate and punish citizens who are responsible for abuses in the Democratic Republic of the Congo;

(13) to assist the Government of the Democratic Republic of the Congo as undertakes steps to—

(A) protect internally displaced persons and refugees in the Democratic Republic of the Congo and border regions from all forms of violence, including gender-based violence and other human rights abuses;

(B) address other basic needs of vulnerable populations with the goal of allowing these conflict-affected individuals to ultimately return to their homes; and

(C) assess the magnitude of the problem of orphans from conflict and HIV/AIDS in the Democratic Republic of the Congo, and work to establish a program of national support;

(14) to engage with governments working to promote peace and security throughout the Democratic Republic of the Congo and hold accountable individuals, entities, and countries working to destabilize the country; and

(15) to promote appropriate use of the forests of the Democratic Republic of the Congo in a manner that benefits the rural population in that country that depends on the forests for their livelihoods and protects national and environmental interests.

**SEC. 103. BILATERAL ASSISTANCE TO THE DEMOCRATIC REPUBLIC OF THE CONGO.** 22 USC 2151 note.

(a) FUNDING FOR FISCAL YEARS 2006 AND 2007.—Of the amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 454, chapter 469), and the Arms Export Control Act (22 U.S.C. 2751 et seq.) for fiscal year 2006 and 2007, at least $52,000,000 for each such fiscal year should be allocated for bilateral assistance programs in the Democratic Republic of the Congo.

(b) FUTURE YEAR FUNDING.—It is the sense of Congress that the Department of State should submit budget requests in fiscal years 2008 and 2009 that contain increases in bilateral assistance for the Democratic Republic of the Congo that are appropriate if progress is being made, particularly cooperation by the Government of the Democratic Republic of the Congo, toward accomplishing the policy objectives described in section 102.

(c) COORDINATION WITH OTHER DONOR NATIONS.—The United States should work with other donor nations, on a bilateral and multilateral basis, to increase international contributions to the Democratic Republic of the Congo and accomplish the policy objectives described in section 102.

**SEC. 104. ACCOUNTABILITY FOR THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO.** 22 USC 2151 note.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the Democratic Republic of the Congo must be committed to achieving the policy objectives described in section 102 if the efforts of the United States and other

members of the international community are to be effective in bringing relief, security, and democracy to the country;

(2) the Government of the Democratic Republic of the Congo should immediately exercise control over and discipline its armed forces, stop the mass rapes at the hands of its armed forces, and hold those responsible for these acts accountable before an appropriate tribunal;

(3) the Government of the Democratic Republic of the Congo, in collaboration with international aid agencies, should establish expert teams to assess the needs of the victims of rape and provide health, counseling, and social support services that such victims need; and

(4) the international community, through the United Nations peacekeeping mission, humanitarian and development relief, and other forms of assistance, is providing a substantial amount of funding that is giving the Government of the Democratic Republic of the Congo an opportunity to make progress towards accomplishing the policy objectives described in section 102, but this assistance cannot continue in perpetuity.

(b) TERMINATION OF ASSISTANCE.—It is the sense of Congress that the Secretary of State should withhold assistance otherwise available under this Act if the Secretary determines that the Government of the Democratic Republic of the Congo is not making sufficient progress towards accomplishing the policy objectives described in section 102.

22 USC 2151 note.

**SEC. 105. WITHHOLDING OF ASSISTANCE.**

The Secretary of State is authorized to withhold assistance made available under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than humanitarian, peacekeeping, and counterterrorism assistance, for a foreign country if the Secretary determines that the government of the foreign country is taking actions to destabilize the Democratic Republic of the Congo.

22 USC 2151 note.

**SEC. 106. REPORT ON PROGRESS TOWARD ACCOMPLISHING POLICY OBJECTIVES.**

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the progress made toward accomplishing the policy objectives described in section 102.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) a description of any major impediments that prevent the accomplishment of the policy objectives described in section 102, including any destabilizing activities undertaken in the Democratic Republic of Congo by governments of neighboring countries;

(2) an evaluation of United States policies and foreign assistance programs designed to accomplish such policy objectives; and

(3) recommendations for—

(A) improving the policies and programs referred to in paragraph (2); and

(B) any additional bilateral or multilateral actions necessary to promote peace and prosperity in the Democratic Republic of the Congo.

**SEC. 107. SPECIAL ENVOY FOR THE GREAT LAKES REGION.**

President. Deadline. 22 USC 2151 note.

Not later than 60 days after the date of the enactment of this Act, the President should appoint a Special Envoy for the Great Lakes Region to help coordinate efforts to resolve the instability and insecurity in Eastern Congo.

# TITLE II—MULTILATERAL ACTIONS TO ADDRESS URGENT NEEDS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**SEC. 201. PROMOTION OF UNITED STATES POLICY TOWARD THE DEMOCRATIC REPUBLIC OF THE CONGO IN THE UNITED NATIONS SECURITY COUNCIL.**

22 USC 2151 note.

The United States should use its voice and vote in the United Nations Security Council—

(1) to address exploitation at the United Nations Peacekeeping Mission in the Democratic Republic of the Congo (MONUC) by continuing to urge, when credible allegations exist, appropriate investigation of alleged perpetrators and, as necessary, prosecution of United Nations personnel responsible for sexual abuses in the Democratic Republic of the Congo;

(2) to conclude at the earliest possible date a Memorandum of Understanding relating to binding codes of conduct and programs for the prevention of sexual abuse and trafficking in persons to be undertaken by the United Nations for all countries that contribute troops to MONUC, to include the assumption of personal liability for the provision of victims assistance and child support, as appropriate, by those who violate the codes of conduct;

(3) to strengthen the authority and capacity of MONUC by—

(A) providing specific authority and obligation to prevent and effectively counter imminent threats;

(B) clarifying and strengthening MONUC's rules of engagement to enhance the protection of vulnerable civilian populations;

(C) enhancing the surveillance and intelligence-gathering capabilities available to MONUC;

(D) where consistent with United States policy, making available personnel, communications, and military assets that improve the effectiveness of robust peacekeeping, mobility, and command and control capabilities of MONUC; and

(E) providing MONUC with the authority and resources needed to effectively monitor arms trafficking and natural resource exploitation at key border posts and airfields in the eastern part of the Democratic Republic of the Congo;

(4) to encourage regular visits of the United Nations Security Council to monitor the situation in the Democratic Republic of the Congo;

(5) to ensure that the practice of recruiting and arming children in the Democratic Republic of the Congo is immediately

halted pursuant to Security Council Resolutions 1460 (2003) and 1539 (2004);

(6) to strengthen the arms embargo imposed pursuant to Security Council Resolution 1493 (2003) and ensure that violators are held accountable through appropriate measures, including the possible imposition of sanctions;

(7) to allow for the more effective protection and monitoring of natural resources in the Democratic Republic of the Congo, especially in the eastern part of the country, and for public disclosure and independent auditing of natural resource revenues to help ensure transparent and accountable management of these revenues;

(8) to press countries in the Congo region to help facilitate an end to the violence in the Democratic Republic of the Congo and promote relief, security, and democracy throughout the region; and

(9) to encourage the United Nations Secretary-General to become more involved in completing the policy objectives described in paragraphs (1) and (2) of section 102 and ensure that recent fighting in North Kivu, which displaced over 150,000 people, as well as fighting in Ituri and other areas, does not create widespread instability throughout the country.

22 USC 2151 note.

**SEC. 202. INCREASING CONTRIBUTIONS AND OTHER HUMANITARIAN AND DEVELOPMENT ASSISTANCE THROUGH INTERNATIONAL ORGANIZATIONS.**

(a) IN GENERAL.—The President should instruct the United States permanent representative or executive director, as the case may be, to the United Nations voluntary agencies, including the World Food Program, the United Nations Development Program, and the United Nations High Commissioner for Refugees, and other appropriate international organizations to use the voice and vote of the United States to support additional humanitarian and development assistance for the Democratic Republic of the Congo in order to accomplish the policy objectives described in section 102.

President.

(b) SUPPORT CONTINGENT ON PROGRESS.—If the Secretary of State determines that the Government of the Democratic Republic of the Congo is not making sufficient progress towards accomplishing the policy objectives described in section 102, the President shall consider withdrawing United States support for the assistance

described in subsection (a) when future funding decisions are considered.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 2125:

CONGRESSIONAL RECORD, Vol. 152 (2006):
June 29, considered and passed Senate.
Dec. 6, considered and passed House, amended.
Dec. 8, Senate concurred in House amendment.

# Public Law 109–457
# 109th Congress

## An Act

Dec. 22, 2006
[S. 2150]

To direct the Secretary of Interior to convey certain Bureau of Land Management Land to the City of Eugene, Oregon.

Eugene Land Conveyance Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Eugene Land Conveyance Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CITY.—The term "City" means the city of Eugene, Oregon.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. CONVEYANCE TO THE CITY OF EUGENE, OREGON.**

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary shall convey to the City, without consideration and subject to all valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)(1) for the purposes of—

(1) establishing a wildlife viewing area; and

(2) the construction and operation of an environmental education center.

(b) DESCRIPTION OF LAND.—

(1) IN GENERAL.—The land referred to in subsection (a) is the parcel of approximately 12 acres of land under the administrative jurisdiction of the Bureau of Land Management in Lane County, Oregon, as depicted on the map entitled "West Eugene Wetlands Land Transfer" and dated April 11, 2005.

(2) SURVEY.—

(A) IN GENERAL.—The legal description of the land described in paragraph (1) may be based on the survey of the land completed in 1979.

(B) COST.—If the Secretary determines that a new survey of the land is required, the City shall be responsible for paying the cost of the survey.

(c) REVERSION.—

(1) IN GENERAL.—If the Secretary determines that the land conveyed under subsection (a) is not being used for the purposes described in that subsection—

(A) all right, title, and interest in and to the land (including any improvements to the land) shall, at the

discretion of the Secretary, revert to the United States; and

(B) the United States shall have the right of immediate entry to the land.

(2) HEARING.—Any determination of the Secretary under paragraph (1) shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 2150:

SENATE REPORTS: No. 109–306 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–458
## 109th Congress

## An Act

Dec. 22, 2006
[S. 2205]

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006".

**SEC. 2. BLUNT RESERVOIR AND PIERRE CANAL.**

(a) DEFINITIONS.—In this section:

(1) BLUNT RESERVOIR FEATURE.—The term "Blunt Reservoir feature" means the Blunt Reservoir feature of the Oahe Unit, James Division, authorized by the Act of August 3, 1968 (82 Stat. 624), as part of the Pick-Sloan Missouri River Basin program.

(2) COMMISSION.—The term "Commission" means the Commission of Schools and Public Lands of the State.

(3) NONPREFERENTIAL LEASE PARCEL.—The term "nonpreferential lease parcel" means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) was considered to be a nonpreferential lease parcel by the Secretary as of January 1, 2001, and is reflected as such on the roster of leases of the Bureau of Reclamation for 2001.

(4) PIERRE CANAL FEATURE.—The term "Pierre Canal feature" means the Pierre Canal feature of the Oahe Unit, James Division, authorized by the Act of August 3, 1968 (82 Stat. 624), as part of the Pick-Sloan Missouri River Basin program.

(5) PREFERENTIAL LEASEHOLDER.—The term "preferential leaseholder" means a person or descendant of a person that held a lease on a preferential lease parcel as of January 1, 2001, and is reflected as such on the roster of leases of the Bureau of Reclamation for 2001.

(6) PREFERENTIAL LEASE PARCEL.—The term "preferential lease parcel" means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) was considered to be a preferential lease parcel by the Secretary as of January 1, 2001, and is reflected as such on the roster of leases of the Bureau of Reclamation for 2001.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) STATE.—The term "State" means the State of South Dakota, including a successor in interest of the State.

(9) UNLEASED PARCEL.—The term "unleased parcel" means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is not under lease as of the date of enactment of this Act.

(b) DEAUTHORIZATION.—The Blunt Reservoir feature is deauthorized.

(c) ACCEPTANCE OF LAND AND OBLIGATIONS.—

(1) IN GENERAL.—As a term of each conveyance under subsections (d)(5) and (e), respectively, the State may agree to accept—

(A) in "as is" condition, the portions of the Blunt Reservoir feature and the Pierre Canal feature that pass into State ownership;

(B) any liability accruing after the date of conveyance as a result of the ownership, operation, or maintenance of the features referred to in subparagraph (A), including liability associated with certain outstanding obligations associated with expired easements, or any other right granted in, on, over, or across either feature; and

(C) the responsibility that the Commission will act as the agent for the Secretary in administering the purchase option extended to preferential leaseholders under subsection (d).

(2) RESPONSIBILITIES OF THE STATE.—An outstanding obligation described in paragraph (1)(B) shall inure to the benefit of, and be binding upon, the State.

(3) OIL, GAS, MINERAL AND OTHER OUTSTANDING RIGHTS.—A conveyance to the State under subsection (d)(5) or (e) or a sale to a preferential leaseholder under subsection (d) shall be made subject to—

(A) oil, gas, and other mineral rights reserved of record, as of the date of enactment of this Act, by or in favor of a third party; and

(B) any permit, license, lease, right-of-use, or right-of-way of record in, on, over, or across a feature referred to in paragraph (1)(A) that is outstanding as to a third party as of the date of enactment of this Act.

(4) ADDITIONAL CONDITIONS OF CONVEYANCE TO STATE.—A conveyance to the State under subsection (d)(5) or (e) shall be subject to the reservations by the United States and the conditions specified in section 1 of the Act of May 19, 1948 (chapter 310; 62 Stat. 240), as amended (16 U.S.C. 667b),

for the transfer of property to State agencies for wildlife conservation purposes.

(d) PURCHASE OPTION.—

(1) IN GENERAL.—A preferential leaseholder shall have an option to purchase from the Secretary or the Commission, acting as an agent for the Secretary, the preferential lease parcel that is the subject of the lease.

(2) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a preferential leaseholder may elect to purchase a parcel on one of the following terms:

(i) Cash purchase for the amount that is equal to—

(I) the value of the parcel determined under paragraph (4); minus

(II) ten percent of that value.

(ii) Installment purchase, with 10 percent of the value of the parcel determined under paragraph (4) to be paid on the date of purchase and the remainder to be paid over not more than 30 years at 3 percent annual interest.

(B) VALUE UNDER $10,000.—If the value of the parcel is under $10,000, the purchase shall be made on a cash basis in accordance with subparagraph (A)(i).

(3) OPTION EXERCISE PERIOD.—

(A) IN GENERAL.—A preferential leaseholder shall have until the date that is 5 years after enactment of this Act to exercise the option under paragraph (1).

(B) CONTINUATION OF LEASES.—Until the date specified in subparagraph (A), a preferential leaseholder shall be entitled to continue to lease from the Secretary the parcel leased by the preferential leaseholder under the same terms and conditions as under the lease, as in effect as of the date of enactment of this Act.

(4) VALUATION.—

(A) IN GENERAL.—The value of a preferential lease parcel shall be its fair market value for agricultural purposes determined by an independent appraisal less 25 percent, exclusive of the value of private improvements made by the leaseholders while the land was federally owned before the date of the enactment of this Act, in conformance with the Uniform Appraisal Standards for Federal Land Acquisition.

(B) FAIR MARKET VALUE.—Any dispute over the fair market value of a property under subparagraph (A) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations.

(5) CONVEYANCE TO THE STATE.—

(A) IN GENERAL.—If a preferential leaseholder fails to purchase a parcel within the period specified in paragraph (3)(A), the Secretary shall offer to convey the parcel to the State of South Dakota Department of Game, Fish, and Parks.

(B) WILDLIFE HABITAT MITIGATION.—Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose

of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(6) USE OF PROCEEDS.—Proceeds of sales of land under this Act shall be deposited as miscellaneous funds in the Treasury and such funds shall be made available, subject to appropriations, to the State for the establishment of a trust fund to pay the county taxes on the lands received by the State Department of Game, Fish, and Parks under the bill.

(e) CONVEYANCE OF NONPREFERENTIAL LEASE PARCELS AND UNLEASED PARCELS.—

(1) CONVEYANCE BY SECRETARY TO STATE.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall offer to convey to the South Dakota Department of Game, Fish, and Parks the nonpreferential lease parcels and unleased parcels of the Blunt Reservoir and Pierre Canal. Deadline.

(B) WILDLIFE HABITAT MITIGATION.—Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(2) LAND EXCHANGES FOR NONPREFERENTIAL LEASE PARCELS AND UNLEASED PARCELS.—

(A) IN GENERAL.—With the concurrence of the South Dakota Department of Game, Fish, and Parks, the South Dakota Commission of Schools and Public Lands may allow a person to exchange land that the person owns elsewhere in the State for a nonpreferential lease parcel or unleased parcel at Blunt Reservoir or Pierre Canal, as the case may be.

(B) PRIORITY.—The right to exchange nonpreferential lease parcels or unleased parcels shall be granted in the following order or priority:

(i) Exchanges with current lessees for nonpreferential lease parcels.

(ii) Exchanges with adjoining and adjacent landowners for unleased parcels and nonpreferential lease parcels not exchanged by current lessees.

(C) EASEMENT FOR WATER CONVEYANCE STRUCTURE.—As a condition of the exchange of land of the Pierre Canal feature under this paragraph, the United States reserves a perpetual easement to the land to allow for the right to design, construct, operate, maintain, repair, and replace a pipeline or other water conveyance structure over, under, across, or through the Pierre Canal feature.

(f) RELEASE FROM LIABILITY.—

(1) IN GENERAL.—Effective on the date of conveyance of any parcel under this Act, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the parcel, except for damages for acts of negligence committed by the United States or by an employee, agent, or contractor of the United States, before the date of conveyance. Effective date.

(2) NO ADDITIONAL LIABILITY.—Nothing in this section adds to any liability that the United States may have under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(g) REQUIREMENTS CONCERNING CONVEYANCE OF LEASE PARCELS.—

(1) INTERIM REQUIREMENTS.—During the period beginning on the date of enactment of this Act and ending on the date of conveyance of the parcel, the Secretary shall continue to lease each preferential lease parcel or nonpreferential lease parcel to be conveyed under this section under the terms and conditions applicable to the parcel on the date of enactment of this Act.

Deadline.

(2) PROVISION OF PARCEL DESCRIPTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Commission, shall provide the State a full legal description of all preferential lease parcels and nonpreferential lease parcels that may be conveyed under this section.

(h) CURATION OF ARCHEOLOGICAL COLLECTIONS.—The Secretary, in consultation with the State, shall transfer, without cost to the State, all archeological and cultural resource items collected from the Blunt Reservoir feature and Pierre Canal feature to the South Dakota State Historical Society.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act $750,000 to reimburse the Secretary for expenses incurred in implementing this Act, and such sums as are necessary to reimburse the Commission and the State Department of Game, Fish, and Parks for expenses incurred implementing this Act, not to exceed 10 percent of the cost of each transaction conducted under this Act.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 2205 (H.R. 4301):

HOUSE REPORTS: No. 109–588 accompanying H.R. 4301 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed Senate.
Dec. 8, considered and passed House.

Public Law 109–459
109th Congress

# An Act

To direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

Dec. 22, 2006
[S. 2653]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Call Home Act of 2006.
47 USC 609 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Call Home Act of 2006".

**SEC. 2. TELEPHONE RATES FOR MEMBERS OF ARMED FORCES DEPLOYED ABROAD.**

47 USC 201 note.

(a) IN GENERAL.—The Federal Communications Commission shall take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel who are stationed outside the United States under official military orders or deployed outside the United States in support of military operations, training exercises, or other purposes as approved by the Secretary of Defense, including the reduction of such costs through the waiver of government fees, assessments, or other charges for such calls. The Commission may not regulate rates in order to carry out this section.

(b) FACTORS TO CONSIDER.—In taking the action described in subsection (a), the Commission, in coordination with the Department of Defense and the Department of State, shall—

(1) evaluate and analyze the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad;

(2) evaluate methods of reducing the rates imposed on such calls, including deployment of new technology such as voice over Internet protocol or other Internet protocol technology;

(3) encourage telecommunications carriers (as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44))) to adopt flexible billing procedures and policies for Armed Forces personnel and their dependents for telephone calls to and from such Armed Forces personnel; and

(4) seek agreements with foreign governments to reduce international surcharges on such telephone calls.

(c) DEFINITIONS.—In this section:

(1) ARMED FORCES.—The term "Armed Forces" has the meaning given that term by section 2101(2) of title 5, United States Code.

(2) MILITARY BASE.—The term "military base" includes official duty stations to include vessels, whether such vessels are in port or underway outside of the United States.

**SEC. 3. REPEAL OF EXISTING AUTHORIZATION.**

Section 213 of the Telecommunications Authorization Act of 1992 (47 U.S.C. 201 note) is repealed.

**SEC. 4. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.**

Deadline.

Pursuant to section 3006 of Public Law 109–171 (47 U.S.C. 309 note), the Assistant Secretary for Communications and Information of the Department of Commerce, in consultation with the Secretary of the Department of Homeland Security, shall award no less than $1,000,000,000 for public safety interoperable communications grants no later than September 30, 2007 subject to the receipt of qualified applications as determined by the Assistant Secretary.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 2653:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

Public Law 109–460
109th Congress

# An Act

To amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes.

Dec. 22, 2006
[S. 2735]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DAM SAFETY.**

Dam Safety Act of 2006.
33 USC 467 note.

(a) SHORT TITLE.—This section may be cited as the "Dam Safety Act of 2006".

(b) NATIONAL DAM INVENTORY.—Section 6 of the National Dam Safety Program Act (33 U.S.C. 467d) is amended to read as follows:

**"SEC. 6. NATIONAL DAM INVENTORY.**

"The Secretary of the Army shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include any available information assessing each dam based on inspections completed by either a Federal agency or a State dam safety agency.".

(c) NATIONAL DAM SAFETY PROGRAM.—

(1) DUTIES.—Section 8(b)(1) of the National Dam Safety Program Act (33 U.S.C. 467f(b)(1)) is amended by striking "and target dates to" and inserting "performance measures, and target dates toward effectively administering this Act in order to".

(2) ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.—Section 8(e)(2)(A) of the National Dam Safety Program Act (33 U.S.C. 467f(e)(2)(A)) is amended—

(A) in the matter preceding clause (i), by striking "substantially";

(B) by redesignating clauses (iv) through (x) as clauses (v) through (xi), respectively;

(C) by inserting after clause (iii) the following:

"(iv) the authority to require or perform periodic evaluations of all dams and reservoirs to determine the extent of the threat to human life and property in case of failure;"; and

(D) in clause (vii) (as redesignated by subparagraph (B)), by inserting "install and monitor instrumentation," after "remedial work,".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 13 of the National Dam Safety Program Act (33 U.S.C. 467j) is amended—

(1) in subsection (a)(1), by striking "$6,000,000 for each of fiscal years 2003 through 2006" and inserting "$6,500,000 for fiscal year 2007, $7,100,000 for fiscal year 2008, $7,600,000

for fiscal year 2009, $8,300,000 for fiscal year 2010, and $9,200,000 for fiscal year 2011";

(2) in subsection (b), by striking "$500,000 for each fiscal year" and inserting "$650,000 for fiscal year 2007, $700,000 for fiscal year 2008, $750,000 for fiscal year 2009, $800,000 for fiscal year 2010, and $850,000 for fiscal year 2011";

(3) in subsection (c), by striking "$1,500,000 for each of fiscal years 2003 through 2006" and inserting "$1,600,000 for fiscal year 2007, $1,700,000 for fiscal year 2008, $1,800,000 for fiscal year 2009, $1,900,000 for fiscal year 2010, and $2,000,000 for fiscal year 2011";

(4) in subsection (d), by striking "$500,000 for each of fiscal years 2003 through 2006" and inserting "$550,000 for fiscal year 2007, $600,000 for fiscal year 2008, $650,000 for fiscal year 2009, $700,000 for fiscal year 2010, and $750,000 for fiscal year 2011"; and

(5) in subsection (e), by striking "$600,000 for each of fiscal years 2003 through 2006" and inserting "$700,000 for fiscal year 2007, $800,000 for fiscal year 2008, $900,000 for fiscal year 2009, $1,000,000 for fiscal year 2010, and $1,100,000 for fiscal year 2011".

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 2735 (H.R. 4981):

SENATE REPORTS: No. 109–276 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–461
# 109th Congress

## An Act

To amend title 38, United States Code, to repeal certain limitations on attorney representation of claimants for benefits under laws administered by the Secretary of Veterans Affairs, to expand eligibility for the Survivors' and Dependents' Educational Assistance Program, to otherwise improve veterans' benefits, memorial affairs, and health-care programs, to enhance information security programs of the Department of Veterans Affairs, and for other purposes.

Dec. 22, 2006
[S. 3421]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Veterans Benefits, Health Care, and Information Technology Act of 2006.
38 USC 101 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits, Health Care, and Information Technology Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—ATTORNEY REPRESENTATION MATTERS

Sec. 101. Agent or attorney representation in veterans benefits cases before the Department of Veterans Affairs.

TITLE II—HEALTH MATTERS

Sec. 201. Additional mental health providers.
Sec. 202. Pay comparability for the Chief Nursing Officer, Office of Nursing Services.
Sec. 203. Improvement and expansion of mental health services.
Sec. 204. Disclosure of medical records.
Sec. 205. Expansion of telehealth services.
Sec. 206. Strategic plan for long-term care.
Sec. 207. Blind rehabilitation outpatient specialists.
Sec. 208. Extension of certain compliance reports.
Sec. 209. Parkinson's Disease research, education, and clinical centers and multiple sclerosis centers of excellence.
Sec. 210. Repeal of term of office for the Under Secretary for Health and the Under Secretary for Benefits.
Sec. 211. Modifications to State home authorities.
Sec. 212. Office of Rural Health.
Sec. 213. Outreach program to veterans in rural areas.
Sec. 214. Pilot program on improvement of caregiver assistance services.
Sec. 215. Expansion of outreach activities of Vet Centers.
Sec. 216. Clarification and enhancement of bereavement counseling.
Sec. 217. Funding for Vet Center program.

TITLE III—EDUCATION MATTERS

Sec. 301. Expansion of eligibility for Survivors' and Dependents' Educational Assistance program.
Sec. 302. Restoration of lost entitlement for individuals who discontinue a program of education because of being ordered to full-time National Guard duty.
Sec. 303. Exception for institutions offering Government-sponsored nonaccredited courses to requirement of refunding unused tuition.

Sec. 304. Extension of work-study allowance.
Sec. 305. Deadline and extension of requirement for report on educational assistance program.
Sec. 306. Report on improvement in administration of educational assistance benefits.
Sec. 307. Technical amendments relating to education laws.

TITLE IV—NATIONAL CEMETERY AND MEMORIAL AFFAIRS MATTERS

Sec. 401. Provision of Government memorial headstones or markers and memorial inscriptions for deceased dependent children of veterans whose remains are unavailable for burial.
Sec. 402. Provision of Government markers for marked graves of veterans at private cemeteries.
Sec. 403. Eligibility of Indian tribal organizations for grants for the establishment of veterans cemeteries on trust lands.
Sec. 404. Removal of remains of Russell Wayne Wagner from Arlington National Cemetery.

TITLE V—HOUSING AND SMALL BUSINESS MATTERS

Sec. 501. Residential cooperative housing units.
Sec. 502. Department of Veterans Affairs goals for participation by small businesses owned and controlled by veterans in procurement contracts.
Sec. 503. Department of Veterans Affairs contracting priority for veteran-owned small businesses.

TITLE VI—EMPLOYMENT AND TRAINING MATTERS

Sec. 601. Training of new disabled veterans' outreach program specialists and local veterans' employment representatives by NVTI required.
Sec. 602. Rules for part-time employment for disabled veterans' outreach program specialists and local veterans' employment representatives.
Sec. 603. Performance incentive awards for employment service offices.
Sec. 604. Demonstration project on credentialing and licensure of veterans.
Sec. 605. Department of Labor implementation of regulations for priority of service.

TITLE VII—HOMELESS VETERANS ASSISTANCE

Sec. 701. Reaffirmation of national goal to end homelessness among veterans.
Sec. 702. Sense of Congress on the response of the Federal Government to the needs of homeless veterans.
Sec. 703. Authority to make grants for comprehensive service programs for homeless veterans.
Sec. 704. Extension of treatment and rehabilitation for seriously mentally ill and homeless veterans.
Sec. 705. Extension of authority for transfer of properties obtained through foreclosure of home mortgages.
Sec. 706. Extension of funding for grant program for homeless veterans with special needs.
Sec. 707. Extension of funding for homeless veteran service provider technical assistance program.
Sec. 708. Additional element in annual report on assistance to homeless veterans.
Sec. 709. Advisory Committee on Homeless Veterans.
Sec. 710. Rental assistance vouchers for Veterans Affairs supported housing program.

TITLE VIII—CONSTRUCTION MATTERS

Subtitle A—Construction and Lease Authorities

Sec. 801. Authorization of fiscal year 2006 major medical facility projects.
Sec. 802. Extension of authorization for certain major medical facility construction projects previously authorized in connection with Capital Asset Realignment Initiative.
Sec. 803. Authorization of fiscal year 2007 major medical facility projects.
Sec. 804. Authorization of advance planning and design for a major medical facility, Charleston, South Carolina.
Sec. 805. Authorization of fiscal year 2006 major medical facility leases.
Sec. 806. Authorization of fiscal year 2007 major medical facility leases.
Sec. 807. Authorization of appropriations.

Subtitle B—Facilities Administration

Sec. 811. Director of Construction and Facilities Management.
Sec. 812. Increase in threshold for major medical facility projects.

Sec. 813. Land conveyance, city of Fort Thomas, Kentucky.

Subtitle C—Reports on Medical Facility Improvements

Sec. 821. Report on option for medical facility improvements in San Juan, Puerto Rico.
Sec. 822. Business plans for enhanced access to outpatient care in certain rural areas.
Sec. 823. Report on option for construction of Department of Veterans Affairs Medical Center in Okaloosa County, Florida.

TITLE IX—INFORMATION SECURITY MATTERS

Sec. 901. Short title.
Sec. 902. Department of Veterans Affairs information security programs and requirements.
Sec. 903. Information security education assistance programs.

TITLE X—OTHER MATTERS

Sec. 1001. Notice to congressional veterans committees of certain transfers of funds.
Sec. 1002. Clarification of correctional facilities covered by certain provisions of law.
Sec. 1003. Extension of authority for health care for participation in DOD chemical and biological warfare testing.
Sec. 1004. Technical and clerical amendments.
Sec. 1005. Codification of cost-of-living adjustment provided in Public Law 109–361.
Sec. 1006. Coordination of provisions with Veterans Programs Extension Act of 2006.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

# TITLE I—ATTORNEY REPRESENTATION MATTERS

**SEC. 101. AGENT OR ATTORNEY REPRESENTATION IN VETERANS BENEFITS CASES BEFORE THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) QUALIFICATIONS AND STANDARDS OF CONDUCT FOR INDIVIDUALS RECOGNIZED AS AGENTS OR ATTORNEYS.—

(1) ADDITIONAL QUALIFICATIONS AND STANDARDS FOR AGENTS AND ATTORNEYS GENERALLY.—Subsection (a) of section 5904 is amended—

(A) by inserting "RECOGNITION.—(1)" after "(a)";

(B) by striking "The Secretary may recognize" and inserting "Except as provided in paragraph (4), the Secretary may recognize";

(C) by striking the second sentence; and

(D) by adding at the end the following new paragraphs:

"(2) The Secretary shall prescribe in regulations (consistent with the Model Rules of Professional Conduct of the American Bar Association) qualifications and standards of conduct for individuals recognized under this section, including a requirement that, as a condition of being so recognized, an individual must— Regulations.

"(A) show that such individual is of good moral character and in good repute, is qualified to render claimants valuable service, and is otherwise competent to assist claimants in presenting claims;

"(B) have such level of experience or specialized training as the Secretary shall specify; and

Certification.

"(C) certify to the Secretary that the individual has satisfied any qualifications and standards prescribed by the Secretary under this section.

Regulations.

"(3) The Secretary shall prescribe in regulations requirements that each agent or attorney recognized under this section provide annually to the Secretary information about any court, bar, or Federal or State agency to which such agent or attorney is admitted to practice or otherwise authorized to appear, any relevant identification number or numbers, and a certification by such agent or attorney that such agent or attorney is in good standing in every jurisdiction where the agent or attorney is admitted to practice or otherwise authorized to appear.

"(4) The Secretary may not recognize an individual as an agent or attorney under paragraph (1) if such individual has been suspended or disbarred by any court, bar, or Federal or State agency to which the individual was previously admitted to practice and has not been subsequently reinstated.

"(5) The Secretary may prescribe in regulations reasonable restrictions on the amount of fees that an agent or attorney may charge a claimant for services rendered in the preparation, presentation, and prosecution of a claim before the Department. A fee that does not exceed 20 percent of the past due amount of benefits awarded on a claim shall be presumed to be reasonable.

"(6)(A) The Secretary may charge and collect an assessment from an individual recognized as an agent or attorney under this section in any case in which the Secretary pays to the agent or attorney, from past-due benefits owed to a claimant represented by the agent or attorney, an amount as a fee in accordance with a fee arrangement between the claimant and the agent or attorney.

"(B) The amount of an assessment under subparagraph (A) shall be equal to five percent of the amount of the fee required to be paid to the agent or attorney, except that the amount of such an assessment may not exceed $100.

"(C) The Secretary may collect an assessment under subparagraph (A) by offsetting the amount of the fee otherwise required to be paid to the agent or attorney from the past-due benefits owed to the claimant represented by the agent or attorney.

"(D) An agent or attorney who is charged an assessment under subparagraph (A) may not, directly or indirectly, request, receive, or obtain reimbursement for such assessment from the claimant represented by the agent or attorney.

"(E) Amounts collected under this paragraph shall be deposited in the account available for administrative expenses for veterans' benefits programs. Amounts so deposited shall be merged with amounts in such account and shall be available for the same purpose, and subject to the same conditions and limitations, as amounts otherwise in such account.".

38 USC 5902.

(2) SUSPENSION OF RECOGNIZED REPRESENTATIVES OF VETERANS SERVICE ORGANIZATIONS.—Section 5902(b) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting "(1)" after "(b)"; and

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

"(2) An individual recognized under this section shall be subject to the provisions of section 5904(b) of this title on the same basis as an individual recognized under section 5904(a) of this title.".

(3) SUSPENSION OF INDIVIDUALS RECOGNIZED FOR PARTICULAR CLAIMS.—Section 5903 is amended— 38 USC 5903.

(A) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

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

"(b) SUSPENSION.—An individual recognized under this section shall be subject to the provisions of section 5904(b) of this title on the same basis as an individual recognized under section 5904(a) of this title.".

(b) ADDITIONAL BASES FOR SUSPENSION OF INDIVIDUALS.—Subsection (b) of section 5904 is amended—

(1) by inserting "SUSPENSION OF AGENTS AND ATTORNEYS.—" after "(b)";

(2) in paragraph (4), by striking "or" at the end;

(3) in paragraph (5), by striking the period and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(6) has presented to the Secretary a frivolous claim, issue, or argument, involving conduct inconsistent with ethical standards for the practice of law;

"(7) has been suspended or disbarred by any court or bar to which such agent or attorney was previously admitted to practice, or has been disqualified from participating in or appearing before any Federal agency, and has not been subsequently reinstated;

"(8) has charged excessive or unreasonable fees, as determined by the Secretary in accordance with subsection (c)(3)(A); or

"(9) has failed to comply with any other condition specified in regulations prescribed by the Secretary for purposes of this subsection.".

(c) MODIFICATION OF DATE FOR COMMENCEMENT OF SERVICES SUBJECT TO FEES.—

(1) MODIFICATION.—Effective as provided in subsection (h), paragraph (1) of subsection (c) of such section is amended—

(A) by striking "the Board of Veterans' Appeals first makes a final decision in" and inserting "a notice of disagreement is filed with respect to";

(B) by striking the second sentence; and

(C) in the third sentence, by inserting "fees charged, allowed, or paid for" before "services provided".

(2) REPORT.—Not later than 42 months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report that sets forth an assessment of the effects of allowing agents and attorneys recognized under section 5904 of title 38, United States Code, to charge a fee to a claimant for services rendered in the preparation, presentation, and prosecution of a claim before the Department of Veterans Affairs after a notice of disagreement has been filed. Such report shall include the recommendations of the Secretary with respect to agent and attorney representation.

(d) MODIFICATION OF REQUIREMENTS TO FILE ATTORNEY FEE AGREEMENTS.—Effective as provided in subsection (h), paragraph (2) of subsection (c) of such section is amended—

(1) by striking "after the Board first makes a final decision in the case" and inserting "after a notice of disagreement is filed with respect to the case";

(2) by striking "with the Board at such time as may be specified by the Board" and inserting "with the Secretary pursuant to regulations prescribed by the Secretary"; and

(3) by striking the second and third sentences.

(e) ATTORNEY FEES.—Subsection (c) of such section is further amended—

(1) in paragraph (1), by striking "paragraph (3)" and inserting "paragraph (4)"; and

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) The Secretary may, upon the Secretary's own motion or at the request of the claimant, review a fee agreement filed pursuant to paragraph (2) and may order a reduction in the fee called for in the agreement if the Secretary finds that the fee is excessive or unreasonable.

"(B) A finding or order of the Secretary under subparagraph (A) may be reviewed by the Board of Veterans' Appeals under section 7104 of this title.

"(C) If the Secretary under subsection (b) suspends or excludes from further practice before the Department any agent or attorney who collects or receives a fee in excess of the amount authorized under this section, the suspension shall continue until the agent or attorney makes full restitution to each claimant from whom the agent or attorney collected or received an excessive fee. If the agent or attorney makes such restitution, the Secretary may reinstate such agent or attorney under such rules as the Secretary may prescribe.".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(1) by inserting "PAYMENT OF FEES OUT OF PAST-DUE BENEFITS.—" after "(d)";

(2) by inserting "agent or" before "attorney" each place it appears;

(3) in paragraph (1), by striking "of this subsection" after "paragraph (2)";

(4) in paragraph (2)(B), by striking "of this paragraph" after "subparagraph (A)"; and

(5) in paragraph (3)—

(A) by striking "attorneys' fee" and inserting "fee to an agent or attorney"; and

(B) by striking "of this subsection" after "paragraph (1)".

38 USC 5905.

(g) REPEAL OF PENALTY FOR CERTAIN ACTS.—Section 5905 is amended by striking "(1)" and all that follows through "(2)".

38 USC 5904 note.

(h) EFFECTIVE DATE.—The amendments made by subsections (c)(1) and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply with respect to services of agents and attorneys that are provided with respect to cases in which notices of disagreement are filed on or after that date.

Regulations. 38 USC 5904 note.

(i) LIMITATION ON COLLECTION OF FEE ASSESSMENT.—No assessments on fees may be collected under paragraph (6) of section 5904(a) of title 38, United States Code (as added by subsection

(a)(1)(D) of this section), until the date on which the Secretary of Veterans Affairs prescribes the regulations required by the amendments made by this section.

# TITLE II—HEALTH MATTERS

**SEC. 201. ADDITIONAL MENTAL HEALTH PROVIDERS.**

38 USC 7401.

(a) APPOINTMENTS.—Section 7401(3) is amended by inserting after "social workers," the following: "marriage and family therapists, licensed professional mental health counselors,".

(b) QUALIFICATIONS.—Section 7402(b) is amended—

(1) by redesignating paragraph (10) as paragraph (12); and

(2) by inserting after paragraph (9) the following new paragraphs:

"(10) MARRIAGE AND FAMILY THERAPIST.—To be eligible to be appointed to a marriage and family therapist position, a person must—

"(A) hold a master's degree in marriage and family therapy, or a comparable degree in mental health, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice marriage and family therapy in a State, except that the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

"(11) LICENSED PROFESSIONAL MENTAL HEALTH COUNSELOR.—To be eligible to be appointed to a licensed professional mental health counselor position, a person must—

"(A) hold a master's degree in mental health counseling, or a related field, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice mental health counseling.".

(c) REPORT ON MARRIAGE AND FAMILY THERAPY WORKLOAD.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Under Secretary for Health of the Department of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the provision of treatment for post-traumatic stress disorder by marriage and family therapists employed by the Department of Veterans Affairs.

(2) CONTENTS.—The report submitted under paragraph (1) shall include the following:

(A) The actual and projected workloads in facilities of the Veterans Readjustment Counseling Service and the Veterans Health Administration for the provision of marriage and family counseling for veterans diagnosed with, or otherwise in need of treatment for, post-traumatic stress disorder.

(B) The resources available and needed to support the projected workload described in subparagraph (A).

(C) An assessment by the Under Secretary for Health of the effectiveness of treatment for post-traumatic stress disorder that is provided by marriage and family therapists.

(D) Recommendations, if any, for improvements in the provision of such treatment by such therapists.

**SEC. 202. PAY COMPARABILITY FOR THE CHIEF NURSING OFFICER, OFFICE OF NURSING SERVICES.**

38 USC 7404.

Section 7404 is amended—

(1) in subsection (d), by striking "subchapter III and in" and inserting "subsection (e), subchapter III, and"; and

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

"(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate determined by the Secretary, not to exceed the maximum rate established for the Senior Executive Service under section 5382 of title 5.".

38 USC 1712A note.

**SEC. 203. IMPROVEMENT AND EXPANSION OF MENTAL HEALTH SERVICES.**

(a) REQUIRED CAPACITY FOR COMMUNITY-BASED OUTPATIENT CLINICS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall ensure that each community-based outpatient clinic of the Department of Veterans Affairs has the capacity to provide, or monitor the provision of, mental health services to enrolled veterans who, as determined by the Secretary, are in need of such services.

(2) SETTINGS.—In carrying out paragraph (1), the Secretary shall ensure that mental health services are provided through—

(A) a community-based outpatient clinic of the Department by an employee of the Department;

(B) referral to another facility of the Department;

(C) contract with an appropriate mental health professional in the community; or

(D) telemental health services.

(b) CLINICAL TRAINING AND PROTOCOLS.—

(1) COLLABORATION.—The National Center on Post-Traumatic Stress Disorder of the Department of Veterans Affairs shall collaborate with the Secretary of Defense—

(A) to enhance the clinical skills of military clinicians on matters relating to post-traumatic stress disorder through training, treatment protocols, web-based interventions, and the development of evidence-based interventions; and

(B) to promote pre-deployment resilience and post-deployment readjustment among members of the Armed Forces serving in Operation Iraqi Freedom and Operation Enduring Freedom.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Veterans Affairs for fiscal year 2007 $2,000,000 to carry out this subsection.

(c) MENTAL HEALTH OUTREACH.—The Secretary of Veterans Affairs shall—

(1) develop additional educational materials on post-traumatic stress disorder; and

(2) undertake additional efforts to educate veterans about post-traumatic stress disorder.

Post-traumatic stress disorder.

(d) REVIEW OF PTSD CLINICAL GUIDELINES.—The Secretary of Veterans Affairs shall—

(1) review the clinical guidelines of the Department of Veterans Affairs on post-traumatic stress disorder and all appropriate protocols related to post-traumatic stress disorder;

(2) revise such guidelines and protocols as the Secretary considers appropriate to ensure that clinicians are able to effectively distinguish between diagnoses with similar symptoms that may manifest as post-traumatic stress disorder, including traumatic brain injury; and

(3) develop performance measures for the treatment of post-traumatic stress disorder among veterans.

**SEC. 204. DISCLOSURE OF MEDICAL RECORDS.**

(a) LIMITED EXCEPTION TO CONFIDENTIALITY OF MEDICAL RECORDS.—Section 5701 is amended by adding at the end the following new subsection: 38 USC 5701.

"(k)(1)(A) Under regulations that the Secretary shall prescribe, the Secretary may disclose the name and address of any individual described in subparagraph (C) to an entity described in subparagraph (B) in order to facilitate the determination by such entity whether the individual is, or after death will be, a suitable organ, tissue, or eye donor if— Regulations.

"(i) the individual is near death (as determined by the Secretary) or is deceased; and

"(ii) the disclosure is permitted under regulations promulgated pursuant to section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

"(B) An entity described in this subparagraph is—

"(i) an organ procurement organization, including eye and tissue banks; or

"(ii) an entity that the Secretary has determined—

"(I) is substantially similar in function, professionalism, and reliability to an organ procurement organization; and

"(II) should be treated for purposes of this subsection in the same manner as an organ procurement organization.

"(C) An individual described in this subparagraph is—

"(i) a veteran; or

"(ii) a dependent of veteran.

"(2) In this subsection, the term 'organ procurement organization' has the meaning given the term 'qualified organ procurement organization' in section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)).".

(b) DISCLOSURES FROM CERTAIN MEDICAL RECORDS.—Section 7332(b)(2) is amended by adding at the end the following new subparagraph:

"(E) To an entity described in paragraph (1)(B) of section 5701(k) of this title, but only to the extent authorized by such section.".

(c) DEADLINE FOR PRESCRIBING REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations under subsection (k) of section 5701 of title 38, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act. 38 USC 5701 note.

**SEC. 205. EXPANSION OF TELEHEALTH SERVICES.** 38 USC 1712A note.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall increase the number of facilities of the Readjustment Counseling Service that are capable of providing health services and counseling

through telehealth linkages with facilities of the Veterans Health Administration.

Deadline.

(b) PLAN.—Not later than July 1, 2007, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a plan to implement the requirement in subsection (a). The plan shall specify which facilities of the Readjustment Counseling Service will have the capabilities described in subsection (a) as of the end of each of fiscal years 2007, 2008, and 2009.

**SEC. 206. STRATEGIC PLAN FOR LONG-TERM CARE.**

Deadline.

(a) PUBLICATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall publish a strategic plan for the provision of long-term care by the Department of Veterans Affairs.

(b) POLICIES AND STRATEGIES.—The plan published under subsection (a) shall contain policies and strategies for—

(1) the delivery of care in domiciliaries, residential treatment facilities, and nursing homes and for seriously mentally ill veterans;

(2) maximizing the use of State veterans homes;

(3) locating domiciliary units as close to patient populations as feasible; and

(4) identifying freestanding nursing homes as an acceptable care model.

(c) DATA.—The plan published under subsection (a) shall include data on—

(1) the provision of care of catastrophically disabled veterans; and

(2) the geographic distribution of catastrophically disabled veterans.

(d) NONINSTITUTIONAL LONG-TERM CARE OPTIONS.—The plan published under subsection (a) shall address the spectrum of non-institutional long-term care options, including each of the following:

(1) Respite care.

(2) Home-based primary care.

(3) Geriatric evaluation.

(4) Adult day health care.

(5) Skilled home health care.

(6) Community residential care.

(e) ADDITIONAL MATTERS TO BE INCLUDED.—The plan published under subsection (a) shall provide—

(1) cost and quality comparison analyses of all the different levels of long-term care for veterans;

(2) detailed information about geographic distribution of services and gaps in care; and

(3) specific plans for working with Medicare, Medicaid, and private insurance companies to expand the availability of such care.

38 USC 3104 note.

**SEC. 207. BLIND REHABILITATION OUTPATIENT SPECIALISTS.**

(a) FINDINGS.—Congress makes the following findings:

(1) There are approximately 135,000 blind veterans throughout the United States, including approximately 35,000 who are enrolled with the Department of Veterans Affairs. An aging veteran population and injuries incurred in Operation Iraqi Freedom and Operation Enduring Freedom are increasing the number of blind veterans.

(2) Since 1996, when the Department of Veterans Affairs hired its first 14 blind rehabilitation outpatient specialists (referred to in this section as "Specialists"), Specialists have been a critical part of the continuum of care for blind and visually impaired veterans.

(3) The Department of Veterans Affairs operates 10 residential blind rehabilitation centers that are considered among the best in the world. These centers have had long waiting lists, with as many as 1,500 blind veterans waiting for openings in 2004.

(4) Specialists provide—

(A) critically needed services to veterans who are unable to attend residential centers or are waiting to enter a residential center program;

(B) a range of services for blind veterans, including training with living skills, mobility, and adaptation of manual skills; and

(C) pre-admission screening and follow-up care for blind rehabilitation centers.

(5) There are not enough Specialist positions to meet the increased numbers and needs of blind veterans.

(b) ESTABLISHMENT OF ADDITIONAL SPECIALIST POSITIONS.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall establish an additional Specialist position at not fewer than 35 additional facilities of the Department of Veterans Affairs. Deadline.

(c) SELECTION OF FACILITIES.—In identifying the most appropriate facilities to receive a Specialist position under this section, the Secretary shall—

(1) give priority to facilities with large numbers of enrolled legally blind veterans;

(2) ensure that each facility does not have such a position; and

(3) ensure that each facility is in need of the services of a Specialist.

(d) COORDINATION.—The Secretary shall coordinate the provision of blind rehabilitation services for veterans with services for the care of the visually impaired offered by State and local agencies, especially to the extent to which such State and local agencies can provide necessary services to blind veterans in settings located closer to the residences of such veterans at similar quality and cost to the veteran.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Veterans Affairs to carry out this section $3,500,000 for each of fiscal years 2007 through 2012.

**SEC. 208. EXTENSION OF CERTAIN COMPLIANCE REPORTS.**

(a) MANAGEMENT OF HEALTH CARE.—Section 1706(b)(5)(A) is amended by striking "2004" and inserting "2008". 38 USC 1706.

(b) ADVISORY COMMITTEE ON WOMEN VETERANS.—Section 542(c)(1) is amended by striking "2004" and inserting "2008".

**SEC. 209. PARKINSON'S DISEASE RESEARCH, EDUCATION, AND CLINICAL CENTERS AND MULTIPLE SCLEROSIS CENTERS OF EXCELLENCE.**

(a) REQUIREMENT FOR ESTABLISHMENT OF CENTERS.—

(1) IN GENERAL.—Subchapter II of chapter 73 is amended by adding at the end the following new sections:

**"§ 7329. Parkinson's Disease research, education, and clinical centers**

"(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary, upon the recommendation of the Under Secretary for Health, shall designate not less than six Department health-care facilities as the locations for centers of Parkinson's Disease research, education, and clinical activities.

"(2) Subject to the availability of appropriations for such purpose, the Secretary shall establish and operate centers of Parkinson's Disease research, education, and clinical activities centers at the locations designated pursuant to paragraph (1).

"(b) CRITERIA FOR DESIGNATION OF FACILITIES.—(1) In designating Department health-care facilities for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall assure appropriate geographic distribution of such facilities.

"(2) Except as provided in paragraph (3), the Secretary shall designate as the location for a center of Parkinson's Disease research, education, and clinical activities pursuant to subsection (a)(1) each Department health-care facility that as of January 1, 2005, was operating a Parkinson's Disease research, education, and clinical center.

"(3) The Secretary may not under subsection (a) designate a facility described in paragraph (2) if (on the recommendation of the Under Secretary for Health) the Secretary determines that such facility—

"(A) does not meet the requirements of subsection (c); or

"(B) has not demonstrated—

"(i) effectiveness in carrying out the established purposes of such center; or

"(ii) the potential to carry out such purposes effectively in the reasonably foreseeable future.

"(c) REQUIREMENTS FOR DESIGNATION.—(1) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals that meet the highest competitive standards of scientific and clinical merit.

"(2) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the Secretary (upon the recommendation of the Under Secretary for Health) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

"(A) An arrangement with an accredited medical school that provides education and training in neurology and with which the Department health-care facility is affiliated under which residents receive education and training in innovative diagnosis and treatment of chronic neurodegenerative diseases and movement disorders, including Parkinson's Disease.

"(B) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts.

"(C) An advisory committee composed of veterans and appropriate health-care and research representatives of the Department health-care facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of the center during the period of the operation of such center.

"(D) The capability to conduct effectively evaluations of the activities of such center.

"(E) The capability to coordinate (as part of an integrated national system) education, clinical, and research activities within all facilities with such centers.

"(F) The capability to jointly develop a consortium of providers with interest in treating neurodegenerative diseases, including Parkinson's Disease and other movement disorders, at facilities without centers established under subsection (a) in order to ensure better access to state-of-the-art diagnosis, care, and education for neurodegenerative disorders throughout the health-care system of the Department.

"(G) The capability to develop a national repository in the health-care system of the Department for the collection of data on health services delivered to veterans seeking care for neurodegenerative diseases, including Parkinson's Disease, and other movement disorders.

"(d) PEER REVIEW PANEL.—(1) The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of centers under this section. Establishment.

"(2)(A) The membership of the panel shall consist of experts in neurodegenerative diseases, including Parkinson's Disease and other movement disorders.

"(B) Members of the panel shall serve for a period of no longer than two years, except as specified in subparagraph (C).

"(C) Of the members first appointed to the panel, one half shall be appointed for a period of three years and one half shall be appointed for a period of two years, as designated by the Under Secretary at the time of appointment.

"(3) The panel shall review each proposal submitted to the panel by the Under Secretary and shall submit its views on the relative scientific and clinical merit of each such proposal to the Under Secretary.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.

"(e) PRIORITY OF FUNDING.—Before providing funds for the operation of a center designated under subsection (a) at a Department health-care facility other than at a facility designated pursuant to subsection (b)(2), the Secretary shall ensure that each Parkinson's Disease center at a facility designated pursuant to subsection (b)(2) is receiving adequate funding to enable that center to function effectively in the areas of Parkinson's Disease research, education, and clinical activities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Under Secretary for Health shall allocate to such centers from other funds appropriated generally

for the Department medical services account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

"(g) AWARD COMPETITIONS.—Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account. Such activities shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in Parkinson's Disease and other movement disorders.

**"§ 7330. Multiple sclerosis centers of excellence**

"(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary, upon the recommendation of the Under Secretary for Health, shall designate not less than two Department health-care facilities as the locations for multiple sclerosis centers of excellence.

"(2) Subject to the availability of appropriations for such purpose, the Secretary shall establish and operate multiple sclerosis centers of excellence at the locations designated pursuant to paragraph (1).

"(b) CRITERIA FOR DESIGNATION OF FACILITIES.—(1) In designating Department health-care facilities for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall assure appropriate geographic distribution of such facilities.

"(2) Except as provided in paragraph (3), the Secretary shall designate as the location for a center pursuant to subsection (a)(1) each Department health-care facility that as of January 1, 2005, was operating a multiple sclerosis center of excellence.

"(3) The Secretary may not under subsection (a) designate a facility described in paragraph (2) if (on the recommendation of the Under Secretary for Health) the Secretary determines that such facility—

"(A) does not meet the requirements of subsection (c); or

"(B) has not demonstrated—

"(i) effectiveness in carrying out the established purposes of such center; or

"(ii) the potential to carry out such purposes effectively in the reasonably foreseeable future.

"(c) REQUIREMENTS FOR DESIGNATION.—(1) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals that meet the highest competitive standards of scientific and clinical merit.

"(2) The Secretary may not designate a Department health-care facility as a location for a center under subsection (a) unless the Secretary (upon the recommendation of the Under Secretary for Health) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

"(A) An arrangement with an accredited medical school that provides education and training in neurology and with which the Department health-care facility is affiliated under which residents receive education and training in innovative

diagnosis and treatment of autoimmune diseases affecting the central nervous system, including multiple sclerosis.

"(B) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts.

"(C) An advisory committee composed of veterans and appropriate health-care and research representatives of the Department health-care facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of the center during the period of the operation of such center.

"(D) The capability to conduct effectively evaluations of the activities of such center.

"(E) The capability to coordinate (as part of an integrated national system) education, clinical, and research activities within all facilities with such centers.

"(F) The capability to jointly develop a consortium of providers with interest in treating multiple sclerosis at facilities without such centers in order to ensure better access to state-of-the-art diagnosis, care, and education for autoimmune disease affecting the central nervous system throughout the health-care system of the Department.

"(G) The capability to develop a national repository in the health-care system of the Department for the collection of data on health services delivered to veterans seeking care for autoimmune disease affecting the central nervous system.

"(d) PEER REVIEW PANEL.—(1) The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of centers under this section. Establishment.

"(2)(A) The membership of the panel shall consist of experts in autoimmune disease affecting the central nervous system.

"(B) Members of the panel shall serve for a period of no longer than two years, except as specified in subparagraph (C).

"(C) Of the members first appointed to the panel, one half shall be appointed for a period of three years and one half shall be appointed for a period of two years, as designated by the Under Secretary at the time of appointment.

"(3) The panel shall review each proposal submitted to the panel by the Under Secretary and shall submit its views on the relative scientific and clinical merit of each such proposal to the Under Secretary.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.

"(e) PRIORITY OF FUNDING.—Before providing funds for the operation of a center designated under subsection (a) at a Department health-care facility other than at a facility designated pursuant to subsection (b)(2), the Secretary shall ensure that each multiple sclerosis center at a facility designated pursuant to subsection (b)(2) is receiving adequate funding to enable that center to function effectively in the areas of multiple sclerosis research, education, and clinical activities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Under Secretary for Health shall allocate to such centers from other funds appropriated generally

for the Department medical services account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

"(g) AWARD COMPETITIONS.—Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account. Such activities shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in multiple sclerosis and other neurodegenerative disorders.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7328 the following new items:

"7329. Parkinson's Disease research, education, and clinical centers.
"7330. Multiple sclerosis centers of excellence.".

38 USC 7329 note.

(b) EFFECTIVE DATE.—Sections 7329 and 7330 of title 38, United States Code, as added by subsection (a), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

**SEC. 210. REPEAL OF TERM OF OFFICE FOR THE UNDER SECRETARY FOR HEALTH AND THE UNDER SECRETARY FOR BENEFITS.**

(a) UNDER SECRETARY FOR HEALTH.—

38 USC 305.

(1) IN GENERAL.—Section 305 is amended by striking subsection (c).

(2) CONFORMING AMENDMENT.—Subsection (d) of such section is redesignated as subsection (c).

(b) UNDER SECRETARY FOR BENEFITS.—

(1) IN GENERAL.—Section 306 is amended by striking subsection (c).

(2) CONFORMING AMENDMENT.—Subsection (d) of such section is redesignated as subsection (c).

**SEC. 211. MODIFICATIONS TO STATE HOME AUTHORITIES.**

(a) NURSING HOME CARE AND PRESCRIPTION MEDICATIONS IN STATE HOMES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.—

(1) NURSING HOME CARE.—Subchapter V of chapter 17 is amended by adding at the end the following new section:

**"§ 1745. Nursing home care and medications for veterans with service-connected disabilities**

"(a)(1) The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2), in any case in which such care is provided to any veteran as follows:

"(A) Any veteran in need of such care for a service-connected disability.

"(B) Any veteran who—

"(i) has a service-connected disability rated at 70 percent or more; and

"(ii) is in need of such care.

"(2) The rate determined under this paragraph with respect to a State home is the lesser of—

"(A) the applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (as that term is defined in section 1720(e)(2) of this title); or

"(B) a rate not to exceed the daily cost of care, as determined by the Secretary, following a report to the Secretary by the director of the State home.

"(3) Payment by the Secretary under paragraph (1) to a State home for nursing home care provided to a veteran described in that paragraph constitutes payment in full to the State home for such care furnished to that veteran.".

(2) PROVISION OF PRESCRIPTION MEDICINES.—Such section, as so added, is further amended by adding at the end the following new subsection:

"(b) The Secretary shall furnish such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of illness or injury to any veteran as follows:

"(1) Any veteran who—

"(A) is not being provided nursing home care for which payment is payable under subsection (a); and

"(B) is in need of such drugs and medicines for a service-connected disability.

"(2) Any veteran who—

"(A) has a service-connected disability rated at 50 percent or more;

"(B) is not being provided nursing home care for which payment is payable under subsection (a); and

"(C) is in need of such drugs and medicines.".

(3) CONFORMING AMENDMENTS.—

(A) CRITERIA FOR PAYMENT.—Section 1741(a)(1) is amended by striking "The" and inserting "Except as provided in section 1745 of this title, the". 38 USC 1741.

(B) ELIGIBILITY FOR NURSING HOME CARE.—Section 1710(a)(4) is amended—

(i) by striking "and" before "the requirement in section 1710B of this title"; and

(ii) by inserting ", and the requirement in section 1745 of this title to provide nursing home care and prescription medicines to veterans with service-connected disabilities in State homes" after "a program of extended care services".

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1744 the following new item:

"1745. Nursing home care and medications for veterans with service-connected disabilities.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act. 38 USC 1710 note.

(b) IDENTIFICATION OF VETERANS IN STATE HOMES.—Such chapter is further amended—

(1) in section 1745, as added by subsection (a)(1) of this section, by adding at the end the following new subsection:

"(c) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section."; and

(2) in section 1741, by adding at the end the following new subsection:

"(f) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section.".

(c) AUTHORITY TO TREAT CERTAIN HEALTH FACILITIES AS STATE HOMES.—

(1) AUTHORITY.—Subchapter III of chapter 81 is amended by adding at the end the following new section:

**"§ 8138. Treatment of certain health facilities as State homes**

"(a) The Secretary may treat a health facility (or certain beds in a health facility) as a State home for purposes of subchapter V of chapter 17 of this title if the following requirements are met:

"(1) The facility (or certain beds in such facility) meets the standards for the provision of nursing home care that are applicable to State homes, as prescribed by the Secretary under section 8134(b) of this title, and such other standards relating to the facility (or certain beds in such facility) as the Secretary may require.

"(2) The facility (or certain beds in such facility) is licensed or certified by the appropriate State and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting State home facilities.

"(3) The State demonstrates in an application to the Secretary that, but for the treatment of a facility (or certain beds in such facility), as a State home under this subsection, a substantial number of veterans residing in the geographic area in which the facility is located who require nursing home care will not have access to such care.

"(4) The Secretary determines that the treatment of the facility (or certain beds in such facility) as a State home best meets the needs of veterans for nursing home care in the geographic area in which the facility is located.

"(5) The Secretary approves the application submitted by the State with respect to the facility (or certain beds in such facility).

"(b) The Secretary may not treat a health facility (or certain beds in a health facility) as a State home under subsection (a) if the Secretary determines that such treatment would increase the number of beds allocated to the State in excess of the limit on the number of beds provided for by regulations prescribed under section 8134(a) of this title.

"(c) The number of beds occupied by veterans in a health facility for which payment may be made under subchapter V of chapter 17 of this title by reason of subsection (a) shall not exceed—

"(1) 100 beds in the aggregate for all States; and

"(2) in the case of any State, the difference between—

"(A) the number of veterans authorized to be in beds in State homes in such State under regulations prescribed under section 8134(a) of this title; and

"(B) the number of veterans actually in beds in State homes (other than facilities or certain beds treated as State homes under subsection (a)) in such State under regulations prescribed under such section.

"(d) The number of beds in a health facility in a State that has been treated as a State home under subsection (a) shall be taken into account in determining the unmet need for beds for State homes for the State under section 8134(d)(1) of this title.

"(e) The Secretary may not treat any new health facilities (or any new certain beds in a health facility) as a State home under subsection (a) after September 30, 2009.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8137 the following new item:

"8138. Treatment of certain health facilities as State homes.".

**SEC. 212. OFFICE OF RURAL HEALTH.**

(a) IN GENERAL.—

(1) ESTABLISHMENT AND FUNCTIONS.—Chapter 73 is amended by inserting after section 7307 the following new section:

### "§ 7308. Office of Rural Health

"(a) ESTABLISHMENT.—There is established in the Department within the Office of the Under Secretary for Health an office to be known as the 'Office of Rural Health' (in this section referred to as the 'Office').

"(b) HEAD.—The Director of the Office of Rural Health shall be the head of the Office. The Director of the Office of Rural Health shall be appointed by the Under Secretary of Health from among individuals qualified to perform the duties of the position.

"(c) FUNCTIONS.—The functions of the Office are as follows:

"(1) In cooperation with the medical, rehabilitation, health services, and cooperative studies research programs in the Office of Policy and the Office of Research and Development of the Veterans Health Administration, to assist the Under Secretary for Health in conducting, coordinating, promoting, and disseminating research into issues affecting veterans living in rural areas.

"(2) To work with all personnel and offices of the Department of Veterans Affairs to develop, refine, and promulgate policies, best practices, lessons learned, and innovative and successful programs to improve care and services for veterans who reside in rural areas of the United States.

"(3) To designate in each Veterans Integrated Service Network (VISN) an individual who shall consult on and coordinate the discharge in such Network of programs and activities of the Office for veterans who reside in rural areas of the United States.

"(4) To perform such other functions and duties as the Secretary or the Under Secretary for Health considers appropriate.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7307 the following new item:

"7308. Office of Rural Health.".

(b) ASSESSMENT OF FEE-BASIS HEALTH-CARE PROGRAM.—The Director of the Office of Rural Health shall conduct an assessment of the effects of the implementation of the fee-basis health-care program of the Veterans Health Administration on the delivery of health-care services to veterans who reside in rural areas of the United States. The assessment shall be conducted in consultation with the individuals designated under subsection (c)(3) of section 7308 of title 38, United States Code, as added by subsection (a). In conducting the assessment, the Director shall—

(1) identify various mechanisms for expanding the program in order to enhance and improve health-care services for such veterans and determine the feasibility and advisability of implementing such mechanisms; and

(2) for each mechanism determined under paragraph (1) to be feasible and advisable to implement, make recommendations to the Under Secretary for Health on the implementation of such mechanism.

Deadline.

(c) PLAN TO IMPROVE ACCESS AND QUALITY OF CARE.—Not later than September 30, 2007, the Director of the Office of Rural Health shall develop a plan to improve the access and quality of care for enrolled veterans in rural areas. The plan shall include—

(1) measures for meeting the long term care needs of rural veterans; and

(2) measures for meeting the mental health needs of veterans residing in rural areas.

(d) REPORT ON COMMUNITY-BASED OUTPATIENT CLINICS AND ACCESS POINTS IDENTIFIED IN CARES MAY 2004 DECISION DOCUMENT.— Not later than March 30, 2007, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report that—

(1) identifies each of the community-based outpatient clinics and access points identified in the May 2004 Decision Document of Capital Asset Realignment for Enhanced Services (CARES) that have been opened; and

(2) identifies each of the clinics and access points identified in such report that would be opened in fiscal year 2007 or 2008 if funding were available for such purpose.

38 USC 6303 note.

**SEC. 213. OUTREACH PROGRAM TO VETERANS IN RURAL AREAS.**

(a) PROGRAM.—The Secretary of Veterans Affairs shall conduct an extensive outreach program to identify and provide information to veterans who served in the theater of operations for Operation Iraqi Freedom or Operation Enduring Freedom and who reside in rural communities in order to enroll those veterans in the health-care system of the Department of Veterans Affairs during the period when they are eligible for such enrollment.

(b) FEATURES OF PROGRAM.—In carrying out the program under subsection (a), the Secretary shall seek to work at the local level with employers, State agencies, community health centers located in rural areas, rural health clinics, and critical access hospitals located in rural areas, and units of the National Guard and other

reserve components based in rural areas, in order to increase the awareness of veterans and their families of the availability of health care provided by the Secretary and the means by which those veterans can achieve access to the health-care services provided by the Department of Veterans Affairs.

**SEC. 214. PILOT PROGRAM ON IMPROVEMENT OF CAREGIVER ASSISTANCE SERVICES.**

38 USC 1710B note.

Deadline.

(a) IN GENERAL.—Commencing not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of various mechanisms to expand and improve caregiver assistance services.

(b) DURATION OF PILOT PROGRAM.—The pilot program required by subsection (a) shall be carried out during the two-year period beginning on the date of the commencement of the pilot program.

(c) CAREGIVER ASSISTANCE SERVICES.—For purposes of this section, the term "caregiver assistance services" means services of the Department of Veterans Affairs that assist caregivers of veterans. Such services including the following:

(1) Adult-day health care services.

(2) Coordination of services needed by veterans, including services for readjustment and rehabilitation.

(3) Transportation services.

(4) Caregiver support services, including education, training, and certification of family members in caregiver activities.

(5) Home care services.

(6) Respite care.

(7) Hospice services.

(8) Any modalities of non-institutional long-term care.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Veterans Affairs $5,000,000 for each of fiscal years 2007 and 2008 to carry out the pilot program authorized by this section.

(e) ALLOCATION OF FUNDS TO FACILITIES.—The Secretary shall allocate funds appropriated pursuant to the authorization of appropriations in subsection (d) to individual medical facilities of the Department in such amounts as the Secretary determines appropriate, based upon proposals submitted by such facilities for the use of such funds for improvements to the support of the provision of caregiver assistance services. Special consideration should be given to rural facilities, including those without a long-term care facility of the Department.

(f) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the implementation of this section. The report shall include—

(1) a description and assessment of the activities carried out under the pilot program;

(2) information on the allocation of funds to facilities of the Department under subsection (e); and

(3) a description of the improvements made with funds so allocated to the support of the provision of caregiver assistance services.

38 USC 1712A note.

**SEC. 215. EXPANSION OF OUTREACH ACTIVITIES OF VET CENTERS.**

(a) ADDITIONAL OUTREACH WORKERS.—The Secretary of Veterans Affairs shall employ not fewer than 100 veterans for the purpose of providing outreach to veterans on the availability of readjustment counseling and related mental health services for veterans under section 1712A of title 38, United States Code.

(b) CONSTRUCTION WITH CURRENT OUTREACH PROGRAM.—The veterans employed under subsection (a) are in addition to any veterans employed by the Secretary for the purpose described in that subsection under the February 2004 program of the Department of Veterans Affairs to provide outreach described in that subsection.

(c) ASSIGNMENT TO VET CENTERS.—The Secretary may assign any veteran employed under subsection (a) to any center for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code, that the Secretary considers appropriate in order to meet the purpose described in that subsection.

(d) INAPPLICABILITY AND TERMINATION OF LIMITATION ON DURATION OF EMPLOYMENT.—Any limitation on the duration of employment of veterans under the program described in subsection (b) is hereby terminated and shall not apply to veterans employed under such program or under this section.

(e) EMPLOYMENT STATUS.—Veterans employed under subsection (a) shall be employed in career conditional status, which is the employment status in which veterans are employed under the program described in subsection (b).

**SEC. 216. CLARIFICATION AND ENHANCEMENT OF BEREAVEMENT COUNSELING.**

38 USC 1783.

(a) CLARIFICATION OF MEMBERS OF IMMEDIATE FAMILY ELIGIBLE FOR COUNSELING.—Subsection (b) of section 1783 is amended—

(1) by inserting "(1)" before "The Secretary"; and

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

"(2) For purposes of this subsection, the members of the immediate family of a member of the Armed Forces described in paragraph (1) include the parents of such member.".

(b) PROVISION OF COUNSELING THROUGH VET CENTERS.—Such section is further amended—

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

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

"(c) PROVISION OF COUNSELING THROUGH VET CENTERS.—Bereavement counseling may be provided under this section through the facilities and personnel of centers for the provision of readjustment counseling and related mental health services under section 1712A of this title.".

**SEC. 217. FUNDING FOR VET CENTER PROGRAM.**

There are authorized to be appropriated to the Department of Veterans Affairs for fiscal year 2007 $180,000,000 for the provision of readjustment counseling and related mental health services through centers under section 1712A of title 38, United States Code.

# TITLE III—EDUCATION MATTERS

**SEC. 301. EXPANSION OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.**

(a) EXPANSION OF ELIGIBILITY.—Section 3501(a)(1) is amended— 38 USC 3501.

(1) in the matter preceding subparagraph (A), by striking "means—" and inserting "means any of the following:";

(2) in each of subparagraphs (A) through (D), by capitalizing the first letter of the first word;

(3) in subparagraph (A)—

(A) by inserting after "a person who" the following: ", as a result of qualifying service";

(B) by striking the comma at the end of clause (i) and inserting "; or";

(C) by striking ", or" at the end of clause (ii) and inserting a period; and

(D) by striking clause (iii);

(4) in subparagraph (B) by striking the comma at the end and inserting the following: "sustained during a period of qualifying service.";

(5) in subparagraph (C)—

(A) by inserting "or child" after "the spouse"; and

(B) by striking ", or" at the end and inserting a period;

(6) in subparagraph (D)—

(A) in clause (i), by inserting before the comma the following: "sustained during a period of qualifying service"; and

(B) by striking the comma at the end and inserting a period;

(7) by inserting after subparagraph (D) the following new subparagraph:

"(E) The spouse or child of a person who—

"(i) at the time of the Secretary's determination under clause (ii), is a member of the Armed Forces who is hospitalized or receiving outpatient medical care, services, or treatment;

"(ii) the Secretary determines has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; and

"(iii) is likely to be discharged or released from such service for such disability."; and

(8) by striking "arising out of" and all that follows through the end.

(b) CONFORMING AMENDMENTS TO CHAPTER 35.—Chapter 35 is amended as follows:

(1) Section 3501(a) is amended by adding at the end the following new paragraph:

"(12) The term 'qualifying service' means service in the active military, naval, or air service after the beginning of the Spanish-American War that did not terminate under dishonorable conditions.".

(2) Section 3511 is amended—

(A) in subsection (a)(1)—

(i) by striking "Each eligible person" and inserting the following: "Each eligible person, whether made eligible by one or more of the provisions of section 3501(a)(1) of this title,";

(ii) by striking "a period" and inserting "an aggregate period"; and

(iii) by striking the second sentence;

(B) in subsection (b)—

(i) in paragraph (2)—

(I) by striking "the provisions of section 3501(a)(1)(A)(iii) or" and inserting "section"; and

(II) by striking "or" at the end;

(ii) in paragraph (3)—

(I) by striking "section 3501(a)(1)(D)" and inserting "subparagraph (D) or (E) of section 3501(a)(1)"; and

(II) by inserting "or" after the comma at the end; and

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) the parent or spouse from whom such eligibility is derived based upon subparagraph (E) of section 3501(a)(1) of this title no longer meets a requirement under clause (i), (ii), or (iii) of that subparagraph,"; and

(C) by striking subsection (c).

38 USC 3512.

(3) Section 3512 is amended—

(A) in subsection (a)—

(i) by striking "an eligible person (within the meaning of section 3501(a)(1)(A) of this title)" and inserting "an eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title"; and

(ii) in paragraph (6), by striking "the provisions of section 3501(a)(1)(A)(iii)" and inserting "a parent being listed in one of the categories referred to in section 3501(a)(1)(C)";

(B) in subsection (b)—

(i) in paragraph (1)(A)—

(I) by inserting after "section 3501(a)(1) of this title" the following: "or a person made eligible by the disability of a spouse under section 3501(a)(1)(E) of this title"; and

(II) by striking "or 3501(a)(1)(D)(ii) of this title" and inserting "3501(a)(1)(D)(ii), or 3501(a)(1)(E) of this title";

(ii) in paragraph (1)(B), by adding at the end the following new clause:

Notification.

"(iii) The date on which the Secretary notifies the member of the Armed Forces from whom eligibility is derived that the member has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service."; and

(iii) in paragraph (2)—

(I) by striking "or (D) of this title" and inserting "(D), or (E) of this title"; and

(II) by inserting "whose eligibility is based on the death or disability of a spouse or on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title" after "of this title)";

(C) in subsection (d), by striking "veteran" and inserting "person"; and

(D) in subsection (e)—

(i) by inserting "based on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title" after "of this title";

(ii) by inserting "so" after "the spouse was"; and

(iii) by striking "by the Secretary" and all that follows through "occurs".

(4) Section 3540 is amended by striking "(as defined in subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title)" and inserting "(other than a person made eligible under subparagraph (C) of such section by reason of a spouse being listed in one of the categories referred to in that subparagraph)". 38 USC 3540.

(5) Section 3563 is amended by striking "each eligible person defined in section 3501(a)(1)(A) of this title" and inserting "each eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title".

(c) OTHER CONFORMING AMENDMENTS.—Such title is further amended as follows:

(1) Section 3686(a)(1) is amended by striking "or (D)" and inserting "(D), or (E)".

(2) Section 5113(b)(3) is amended—

(A) in subparagraph (B) by striking "section 3501(a)(1)" and all that follows through the end and inserting the following: "subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title."; and

(B) in subparagraph (C)—

(i) by striking "such veteran's death" and inserting "the death of the person from whom such eligibility is derived"; and

(ii) by striking "such veteran's service-connected total disability permanent in nature" and inserting "the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service) of the person from whom such eligibility is derived".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to a payment of educational assistance for a course of education pursued after the date of the enactment of this Act. 38 USC 3501 note.

**SEC. 302. RESTORATION OF LOST ENTITLEMENT FOR INDIVIDUALS WHO DISCONTINUE A PROGRAM OF EDUCATION BECAUSE OF BEING ORDERED TO FULL-TIME NATIONAL GUARD DUTY.**

38 USC 3511.

(a) RESTORATION OF ENTITLEMENT.—Section 3511(a)(2)(B)(i) is amended by inserting after "title 10" the following: "or of being involuntarily ordered to full-time National Guard duty under section 502(f) of title 32".

38 USC 3511 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to a payment of educational assistance allowance made after September 11, 2001.

**SEC. 303. EXCEPTION FOR INSTITUTIONS OFFERING GOVERNMENT-SPONSORED NONACCREDITED COURSES TO REQUIREMENT OF REFUNDING UNUSED TUITION.**

Section 3676(c)(13) is amended by striking "prior to completion" and all that follows and inserting the following: "before completion and—

"(A) in the case of an institution (other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B)), such policy provides that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length; or

"(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy followed by accredited public educational institutions located within the same State as such institution.".

**SEC. 304. EXTENSION OF WORK-STUDY ALLOWANCE.**

Section 3485(a)(4) is amended by striking "December 27, 2006" each place it appears and inserting "June 30, 2007".

**SEC. 305. DEADLINE AND EXTENSION OF REQUIREMENT FOR REPORT ON EDUCATIONAL ASSISTANCE PROGRAM.**

(a) DEADLINE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall each submit to Congress a report containing the information specified in subsections (b) and (c) of section 3036 of title 38, United States Code.

(b) EXTENSION OF REQUIREMENT.—Subsection (d) of section 3036 of title 38, United States Code, is amended by striking "January 1, 2005" and inserting "January 1, 2011".

**SEC. 306. REPORT ON IMPROVEMENT IN ADMINISTRATION OF EDUCATIONAL ASSISTANCE BENEFITS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the administration of education benefits, including benefits under chapters 30, 31, 32, 34, 35, and 36 of title 38, United States Code, and chapters 1606 and 1607 of title 10, United

States Code. Such report shall propose methods to streamline the processes and procedures of administering such benefits.

**SEC. 307. TECHNICAL AMENDMENTS RELATING TO EDUCATION LAWS.**

Section 3485 is amended— 38 USC 3485.

(1) in subsection (a)(4)(E), by inserting "or 1607" after "chapter 1606";

(2) in subsection (b), by striking "chapter 106" and inserting "chapter 1606 or 1607"; and

(3) in subsection (e)(1)—

(A) by striking "services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section" and inserting "a qualifying work-study activity described in subsection (a)(4)"; and

(B) by striking "chapter 106" and inserting "chapter 1606 or 1607".

# TITLE IV—NATIONAL CEMETERY AND MEMORIAL AFFAIRS MATTERS

**SEC. 401. PROVISION OF GOVERNMENT MEMORIAL HEADSTONES OR MARKERS AND MEMORIAL INSCRIPTIONS FOR DECEASED DEPENDENT CHILDREN OF VETERANS WHOSE REMAINS ARE UNAVAILABLE FOR BURIAL.**

(a) PROVISION OF MEMORIAL HEADSTONES OR MARKERS.—Subsection (b) of section 2306 is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) An eligible dependent child of a veteran."; and

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

"(5) For purposes of this section, the term 'eligible dependent child' means a child—

"(A) who is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or

"(B) who is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.".

(b) ADDITION OF MEMORIAL INSCRIPTION TO HEADSTONE OR MARKER OF VETERAN.—Subsection (f) of such section is amended by inserting "or eligible dependent child" after "surviving spouse" both places it appears.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to individuals dying after the date of the enactment of this Act. 38 USC 2306 note.

**SEC. 402. PROVISION OF GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES.**

(a) EXTENSION OF AUTHORITY.—Paragraph (3) of subsection (d) of section 2306 is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) PROVISION OF HEADSTONE OR MARKER.—

(1) IN GENERAL.—Such subsection is further amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Government marker" and inserting "Government headstone or marker"; and

(ii) in the second sentence, by inserting "headstone or" before "marker" each place it appears; and

(B) in paragraph (2), by inserting "headstone or" before "marker".

(2) CONFORMING AMENDMENT.—Subsection (g)(3) of such section is amended by inserting "headstone or" before "marker".

(c) PLACEMENT OF HEADSTONE OR MARKER.—The second sentence of subsection (d)(1) of such section, as amended by subsection (b)(1)(A)(ii), is further amended by inserting before the period the following: ", or, if placement on the grave is impossible or impracticable, as close as possible to the grave within the grounds of the cemetery in which the grave is located".

(d) DELIVERY OF HEADSTONE OR MARKER.—Subsection (d)(2) of such section, as amended by subsection (b)(1)(B), is further amended by inserting before the period the following: "or to a receiving agent for delivery to the cemetery".

(e) REPEAL OF OBSOLETE REPORT REQUIREMENT.—Subsection (d) of such section is further amended by striking paragraph (4).

(f) SCOPE OF HEADSTONES AND MARKERS FURNISHED.—Subsection (d) of such section is further amended by inserting after paragraph (3) the following new paragraph (4):

"(4) The headstone or marker furnished under this subsection shall be the headstone or marker selected by the individual making the request from among all the headstones and markers made available by the Government for selection.".

**SEC. 403. ELIGIBILITY OF INDIAN TRIBAL ORGANIZATIONS FOR GRANTS FOR THE ESTABLISHMENT OF VETERANS CEMETERIES ON TRUST LANDS.**

38 USC 2408.

Section 2408 is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may make grants under this subsection to any tribal organization to assist the tribal organization in establishing, expanding, or improving veterans' cemeteries on trust land owned by, or held in trust for, the tribal organization.

"(2) Grants under this subsection shall be made in the same manner, and under the same conditions, as grants to States are made under the preceding provisions of this section.

"(3) For purposes of this subsection:

"(A) The term 'tribal organization' has the meaning given that term in section 3765(4) of this title.

"(B) The term 'trust land' has the meaning given that term in section 3765(1) of this title.".

**SEC. 404. REMOVAL OF REMAINS OF RUSSELL WAYNE WAGNER FROM ARLINGTON NATIONAL CEMETERY.**

(a) REMOVAL OF REMAINS.—The Secretary of the Army shall remove the remains of Russell Wayne Wagner from Arlington National Cemetery.

(b) NOTIFICATION OF NEXT-OF-KIN.—The Secretary of the Army shall—

(1) notify the next-of-kin of record for Russell Wayne Wagner of the impending removal of his remains; and

(2) upon removal, relinquish the remains to the next-of-kin of record for Russell Wayne Wagner or, if the next-of-

kin of record for Russell Wayne Wagner is unavailable, arrange for an appropriate disposition of the remains.

# TITLE V—HOUSING AND SMALL BUSINESS MATTERS

**SEC. 501. RESIDENTIAL COOPERATIVE HOUSING UNITS.**

(a) HOUSING BENEFITS FOR COOPERATIVE HOUSING UNITS.—Subsection (a) of section 3710 is amended by inserting after paragraph (11) the following new paragraph: 38 USC 3710.

"(12) With respect to a loan guaranteed after the date of the enactment of this paragraph and before the date that is five years after that date, to purchase stock or membership in a cooperative housing corporation for the purpose of entitling the veteran to occupy for dwelling purposes a single family residential unit in a development, project, or structure owned or leased by such corporation, in accordance with subsection (h).".

(b) CONDITIONS OF HOUSING BENEFITS FOR COOPERATIVE HOUSING UNITS.—Such section is further amended by adding at the end the following new subsection:

"(h)(1) A loan may not be guaranteed under subsection (a)(12) unless—

"(A) the development, project, or structure of the cooperative housing corporation complies with such criteria as the Secretary prescribes in regulations; and

"(B) the dwelling unit that the purchase of stock or membership in the development, project, or structure of the cooperative housing corporation entitles the purchaser to occupy is a single family residential unit.

"(2) In this subsection, the term 'cooperative housing corporation' has the meaning given such term in section 216(b)(1) of the Internal Revenue Code of 1986.

"(3) When applying the term 'value of the property' to a loan guaranteed under subsection (a)(12), such term means the appraised value of the stock or membership entitling the purchaser to the permanent occupancy of the dwelling unit in the development, project, or structure of the cooperative housing corporation.".

**SEC. 502. DEPARTMENT OF VETERANS AFFAIRS GOALS FOR PARTICIPATION BY SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS IN PROCUREMENT CONTRACTS.**

(a) GOALS.—

(1) IN GENERAL.—Subchapter II of chapter 81 is amended by adding at the end the following new section:

**"§ 8127. Small business concerns owned and controlled by veterans: contracting goals and preferences**

"(a) CONTRACTING GOALS.—(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall—

"(A) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans who are not

veterans with service-connected disabilities in accordance with paragraph (2); and

"(B) establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3).

"(2) The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary.

"(3) The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).

Review.

"(4) The Secretary shall establish a review mechanism to ensure that, in the case of a subcontract of a Department contract that is counted for purposes of meeting a goal established pursuant to this section, the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

"(b) USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled by veterans for an amount less than the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), a contracting officer of the Department may use procedures other than competitive procedures.

"(c) SOLE SOURCE CONTRACTS FOR CONTRACTS ABOVE SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if—

"(1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

"(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) but will not exceed $5,000,000; and

"(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

"(d) USE OF RESTRICTED COMPETITION.—Except as provided in subsections (b) and (c), for purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department shall award contracts on the basis of competition restricted to small business concerns owned and controlled by veterans if the contracting officer has a reasonable expectation that two or more small business concerns owned and controlled by veterans will submit offers and that the award can be made at a fair and reasonable price that offers best value to the United States.

"(e) ELIGIBILITY OF SMALL BUSINESS CONCERNS.—A small business concern may be awarded a contract under this section only if the small business concern and the veteran owner of the small business concern are listed in the database of veteran-owned businesses maintained by the Secretary under subsection (f).

"(f) DATABASE OF VETERAN-OWNED BUSINESSES.—(1) Subject to paragraphs (2) through (6), the Secretary shall maintain a database of small business concerns owned and controlled by veterans and the veteran owners of such business concerns.

"(2) To be eligible for inclusion in the database, such a veteran shall submit to the Secretary such information as the Secretary may require with respect to the small business concern or the veteran.

"(3) Information maintained in the database shall be submitted on a voluntary basis by such veterans.

"(4) In maintaining the database, the Secretary shall carry out at least the following two verification functions:

"(A) Verification that each small business concern listed in the database is owned and controlled by veterans.

"(B) In the case of a veteran who indicates a service-connected disability, verification of the service-disabled status of such veteran.

"(5) The Secretary shall make the database available to all Federal departments and agencies and shall notify each such department and agency of the availability of the database. Notification.

"(6) If the Secretary determines that the public dissemination of certain types of information maintained in the database is inappropriate, the Secretary shall take such steps as are necessary to maintain such types of information in a secure and confidential manner.

"(g) ENFORCEMENT PENALTIES FOR MISREPRESENTATION.—Any business concern that is determined by the Secretary to have misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans for purposes of this subsection shall be debarred from contracting with the Department for a reasonable period of time, as determined by the Secretary.

"(h) TREATMENT OF BUSINESSES AFTER DEATH OF VETERAN-OWNER.—(1) Subject to paragraph (3), if the death of a veteran causes a small business concern to be less than 51 percent owned by one or more veterans, the surviving spouse of such veteran who acquires ownership rights in such small business concern shall, for the period described in paragraph (2), be treated as if the surviving spouse were that veteran for the purpose of maintaining the status of the small business concern as a small business concern owned and controlled by veterans.

"(2) The period referred to in paragraph (1) is the period beginning on the date on which the veteran dies and ending on the earliest of the following dates:

"(A) The date on which the surviving spouse remarries.

"(B) The date on which the surviving spouse relinquishes an ownership interest in the small business concern.

"(C) The date that is ten years after the date of the veteran's death.

"(3) Paragraph (1) only applies to a surviving spouse of a veteran with a service-connected disability rated as 100 percent disabling or who dies as a result of a service-connected disability.

"(i) PRIORITY FOR CONTRACTING PREFERENCES.—Preferences for awarding contracts to small business concerns shall be applied in the following order of priority: Applicability.

"(1) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans with service-connected disabilities.

"(2) Contracts awarded pursuant to subsection (b), (c), or (d) to small business concerns owned and controlled by veterans that are not covered by paragraph (1).

"(3) Contracts awarded pursuant to—

"(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a)); or

"(B) section 31 of such Act (15 U.S.C. 657a).

"(4) Contracts awarded pursuant to any other small business contracting preference.

"(j) ANNUAL REPORTS.—Not later than December 31 each year, the Secretary shall submit to Congress a report on small business contracting during the fiscal year ending in such year. Each report shall include, for the fiscal year covered by such report, the following:

"(1) The percentage of the total amount of all contracts awarded by the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

"(2) The percentage of the total amount of all such contracts awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

"(3) The percentage of the total amount of all contracts awarded by each Administration of the Department during that fiscal year that were awarded to small business concerns owned and controlled by veterans.

"(4) The percentage of the total amount of all contracts awarded by each such Administration during that fiscal year that were awarded to small business concerns owned and controlled by veterans with service-connected disabilities.

"(k) DEFINITIONS.—In this section:

"(1) The term 'small business concern' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

"(2) The term 'small business concern owned and controlled by veterans' means a small business concern—

"(A)(i) not less than 51 percent of which is owned by one or more veterans or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

"(ii) the management and daily business operations of which are controlled by one or more veterans; or

"(B) not less than 51 percent of which is owned by one or more veterans with service-connected disabilities that are permanent and total who are unable to manage the daily business operations of such concern or, in the case of a publicly owned business, not less than 51 percent of the stock of which is owned by one or more such veterans.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8126 the following new item:

"8127. Small business concerns owned and controlled by veterans: contracting goals and preferences.".

(b) TRANSITION RULE.—A small business concern that is listed in any small business database maintained by the Secretary of Veterans Affairs on the date of the enactment of this Act shall be presumed to be eligible for inclusion in the database under subsection (f) of section 8127 of title 38, United States Code, as added by subsection (a), during the period beginning on the effective date of that section and ending one year after such effective date. Such a small business concern may be removed from the database during that period if it is found not to be a small business concern owned and controlled by veterans (as defined in subsection (k) of such section). 38 USC 8127 note.

(c) COMPTROLLER GENERAL STUDY AND REPORT.—

(1) STUDY REQUIRED.—During the first three fiscal years for which this section is in effect, the Comptroller General shall conduct a study on the efforts made by the Secretary of Veterans Affairs to meet the contracting goals established pursuant to section 8127 of title 38, United States Code, as added by subsection (a).

(2) INFORMATION TO CONGRESS ON STUDY.—On or before January 31 of each year during which the Comptroller General conducts the study under paragraph (1), the Comptroller General shall brief Congress on such study, placing special emphasis on any structural or organizational issues within the Department of Veterans Affairs that might act as an impediment to reaching such contracting goals.

(3) REPORT.—Not later than 180 days after the end of the three-year period during which the Comptroller General conducts the study under paragraph (1), the Comptroller General shall submit to Congress a report on the findings of such study.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act. 38 USC 8127 note.

**SEC. 503. DEPARTMENT OF VETERANS AFFAIRS CONTRACTING PRIORITY FOR VETERAN-OWNED SMALL BUSINESSES.**

(a) PRIORITY FOR VETERAN-OWNED SMALL BUSINESSES.—

(1) IN GENERAL.—Subchapter II of chapter 81, as amended by section 502 of this Act, is further amended by adding at the end the following new section:

**"§ 8128. Small business concerns owned and controlled by veterans: contracting priority**

"(a) CONTRACTING PRIORITY.—In procuring goods and services pursuant to a contracting preference under this title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference.

"(b) DEFINITION.—For purposes of this section, the term 'small business concern owned and controlled by veterans' means a small

business concern that is included in the small business database maintained by the Secretary under section 8127(f) of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as so amended, is further amended by inserting after the item relating to section 8127 the following new item:

"8128. Small business concerns owned and controlled by veterans: contracting priority.".

38 USC 8128 note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act.

# TITLE VI—EMPLOYMENT AND TRAINING MATTERS

## SEC. 601. TRAINING OF NEW DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES BY NVTI REQUIRED.

38 USC 4102A.

(a) TRAINING REQUIRED.—Section 4102A(c) is amended by adding at the end the following new paragraph:

"(8)(A) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall require the State to require each employee hired by the State who is assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter to satisfactorily complete training provided by the National Veterans' Employment and Training Services Institute during the three-year period that begins on the date on which the employee is so assigned.

"(B) For any employee described in subparagraph (A) who does not complete such training during such period, the Secretary may reduce by an appropriate amount the amount made available to the State employing that employee.

"(C) The Secretary may establish such reasonable exceptions to the completion of training otherwise required under subparagraph (A) as the Secretary considers appropriate.".

(b) SUBMISSION OF EMPLOYEE TRAINING INFORMATION REQUIRED.—Section 4102A(c)(2)(A) is amended—

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

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

"(iii) For each employee of the State who is assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter—

"(I) the date on which the employee is so assigned; and

"(II) whether the employee has satisfactorily completed such training by the National Veterans' Employment and Training Services Institute as the Secretary requires for purposes of paragraph (8).".

38 USC 4102A note.

(c) APPLICABILITY.—Paragraph (8) of section 4102A(c) of title 38, United States Code, as added by subsection (a), and clause (iii) of section 4102A(c)(2)(A) of such title, as added by subsection

(b), shall apply with respect to a State employee assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under chapter 41 of such title who is so assigned on or after January 1, 2006.

**SEC. 602. RULES FOR PART-TIME EMPLOYMENT FOR DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.**

(a) DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—Section 4103A is amended by adding at the end the following new subsection: 38 USC 4103A.

"(c) PART-TIME EMPLOYEES.—A part-time disabled veterans' outreach program specialist shall perform the functions of a disabled veterans' outreach program specialist under this section on a half-time basis.".

(b) LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—Section 4104 is amended—

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

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

"(d) PART-TIME EMPLOYEES.—A part-time local veterans' employment representative shall perform the functions of a local veterans' employment representative under this section on a half-time basis.".

(c) EFFECTIVE DATE.—Section 4103A(c) of title 38, United States Code, as added by subsection (a), and section 4104(d) of such title, as amended by subsection (b), shall apply with respect to pay periods beginning after the date that is 180 days after the date of the enactment of this Act. 38 USC 4103A note.

**SEC. 603. PERFORMANCE INCENTIVE AWARDS FOR EMPLOYMENT SERVICE OFFICES.**

(a) PROVISION OF INCENTIVES TO EMPLOYMENT SERVICE OFFICES.—Section 4112 is amended—

(1) in subsection (a)(1)(B), by inserting "and employment service offices" after "recognize eligible employees"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2)—

(i) by striking "is" and inserting "in the case of such an award made to an eligible employee, shall be"; and

(ii) by striking the period at the end and inserting the following: "; and"; and

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

"(3) in the case of such an award made to an employment service office, may be used by that employment service office for any purpose.".

(b) CONFORMING AMENDMENT.—The heading for subsection (c) of such section is amended to read as follows: "ADMINISTRATION AND USE OF AWARDS.—".

**SEC. 604. DEMONSTRATION PROJECT ON CREDENTIALING AND LICENSURE OF VETERANS.**

(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Chapter 41 is amended by adding at the end the following new section:

**"§ 4114. Credentialing and licensure of veterans: demonstration project**

"(a) DEMONSTRATION PROJECT AUTHORIZED.—The Assistant Secretary for Veterans' Employment and Training may carry out a demonstration project on credentialing in accordance with this section for the purpose of facilitating the seamless transition of members of the Armed Forces from service on active duty to civilian employment.

"(b) IDENTIFICATION OF MILITARY OCCUPATIONAL SPECIALTIES AND ASSOCIATED CREDENTIALS AND LICENSES.—(1) The Assistant Secretary shall select not less than 10 military occupational specialties for purposes of the demonstration project. Each specialty so selected by the Assistant Secretary shall require a skill or set of skills that is required for civilian employment in an industry with high growth or high worker demand.

"(2) The Assistant Secretary shall consult with appropriate Federal, State, and industry officials to identify requirements for credentials, certifications, and licenses that require a skill or set of skills required by a military occupational specialty selected under paragraph (1).

"(3) The Assistant Secretary shall analyze the requirements identified under paragraph (2) to determine which requirements may be satisfied by the skills, training, or experience acquired by members of the Armed Forces with the military occupational specialties selected under paragraph (1).

"(c) ELIMINATION OF BARRIERS TO CREDENTIALING AND LICENSURE.—The Assistant Secretary shall cooperate with appropriate Federal, State, and industry officials to reduce or eliminate any barriers to providing a credential, certification, or license to a veteran who acquired any skill, training, or experience while serving as a member of the Armed Forces with a military occupational specialty selected under subsection (b)(1) that satisfies the Federal and State requirements for the credential, certification, or license.

"(d) TASK FORCE.—The Assistant Secretary may establish a task force of individuals with appropriate expertise to provide assistance to the Assistant Secretary in carrying out this section.

"(e) CONSULTATION.—In carrying out this section, the Assistant Secretary shall consult with the Secretary of Defense, the Secretary of Veterans Affairs, appropriate Federal and State officials, private-sector employers, labor organizations, and industry trade associations.

"(f) CONTRACT AUTHORITY.—For purposes of carrying out any part of the demonstration project under this section, the Assistant Secretary may enter into a contract with a public or private entity with appropriate expertise.

"(g) PERIOD OF PROJECT.—The period during which the Assistant Secretary may carry out the demonstration project under this section shall be the period beginning on the date that is 60 days after the date of the enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006 and ending on September 30, 2009.

"(h) FUNDING.—The Assistant Secretary may carry out the demonstration project under this section utilizing unobligated funds that are appropriated in accordance with the authorization set forth in section 4106 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4114. Credentialing and licensure of veterans: demonstration project.".

(b) MEMBERSHIP OF ADVISORY COMMITTEE ON VETERANS EMPLOYMENT, TRAINING, AND EMPLOYER OUTREACH.—Section 4110(c)(1)(A) is amended— 38 USC 4110.

(1) by striking "Six" and inserting "Seven"; and

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

"(vii) The National Governors Association.".

**SEC. 605. DEPARTMENT OF LABOR IMPLEMENTATION OF REGULATIONS FOR PRIORITY OF SERVICE.** Deadline. 38 USC 4215 note.

Not later than two years after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations to implement section 4215 of title 38, United States Code.

# TITLE VII—HOMELESS VETERANS ASSISTANCE

**SEC. 701. REAFFIRMATION OF NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS.** 38 USC 2001 note.

(a) REAFFIRMATION.—Congress reaffirms the national goal to end chronic homelessness among veterans within a decade of the enactment of the Homeless Veterans Comprehensive Assistance Act of 2001 (Public Law 107–95; 115 Stat. 903).

(b) REAFFIRMATION OF ENCOURAGEMENT OF COOPERATIVE EFFORTS.—Congress reaffirms its encouragement, as specified in the Homeless Veterans Comprehensive Assistance Act of 2001 (Public Law 107–95; 115 Stat. 903), that all departments and agencies of the Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, faith-based organizations, and individuals, work cooperatively to end chronic homelessness among veterans.

**SEC. 702. SENSE OF CONGRESS ON THE RESPONSE OF THE FEDERAL GOVERNMENT TO THE NEEDS OF HOMELESS VETERANS.**

It is the sense of Congress that—

(1) homelessness is a significant problem in the veterans community and veterans are disproportionately represented among the homeless population;

(2) while many effective programs assist homeless veterans to become, once again, productive and self-sufficient members of their communities and society, all the essential services, assistance, and support that homeless veterans require are not currently provided;

(3) federally funded programs for homeless veterans should be held accountable for achieving clearly defined results;

(4) Federal efforts to assist homeless veterans should include prevention of homelessness;

(5) Federal efforts regarding homeless veterans should be particularly vigorous where women veterans have minor children in their care;

(6) Federal agencies, particularly the Department of Veterans Affairs, the Department of Labor, and the Department of Housing and Urban Development, should cooperate more fully to address the problem of homelessness among veterans; and

(7) the programs reauthorized by this title provide important housing and services to homeless veterans.

**SEC. 703. AUTHORITY TO MAKE GRANTS FOR COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.**

38 USC 2011.

(a) PERMANENT AUTHORITY.—Section 2011(a) is amended—

(1) by striking paragraph (2); and

(2) in paragraph (1)—

(A) by striking "(1)"; and

(B) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(b) AUTHORIZATION OF APPROPRIATIONS.—The text of section 2013 is amended to read as follows: "There is authorized to be appropriated to carry out this subchapter $130,000,000 for fiscal year 2007 and each fiscal year thereafter.".

**SEC. 704. EXTENSION OF TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.**

(a) EXTENSION OF AUTHORITY FOR GENERAL TREATMENT.—Section 2031(b) is amended by striking "December 31, 2006" and inserting "December 31, 2011".

(b) EXTENSION OF AUTHORITY FOR ADDITIONAL SERVICES.—Section 2033(d) is amended by striking "December 31, 2006" and inserting "December 31, 2011".

**SEC. 705. EXTENSION OF AUTHORITY FOR TRANSFER OF PROPERTIES OBTAINED THROUGH FORECLOSURE OF HOME MORTGAGES.**

Section 2041(c) is amended by striking "December 31, 2008" and inserting "December 31, 2011".

**SEC. 706. EXTENSION OF FUNDING FOR GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.**

Section 2061(c)(1) is amended—

(1) by striking "Medical Care" and inserting "Medical Services"; and

(2) by striking "fiscal years 2003, 2004, and 2005" and inserting "fiscal years 2007 through 2011".

**SEC. 707. EXTENSION OF FUNDING FOR HOMELESS VETERAN SERVICE PROVIDER TECHNICAL ASSISTANCE PROGRAM.**

Subsection (b) of section 2064 is amended to read as follows: "(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 2007 through 2012 to carry out the program under this section.".

**SEC. 708. ADDITIONAL ELEMENT IN ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.**

Section 2065(b) is amended—

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

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) Information on the efforts of the Secretary to coordinate the delivery of housing and services to homeless veterans with other Federal departments and agencies, including—

"(A) the Department of Defense;

"(B) the Department of Health and Human Services;

"(C) the Department of Housing and Urban Development;

"(D) the Department of Justice;

"(E) the Department of Labor;

"(F) the Interagency Council on Homelessness;

"(G) the Social Security Administration; and

"(H) any other Federal department or agency with which the Secretary coordinates the delivery of housing and services to homeless veterans.".

**SEC. 709. ADVISORY COMMITTEE ON HOMELESS VETERANS.**

(a) ADDITIONAL EX OFFICIO MEMBERS.—Subsection (a)(3) of section 2066 is amended by adding at the end the following new subparagraphs: 38 USC 2066.

"(E) The Executive Director of the Interagency Council on Homelessness (or a representative of the Executive Director).

"(F) The Under Secretary for Health (or a representative of the Under Secretary after consultation with the Director of the Office of Homeless Veterans Programs).

"(G) The Under Secretary for Benefits (or a representative of the Under Secretary after consultation with the Director of the Office of Homeless Veterans Programs).".

(b) EXTENSION.—Subsection (d) of such section is amended by striking "December 31, 2006" and inserting "December 30, 2011".

**SEC. 710. RENTAL ASSISTANCE VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.**

Section (8)(o)(19)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(19)(B)) is amended to read as follows:

"(B) AMOUNT.—The amount specified in this subparagraph is—

"(i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

"(ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

"(iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

"(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

"(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.".

# TITLE VIII—CONSTRUCTION MATTERS

## Subtitle A—Construction and Lease Authorities

### SEC. 801. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2006, with each project to be carried out in the amount specified for that project:

(1) Restoration, new construction or replacement of the medical center facility for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana, due to damage from Hurricane Katrina in an amount not to exceed $300,000,000. The Secretary is authorized to carry out the project in or near New Orleans as a collaborative effort consistent with the New Orleans Collaborative Opportunities Study Group Report dated June 12, 2006.

(2) Restoration of the Department of Veterans Affairs Medical Center, Biloxi, Mississippi, and consolidation of services performed at the Department of Veterans Affairs Medical Center, Gulfport, Mississippi, in an amount not to exceed $310,000,000.

(3) Replacement of the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $98,000,000.

(b) REPORT ON REPLACEMENT OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, DENVER, COLORADO.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report identifying and outlining the various options available to the Department of Veterans Affairs for replacing the current Department of Veterans Affairs Medical Center, Denver, Colorado. The report shall include the following:

(1) The feasibility of entering into a partnership with a Federal, State, or local governmental agency, or a suitable non-profit organization, for the construction and operation of a new facility.

(2) The medical, legal, and financial implications of each of the options identified, including recommendations regarding any statutory changes necessary for the Department of Veterans Affairs to carry out any of the options identified.

(3) A detailed cost-benefit analysis of each of the options identified.

(4) Estimates regarding the length of time and associated costs needed to complete such a facility under each of the options identified.

**SEC. 802. EXTENSION OF AUTHORIZATION FOR CERTAIN MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS PREVIOUSLY AUTHORIZED IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE.**

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each such project to be carried out in the amount specified for that project:

(1) Construction of an outpatient clinic and regional office at the Department of Veterans Affairs Medical Center, Anchorage, Alaska, in an amount not to exceed $75,270,000.

(2) Consolidation of clinical and administrative functions of the Department of Veterans Affairs Medical Center, Cleveland, Ohio, and the Department of Veterans Affairs Medical Center in Brecksville, Ohio, in an amount not to exceed $102,300,000.

(3) Construction of the Extended Care Building at the Department of Veterans Affairs Medical Center, Des Moines, Iowa, in an amount not to exceed $25,000,000.

(4) Renovation of patient wards at the Department of Veterans Affairs Medical Center, Durham, North Carolina, in an amount not to exceed $9,100,000.

(5) Correction of patient privacy deficiencies at the Department of Veterans Affairs Medical Center, Gainesville, Florida, in an amount not to exceed $85,200,000.

(6) 7th and 8th floor wards modernization addition at the Department of Veterans Affairs Medical Center, Indianapolis, Indiana, in an amount not to exceed $27,400,000.

(7) Construction of a new Medical Center Facility at the Department of Veterans Affairs Medical Center, Las Vegas, Nevada, in an amount not to exceed $406,000,000.

(8) Construction of an ambulatory surgery/outpatient diagnostic support center in the Gulf South Submarket of Veterans Integrated Service Network (VISN) 8 and completion of Phase I land purchase, Lee County, Florida, in an amount not to exceed $65,100,000.

(9) Seismic corrections, Buildings 7 and 126 at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed $107,845,000.

(10) Seismic Corrections, Buildings 500 and 501 at the Department of Veterans Affairs Medical Center, Los Angeles, California, in an amount not to exceed $79,900,000.

(11) Construction of a new medical center facility in the Orlando, Florida, area in an amount not to exceed $377,700,000.

(12) Consolidation of campuses at the University Drive and H. John Heinz III divisions, Pittsburgh, Pennsylvania, in an amount not to exceed $189,205,000.

(13) Ward upgrades and expansion at the Department of Veterans Affairs Medical Center, San Antonio, Texas, in an amount not to exceed $19,100,000.

(14) Construction of a spinal cord injury center at the Department of Veterans Affairs Medical Center, Syracuse, New York, in an amount not to exceed $77,700,000.

(15) Upgrade essential electrical distribution systems at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $49,000,000.

(16) Expansion of the spinal cord injury center addition at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $7,100,000.

(17) Blind Rehabilitation and Psychiatric Bed renovation and new construction project at the Department of Veterans Affairs Medical Center, Temple, Texas, in an amount not to exceed $56,000,000.

**SEC. 803. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS.**

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2007 in the amount specified for each project:

(1) Seismic Corrections, Nursing Home Care Unit and Dietetics at the Department of Veterans Affairs Medical Center, American Lake, Washington, in an amount not to exceed $38,220,000.

(2) Replacement of Operating Suite at the Department of Veterans Affairs Medical Center, Columbia, Missouri, in an amount not to exceed $25,830,000.

(3) Construction of a new clinical addition at the Department of Veterans Affairs Medical Center, Fayetteville, Arkansas, in an amount not to exceed $56,163,000.

(4) Construction of Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Milwaukee, Wisconsin, in an amount not to exceed $32,500,000.

(5) Medical facility improvements and cemetery expansion of Jefferson Barracks at the Department of Veterans Affairs Medical Center, St. Louis, Missouri, in an amount not to exceed $69,053,000.

**SEC. 804. AUTHORIZATION OF ADVANCE PLANNING AND DESIGN FOR A MAJOR MEDICAL FACILITY, CHARLESTON, SOUTH CAROLINA.**

(a) AGREEMENT AUTHORIZED.—The Secretary of Veterans Affairs may enter into an agreement with the Medical University of South Carolina to design, and plan for the operation of, a co-located joint-use medical facility in Charleston, South Carolina, to replace the Ralph H. Johnson Department of Veterans Affairs Medical Center, Charleston, South Carolina.

(b) COST LIMITATION.—Advance planning and design for a co-located, joint-use medical facility in Charleston, South Carolina, under subsection (a) shall be carried out in an amount not to exceed $36,800,000.

(c) LIMITATION ON NAMING.—A joint-use medical facility referred to in subsection (a) may not be named by the Secretary of Veterans Affairs or any other entity after any living Member or former Member of the Senate or House of Representatives.

**SEC. 805. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY LEASES.**

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2006 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient clinic, Baltimore, Maryland, $10,908,000.

(2) For an outpatient clinic, Evansville, Indiana, $8,989,000.

(3) For an outpatient clinic, Smith County, Texas, $5,093,000.

**SEC. 806. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY LEASES.**

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2007 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient and specialty care clinic, Austin, Texas, $6,163,000.

(2) For an outpatient clinic, Lowell, Massachusetts, $2,520,000.

(3) For an outpatient clinic, Grand Rapids, Michigan, $4,409,000.

(4) For up to four outpatient clinics, Las Vegas, Nevada, $8,518,000.

(5) For an outpatient clinic, Parma, Ohio, $5,032,000.

**SEC. 807. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2006 for the Construction, Major Projects, account, $708,000,000 for the projects authorized in section 801(a).

(b) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY PROJECTS UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, $1,758,920,000 for the projects whose authorization is extended by section 802.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until September 30, 2009.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, $221,766,000 for the projects authorized in section 803.

(d) AUTHORIZATION OF APPROPRIATIONS FOR ADVANCE PLANNING AND DESIGN FOR MAJOR MEDICAL FACILITY, CHARLESTON, SOUTH CAROLINA.—There is authorized to be appropriated to the Secretary of Veterans Affairs for the Construction, Major Projects, account, $36,800,000 for the advance planning and design authorized in section 804.

(e) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY LEASES.—

(1) FISCAL YEAR 2006 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2006 for the Medical Care account, $24,990,000 for the leases authorized in section 805.

(2) FISCAL YEAR 2007 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal

year 2007 for the Medical Care account, $26,642,000 for the leases authorized in section 806.

(f) LIMITATION.—The projects authorized in sections 801(a) and 802 may only be carried out using—

(1) funds appropriated for fiscal year 2006 or 2007 pursuant to the authorization of appropriations in subsections (a), (b), and (c) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2006 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2006 or 2007 that are available for obligation; and

(4) funds appropriated for Construction, Major Projects, for fiscal year 2006 or 2007 for a category of activity not specific to a project.

# Subtitle B—Facilities Administration

**SEC. 811. DIRECTOR OF CONSTRUCTION AND FACILITIES MANAGEMENT.**

(a) ESTABLISHMENT OF POSITION.—Chapter 3 is amended by inserting after section 312 the following new section:

**"§ 312A. Director of Construction and Facilities Management**

"(a) IN GENERAL.—(1) There is in the Department a Director of Construction and Facilities Management, who shall be appointed by the Secretary.

"(2) The position of Director of Construction and Facilities Management is a career reserved position, as such term is defined in section 3132(a)(8) of title 5.

"(3) The Director shall provide direct support to the Secretary in matters covered by the responsibilities of the Director under subsection (c).

"(4) The Director shall report to the Deputy Secretary in the discharge of the responsibilities of the Director under subsection (c).

"(b) QUALIFICATIONS.—Each individual appointed as Director of Construction and Facilities Management shall be an individual who—

"(1) holds an undergraduate or master's degree in architectural design or engineering; and

"(2) has substantive professional experience in the area of construction project management.

"(c) RESPONSIBILITIES.—(1) The Director of Construction and Facilities Management shall—

"(A) be responsible for overseeing and managing the planning, design, construction, and operation of facilities and infrastructure of the Department, including major and minor construction projects; and

"(B) perform such other functions as the Secretary shall prescribe.

"(2) In carrying out the oversight and management of construction and operation of facilities and infrastructure under this section, the Director shall be responsible for the following:

"(A) Development and updating of short-range and long-range strategic capital investment strategies and plans of the Department.

"(B) Planning, design, and construction of facilities for the Department, including determining architectural and engineering requirements and ensuring compliance of the Department with applicable laws relating to the construction program of the Department.

"(C) Management of the short-term and long-term leasing of real property by the Department.

"(D) Repair and maintenance of facilities of the Department, including custodial services, building management and administration, and maintenance of roads, grounds, and infrastructure.

"(E) Management of procurement and acquisition processes relating to the construction and operation of facilities of the Department, including the award of contracts related to design, construction, furnishing, and supplies and equipment.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Director of Construction and Facilities Management.".

**SEC. 812. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY PROJECTS.**

Section 8104(a)(3)(A) is amended by striking "$7,000,000" and inserting "$10,000,000". 38 USC 8104.

**SEC. 813. LAND CONVEYANCE, CITY OF FORT THOMAS, KENTUCKY.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of Veterans Affairs may convey to the city of Fort Thomas, Kentucky (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including the 15 structures located thereon, consisting of approximately 11.75 acres that is managed by the Department of Veterans Affairs and located in the northeastern portion of Tower Park in Fort Thomas, Kentucky. Any such conveyance shall be subject to valid existing rights, easements, and rights-of-way.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the conveyed real property, as determined by the Secretary.

(c) TREATMENT OF CONSIDERATION.—The consideration received under subsection (b) shall be deposited, at the discretion of the Secretary, in the "Medical Facilities" account or the "Construction, Minor Projects" account (or a combination of those accounts) and shall be available to the Secretary, without limitation and until expended—

(1) to cover costs incurred by the Secretary associated with the environmental remediation of the real property before conveyance under subsection (a); and

(2) with any funds remaining after the Secretary has covered costs as required under paragraph (1), for acquisition of a site for use as a parking facility, or contract (by lease or otherwise) for the operation of a parking facility, to be

used in connection with the Department of Veterans Affairs Medical Facility, Cincinnati, Ohio.

(d) RELEASE FROM LIABILITY.—Effective on the date of the conveyance under subsection (a), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the conveyed real property, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers necessary to protect the interests of the United States.

# Subtitle C—Reports on Medical Facility Improvements

### SEC. 821. REPORT ON OPTION FOR MEDICAL FACILITY IMPROVEMENTS IN SAN JUAN, PUERTO RICO.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report identifying and outlining the various options available to the Department of Veterans Affairs for replacing the current Department of Veterans Affairs Medical Center, San Juan, Puerto Rico. The report shall not affect current contracts at the current site, and the report shall include the following:

(1) The feasibility of entering into a partnership with a Federal, Commonwealth, or local governmental agency, or a suitable non-profit organization, for the construction and operation of a new facility.

(2) The medical, legal, and financial implications of each of the options identified, including recommendations regarding any statutory changes necessary for the Department to carry out any of the options identified.

(3) A detailed cost-benefit analysis of each of the options identified.

(4) Estimates regarding the length of time and associated costs needed to complete such a facility under each of the options identified.

**SEC. 822. BUSINESS PLANS FOR ENHANCED ACCESS TO OUTPATIENT CARE IN CERTAIN RURAL AREAS.**

(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a business plan for enhanced access to outpatient care (as described in subsection (b)) for primary care, mental health care, and specialty care in each of the following areas:

(1) The Lewiston-Auburn area of Maine.

(2) The area of Houlton, Maine.

(3) The area of Dover-Foxcroft, Maine.

(4) Whiteside County, Illinois.

(b) MEANS OF ENHANCED ACCESS.—The means of enhanced access to outpatient care to be covered by the business plans under subsection (a) are, with respect to each area specified in that subsection, one or more of the following:

(1) New sites of care.

(2) Expansions at existing sites of care.

(3) Use of existing authority and policies to contract for care where necessary.

(4) Increased use of telemedicine.

**SEC. 823. REPORT ON OPTION FOR CONSTRUCTION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN OKALOOSA COUNTY, FLORIDA.**

(a) FEASIBILITY STUDY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs and the Committee on Armed Services of the Senate of the Senate and the Committee on Veterans' Affairs and the Committee on Armed Services of the House of Representatives of the House of Representatives a report identifying and outlining the various options available to the Department of Veterans Affairs for the placement of a Department of Veterans Affairs Medical Center in Okaloosa County, Florida. The report shall be prepared in conjunction with the Secretary of Defense and the Secretary of the Air Force.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) The feasibility of entering into a partnership with Eglin Air Force Base for the construction and operation of a new, joint Department of Veterans Affairs-Department of Defense facility.

(2) The medical, legal, and financial implications of each of the options identified, including recommendations regarding any statutory changes necessary for the Department of Veterans Affairs to carry out any of the options identified.

(3) A detailed cost-benefit analysis of each of the options identified.

(4) Estimates regarding the length of time and associated costs needed to complete such a facility under each of the options identified.

Department of Veterans Affairs Information Security Enhancement Act of 2006. 38 USC 101 note.

# TITLE IX—INFORMATION SECURITY MATTERS

**SEC. 901. SHORT TITLE.**

This title may be cited as the "Department of Veterans Affairs Information Security Enhancement Act of 2006".

**SEC. 902. DEPARTMENT OF VETERANS AFFAIRS INFORMATION SECURITY PROGRAMS AND REQUIREMENTS.**

(a) INFORMATION SECURITY PROGRAMS AND REQUIREMENTS.—Chapter 57 is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—INFORMATION SECURITY

**"§ 5721. Purpose**

"The purpose of the Information Security Program is to establish a program to provide security for Department information and information systems commensurate to the risk of harm, and to communicate the responsibilities of the Secretary, Under Secretaries, Assistant Secretaries, other key officials, Assistant Secretary for Information and Technology, Associate Deputy Assistant Secretary for Cyber and Information Security, and Inspector General of the Department of Veterans Affairs as outlined in the provisions of subchapter III of chapter 35 of title 44 (also known as the 'Federal Information Security Management Act of 2002', which was enacted as part of the E-Government Act of 2002 (Public Law 107–347)).

**"§ 5722. Policy**

"(a) IN GENERAL.—The security of Department information and information systems is vital to the success of the mission of the Department. To that end, the Secretary shall establish and maintain a comprehensive Department-wide information security program to provide for the development and maintenance of cost-effective security controls needed to protect Department information, in any media or format, and Department information systems.

"(b) ELEMENTS.—The Secretary shall ensure that the Department information security program includes the following elements:

"(1) Periodic assessments of the risk and magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the Department.

"(2) Policies and procedures that—

"(A) are based on risk assessments;

"(B) cost-effectively reduce security risks to an acceptable level; and

"(C) ensure that information security is addressed throughout the life cycle of each Department information system.

"(3) Selection and effective implementation of minimum, mandatory technical, operational, and management security controls, or other compensating countermeasures, to protect the confidentiality, integrity, and availability of each Department system and its information.

"(4) Subordinate plans for providing adequate security for networks, facilities, systems, or groups of information systems, as appropriate.

"(5) Annual security awareness training for all Department employees, contractors, and all other users of VA sensitive data and Department information systems that identifies the information security risks associated with the activities of such employees, contractors, and users and the responsibilities of such employees, contractors, and users to comply with Department policies and procedures designed to reduce such risks.

"(6) Periodic testing and evaluation of the effectiveness of security controls based on risk, including triennial certification testing of all management, operational, and technical controls, and annual testing of a subset of those controls for each Department system.

"(7) A process for planning, developing, implementing, evaluating, and documenting remedial actions to address deficiencies in information security policies, procedures, and practices.

"(8) Procedures for detecting, immediately reporting, and responding to security incidents, including mitigating risks before substantial damage is done as well as notifying and consulting with the US-Computer Emergency Readiness Team of the Department of Homeland Security, law enforcement agencies, the Inspector General of the Department, and other offices as appropriate.

"(9) Plans and procedures to ensure continuity of operations for Department systems.

"(c) COMPLIANCE WITH CERTAIN REQUIREMENTS.—The Secretary shall comply with the provisions of subchapter III of chapter 35 of title 44 and other related information security requirements promulgated by the National Institute of Standards and Technology and the Office of Management and Budget that define Department information system mandates.

**"§ 5723. Responsibilities**

"(a) SECRETARY OF VETERANS AFFAIRS.—In accordance with the provisions of subchapter III of chapter 35 of title 44, the Secretary is responsible for the following:

"(1) Ensuring that the Department adopts a Department-wide information security program and otherwise complies with the provisions of subchapter III of chapter 35 of title 44 and other related information security requirements.

"(2) Ensuring that information security protections are commensurate with the risk and magnitude of the potential harm to Department information and information systems resulting from unauthorized access, use, disclosure, disruption, modification, or destruction.

"(3) Ensuring that information security management processes are integrated with Department strategic and operational planning processes.

"(4) Ensuring that the Under Secretaries, Assistant Secretaries, and other key officials of the Department provide adequate security for the information and information systems under their control.

"(5) Ensuring enforcement and compliance with the requirements imposed on the Department under the provisions of subchapter III of chapter 35 of title 44.

"(6) Ensuring that the Department has trained program and staff office personnel sufficient to assist in complying with all the provisions of subchapter III of chapter 35 of title 44 and other related information security requirements.

"(7) Ensuring that the Assistant Secretary for Information and Technology, in coordination with the Under Secretaries, Assistant Secretaries, and other key officials of the Department report to Congress, the Office of Management and Budget, and other entities as required by law and Executive Branch direction on the effectiveness of the Department information security program, including remedial actions.

Notification.

"(8) Notifying officials other than officials of the Department of data breaches when required under this subchapter.

"(9) Ensuring that the Assistant Secretary for Information and Technology has the authority and control necessary to develop, approve, implement, integrate, and oversee the policies, procedures, processes, activities, and systems of the Department relating to subchapter III of chapter 35 of title 44, including the management of all related mission applications, information resources, personnel, and infrastructure.

Deadline.
Reports.

"(10) Submitting to the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, not later than March 1 each year, a report on the compliance of the Department with subchapter III of chapter 35 of title 44, with the information in such report displayed in the aggregate and separately for each Administration, office, and facility of the Department.

"(11) Taking appropriate action to ensure that the budget for any fiscal year, as submitted by the President to Congress under section 1105 of title 31, sets forth separately the amounts required in the budget for such fiscal year for compliance by the Department with Federal law and regulations governing information security, including this subchapter and subchapter III of chapter 35 of title 44.

Notification.

"(12) Providing notice to the Director of the Office of Management and Budget, the Inspector General of the Department, and such other Federal agencies as the Secretary considers appropriate of a presumptive data breach of which notice is provided the Secretary under subsection (b)(16) if, in the opinion of the Assistant Secretary for Information and Technology, the breach involves the information of twenty or more individuals.

"(b) ASSISTANT SECRETARY FOR INFORMATION AND TECHNOLOGY.—The Assistant Secretary for Information and Technology,

as the Chief Information Officer of the Department, is responsible for the following:

"(1) Establishing, maintaining, and monitoring Department-wide information security policies, procedures, control techniques, training, and inspection requirements as elements of the Department information security program.

"(2) Issuing policies and handbooks to provide direction for implementing the elements of the information security program to all Department organizations.

"(3) Approving all policies and procedures that are related to information security for those areas of responsibility that are currently under the management and the oversight of other Department organizations.

"(4) Ordering and enforcing Department-wide compliance with and execution of any information security policy.

"(5) Establishing minimum mandatory technical, operational, and management information security control requirements for each Department system, consistent with risk, the processes identified in standards of the National Institute of Standards and Technology, and the responsibilities of the Assistant Secretary to operate and maintain all Department systems currently creating, processing, collecting, or disseminating data on behalf of Department information owners.

"(6) Establishing standards for access to Department information systems by organizations and individual employees, and to deny access as appropriate.

"(7) Directing that any incidents of failure to comply with established information security policies be immediately reported to the Assistant Secretary.

"(8) Reporting any compliance failure or policy violation directly to the appropriate Under Secretary, Assistant Secretary, or other key official of the Department for appropriate administrative or disciplinary action.

"(9) Reporting any compliance failure or policy violation directly to the appropriate Under Secretary, Assistant Secretary, or other key official of the Department along with taking action to correct the failure or violation.

"(10) Requiring any key official of the Department who is so notified to report to the Assistant Secretary with respect to an action to be taken in response to any compliance failure or policy violation reported by the Assistant Secretary.

"(11) Ensuring that the Chief Information Officers and Information Security Officers of the Department comply with all cyber security directives and mandates, and ensuring that these staff members have all necessary authority and means to direct full compliance with such directives and mandates relating to the acquisition, operation, maintenance, or use of information technology resources from all facility staff.

"(12) Establishing the VA National Rules of Behavior for appropriate use and protection of the information which is used to support Department missions and functions.

"(13) Establishing and providing supervision over an effective incident reporting system.

"(14) Submitting to the Secretary, at least once every quarter, a report on any deficiency in the compliance with subchapter III of chapter 35 of title 44 of the Department or any Administration, office, or facility of the Department.

Deadline.
Reports.

"(15) Reporting immediately to the Secretary on any significant deficiency in the compliance described by paragraph (14).

Notification.

"(16) Providing immediate notice to the Secretary of any presumptive data breach.

"(c) ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR CYBER AND INFORMATION SECURITY.—In accordance with the provisions of subchapter III of chapter 35 of title 44, the Associate Deputy Assistant Secretary for Cyber and Information Security, as the Senior Information Security Officer of the Department, is responsible for carrying out the responsibilities of the Assistant Secretary for Information and Technology under the provisions of subchapter III of chapter 35 of title 44, as set forth in subsection (b).

"(d) DEPARTMENT INFORMATION OWNERS.—In accordance with the criteria of the Centralized IT Management System, Department information owners are responsible for the following:

"(1) Providing assistance to the Assistant Secretary for Information and Technology regarding the security requirements and appropriate level of security controls for the information system or systems where sensitive personal information is currently created, collected, processed, disseminated, or subject to disposal.

"(2) Determining who has access to the system or systems containing sensitive personal information, including types of privileges and access rights.

"(3) Ensuring the VA National Rules of Behavior is signed on an annual basis and enforced by all system users to ensure appropriate use and protection of the information which is used to support Department missions and functions.

"(4) Assisting the Assistant Secretary for Information and Technology in the identification and assessment of the common security controls for systems where their information resides.

"(5) Providing assistance to Administration and staff office personnel involved in the development of new systems regarding the appropriate level of security controls for their information.

"(e) OTHER KEY OFFICIALS.—In accordance with the provisions of subchapter III of chapter 35 of title 44, the Under Secretaries, Assistant Secretaries, and other key officials of the Department are responsible for the following:

"(1) Implementing the policies, procedures, practices, and other countermeasures identified in the Department information security program that comprise activities that are under their day-to-day operational control or supervision.

"(2) Periodically testing and evaluating information security controls that comprise activities that are under their day-to-day operational control or supervision to ensure effective implementation.

"(3) Providing a plan of action and milestones to the Assistant Secretary for Information and Technology on at least a quarterly basis detailing the status of actions being taken to correct any security compliance failure or policy violation.

"(4) Complying with the provisions of subchapter III of chapter 35 of title 44 and other related information security laws and requirements in accordance with orders of the Assistant Secretary for Information and Technology to execute the appropriate security controls commensurate to responding to a security bulletin of the Security Operations Center of the

Department, with such orders to supersede and take priority over all operational tasks and assignments and be complied with immediately.

"(5) Ensuring that—

"(A) all employees within their organizations take immediate action to comply with orders from the Assistant Secretary for Information and Technology to—

"(i) mitigate the impact of any potential security vulnerability;

"(ii) respond to a security incident; or

"(iii) implement the provisions of a bulletin or alert of the Security Operations Center; and

"(B) organizational managers have all necessary authority and means to direct full compliance with such orders from the Assistant Secretary.

"(6) Ensuring the VA National Rules of Behavior is signed and enforced by all system users to ensure appropriate use and protection of the information which is used to support Department missions and functions on an annual basis.

"(f) USERS OF DEPARTMENT INFORMATION AND INFORMATION SYSTEMS.—Users of Department information and information systems are responsible for the following:

"(1) Complying with all Department information security program policies, procedures, and practices.

"(2) Attending security awareness training on at least an annual basis.

"(3) Reporting all security incidents immediately to the Information Security Officer of the system or facility and to their immediate supervisor.

"(4) Complying with orders from the Assistant Secretary for Information and Technology directing specific activities when a security incident occurs.

"(5) Signing an acknowledgment that they have read, understand, and agree to abide by the VA National Rules of Behavior on an annual basis.

"(g) INSPECTOR GENERAL OF DEPARTMENT OF VETERANS AFFAIRS.—In accordance with the provisions of subchapter III of chapter 35 of title 44, the Inspector General of the Department is responsible for the following:

"(1) Conducting an annual audit of the Department information security program. Audit.

"(2) Submitting an independent annual report to the Office of Management and Budget on the status of Department information security program, based on the results of the annual audit. Reports.

"(3) Conducting investigations of complaints and referrals of violations as considered appropriate by the Inspector General. Investigations.

### "§ 5724. Provision of credit protection and other services

"(a) INDEPENDENT RISK ANALYSIS.—(1) In the event of a data breach with respect to sensitive personal information that is processed or maintained by the Secretary, the Secretary shall ensure that, as soon as possible after the data breach, a non-Department entity or the Office of Inspector General of the Department conducts an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential

misuse of any sensitive personal information involved in the data breach.

"(2) If the Secretary determines, based on the findings of a risk analysis conducted under paragraph (1), that a reasonable risk exists for the potential misuse of sensitive personal information involved in a data breach, the Secretary shall provide credit protection services in accordance with the regulations prescribed by the Secretary under this section.

Deadline.

"(b) REGULATIONS.—Not later than 180 days after the date of the enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006, the Secretary shall prescribe interim regulations for the provision of the following in accordance with subsection (a)(2):

"(1) Notification.
"(2) Data mining.
"(3) Fraud alerts.
"(4) Data breach analysis.
"(5) Credit monitoring.
"(6) Identity theft insurance.
"(7) Credit protection services.

"(c) REPORT.—(1) For each data breach with respect to sensitive personal information processed or maintained by the Secretary, the Secretary shall promptly submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the findings of any independent risk analysis conducted under subsection (a)(1), any determination of the Secretary under subsection (a)(2), and a description of any services provided pursuant to subsection (b).

"(2) In the event of a data breach with respect to sensitive personal information processed or maintained by the Secretary that is the sensitive personal information of a member of the Army, Navy, Air Force, or Marine Corps or a civilian officer or employee of the Department of Defense, the Secretary shall submit the report required under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in addition to the Committees on Veterans' Affairs of the Senate and House of Representatives.

**"§ 5725. Contracts for data processing or maintenance**

"(a) CONTRACT REQUIREMENTS.—If the Secretary enters into a contract for the performance of any Department function that requires access to sensitive personal information, the Secretary shall require as a condition of the contract that—

"(1) the contractor shall not, directly or through an affiliate of the contractor, disclose such information to any other person unless the disclosure is lawful and is expressly permitted under the contract;

"(2) the contractor, or any subcontractor for a subcontract of the contract, shall promptly notify the Secretary of any data breach that occurs with respect to such information.

"(b) LIQUIDATED DAMAGES.—Each contract subject to the requirements of subsection (a) shall provide for liquidated damages to be paid by the contractor to the Secretary in the event of a data breach with respect to any sensitive personal information processed or maintained by the contractor or any subcontractor under that contract.

"(c) PROVISION OF CREDIT PROTECTION SERVICES.—Any amount collected by the Secretary under subsection (b) shall be deposited in or credited to the Department account from which the contractor was paid and shall remain available for obligation without fiscal year limitation exclusively for the purpose of providing credit protection services pursuant to section 5724(b) of this title.

**"§ 5726. Reports and notice to Congress on data breaches**

"(a) QUARTERLY REPORTS.—(1) Not later than 30 days after the last day of a fiscal quarter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on any data breach with respect to sensitive personal information processed or maintained by the Department that occurred during that quarter.

"(2) Each report submitted under paragraph (1) shall identify, for each data breach covered by the report—

"(A) the Administration and facility of the Department responsible for processing or maintaining the sensitive personal information involved in the data breach; and

"(B) the status of any remedial or corrective action with respect to the data breach.

"(b) NOTIFICATION OF SIGNIFICANT DATA BREACHES.—(1) In the event of a data breach with respect to sensitive personal information processed or maintained by the Secretary that the Secretary determines is significant, the Secretary shall provide notice of such breach to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) In the event of a data breach with respect to sensitive personal information processed or maintained by the Secretary that is the sensitive personal information of a member of the Army, Navy, Air Force, or Marine Corps or a civilian officer or employee of the Department of Defense that the Secretary determines is significant under paragraph (1), the Secretary shall provide the notice required under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in addition to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(3) Notice under paragraphs (1) and (2) shall be provided promptly following the discovery of such a data breach and the implementation of any measures necessary to determine the scope of the breach, prevent any further breach or unauthorized disclosures, and reasonably restore the integrity of the data system.

**"§ 5727. Definitions**

"In this subchapter:

"(1) AVAILABILITY.—The term 'availability' means ensuring timely and reliable access to and use of information.

"(2) CONFIDENTIALITY.—The term 'confidentiality' means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information.

"(3) CONTROL TECHNIQUES.—The term 'control techniques' means methods for guiding and controlling the operations of information systems to ensure adherence to the provisions of subchapter III of chapter 35 of title 44 and other related information security requirements.

"(4) DATA BREACH.—The term 'data breach' means the loss, theft, or other unauthorized access, other than those incidental to the scope of employment, to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data.

"(5) DATA BREACH ANALYSIS.—The term 'data breach analysis' means the process used to determine if a data breach has resulted in the misuse of sensitive personal information.

"(6) FRAUD RESOLUTION SYSTEMS.—The term 'fraud resolution services' means services to assist an individual in the process of recovering and rehabilitating the credit of the individual after the individual experiences identity theft.

"(7) IDENTITY THEFT.—The term 'identity theft' has the meaning given such term under section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).

"(8) IDENTITY THEFT INSURANCE.—The term 'identity theft insurance' means any insurance policy that pays benefits for costs, including travel costs, notary fees, and postage costs, lost wages, and legal fees and expenses associated with efforts to correct and ameliorate the effects and results of identity theft of the insured individual.

"(9) INFORMATION OWNER.—The term 'information owner' means an agency official with statutory or operational authority for specified information and responsibility for establishing the criteria for its creation, collection, processing, dissemination, or disposal, which responsibilities may extend to interconnected systems or groups of interconnected systems.

"(10) INFORMATION RESOURCES.—The term 'information resources' means information in any medium or form and its related resources, such as personnel, equipment, funds, and information technology.

"(11) INFORMATION SECURITY.—The term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality, and availability.

"(12) INFORMATION SECURITY REQUIREMENTS.—The term 'information security requirements' means information security requirements promulgated in accordance with law, or directed by the Secretary of Commerce, the National Institute of Standards and Technology, and the Office of Management and Budget, and, as to national security systems, the President.

"(13) INFORMATION SYSTEM.—The term 'information system' means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information, whether automated or manual.

"(14) INTEGRITY.—The term 'integrity' means guarding against improper information modification or destruction, and includes ensuring information non-repudiation and authenticity.

"(15) NATIONAL SECURITY SYSTEM.—The term 'national security system' means an information system that is protected at all times by policies and procedures established for the processing, maintenance, use, sharing, dissemination or disposition of information that has been specifically authorized under

criteria established by statute or Executive Order to be kept classified in the interest of national defense or foreign policy.

"(16) PLAN OF ACTION AND MILESTONES.—The term 'plan of action and milestones', means a plan used as a basis for the quarterly reporting requirements of the Office of Management and Budget that includes the following information:

"(A) A description of the security weakness.

"(B) The identity of the office or organization responsible for resolving the weakness.

"(C) An estimate of resources required to resolve the weakness by fiscal year.

"(D) The scheduled completion date.

"(E) Key milestones with estimated completion dates.

"(F) Any changes to the original key milestone date.

"(G) The source that identified the weakness.

"(H) The status of efforts to correct the weakness.

"(17) PRINCIPAL CREDIT REPORTING AGENCY.—The term 'principal credit reporting agency' means a consumer reporting agency as described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

"(18) SECURITY INCIDENT.—The term 'security incident' means an event that has, or could have, resulted in loss or damage to Department assets, or sensitive information, or an action that breaches Department security procedures.

"(19) SENSITIVE PERSONAL INFORMATION.—The term 'sensitive personal information', with respect to an individual, means any information about the individual maintained by an agency, including the following:

"(A) Education, financial transactions, medical history, and criminal or employment history.

"(B) Information that can be used to distinguish or trace the individual's identity, including name, social security number, date and place of birth, mother's maiden name, or biometric records.

"(20) SUBORDINATE PLAN.—The term 'subordinate plan', also referred to as a 'system security plan', means a subordinate plan defines the security controls that are either planned or implemented for networks, facilities, systems, or groups of systems, as appropriate, within a specific accreditation boundary.

"(21) TRAINING.—The term 'training' means a learning experience in which an individual is taught to execute a specific information security procedure or understand the information security common body of knowledge.

"(22) VA NATIONAL RULES OF BEHAVIOR.—The term 'VA National Rules of Behavior' means a set of Department rules that describes the responsibilities and expected behavior of personnel with regard to information system usage.

"(23) VA SENSITIVE DATA.—The term 'VA sensitive data' means all Department data, on any storage media or in any form or format, which requires protection due to the risk of harm that could result from inadvertent or deliberate disclosure, alteration, or destruction of the information and includes information whose improper use or disclosure could adversely affect the ability of an agency to accomplish its mission, proprietary information, and records about individuals requiring protection under applicable confidentiality provisions.

### "§ 5728. Authorization of appropriations

"There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for each fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 is amended by adding at the end the following:

"SUBCHAPTER III—INFORMATION SECURITY

"5721. Purpose.
"5722. Policy.
"5723. Responsibilities.
"5724. Provision of credit protection and other services.
"5725. Contracts for data processing or maintenance.
"5726. Reports and notice to Congress on data breaches.
"5727. Definitions.
"5728. Authorization of appropriations.".

38 USC 5721 note.

(c) DEADLINE FOR REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe regulations to carry out subchapter III of chapter 57 of title 38, United States Code, as added by subsection (a).

**SEC. 903. INFORMATION SECURITY EDUCATION ASSISTANCE PROGRAMS.**

(a) PROGRAMS AUTHORIZED.—

(1) IN GENERAL.—Title 38 is amended by inserting after chapter 78 the following new chapter:

## "CHAPTER 79—INFORMATION SECURITY EDUCATION ASSISTANCE PROGRAM

"Sec.
"7901. Programs; purpose.
"7902. Scholarship program.
"7903. Education debt reduction program.
"7904. Preferences in awarding financial assistance.
"7905. Requirement of honorable discharge for veterans receiving assistance.
"7906. Regulations.
"7907. Termination.

### "§ 7901. Programs; purpose

"(a) IN GENERAL.—To encourage the recruitment and retention of Department personnel who have the information security skills necessary to meet Department requirements, the Secretary may carry out programs in accordance with this chapter to provide financial support for education in computer science and electrical and computer engineering at accredited institutions of higher education.

"(b) TYPES OF PROGRAMS.—The programs authorized under this chapter are as follows:

"(1) Scholarships for pursuit of doctoral degrees in computer science and electrical and computer engineering at accredited institutions of higher education.

"(2) Education debt reduction for Department personnel who hold doctoral degrees in computer science and electrical and computer engineering at accredited institutions of higher education.

### "§ 7902. Scholarship program

"(a) AUTHORITY.—(1) Subject to the availability of appropriations, the Secretary may establish a scholarship program under

which the Secretary shall, subject to subsection (d), provide financial assistance in accordance with this section to a qualified person—

"(A) who is pursuing a doctoral degree in computer science or electrical or computer engineering at an accredited institution of higher education; and

"(B) who enters into an agreement with the Secretary as described in subsection (b).

"(2)(A) Except as provided in subparagraph (B), the Secretary may provide financial assistance under this section to an individual for up to five years.

"(B) The Secretary may waive the limitation under subparagraph (A) if the Secretary determines that such a waiver is appropriate.

"(b) SERVICE AGREEMENT FOR SCHOLARSHIP RECIPIENTS.—(1) To receive financial assistance under this section an individual shall enter into an agreement to accept and continue employment in the Department for the period of obligated service determined under paragraph (2).

"(2) For the purposes of this subsection, the period of obligated service for a recipient of financial assistance under this section shall be the period determined by the Secretary as being appropriate to obtain adequate service in exchange for the financial assistance and otherwise to achieve the goals set forth in section 7901(a) of this title. In no event may the period of service required of a recipient be less than the period equal to the total period of pursuit of a degree for which the Secretary agrees to provide the recipient with financial assistance under this section. The period of obligated service is in addition to any other period for which the recipient is obligated to serve on active duty or in the civil service, as the case may be.

"(3) An agreement entered into under this section by a person pursuing a doctoral degree shall include terms that provide the following:

"(A) That the period of obligated service begins on a date after the award of the degree that is determined under the regulations prescribed under section 7906 of this title.

"(B) That the individual will maintain satisfactory academic progress, as determined in accordance with those regulations, and that failure to maintain such progress constitutes grounds for termination of the financial assistance for the individual under this section.

"(C) Any other terms and conditions that the Secretary determines appropriate for carrying out this section.

"(c) AMOUNT OF ASSISTANCE.—(1) The amount of the financial assistance provided for an individual under this section shall be the amount determined by the Secretary as being necessary to pay—

"(A) the tuition and fees of the individual; and

"(B) $1,500 to the individual each month (including a month between academic semesters or terms leading to the degree for which such assistance is provided or during which the individual is not enrolled in a course of education but is pursuing independent research leading to such degree) for books, laboratory expenses, and expenses of room and board.

"(2) In no case may the amount of assistance provided for an individual under this section for an academic year exceed $50,000.

"(3) In no case may the total amount of assistance provided for an individual under this section exceed $200,000.

"(4) Notwithstanding any other provision of law, financial assistance paid an individual under this section shall not be considered as income or resources in determining eligibility for, or the amount of benefits under, any Federal or federally assisted program.

"(d) REPAYMENT FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) An individual who receives financial assistance under this section shall repay to the Secretary an amount equal to the unearned portion of the financial assistance if the individual fails to satisfy the requirements of the service agreement entered into under subsection (b), except in circumstances authorized by the Secretary.

"(2) The Secretary may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted.

"(3) An obligation to repay the Secretary under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after the date of the termination of the agreement or contract on which the debt is based.

Regulations.

"(e) WAIVER OR SUSPENSION OF COMPLIANCE.—The Secretary shall prescribe regulations providing for the waiver or suspension of any obligation of an individual for service or payment under this section (or an agreement under this section) whenever noncompliance by the individual is due to circumstances beyond the control of the individual or whenever the Secretary determines that the waiver or suspension of compliance is in the best interest of the United States.

"(f) INTERNSHIPS.—(1) The Secretary may offer a compensated internship to an individual for whom financial assistance is provided under this section during a period between academic semesters or terms leading to the degree for which such assistance is provided. Compensation provided for such an internship shall be in addition to the financial assistance provided under this section.

"(2) An internship under this subsection shall not be counted toward satisfying a period of obligated service under this section.

"(g) INELIGIBILITY OF INDIVIDUALS RECEIVING MONTGOMERY GI BILL EDUCATION ASSISTANCE PAYMENTS.—An individual who receives a payment of educational assistance under chapter 30, 31, 32, 34, or 35 of this title or chapter 1606 or 1607 of title 10 for a month in which the individual is enrolled in a course of education leading to a doctoral degree in information security is not eligible to receive financial assistance under this section for that month.

### "§ 7903. Education debt reduction program

"(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary may establish an education debt reduction program under which the Secretary shall make education debt reduction payments under this section to qualified individuals eligible under subsection (b) for the purpose of reimbursing such individuals for payments by such individuals of principal and interest on loans described in paragraph (2) of that subsection.

"(b) ELIGIBILITY.—An individual is eligible to participate in the program under this section if the individual—

"(1) has completed a doctoral degree in computer science or electrical or computer engineering at an accredited institution of higher education during the five-year period preceding the date on which the individual is hired;

"(2) is an employee of the Department who serves in a position related to information security (as determined by the Secretary); and

"(3) owes any amount of principal or interest under a loan, the proceeds of which were used by or on behalf of that individual to pay costs relating to a doctoral degree in computer science or electrical or computer engineering at an accredited institution of higher education.

"(c) AMOUNT OF ASSISTANCE.—(1) Subject to paragraph (2), the amount of education debt reduction payments made to an individual under this section may not exceed $82,500 over a total of five years, of which not more than $16,500 of such payments may be made in each year.

"(2) The total amount payable to an individual under this section for any year may not exceed the amount of the principal and interest on loans referred to in subsection (b)(3) that is paid by the individual during such year.

"(d) PAYMENTS.—(1) The Secretary shall make education debt reduction payments under this section on an annual basis.

"(2) The Secretary shall make such a payment—

"(A) on the last day of the one-year period beginning on the date on which the individual is accepted into the program established under subsection (a); or

"(B) in the case of an individual who received a payment under this section for the preceding fiscal year, on the last day of the one-year period beginning on the date on which the individual last received such a payment.

"(3) Notwithstanding any other provision of law, education debt reduction payments under this section shall not be considered as income or resources in determining eligibility for, or the amount of benefits under, any Federal or federally assisted program.

"(e) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to an individual under this section for a year only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the individual during the year.

"(f) NOTIFICATION OF TERMS OF PROVISION OF PAYMENTS.—The Secretary shall provide to an individual who receives a payment under this section notice in writing of the terms and conditions that apply to such a payment.

"(g) COVERED COSTS.—For purposes of subsection (b)(3), costs relating to a course of education or training include—

"(1) tuition expenses; and

"(2) all other reasonable educational expenses, including fees, books, and laboratory expenses.

### "§ 7904. Preferences in awarding financial assistance

"In awarding financial assistance under this chapter, the Secretary shall give a preference to qualified individuals who are otherwise eligible to receive the financial assistance in the following order of priority:

"(1) Veterans with service-connected disabilities.

"(2) Veterans.

"(3) Persons described in section 4215(a)(1)(B) of this title.

"(4) Individuals who received or are pursuing degrees at institutions designated by the National Security Agency as Centers of Academic Excellence in Information Assurance Education.

"(5) Citizens of the United States.

**"§ 7905. Requirement of honorable discharge for veterans receiving assistance**

"No veteran shall receive financial assistance under this chapter unless the veteran was discharged from the Armed Forces under honorable conditions.

**"§ 7906. Regulations**

"The Secretary shall prescribe regulations for the administration of this chapter.

**"§ 7907. Termination**

"The authority of the Secretary to make a payment under this chapter shall terminate on July 31, 2017.".

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, and of part V of title 38, are each amended by inserting after the item relating to chapter 78 the following new item:

**"79. Information Security Education Assistance Program ..... 7901".**

(b) GAO REPORT.—Not later than three years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the scholarship and education debt reduction programs under chapter 79 of title 38, United States Code, as added by subsection (a).

38 USC 7902 note.

(c) APPLICABILITY OF SCHOLARSHIPS.—Section 7902 of title 38, United States Code, as added by subsection (a), may only apply with respect to financial assistance provided for an academic semester or term that begins on or after August 1, 2007.

# TITLE X—OTHER MATTERS

38 USC 303 note.

**SEC. 1001. NOTICE TO CONGRESSIONAL VETERANS COMMITTEES OF CERTAIN TRANSFERS OF FUNDS.**

To the extent that the Secretary of Veterans Affairs is required or directed, under any provision of law, to provide written notice to any committee of Congress other than the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives on the transfer of appropriations from one account to any other account, the Secretary shall also transmit such notice to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives.

**SEC. 1002. CLARIFICATION OF CORRECTIONAL FACILITIES COVERED BY CERTAIN PROVISIONS OF LAW.**

38 USC 1505.

(a) PAYMENT OF PENSION DURING CONFINEMENT IN PENAL INSTITUTIONS.—Section 1505(a) is amended by striking "or local

penal institution" and inserting "local, or other penal institution or correctional facility".

(b) ALLOWANCES FOR TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Section 3108(g)(1) is amended by striking "or local penal institution" and inserting "local, or other penal institution or correctional facility". 38 USC 3108.

(c) EDUCATIONAL ASSISTANCE BENEFITS FOR POST-VIETNAM ERA VETERANS.—Section 3231(d)(1) is amended by striking "or local penal institution" and inserting "local, or other penal institution or correctional facility".

(d) COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCES FOR VETERANS GENERALLY.—Section 3482(g)(1) is amended by striking "or local penal institution" and inserting "local, or other penal institution or correctional facility".

(e) COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE FOR SURVIVORS AND DEPENDENTS.—Section 3532(e) is amended by striking "or local penal institution" and inserting "local, or other penal institution or correctional facility".

(f) LIMITATION ON PAYMENT OF COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.—Section 5313 is amended by striking "or local penal institution" each place it appears and inserting "local, or other penal institution or correctional facility".

(g) LIMITATION ON PAYMENT OF CLOTHING ALLOWANCE.—Section 5313A is amended by striking "or local penal institution" and inserting "local, or other penal institution or correctional facility".

**SEC. 1003. EXTENSION OF AUTHORITY FOR HEALTH CARE FOR PARTICIPATION IN DOD CHEMICAL AND BIOLOGICAL WARFARE TESTING.**

Section 1710(e)(3)(D) is amended by striking "December 31, 2005" and inserting "December 31, 2007".

**SEC. 1004. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 38, UNITED STATES CODE.—

(1) CITATION CORRECTION.—Section 1718(c)(2) is amended by inserting "of 1938" after "Act".

(2) CITATION CORRECTION.—Section 1785(b)(1) is amended by striking "Robert B." and inserting "Robert T.".

(3) PUNCTUATION CORRECTION.—Section 2002(1) is amended by inserting a closing parenthesis before the period at the end.

(4) PUNCTUATION CORRECTION.—Section 2011(a)(1)(C) is amended by inserting a period at the end.

(5) CROSS REFERENCE CORRECTION.—Section 2041(a)(3)(A)(i) is amended by striking "under this chapter" and inserting "established under section 3722 of this title".

(6) CITATION CORRECTION.—Section 8111(b)(1) is amended by striking "into the strategic" and all that follows through "and Results Act of 1993" and inserting "into the strategic plan of each Department under section 306 of title 5 and the performance plan of each Department under section 1115 of title 31".

(7) REPEAL OF OBSOLETE TEXT.—Section 8111 is further amended—

(A) in subsection (d)(2), by striking "effective October 1, 2003,"; and

(B) in subsection (e)(2)—

(i) in the second sentence, by striking "shall be implemented no later than October 1, 2003, and"; and

(ii) in the third sentence, by striking ", following implementation of the schedule,".

38 USC 8111A.

(8) CITATION CORRECTION.—Section 8111A(a)(2)(B)(i) is amended by striking "Robert B." and inserting "Robert T.".

Effective date.

(b) PUBLIC LAW 107–296.—Effective as of November 25, 2002, section 1704(d) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2315) is amended—

38 USC 101 note.

38 USC 101.

(1) by striking "101(25)(d)" and inserting "101(25)(D)"; and

38 USC 3011.

(2) by striking "3011(a)(1)(A)(ii)(II)" and inserting "3011(a)(1)(A)(ii)(III)".

**SEC. 1005. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 109–361.**

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 is amended—

(1) in subsection (a), by striking "$112" and inserting "$115";

(2) in subsection (b), by striking "$218" and inserting "$225";

(3) in subsection (c), by striking "$337" and inserting "$348";

(4) in subsection (d), by striking "$485" and inserting "$501";

(5) in subsection (e), by striking "$690" and inserting "$712";

(6) in subsection (f), by striking "$873" and inserting "$901";

(7) in subsection (g), by striking "$1,099" and inserting "$1,135";

(8) in subsection (h), by striking "$1,277" and inserting "$1,319";

(9) in subsection (i), by striking "$1,436" and inserting "$1,483";

(10) in subsection (j), by striking "$2,393" and inserting "$2,471";

(11) in subsection (k)—

(A) by striking "$87" both places it appears and inserting "$89"; and

(B) by striking "$2,977" and "$4,176" and inserting "$3,075" and "$4,313", respectively;

(12) in subsection (l), by striking "$2,977" and inserting "$3,075";

(13) in subsection (m), by striking "$3,284" and inserting "$3,392";

(14) in subsection (n), by striking "$3,737" and inserting "$3,860";

(15) in subsections (o) and (p), by striking "$4,176" each place it appears and inserting "$4,313";

(16) in subsection (r)—

(A) in paragraph (1), by striking "$1,792" and inserting "$1,851"; and

(B) in paragraph (2), by striking "2,669" and inserting "$2,757"; and

(17) in subsection (s), by striking "$2,678" and inserting "$2,766".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) is amended— 38 USC 1115.

(1) in subparagraph (A), by striking "$135" and inserting "$139";

(2) in subparagraph (B), by striking "$233" and "$68" and inserting "$240" and "$70", respectively;

(3) in subparagraph (C), by striking "$91" and "$68" and inserting "$94" and "$70", respectively;

(4) in subparagraph (D), by striking "$109" and inserting "$112";

(5) in subparagraph (E), by striking "$257" and inserting "$265"; and

(6) in subparagraph (F), by striking "$215" and inserting "$222".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking "$641" and inserting "$662".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Subsection (a) of section 1311 is amended—

(A) in paragraph (1), by striking "$1,033" and inserting "$1,067"; and

(B) in paragraph (2), by striking "$221" and inserting "$228".

(2) OLD LAW DIC.—The table in paragraph (3) of such subsection is amended to read as follows:

| Pay grade | Monthly rate | Pay grade | Monthly rate |
|---|---|---|---|
| E–1 | $1,067 | W–4 | $1,276 |
| E–2 | $1,067 | O–1 | $1,128 |
| E–3 | $1,067 | O–2 | $1,165 |
| E–4 | $1,067 | O–3 | $1,246 |
| E–5 | $1,067 | O–4 | $1,319 |
| E–6 | $1,067 | O–5 | $1,452 |
| E–7 | $1,104 | O–6 | $1,637 |
| E–8 | $1,165 | O–7 | $1,768 |
| E–9 | $1,215[1] | O–8 | $1,941 |
| W–1 | $1,128 | O–9 | $2,076 |
| W–2 | $1,172 | O–10 | $2,276[2] |
| W–3 | $1,207 | | |

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,312.

[2] If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,443.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Such section is further amended—

(A) in subsection (b), by striking "$257" and inserting "$265";

(B) in subsection (c), by striking "$257" and inserting "$265"; and

(C) in subsection (d), by striking "$122" and inserting "$126".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

38 USC 1313.

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) is amended—

(A) in paragraph (1), by striking "$438" and inserting "$452";

(B) in paragraph (2), by striking "$629" and inserting "$649";

(C) in paragraph (3), by striking "$819" and inserting "$846"; and

(D) in paragraph (4), by striking "$819" and "$157" and inserting "$846" and "$162", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 is amended—

(A) in subsection (a), by striking "$257" and inserting "$265";

(B) in subsection (b), by striking "$438" and inserting "$452"; and

(C) in subsection (c), by striking "$218" and inserting "$225".

**SEC. 1006. COORDINATION OF PROVISIONS WITH VETERANS PROGRAMS EXTENSION ACT OF 2006.**

(a) EARLIER ENACTMENT OF THIS ACT.—If this Act is enacted before the Veterans Programs Extension Act of 2006 is enacted into law, the Veterans Programs Extension Act of 2006, and the amendments made by that Act, shall not take effect.

38 USC 101 note, 101 *et seq.*

(b) EARLIER ENACTMENT OF VETERANS PROGRAMS EXTENSION ACT OF 2006.—If this Act is enacted after the enactment of the Veterans Programs Extension Act of 2006, then as of the date of the enactment of this Act, the Veterans Programs Extension Act of 2006 and the amendments made by that Act shall be deemed for all purposes not to have taken effect and the Veterans Programs Extension Act of 2006 and the amendments made by that Act shall cease to be in effect.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 3421 (H.R. 5815):

HOUSE REPORTS: No. 109–643 accompanying H.R. 5815 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 109–328 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Sept. 26, considered and passed Senate.

Dec. 8, considered and passed House, amended. Senate concurred in House amendments.

# Public Law 109–462
# 109th Congress

## An Act

To amend the Federal Food, Drug, and Cosmetic Act with respect to serious adverse event reporting for dietary supplements and nonprescription drugs, and for other purposes.

Dec. 22, 2006
[S. 3546]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

Dietary Supplement and Nonprescription Drug Consumer Protection Act.
21 USC 301 note.

This Act may be cited as the "Dietary Supplement and Nonprescription Drug Consumer Protection Act".

**SEC. 2. SERIOUS ADVERSE EVENT REPORTING FOR NONPRESCRIPTION DRUGS.**

(a) IN GENERAL.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

### "Subchapter H—Serious Adverse Event Reports

**"SEC. 760. SERIOUS ADVERSE EVENT REPORTING FOR NONPRESCRIPTION DRUGS.**

21 USC 379aa.

"(a) DEFINITIONS.—In this section:

"(1) ADVERSE EVENT.—The term 'adverse event' means any health-related event associated with the use of a nonprescription drug that is adverse, including—

"(A) an event occurring from an overdose of the drug, whether accidental or intentional;

"(B) an event occurring from abuse of the drug;

"(C) an event occurring from withdrawal from the drug; and

"(D) any failure of expected pharmacological action of the drug.

"(2) NONPRESCRIPTION DRUG.—The term 'nonprescription drug' means a drug that is—

"(A) not subject to section 503(b); and

"(B) not subject to approval in an application submitted under section 505.

"(3) SERIOUS ADVERSE EVENT.—The term 'serious adverse event' is an adverse event that—

"(A) results in—

"(i) death;

"(ii) a life-threatening experience;

"(iii) inpatient hospitalization;

"(iv) a persistent or significant disability or incapacity; or

"(v) a congenital anomaly or birth defect; or

"(B) requires, based on reasonable medical judgment, a medical or surgical intervention to prevent an outcome described under subparagraph (A).

"(4) SERIOUS ADVERSE EVENT REPORT.—The term 'serious adverse event report' means a report that is required to be submitted to the Secretary under subsection (b).

"(b) REPORTING REQUIREMENT.—

"(1) IN GENERAL.—The manufacturer, packer, or distributor whose name (pursuant to section 502(b)(1)) appears on the label of a nonprescription drug marketed in the United States (referred to in this section as the 'responsible person') shall submit to the Secretary any report received of a serious adverse event associated with such drug when used in the United States, accompanied by a copy of the label on or within the retail package of such drug.

"(2) RETAILER.—A retailer whose name appears on the label described in paragraph (1) as a distributor may, by agreement, authorize the manufacturer or packer of the nonprescription drug to submit the required reports for such drugs to the Secretary so long as the retailer directs to the manufacturer or packer all adverse events associated with such drug that are reported to the retailer through the address or telephone number described in section 502(x).

"(c) SUBMISSION OF REPORTS.—

"(1) TIMING OF REPORTS.—The responsible person shall submit to the Secretary a serious adverse event report no later than 15 business days after the report is received through the address or phone number described in section 502(x).

"(2) NEW MEDICAL INFORMATION.—The responsible person shall submit to the Secretary any new medical information, related to a submitted serious adverse event report that is received by the responsible person within 1 year of the initial report, no later than 15 business days after the new information is received by the responsible person.

"(3) CONSOLIDATION OF REPORTS.—The Secretary shall develop systems to ensure that duplicate reports of, and new medical information related to, a serious adverse event shall be consolidated into a single report.

"(4) EXEMPTION.—The Secretary, after providing notice and an opportunity for comment from interested parties, may establish an exemption to the requirements under paragraphs (1) and (2) if the Secretary determines that such exemption would have no adverse effect on public health.

"(d) CONTENTS OF REPORTS.—Each serious adverse event report under this section shall be submitted to the Secretary using the MedWatch form, which may be modified by the Secretary for nonprescription drugs, and may be accompanied by additional information.

"(e) MAINTENANCE AND INSPECTION OF RECORDS.—

"(1) MAINTENANCE.—The responsible person shall maintain records related to each report of an adverse event received by the responsible person for a period of 6 years.

"(2) RECORDS INSPECTION.—

"(A) IN GENERAL.—The responsible person shall permit an authorized person to have access to records required

to be maintained under this section, during an inspection pursuant to section 704.

"(B) AUTHORIZED PERSON.—For purposes of this paragraph, the term 'authorized person' means an officer or employee of the Department of Health and Human Services who has—

"(i) appropriate credentials, as determined by the Secretary; and

"(ii) been duly designated by the Secretary to have access to the records required under this section.

"(f) PROTECTED INFORMATION.—A serious adverse event report submitted to the Secretary under this section, including any new medical information submitted under subsection (c)(2), or an adverse event report voluntarily submitted to the Secretary shall be considered to be—

"(1) a safety report under section 756 and may be accompanied by a statement, which shall be a part of any report that is released for public disclosure, that denies that the report or the records constitute an admission that the product involved caused or contributed to the adverse event; and

"(2) a record about an individual under section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act of 1974') and a medical or similar file the disclosure of which would constitute a violation of section 552 of such title 5 (commonly referred to as the 'Freedom of Information Act'), and shall not be publicly disclosed unless all personally identifiable information is redacted.

"(g) RULE OF CONSTRUCTION.—The submission of any adverse event report in compliance with this section shall not be construed as an admission that the nonprescription drug involved caused or contributed to the adverse event.

"(h) PREEMPTION.—

"(1) IN GENERAL.—No State or local government shall establish or continue in effect any law, regulation, order, or other requirement, related to a mandatory system for adverse event reports for nonprescription drugs, that is different from, in addition to, or otherwise not identical to, this section.

"(2) EFFECT OF SECTION.—

"(A) IN GENERAL.—Nothing in this section shall affect the authority of the Secretary to provide adverse event reports and information to any health, food, or drug officer or employee of any State, territory, or political subdivision of a State or territory, under a memorandum of understanding between the Secretary and such State, territory, or political subdivision.

"(B) PERSONALLY-IDENTIFIABLE INFORMATION.—Notwithstanding any other provision of law, personally-identifiable information in adverse event reports provided by the Secretary to any health, food, or drug officer or employee of any State, territory, or political subdivision of a State or territory, shall not—

"(i) be made publicly available pursuant to any State or other law requiring disclosure of information or records; or

"(ii) otherwise be disclosed or distributed to any party without the written consent of the Secretary

and the person submitting such information to the Secretary.

"(C) USE OF SAFETY REPORTS.—Nothing in this section shall permit a State, territory, or political subdivision of a State or territory, to use any safety report received from the Secretary in a manner inconsistent with subsection (g) or section 756.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.".

21 USC 379aa note.

(b) MODIFICATIONS.—The Secretary of Health and Human Services may modify requirements under the amendments made by this section in accordance with section 553 of title 5, United States Code, to maintain consistency with international harmonization efforts over time.

(c) PROHIBITED ACT.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by—

(1) striking ", or 704(a);" and inserting ", 704(a), or 760;"; and

(2) striking ", or 564" and inserting ", 564, or 760".

(d) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

"(x) If it is a nonprescription drug (as defined in section 760) that is marketed in the United States, unless the label of such drug includes a domestic address or domestic phone number through which the responsible person (as described in section 760) may receive a report of a serious adverse event (as defined in section 760) with such drug.".

(e) EFFECTIVE DATES.—

21 USC 352 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect 1 year after the date of enactment of this Act.

(2) MISBRANDING.—Section 502(x) of the Federal Food, Drug, and Cosmetic Act (as added by this section) shall apply to any nonprescription drug (as defined in such section 502(x)) labeled on or after the date that is 1 year after the date of enactment of this Act.

21 USC 379aa note.

(3) GUIDANCE.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance on the minimum data elements that should be included in a serious adverse event report described under the amendments made by this Act.

**SEC. 3. SERIOUS ADVERSE EVENT REPORTING FOR DIETARY SUPPLEMENTS.**

(a) IN GENERAL.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

21 USC 379aa–1.

**"SEC. 761. SERIOUS ADVERSE EVENT REPORTING FOR DIETARY SUPPLEMENTS.**

"(a) DEFINITIONS.—In this section:

"(1) ADVERSE EVENT.—The term 'adverse event' means any health-related event associated with the use of a dietary supplement that is adverse.

"(2) SERIOUS ADVERSE EVENT.—The term 'serious adverse event' is an adverse event that—

"(A) results in—

"(i) death;

"(ii) a life-threatening experience;

"(iii) inpatient hospitalization;

"(iv) a persistent or significant disability or incapacity; or

"(v) a congenital anomaly or birth defect; or

"(B) requires, based on reasonable medical judgment, a medical or surgical intervention to prevent an outcome described under subparagraph (A).

"(3) SERIOUS ADVERSE EVENT REPORT.—The term 'serious adverse event report' means a report that is required to be submitted to the Secretary under subsection (b).

"(b) REPORTING REQUIREMENT.—

"(1) IN GENERAL.—The manufacturer, packer, or distributor of a dietary supplement whose name (pursuant to section 403(e)(1)) appears on the label of a dietary supplement marketed in the United States (referred to in this section as the 'responsible person') shall submit to the Secretary any report received of a serious adverse event associated with such dietary supplement when used in the United States, accompanied by a copy of the label on or within the retail packaging of such dietary supplement.

"(2) RETAILER.—A retailer whose name appears on the label described in paragraph (1) as a distributor may, by agreement, authorize the manufacturer or packer of the dietary supplement to submit the required reports for such dietary supplements to the Secretary so long as the retailer directs to the manufacturer or packer all adverse events associated with such dietary supplement that are reported to the retailer through the address or telephone number described in section 403(y).

"(c) SUBMISSION OF REPORTS.—

"(1) TIMING OF REPORTS.—The responsible person shall submit to the Secretary a serious adverse event report no later than 15 business days after the report is received through the address or phone number described in section 403(y).

"(2) NEW MEDICAL INFORMATION.—The responsible person shall submit to the Secretary any new medical information, related to a submitted serious adverse event report that is received by the responsible person within 1 year of the initial report, no later than 15 business days after the new information is received by the responsible person.

"(3) CONSOLIDATION OF REPORTS.—The Secretary shall develop systems to ensure that duplicate reports of, and new medical information related to, a serious adverse event shall be consolidated into a single report.

"(4) EXEMPTION.—The Secretary, after providing notice and an opportunity for comment from interested parties, may establish an exemption to the requirements under paragraphs (1) and (2) if the Secretary determines that such exemption would have no adverse effect on public health.

"(d) CONTENTS OF REPORTS.—Each serious adverse event report under this section shall be submitted to the Secretary using the MedWatch form, which may be modified by the Secretary for dietary supplements, and may be accompanied by additional information.

"(e) MAINTENANCE AND INSPECTION OF RECORDS.—

"(1) MAINTENANCE.—The responsible person shall maintain records related to each report of an adverse event received by the responsible person for a period of 6 years.

"(2) RECORDS INSPECTION.—

"(A) IN GENERAL.—The responsible person shall permit an authorized person to have access to records required to be maintained under this section during an inspection pursuant to section 704.

"(B) AUTHORIZED PERSON.—For purposes of this paragraph, the term 'authorized person' means an officer or employee of the Department of Health and Human Services, who has—

"(i) appropriate credentials, as determined by the Secretary; and

"(ii) been duly designated by the Secretary to have access to the records required under this section.

"(f) PROTECTED INFORMATION.—A serious adverse event report submitted to the Secretary under this section, including any new medical information submitted under subsection (c)(2), or an adverse event report voluntarily submitted to the Secretary shall be considered to be—

"(1) a safety report under section 756 and may be accompanied by a statement, which shall be a part of any report that is released for public disclosure, that denies that the report or the records constitute an admission that the product involved caused or contributed to the adverse event; and

"(2) a record about an individual under section 552a of title 5, United States Code (commonly referred to as the 'Privacy Act of 1974') and a medical or similar file the disclosure of which would constitute a violation of section 552 of such title 5 (commonly referred to as the 'Freedom of Information Act'), and shall not be publicly disclosed unless all personally identifiable information is redacted.

"(g) RULE OF CONSTRUCTION.—The submission of any adverse event report in compliance with this section shall not be construed as an admission that the dietary supplement involved caused or contributed to the adverse event.

"(h) PREEMPTION.—

"(1) IN GENERAL.—No State or local government shall establish or continue in effect any law, regulation, order, or other requirement, related to a mandatory system for adverse event reports for dietary supplements, that is different from, in addition to, or otherwise not identical to, this section.

"(2) EFFECT OF SECTION.—

"(A) IN GENERAL.—Nothing in this section shall affect the authority of the Secretary to provide adverse event reports and information to any health, food, or drug officer or employee of any State, territory, or political subdivision of a State or territory, under a memorandum of understanding between the Secretary and such State, territory, or political subdivision.

"(B) PERSONALLY-IDENTIFIABLE INFORMATION.—Notwithstanding any other provision of law, personally-identifiable information in adverse event reports provided by the Secretary to any health, food, or drug officer or employee of any State, territory, or political subdivision of a State or territory, shall not—

"(i) be made publicly available pursuant to any State or other law requiring disclosure of information or records; or

"(ii) otherwise be disclosed or distributed to any party without the written consent of the Secretary and the person submitting such information to the Secretary.

"(C) USE OF SAFETY REPORTS.—Nothing in this section shall permit a State, territory, or political subdivision of a State or territory, to use any safety report received from the Secretary in a manner inconsistent with subsection (g) or section 756.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.".

(b) PROHIBITED ACT.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by—

(1) striking ", or 760;" and inserting ", 760, or 761;"; and

(2) striking ", or 760" and inserting ", 760, or 761".

(c) MISBRANDING.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(y) If it is a dietary supplement that is marketed in the United States, unless the label of such dietary supplement includes a domestic address or domestic phone number through which the responsible person (as described in section 761) may receive a report of a serious adverse event with such dietary supplement.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect 1 year after the date of enactment of this Act. 21 USC 343 note.

(2) MISBRANDING.—Section 403(y) of the Federal Food, Drug, and Cosmetic Act (as added by this section) shall apply to any dietary supplement labeled on or after the date that is 1 year after the date of enactment of this Act.

(3) GUIDANCE.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance on the minimum data elements that should be included in a serious adverse event report as described under the amendments made by this Act. 21 USC 379aa note.

**SEC. 4. PROHIBITION OF FALSIFICATION OF REPORTS.**

(a) IN GENERAL.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(ii) The falsification of a report of a serious adverse event submitted to a responsible person (as defined under section 760 or 761) or the falsification of a serious adverse event report (as defined under section 760 or 761) submitted to the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of enactment of this Act. 21 USC 331 note.

**SEC. 5. IMPORTATION OF CERTAIN NONPRESCRIPTION DRUGS AND DIETARY SUPPLEMENTS.**

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended—

(1) in subsection (a), by inserting after the third sentence the following: "If such article is subject to a requirement under

section 760 or 761 and if the Secretary has credible evidence or information indicating that the responsible person (as defined in such section 760 or 761) has not complied with a requirement of such section 760 or 761 with respect to any such article, or has not allowed access to records described in such section 760 or 761, then such article shall be refused admission, except as provided in subsection (b) of this section."; and

(2) in the second sentence of subsection (b)—

(A) by inserting "(1)" before "an article included";

(B) by inserting before "final determination" the following: "or (2) with respect to an article included within the provision of the fourth sentence of subsection (a), the responsible person (as defined in section 760 or 761) can take action that would assure that the responsible person is in compliance with section 760 or 761, as the case may be,"; and

(C) by inserting ", or, with respect to clause (2), the responsible person," before "to perform".

21 USC 381 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

Approved December 22, 2006.

---

LEGISLATIVE HISTORY—S. 3546:

SENATE REPORTS: No. 109–324 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Dec. 6, considered and passed Senate.

Dec. 8, considered and passed House.

# Public Law 109–463
# 109th Congress

## An Act

To authorize certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance.

Dec. 22, 2006
[S. 3821]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as either the "Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006" or the "COMPETE Act of 2006".

**SEC. 2. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.**

(a) IN GENERAL.—Section 214(c)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;

"(II) is a professional athlete, as defined in section 204(i)(2);

"(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

"(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country;

"(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and

"(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league; or

"(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production; and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

"(I) as such an athlete with respect to a specific athletic competition; or

"(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.".

(b) LIMITATION.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following:

"(F)(i) No nonimmigrant visa under section 101(a)(15)(P)(i)(a) shall be issued to any alien who is a national of a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety, national security, or national interest of the United States. In making a determination under this subparagraph, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

"(ii) In this subparagraph, the term 'state sponsor of international terrorism' means any country the government of which has been determined by the Secretary of State under any of the laws specified in clause (iii) to have repeatedly provided support for acts of international terrorism.

"(iii) The laws specified in this clause are the following:

"(I) Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or successor statute).

"(II) Section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

"(III) Section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).".

(c) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)), as amended by subsection (b), is further amended by adding at the end the following:

"(G) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than 1 alien as a nonimmigrant under section 101(a)(15)(P)(i)(a).".

(d) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)), as amended by subsections (b) and (c), is further amended by adding at the end the following:

"(H) The Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than

section 101(a)(15)(P)(i) if the athlete is eligible under such other provision.".

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 3821:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

Public Law 109–464
109th Congress

# An Act

Dec. 22, 2006
[S. 4042]

To amend title 18, United States Code, to prohibit disruptions of funerals of members or former members of the Armed Forces.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RESPECT FOR THE FUNERALS OF FALLEN HEROES.**

(a) IN GENERAL.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following new section:

## "§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces

"(a) PROHIBITION.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 60 minutes before and ending 60 minutes after such funeral, any part of which activity—

"(1)(A) takes place within the boundaries of the location of such funeral or takes place within 150 feet of the point of the intersection between—

"(i) the boundary of the location of such funeral; and

"(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and

"(B) includes any individual willfully making or assisting in the making of any noise or diversion that is not part of such funeral and that disturbs or tends to disturb the peace or good order of such funeral with the intent of disturbing the peace or good order of that funeral; or

"(2)(A) is within 300 feet of the boundary of the location of such funeral; and

"(B) includes any individual willfully and without proper authorization impeding the access to or egress from such location with the intent to impede the access to or egress from such location.

"(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Armed Forces' has the meaning given the term in section 101 of title 10.

"(2) The term 'funeral of a member or former member of the Armed Forces' means any ceremony or memorial service

held in connection with the burial or cremation of a member or former member of the Armed Forces.

"(3) The term 'boundary of the location', with respect to a funeral of a member or former member of the Armed Forces, means—

"(A) in the case of a funeral of a member or former member of the Armed Forces that is held at a cemetery, the property line of the cemetery;

"(B) in the case of a funeral of a member or former member of the Armed Forces that is held at a mortuary, the property line of the mortuary;

"(C) in the case of a funeral of a member or former member of the Armed Forces that is held at a house of worship, the property line of the house of worship; and

"(D) in the case of a funeral of a member or former member of the Armed Forces that is held at any other kind of location, the reasonable property line of that location.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 67 of such title is amended by inserting after the item related to section 1387 the following new item:

"1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces.".

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 4042:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–465
# 109th Congress

## An Act

Dec. 22, 2006
[S. 4091]

To provide authority for restoration of the Social Security Trust Funds from the effects of a clerical error, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Social Security Trust Funds Restoration Act of 2006.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Social Security Trust Funds Restoration Act of 2006".

**SEC. 2. DEFINITIONS.**

For purposes of this Act—

(1) CLERICAL ERROR.—The term "clerical error" means the bookkeeping errors at the Social Security Administration that resulted in the overpayment of amounts transferred from the Trust Funds to the general fund of the Treasury during the period commencing with 1999 and ending with 2005 as transfers, under the voluntary withholding program authorized by section 3402(p) of the Internal Revenue Code of 1986, of anticipated taxes on benefit payments under title II of the Social Security Act.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(3) TRUST FUNDS.—The term "Trust Funds" means the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

**SEC. 3. RESTORATION OF TRUST FUNDS.**

(a) APPROPRIATION.—There is hereby appropriated to each of the Trust Funds, out of any money in the Treasury not otherwise appropriated, an amount determined by the Secretary, in consultation with the Commissioner of Social Security, to be equal, to the extent practicable in the judgment of the Secretary, to the difference between—

(1) the sum of—

(A) the amounts that the Secretary determines, in consultation with the Commissioner of Social Security, were overpaid from such Trust Fund to the general fund of the Treasury by reason of the clerical error, and

(B) the amount that the Secretary determines, in consultation with the Commissioner of Social Security, to be equal, to the extent practicable in the judgment of the Secretary, to the interest income that would have been payable to such Trust Fund pursuant to section 201(d) of the Social Security Act on obligations issued under

chapter 31 of title 31, United States Code, that was not paid by reason of the clerical error, and

(2) the sum of—

(A) the amounts that are refunded to such Trust Fund as overpayments by reason of the clerical error to the extent not limited by periods of limitation under applicable provisions of the Internal Revenue Code of 1986, and

(B) the interest that is paid to such Trust Fund on the overpayments resulting from the clerical error to the extent allowed under applicable provisions of such Code.

(b) INVESTMENT.—The Secretary shall invest the amounts appropriated to each of the Trust Funds under subsection (a) in accordance with the currently applicable investment policy for such Trust Fund.

**SEC. 4. TIMING.**

(a) ACTIONS BY THE SECRETARY.—The Secretary shall take such actions as are necessary to accomplish the restoration described in section 3 not later than 120 days after the date of the enactment of this Act. Deadline.

(b) ACTION BY THE COMMISSIONER.—The Commissioner of Social Security shall cooperate with the Secretary to the extent necessary to enable the Secretary to meet the requirements of subsection (a).

**SEC. 5. CONGRESSIONAL NOTIFICATION.**

Not later than 30 days after the Secretary takes the last action necessary to accomplish the restoration described in section 3, the Secretary shall notify each House of the Congress in writing of the actions so taken. Deadline.

Approved December 22, 2006.

---

LEGISLATIVE HISTORY—S. 4091:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–466
# 109th Congress

## An Act

Dec. 22, 2006
[S. 4092]

To clarify certain land use in Jefferson County, Colorado.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CLARIFICATION OF CERTAIN LAND USE IN JEFFERSON COUNTY, COLORADO.**

Notwithstanding any applicable State or local land use or condemnation laws or regulations, and subject to all applicable Federal laws and regulations, any person that holds an approved Federal Communications Commission permit to construct or install either a digital television broadcast station antenna or tower, or both, located on Lookout Mountain in Jefferson County in the State of Colorado, may, at such location, construct, install, use, modify, replace, repair, or consolidate such antenna or tower, or both, and all accompanying facilities and services associated with such digital television broadcasts, if such antenna or tower is of the same height or lower than the tallest existing analog broadcast antenna or tower at such location.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 4092:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–467
# 109th Congress

## An Act

To amend the Farm Security and Rural Investment Act of 2002 to extend a suspension of limitation on the period for which certain borrowers are eligible for guaranteed assistance.

Dec. 22, 2006
[S. 4093]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.**

Section 5102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1949 note; Public Law 107–171) is amended by striking "December 31, 2006" and inserting "September 30, 2007".

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 4093:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed Senate.
Dec. 8, considered and passed House.

# Public Law 109–468
# 109th Congress

## An Act

Dec. 29, 2006
[H.R. 5782]

To amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation's energy products by pipeline, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006.
49 USC 60101 note.

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of title 49, United States Code; table of contents.
Sec. 2. Pipeline safety and damage prevention.
Sec. 3. Public education and awareness.
Sec. 4. Low-stress pipelines.
Sec. 5. Technical assistance grants.
Sec. 6. Enforcement transparency.
Sec. 7. Direct line sales.
Sec. 8. Petroleum transportation capacity and regulatory adequacy study.
Sec. 9. Distribution integrity management program rulemaking deadline.
Sec. 10. Emergency waivers.
Sec. 11. Restoration of operations.
Sec. 12. Pipeline control room management.
Sec. 13. Safety orders.
Sec. 14. Integrity program enforcement.
Sec. 15. Incident reporting.
Sec. 16. Senior executive signature of integrity management program performance reports.
Sec. 17. Cost recovery for design reviews.
Sec. 18. Authorization of appropriations.
Sec. 19. Standards to implement NTSB recommendations.
Sec. 20. Accident reporting form.
Sec. 21. Leak detection technology study.
Sec. 22. Corrosion control regulations.
Sec. 23. Inspector General report.
Sec. 24. Technical assistance program.
Sec. 25. Natural gas pipelines.
Sec. 26. Corrosion technology.

**SEC. 2. PIPELINE SAFETY AND DAMAGE PREVENTION.**

(a) ONE CALL CIVIL ENFORCEMENT.—

(1) PROHIBITIONS.—Section 60114 is amended by adding at the end the following:

"(d) PROHIBITION APPLICABLE TO EXCAVATORS.—A person who engages in demolition, excavation, tunneling, or construction—

"(1) may not engage in a demolition, excavation, tunneling, or construction activity in a State that has adopted a one-call notification system without first using that system to establish the location of underground facilities in the demolition, excavation, tunneling, or construction area;

"(2) may not engage in such demolition, excavation, tunneling, or construction activity in disregard of location information or markings established by a pipeline facility operator pursuant to subsection (b); and

"(3) and who causes damage to a pipeline facility that may endanger life or cause serious bodily harm or damage to property—

"(A) may not fail to promptly report the damage to the owner or operator of the facility; and

"(B) if the damage results in the escape of any flammable, toxic, or corrosive gas or liquid, may not fail to promptly report to other appropriate authorities by calling the 911 emergency telephone number.

"(e) PROHIBITION APPLICABLE TO UNDERGROUND PIPELINE FACILITY OWNERS AND OPERATORS.—Any owner or operator of a pipeline facility who fails to respond to a location request in order to prevent damage to the pipeline facility or who fails to take reasonable steps, in response to such a request, to ensure accurate marking of the location of the pipeline facility in order to prevent damage to the pipeline facility shall be subject to a civil action under section 60120 or assessment of a civil penalty under section 60122.

"(f) LIMITATION.—The Secretary may not conduct an enforcement proceeding under subsection (d) for a violation within the boundaries of a State that has the authority to impose penalties described in section 60134(b)(7) against persons who violate that State's damage prevention laws, unless the Secretary has determined that the State's enforcement is inadequate to protect safety, consistent with this chapter, and until the Secretary issues, through a rulemaking proceeding, the procedures for determining inadequate State enforcement of penalties.".

(2) CIVIL PENALTY.—Section 60122(a)(1) is amended by striking "60114(b)" and inserting "60114(b), 60114(d),".

(b) STATE DAMAGE PREVENTION PROGRAMS.—

(1) CONTENTS OF CERTIFICATIONS.—Section 60105(b)(4) is amended to read as follows:

"(4) is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);".

(2) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

**"§ 60134. State damage prevention programs**

"(a) IN GENERAL.—The Secretary may make a grant to a State authority (including a municipality with respect to intrastate gas

pipeline transportation) to assist in improving the overall quality and effectiveness of a damage prevention program of the State authority under subsection (e) if the State authority—

"(1) has in effect an annual certification under section 60105 or an agreement under section 60106; and

"(2)(A) has in effect an effective damage prevention program that meets the requirements of subsection (b); or

"(B) demonstrates that it has made substantial progress toward establishing such a program, and that such program will meet the requirements of subsection (b).

"(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—An effective damage prevention program includes the following elements:

"(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.

"(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

"(3) A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.

"(4) Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.

"(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

"(6) A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.

"(7) Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

"(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

"(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

"(c) FACTORS TO CONSIDER.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

Deadline.

"(d) APPLICATION.—If a State authority files an application for a grant under this section not later than September 30 of a calendar year and demonstrates that the Governor (or chief executive) of the State has designated it as the appropriate State

authority to receive the grant, the Secretary shall review the State's damage prevention program to determine its effectiveness.

"(e) USE OF FUNDS.—A grant under this section to a State authority may only be used to pay the cost of the personnel, equipment, and activities that the State authority reasonably requires for the calendar year covered by the grant to develop or carry out its damage prevention program in accordance with subsection (b).

"(f) NONAPPLICABILITY OF LIMITATION.—A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary.

"(g) LIMITATION ON USE OF FUNDS.—Funds provided to carry out this section may not be used for lobbying or in direct support of litigation.

"(h) DAMAGE PREVENTION PROCESS DEFINED.—In this section, the term 'damage prevention process' means a process that incorporates the principles described in sections 60114(b), 60114(d), and 60114(e).".

(3) CLERICAL AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60134. State damage prevention programs.".

(c) STATE PIPELINE SAFETY GRANTS.—Section 60107(a) is amended by striking "not more than 50 percent" and inserting "not more than 80 percent".

(d) MAINTENANCE OF EFFORT.—Section 60107(b) is amended by striking "spent—" and all that follows and inserting "spent for gas and hazardous liquid safety programs for the 3 fiscal years prior to the fiscal year in which the Secretary makes the payment, except when the Secretary waives this requirement.".

(e) DAMAGE PREVENTION TECHNOLOGY DEVELOPMENT.—Section 60114 (as amended by subsection (a)(1) of this section) is further amended by adding at the end the following:

"(g) TECHNOLOGY DEVELOPMENT GRANTS.—The Secretary may make grants to any organization or entity (not including for-profit entities) for the development of technologies that will facilitate the prevention of pipeline damage caused by demolition, excavation, tunneling, or construction activities, with emphasis on wireless and global positioning technologies having potential for use in connection with notification systems and underground facility locating and marking services. Funds provided under this subsection may not be used for lobbying or in direct support of litigation. The Secretary may also support such technology development through cooperative agreements with trade associations, academic institutions, and other organizations.".

**SEC. 3. PUBLIC EDUCATION AND AWARENESS.**

(a) IN GENERAL.—Chapter 61 is amended by adding at the end the following:

### "§ 6109. Public education and awareness

"(a) GRANT AUTHORITY.—The Secretary shall make a grant to an appropriate entity for promoting public education and awareness with respect to the 811 national excavation damage prevention phone number.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,000,000 for the period beginning October 1, 2006, and ending September 30, 2008, to carry out this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 61 is amended by adding at the end the following:

"6109. Public education and awareness.".

**SEC. 4. LOW-STRESS PIPELINES.**

Section 60102(k) is amended to read as follows:

"(k) LOW-STRESS HAZARDOUS LIQUID PIPELINES.—

Deadline.
Regulations.

"(1) MINIMUM STANDARDS.—Not later than December 31, 2007, the Secretary shall issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines, except as provided in paragraph (3). The implementation of the applicable standards and regulatory requirements may be phased in. The regulations issued under this paragraph shall not apply to gathering lines.

"(2) GENERAL PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—Except as provided in paragraph (3), the Secretary may not provide an exception to the requirements of this chapter for a hazardous liquid pipeline because the pipeline operates at low internal stress.

"(3) LIMITED EXCEPTIONS.—The Secretary shall provide or continue in force exceptions to this subsection for low-stress hazardous liquid pipelines that—

"(A) are subject to safety regulations of the United States Coast Guard; or

"(B) serve refining, manufacturing, or truck, rail, or vessel terminal facilities if the pipeline is less than 1 mile long (measured outside the facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation,

until regulations issued under paragraph (1) become effective. After such regulations become effective, the Secretary may retain or remove those exceptions as appropriate.

"(4) RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed to prohibit or otherwise affect the applicability of any other statutory or regulatory exemption to any hazardous liquid pipeline.

"(5) DEFINITION.—For purposes of this subsection, the term 'low-stress hazardous liquid pipeline' means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

"(6) EFFECTIVE DATE.—The requirements of this subsection shall not take effect as to low-stress hazardous liquid pipeline operators before the effective date of the rules promulgated by the Secretary under this subsection.".

**SEC. 5. TECHNICAL ASSISTANCE GRANTS.**

Section 60130 is amended—

(1) in subsection (a)(1) by striking "The Secretary shall establish competitive" and inserting "No grants may be awarded under section 60114(g) until the Secretary has established competitive";

(2) in subsection (a) by redesignating paragraph (2) as paragraph (4);

(3) in subsection (a) by inserting after paragraph (1) the following:

"(2) DEMONSTRATION GRANTS.—At least the first 3 grants awarded under this section shall be demonstration grants for the purpose of demonstrating and evaluating the utility of grants under this section. Each such demonstration grant shall not exceed $25,000.

"(3) DISSEMINATION OF TECHNICAL FINDINGS.—Each recipient of a grant under this section shall ensure that—

"(A) the technical findings made possible by the grants are made available to the relevant operators; and

"(B) open communication between the grant recipients, local operators, local communities, and other interested parties is encouraged."; and

(4) in subsection (d) by striking "2006" and inserting "2010".

**SEC. 6. ENFORCEMENT TRANSPARENCY.**

(a) IN GENERAL.—Chapter 601 (as amended by section 2(b) of this Act) is further amended by adding at the end the following:

**"§ 60135. Enforcement transparency**

Deadline. Public information.

"(a) IN GENERAL.—Not later than December 31, 2007, the Secretary shall—

"(1) provide a monthly updated summary to the public of all gas and hazardous liquid pipeline enforcement actions taken by the Secretary or the Pipeline and Hazardous Materials Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final;

"(2) include in each such summary identification of the operator involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

"(3) provide a mechanism by which a pipeline operator named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public.

"(b) ELECTRONIC AVAILABILITY.—Each summary under this section shall be made available to the public by electronic means.

"(c) RELATIONSHIP TO FOIA.—Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 601 (as amended by section 2(b) of this Act) is further amended by adding at the end:

"60135. Enforcement transparency.".

**SEC. 7. DIRECT LINE SALES.**

Section 60101(a) is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) 'interstate gas pipeline facility' means a gas pipeline facility—

"(A) used to transport gas; and

"(B) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);"; and

(2) by striking paragraph (9) and inserting the following:

"(9) 'intrastate gas pipeline facility' means a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.);".

**SEC. 8. PETROLEUM TRANSPORTATION CAPACITY AND REGULATORY ADEQUACY STUDY.**

(a) IN GENERAL.—Chapter 601 (as amended by sections 2(b) and 6 of this Act) is further amended by adding at the end the following:

**"§ 60136. Petroleum product transportation capacity study**

"(a) IN GENERAL.—The Secretaries of Transportation and Energy shall conduct periodic analyses of the domestic transport of petroleum products by pipeline. Such analyses should identify areas of the United States where unplanned loss of individual pipeline facilities may cause shortages of petroleum products or price disruptions and where shortages of pipeline capacity and reliability concerns may have or are anticipated to contribute to shortages of petroleum products or price disruptions. Upon identifying such areas, the Secretaries may determine if the current level of regulation is sufficient to minimize the potential for unplanned losses of pipeline capacity.

"(b) CONSULTATION.—In preparing any analysis under this section, the Secretaries may consult with the heads of other government agencies and public- and private-sector experts in pipeline and other forms of petroleum product transportation, energy consumption, pipeline capacity, population, and economic development.

"(c) REPORT TO CONGRESS.—Not later than June 1, 2008, the Secretaries shall submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources of the Senate a report setting forth their recommendations to reduce the likelihood of the shortages and price disruptions referred to in subsection (a).

"(d) ADDITIONAL REPORTS.—The Secretaries shall submit additional reports to the congressional committees referred to in subsection (c) containing the results of any subsequent analyses performed under subsection (a) and any additional recommendations, as appropriate.

"(e) PETROLEUM PRODUCT DEFINED.—In this section, the term 'petroleum product' means oil of any kind or in any form, gasoline, diesel fuel, aviation fuel, fuel oil, kerosene, any product obtained from refining or processing of crude oil, liquefied petroleum gases, natural gas liquids, petrochemical feedstocks, condensate, waste or refuse mixtures containing any of such oil products, and any other liquid hydrocarbon compounds.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 601 (as amended by sections 2(b) and 6 of this Act) is further amended by adding at the end the following:

"60136. Petroleum product transportation capacity study.".

**SEC. 9. DISTRIBUTION INTEGRITY MANAGEMENT PROGRAM RULE-MAKING DEADLINE.**

Section 60109 is amended by adding at the end the following:

"(e) DISTRIBUTION INTEGRITY MANAGEMENT PROGRAMS.—

"(1) MINIMUM STANDARDS.—Not later than December 31, 2007, the Secretary shall prescribe minimum standards for integrity management programs for distribution pipelines.

"(2) ADDITIONAL AUTHORITY OF SECRETARY.—In carrying out this subsection, the Secretary may require operators of distribution pipelines to continually identify and assess risks on their distribution lines, to remediate conditions that present a potential threat to line integrity, and to monitor program effectiveness.

"(3) EXCESS FLOW VALVES.—

"(A) IN GENERAL.—The minimum standards shall include a requirement for an operator of a natural gas distribution system to install an excess flow valve on each single family residence service line connected to such system if—

"(i) the service line is installed or entirely replaced after June 1, 2008;

"(ii) the service line operates continuously throughout the year at a pressure not less than 10 pounds per square inch gauge;

"(iii) the service line is not connected to a gas stream with respect to which the operator has had prior experience with contaminants the presence of which could interfere with the operation of an excess flow valve;

"(iv) the installation of an excess flow valve on the service line is not likely to cause loss of service to the residence or interfere with necessary operation or maintenance activities, such as purging liquids from the service line; and

"(v) an excess flow valve meeting performance standards developed under section 60110(e) of title 49, United States Code, is commercially available to the operator, as determined by the Secretary.

"(B) REPORTS.—Operators of natural gas distribution systems shall report annually to the Secretary on the number of excess flow valves installed on their systems under subparagraph (A).

"(4) APPLICABILITY.—The Secretary shall determine which distribution pipelines will be subject to the minimum standards.

"(5) DEVELOPMENT AND IMPLEMENTATION.—Each operator of a distribution pipeline that the Secretary determines is subject to the minimum standards prescribed by the Secretary under this subsection shall develop and implement an integrity management program in accordance with those standards.

"(6) SAVINGS CLAUSE.—Subject to section 60104(c), a State authority having a current certification under section 60105 may adopt or continue in force additional integrity management requirements, including additional requirements for installation of excess flow valves, for gas distribution pipelines within the boundaries of that State.".

**SEC. 10. EMERGENCY WAIVERS.**

Section 60118(c) is amended to read as follows:

"(c) WAIVERS BY SECRETARY.—

"(1) NONEMERGENCY WAIVERS.—

"(A) IN GENERAL.—On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to such facility on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.

"(B) HEARING.—The Secretary may act on a waiver under this paragraph only after notice and an opportunity for a hearing.

"(2) EMERGENCY WAIVERS.—

"(A) IN GENERAL.—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that—

"(i) it is in the public interest to grant the waiver;

"(ii) the waiver is not inconsistent with pipeline safety; and

"(iii) the waiver is necessary to address an actual or impending emergency involving pipeline transportation, including an emergency caused by a natural or manmade disaster.

"(B) PERIOD OF WAIVER.—A waiver under this paragraph may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

"(3) STATEMENT OF REASONS.—The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.".

**SEC. 11. RESTORATION OF OPERATIONS.**

Section 60117 is amended by adding at the end the following:

"(m) RESTORATION OF OPERATIONS.—

"(1) IN GENERAL.—The Secretary may advise, assist, and cooperate with the heads of other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons to facilitate the restoration of pipeline operations that have been or are anticipated to become disrupted by manmade or natural disasters.

"(2) SAVINGS CLAUSE.—Nothing in this section alters or amends the authorities and responsibilities of any department, agency, or instrumentality of the United States Government, other than the Department of Transportation.".

**SEC. 12. PIPELINE CONTROL ROOM MANAGEMENT.**

(a) IN GENERAL.—Chapter 601 (as amended by sections 2(b), 6, and 8 of this Act) is further amended by adding at the end the following:

**"§ 60137. Pipeline control room management**

"(a) IN GENERAL.—Not later than June 1, 2008, the Secretary shall issue regulations requiring each operator of a gas or hazardous liquid pipeline to develop, implement, and submit to the Secretary or, in the case of an operator of an intrastate pipeline located within the boundaries of a State that has in effect an annual certification under section 60105, to the head of the appropriate State authority, a human factors management plan designed to reduce risks associated with human factors, including fatigue, in each control center for the pipeline. Each plan must include, among the measures to reduce such risks, a maximum limit on the hours of service established by the operator for individuals employed as controllers in a control center for the pipeline.

Deadline. Regulations.

"(b) REVIEW AND APPROVAL OF THE PLAN.—The Secretary or, in the case of an operator of an intrastate pipeline located within the boundaries of a State that has in effect an annual certification under section 60105, the head of the appropriate State authority, shall review and approve each plan submitted to the Secretary or the head of such authority under subsection (a). The Secretary and the head of such authority may not approve a plan that does not include a maximum limit on the hours of service established by the operator of the pipeline for individuals employed as controllers in a control center for the pipeline.

"(c) ENFORCEMENT OF THE PLAN.—If the Secretary or the head of the appropriate State authority determines that an operator's plan submitted to the Secretary or the head of such authority under subsection (a), or implementation of such a plan, does not comply with the regulations issued under this section or is inadequate for the safe operation of a pipeline, the Secretary or the head of such authority may take action consistent with this chapter and enforce the requirements of such regulations.

"(d) COMPLIANCE WITH THE PLAN.—Each operator of a gas or hazardous liquid pipeline shall document compliance with the plan submitted by the operator under subsection (a) and the reasons for any deviation from compliance with such plan. The Secretary or the head of the appropriate State authority, as the case may be, shall review the reasonableness of any such deviation in considering whether to take enforcement action or discontinue approval of the operator's plan under subsection (b).

"(e) DEVIATION REPORTING REQUIREMENTS.—In issuing regulations under subsection (a), the Secretary shall develop and include in such regulations requirements for an operator of a gas or hazardous liquid pipeline to report deviations from compliance with the plan submitted by the operator under subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 601 (as amended by sections 2(b), 6, and 8 of this Act) is further amended by adding at the end the following:

"60137. Pipeline control room management.".

**SEC. 13. SAFETY ORDERS.**

Section 60117(l) is amended to read as follows:

"(l) SAFETY ORDERS.—

"(1) IN GENERAL.—Not later than December 31, 2007, the Secretary shall issue regulations providing that, after notice and opportunity for a hearing, if the Secretary determines that a pipeline facility has a condition that poses a pipeline

Deadline. Regulations.

integrity risk to public safety, property, or the environment, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, or other appropriate action, to remedy that condition.

"(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Secretary, if relevant and pursuant to the regulations issued under paragraph (1), shall consider—

"(A) the considerations specified in paragraphs (1) through (6) of section 60112(b);

"(B) the likelihood that the condition will impair the serviceability of a pipeline;

"(C) the likelihood that the condition will worsen over time; and

"(D) the likelihood that the condition is present or could develop on other areas of the pipeline.".

**SEC. 14. INTEGRITY PROGRAM ENFORCEMENT.**

Section 60109(c)(9)(A)(iii) is amended to read as follows:

"(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), has not been adequately implemented, or is inadequate for the safe operation of a pipeline facility, the Secretary may conduct proceedings under this chapter.".

49 USC 60117 note.

**SEC. 15. INCIDENT REPORTING.**

Not later than December 31, 2007, the Secretary of Transportation shall review the incident reporting requirements for operators of natural gas pipelines and modify the reporting criteria as appropriate to ensure that the incident data gathered accurately reflects incident trends over time, taking into consideration the recommendations from the Comptroller General in GAO report 06–946.

**SEC. 16. SENIOR EXECUTIVE SIGNATURE OF INTEGRITY MANAGEMENT PROGRAM PERFORMANCE REPORTS.**

Section 60109 (as amended by section 9 of this Act) is further amended by adding at the end the following:

Procedures.

"(f) CERTIFICATION OF PIPELINE INTEGRITY MANAGEMENT PROGRAM PERFORMANCE.—The Secretary shall establish procedures requiring certification of annual and semiannual pipeline integrity management program performance reports by a senior executive officer of the company operating a pipeline subject to this chapter. The procedures shall require a signed statement, which may be effected electronically in accordance with the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.), certifying that—

"(1) the signing officer has reviewed the report; and

"(2) to the best of such officer's knowledge and belief, the report is true and complete.".

**SEC. 17. COST RECOVERY FOR DESIGN REVIEWS.**

Section 60117 (as amended by section 11 of this Act) is amended by adding at the end the following:

"(n) COST RECOVERY FOR DESIGN REVIEWS.—

"(1) IN GENERAL.—If the Secretary conducts facility design safety reviews in connection with a proposal to construct, expand, or operate a liquefied natural gas pipeline facility, the Secretary may require the person requesting such reviews to pay the associated staff costs relating to such reviews incurred by the Secretary in section 60301(d). The Secretary may assess such costs in any reasonable manner.

"(2) DEPOSIT.—The Secretary shall deposit all funds paid to the Secretary under this subsection into the Department of Treasury account 69–5172–0–2–407 or its successor account.

"(3) AUTHORIZATION OF APPROPRIATIONS.—Funds deposited pursuant to this subsection are authorized to be appropriated for the purposes set forth in section 60301(d).".

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

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

"(a) GAS AND HAZARDOUS LIQUID.—

"(1) IN GENERAL.—To carry out the provisions of this chapter related to gas and hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355), the following amounts are authorized to be appropriated to the Department of Transportation from fees collected under section 60301 in each respective year:

"(A) For fiscal year 2007, $60,175,000 of which $7,386,000 is for carrying out such section 12 and $17,556,000 is for making grants.

"(B) For fiscal year 2008, $67,118,000 of which $7,586,000 is for carrying out such section 12 and $20,614,000 is for making grants.

"(C) For fiscal year 2009, $72,045,000 of which $7,586,000 is for carrying out such section 12 and $21,513,000 is for making grants.

"(D) For fiscal year 2010, $76,580,000 of which $7,586,000 is for carrying out subsection 12 and $22,252,000 is for making grants.

"(2) TRUST FUND AMOUNTS.—In addition to the amounts authorized to be appropriated by paragraph (1) the following amounts are authorized from the Oil Spill Liability Trust Fund to carry out the provisions of this chapter related to hazardous liquid and section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355):

"(A) For fiscal year 2007, $18,810,000 of which $4,207,000 is for carrying out such section 12 and $2,682,000 is for making grants.

"(B) For fiscal year 2008, $19,000,000 of which $4,207,000 is for carrying out such section 12 and $2,682,000 is for making grants.

"(C) For fiscal year 2009, $19,500,000 of which $4,207,000 is for carrying out such section 12 and $3,103,000 is for making grants.

"(D) For fiscal year 2010, $20,000,000 of which $4,207,000 is for carrying out such section 12 $3,603,000 is for making grants.".

(b) CONFORMING AMENDMENTS.—Section 60125 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

(c) EMERGENCY RESPONSE GRANTS.—Section 60125(b) (as redesignated by subsection (b)(2) of this section) is amended—

(1) in paragraph (1) by adding at the end the following: "To the extent that such grants are used to train emergency responders, such training shall ensure that emergency responders have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving gas or hazardous liquid pipelines, in accordance with existing regulations."; and

(2) in paragraph (2)—

(A) by striking "$6,000,000" and inserting "$10,000,000"; and

(B) by striking "2003 through 2006" and inserting "2007 through 2010".

(d) ONE-CALL NOTIFICATION PROGRAMS.—Section 6107 is amended—

(1) in subsection (a) by striking "fiscal years 2003 through 2006" and inserting "fiscal years 2007 through 2010"; and

(2) in subsection (b) by striking "for fiscal years 2003 through 2006" and inserting "for fiscal years 2007 through 2010".

(e) INSPECTOR STAFFING.—The Secretary shall ensure that the number of positions for pipeline inspection and enforcement personnel at the Pipeline and Hazardous Materials Safety Administration does not fall below 100 for fiscal year 2007, 111 for fiscal year 2008, 123 for fiscal year 2009, and 135 for fiscal year 2010.

49 USC 60102 note.
Deadline.

**SEC. 19. STANDARDS TO IMPLEMENT NTSB RECOMMENDATIONS.**

Not later than June 1, 2008, the Secretary of Transportation shall issue standards that implement the following recommendations contained in the National Transportation Safety Board's report entitled "Supervisory Control and Data Acquisition (SCADA) in Liquid Pipelines" and adopted November 29, 2005:

(1) Implementation of the American Petroleum Institute's Recommended Practice 165 for the use of graphics on the supervisory control and data acquisition screens.

(2) Implementation of a standard for pipeline companies to review and audit alarms on monitoring equipment.

(3) Implementation of standards for pipeline controller training that include simulator or noncomputerized simulations for controller recognition of abnormal pipeline operating conditions, in particular, leak events.

49 USC 60117 note.

**SEC. 20. ACCIDENT REPORTING FORM.**

Not later than December 31, 2007, the Secretary of Transportation shall amend accident reporting forms to require operators of gas and hazardous liquid pipelines to provide data related to controller fatigue.

**SEC. 21. LEAK DETECTION TECHNOLOGY STUDY.**

Reports.

Not later than December 31, 2007, the Secretary of Transportation shall submit to Congress a report on leak detection systems utilized by operators of hazardous liquid pipelines. The report shall include a discussion of the inadequacies of current leak detection systems, including their ability to detect ruptures and small leaks that are ongoing or intermittent, and what can be done to foster

development of better technologies as well as address existing technological inadequacies.

**SEC. 22. CORROSION CONTROL REGULATIONS.**

(a) REVIEW.—The Secretary of Transportation, in consultation with the Technical Hazardous Liquid Pipeline Safety Standards Committee and other appropriate entities, shall review the internal corrosion control regulations set forth in subpart H of part 195 of title 49 of the Code of Federal Regulations to determine if such regulations are currently adequate to ensure that the pipeline facilities subject to such regulations will not present a hazard to public safety or the environment.

(b) REPORT.—Not later than December 31, 2007, the Secretary shall submit to Congress a report containing the results of the review and may modify the regulations referred to in subsection (a) if necessary and appropriate.

**SEC. 23. INSPECTOR GENERAL REPORT.**

(a) ASSESSMENT.—Not later than December 31, 2007, the Inspector General of the Department of Transportation shall conduct an assessment of the actions the Department has taken in implementing the annex to the memorandum of understanding between the Secretary of Transportation and the Secretary of Homeland Security, dated September 28, 2004, relating to pipeline security.

(b) SPECIFIED DUTIES OF INSPECTOR GENERAL.—In carrying out the assessment, the Inspector General shall—

(1) provide a status report on implementation of the program elements outlined and developed in the annex;

(2) describe the roles, responsibilities, and authority of the Department of Transportation relating to pipeline security;

(3) assess the adequacy and effectiveness of the process by which the Department of Transportation has communicated and coordinated with the Department of Homeland Security on matters relating to pipeline security;

(4) address the adequacy of security standards for gas and oil pipelines in coordination, as necessary, with the Inspector General of the Department of Homeland Security; and

(5) consider any other issues determined to be appropriate by the Inspector General of the Department of Transportation or the Secretary of Transportation.

(c) ASSESSMENT REPORT AND PERIODIC STATUS UPDATES.—

(1) ASSESSMENT REPORT.—Not later than December 31, 2007, the Inspector General of the Department of Transportation shall transmit a report on the results of the assessment, together with any recommendations (including legislative options for Congress to consider), to the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) PERIODIC STATUS REPORTS.—The Inspector General shall transmit periodically to the Committees as referred to in paragraph (1), as necessary and appropriate, reports on matters pertaining to the implementation by the Department of Transportation of any recommendations contained in the report transmitted pursuant to paragraph (1).

(d) FORMAT.—The report, or portions of the report, under subsection (c)(1) may be submitted in a classified format if the Inspector General determines that such action is necessary.

49 USC 60101 note.

**SEC. 24. TECHNICAL ASSISTANCE PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation may award, through a competitive process, grants to universities with expertise in pipeline safety and security to establish jointly a collaborative program to conduct pipeline safety and technical assistance programs.

(b) DUTIES.—In cooperation with the Pipeline and Hazardous Materials Safety Administration and representatives from States and boards of public utilities, the participants in the collaborative program established under subsection (a) shall be responsible for development of workforce training and technical assistance programs through statewide and regional partnerships that provide for—

(1) communication of national, State, and local safety information to pipeline operators;

(2) distribution of technical resources and training to support current and future Federal mandates; and

(3) evaluation of program outcomes.

(c) TRAINING AND EDUCATIONAL MATERIALS.—The collaborative program established under subsection (a) may include courses in recent developments, techniques, and procedures related to—

(1) safety and security of pipeline systems;

(2) incident and risk management for such systems;

(3) integrity management for such systems;

(4) consequence modeling for such systems;

(5) detection of encroachments and monitoring of rights-of-way for such systems; and

(6) vulnerability assessment of such systems at both project and national levels.

(d) REPORTS.—

(1) UNIVERSITY.—Not later than March 31, 2009, the universities awarded grants under subsection (a) shall submit to the Secretary a report on the results of the collaborative program.

(2) SECRETARY.—Not later than October 1, 2009, the Secretary shall transmit the reports submitted to the Secretary under paragraph (1), along with any findings, recommendations, or legislative options for Congress to consider, to the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2010.

**SEC. 25. NATURAL GAS PIPELINES.**

Deadline. Recommendations.

The Secretary of Transportation shall review and comment on the Comptroller General report issued under section 14(d)(1) of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60109 note; 116 Stat. 3005), and not later than 60 days after the date of enactment of this Act, transmit to Congress any legislative recommendations the Secretary considers necessary and appropriate to implement the conclusions of that report.

**SEC. 26. CORROSION TECHNOLOGY.**

Section 12 of the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60101 note; Public Law 107–355) is amended—

(1) in subsection (c)(2) by striking "corrosion,";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (9);

(B) by redesignating paragraph (10) as paragraph (11);

(C) by inserting after paragraph (9) the following:

"(10) corrosion detection and improving methods, best practices, and technologies for identifying, detecting, preventing, and managing internal and external corrosion and other safety risks; and"; and

(D) by adding at the end the following:

"The results of activities carried out under paragraph (10) shall be used by the participating agencies to support development and improvement of national consensus standards."; and

(3) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

Approved December 29, 2006.

---

LEGISLATIVE HISTORY—H.R. 5782:

HOUSE REPORTS: No. 109–717, Pt. 1 (Comm. on Transportation and Infrastructure) and Pt. 2 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Dec. 6, considered and passed House.

Dec. 7, considered and passed Senate.

# Public Law 109–469
# 109th Congress

## An Act

Dec. 29, 2006
[H.R. 6344]

Office of National Drug Control Policy Reauthorization Act of 2006.
21 USC 1701 note.

To reauthorize the Office of National Drug Control Policy Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE, REFERENCE, AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Office of National Drug Control Policy Reauthorization Act of 2006".

(b) AMENDMENT OF OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 1998.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Office of National Drug Control Policy Reauthorization Act of 1998 (Public Law 105–277; 21 U.S.C. 1701 et seq.).

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

Sec. 1. Short title, reference, and table of contents.

TITLE I—ORGANIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY AND ROLES AND RESPONSIBILITIES

Sec. 101. Amendments to definitions.
Sec. 102. Establishment of the Office of National Drug Control Policy.
Sec. 103. Appointment and responsibilities of the Director.
Sec. 104. Amendments to ensure coordination with other agencies.
Sec. 105. Budgetary matters.

TITLE II—THE NATIONAL DRUG CONTROL STRATEGY

Sec. 201. Annual preparation and submission of National Drug Control Strategy.
Sec. 202. Performance measurements.
Sec. 203. Annual report requirement.

TITLE III—HIGH INTENSITY DRUG TRAFFICKING AREAS

Sec. 301. High Intensity Drug Trafficking Areas Program.
Sec. 302. Funding for certain high intensity drug trafficking areas.
Sec. 303. Assessment.

TITLE IV—TECHNOLOGY

Sec. 401. Counterdrug Technology Assessment Center.

TITLE V—NATIONAL YOUTH MEDIA CAMPAIGN

Sec. 501. National Youth Anti-Drug Media Campaign.

TITLE VI—AUTHORIZATIONS AND EXTENSION OF TERMINATION DATE

Sec. 601. Authorization of appropriations.
Sec. 602. Extension of termination date.

TITLE VII—ANTI-DOPING AGENCY

Sec. 701. Designation of United States Anti-Doping Agency.

Sec. 702. Records, audit, and report.
Sec. 703. Authorization of appropriations.

TITLE VIII—DRUG-FREE COMMUNITIES

Sec. 801. Reauthorization.
Sec. 802. Suspension of grants.
Sec. 803. Grant award increase.
Sec. 804. Prohibition on additional eligibility criteria.
Sec. 805. National Community Anti-Drug Coalition Institute.

TITLE IX—NATIONAL GUARD COUNTERDRUG SCHOOLS

Sec. 901. National Guard counterdrug schools.

TITLE X—NATIONAL METHAMPHETAMINE INFORMATION CLEARINGHOUSE ACT OF 2006

Sec. 1001. Short title.
Sec. 1002. Definitions.
Sec. 1003. Establishment of clearinghouse and advisory council.
Sec. 1004. NMIC requirements and review.
Sec. 1005. Authorization of appropriations.

TITLE XI—MISCELLANEOUS PROVISIONS

Sec. 1101. Repeals.
Sec. 1102. Controlled Substances Act amendments.
Sec. 1103. Report on law enforcement intelligence sharing.
Sec. 1104. Requirement for South American heroin strategy.
Sec. 1105. Model acts.
Sec. 1106. Study on iatrogenic addiction associated with prescription opioid analgesic drugs.
Sec. 1107. Requirement for strategy to stop Internet advertising of prescription medicines without a prescription.
Sec. 1108. Requirement for study on diversion and inappropriate uses of prescription drugs.
Sec. 1109. Requirement for Afghan Heroin Strategy.
Sec. 1110. Requirement for Southwest Border Counternarcotics Strategy.
Sec. 1111. Requirement for Scientific Study of Mycoherbicide in Illicit Drug Crop Eradication.
Sec. 1112. Requirement for Study of State Precursor Chemical Control Laws.
Sec. 1113. Requirement for Study of Drug Endangered Children Programs.
Sec. 1114. Study on drug court hearings in nontraditional places.
Sec. 1115. Report on tribal Government participation in HIDTA process.
Sec. 1116. Report on school drug testing.
Sec. 1117. Report on ONDCP performance bonuses.
Sec. 1118. Requirement for disclosure of Federal sponsorship of all Federal advertising or other communication materials.
Sec. 1119. Awards for demonstration programs by local partnerships to coerce abstinence in chronic hard-drug users under community supervision through the use of drug testing and sanctions.
Sec. 1120. Policy relating to syringe exchange programs.

# TITLE I—ORGANIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY AND ROLES AND RESPONSIBILITIES

**SEC. 101. AMENDMENTS TO DEFINITIONS.**

21 USC 1701.

(a) DEMAND REDUCTION.—Section 702(1) is amended—

(1) in subparagraph (F), by striking "and" after the semicolon;

(2) in paragraph (G), by striking the period at the end and inserting ", including the testing of employees;"; and

(3) by adding at the end the following:

"(H) interventions for drug abuse and dependence;

"(I) international drug control coordination and cooperation with respect to activities described in this paragraph; and

"(J) international drug abuse education, prevention, treatment, research, rehabilitation activities, and interventions for drug abuse and dependence.".

(b) NATIONAL DRUG CONTROL PROGRAM.—Section 702(6) is amended by adding before the period the following: ", including any activities involving supply reduction, demand reduction, or State, local, and tribal affairs".

(c) PROGRAM CHANGE.—Section 702(7) is amended by—

(1) striking "National Foreign Intelligence Program," and inserting "National Intelligence Program,"; and

(2) inserting after "Related Activities," the following: "or (for purposes of section 704(d)) an agency that is described in section 530C(a) of title 28, United States Code,".

(d) OFFICE.—Section 702(9) is amended by striking "implicates" and inserting "indicates".

(e) STATE, LOCAL, AND TRIBAL AFFAIRS.—Paragraph (10) of section 702 is amended to read as follows:

"(10) STATE, LOCAL, AND TRIBAL AFFAIRS.—The term 'State, local, and tribal affairs' means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of illegal drugs, including—

"(A) coordination and enhancement of Federal, State, local, and tribal law enforcement drug control efforts;

"(B) coordination and enhancement of efforts among National Drug Control Program agencies and State, local, and tribal demand reduction and supply reduction agencies;

"(C) coordination and enhancement of Federal, State, local, and tribal law enforcement initiatives to gather, analyze, and disseminate information and law enforcement intelligence relating to drug control among domestic law enforcement agencies; and

"(D) other coordinated and joint initiatives among Federal, State, local, and tribal agencies to promote comprehensive drug control strategies designed to reduce the demand for, and the availability of, illegal drugs.".

(f) SUPPLY REDUCTION.—Section 702(11) is amended to read as follows:

"(11) SUPPLY REDUCTION.—The term 'supply reduction' means any activity or program conducted by a National Drug Control Program agency that is intended to reduce the availability or use of illegal drugs in the United States or abroad, including—

"(A) law enforcement outside the United States;

"(B) source country programs, including economic development programs primarily intended to reduce the production or trafficking of illicit drugs;

"(C) activities to control international trafficking in, and availability of, illegal drugs, including—

"(i) accurate assessment and monitoring of international drug production and interdiction programs and policies; and

"(ii) coordination and promotion of compliance with international treaties relating to the production, transportation, or interdiction of illegal drugs;

"(D) activities to conduct and promote international law enforcement programs and policies to reduce the supply of drugs; and

"(E) activities to facilitate and enhance the sharing of domestic and foreign intelligence information among National Drug Control Program agencies, relating to the production and trafficking of drugs in the United States and in foreign countries.".

(g) DEFINITIONS OF APPROPRIATE CONGRESSIONAL COMMITTEES AND LAW ENFORCEMENT.—Section 702 is amended by adding at the end the following:

"(12) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except where otherwise provided, the term 'appropriate congressional committees' means the Committee on the Judiciary, the Committee on Appropriations, and the Caucus on International Narcotics Control of the Senate and the Committee on Government Reform, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

"(13) LAW ENFORCEMENT.—The term 'law enforcement' or 'drug law enforcement' means all efforts by a Federal, State, local, or tribal government agency to enforce the drug laws of the United States or any State, including investigation, arrest, prosecution, and incarceration or other punishments or penalties.".

**SEC. 102. ESTABLISHMENT OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.**

(a) RESPONSIBILITIES.—Section 703(a) is amended to read as follows: 21 USC 1702.

"(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President an Office of National Drug Control Policy, which shall—

"(1) develop national drug control policy;

"(2) coordinate and oversee the implementation of the national drug control policy;

"(3) assess and certify the adequacy of National Drug Control Programs and the budget for those programs; and Certification.

"(4) evaluate the effectiveness of the national drug control policy and the National Drug Control Program agencies' programs, by developing and applying specific goals and performance measurements.".

(b) POSITIONS.—Section 703(b) is amended to read as follows:

"(b) DIRECTOR OF NATIONAL DRUG CONTROL POLICY AND DEPUTY DIRECTORS.—

"(1) DIRECTOR.—There shall be a Director of National Drug Control Policy who shall head the Office (referred to in this Act as the 'Director') and shall hold the same rank and status as the head of an executive department listed in section 101 of title 5, United States Code.

"(2) DEPUTY DIRECTOR.—There shall be a Deputy Director of National Drug Control Policy who shall report directly to the Director (referred to in this Act as the 'Deputy Director').

"(3) OTHER DEPUTY DIRECTORS.—

"(A) IN GENERAL.—There shall be a Deputy Director for Demand Reduction, a Deputy Director for Supply Reduction, and a Deputy Director for State, Local, and Tribal Affairs.

"(B) REPORTING.—The Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State, Local, and Tribal Affairs

shall report directly to the Deputy Director of the Office of National Drug Control Policy.

"(C) DEPUTY DIRECTOR FOR DEMAND REDUCTION.—The Deputy Director for Demand Reduction shall be responsible for the activities in subparagraphs (A) through (H) of section 702(l).

"(D) DEPUTY DIRECTOR FOR SUPPLY REDUCTION.—The Deputy Director for Supply Reduction shall—

"(i) have substantial experience and expertise in drug interdiction and other supply reduction activities; and

"(ii) be responsible for the activities in subparagraphs (A) through (C) in section 702(11).

"(E) DEPUTY DIRECTOR FOR STATE, LOCAL, AND TRIBAL AFFAIRS.—The Deputy Director for State, Local, and Tribal Affairs shall be responsible for the activities—

"(i) in subparagraphs (A) through (D) of section 702(10);

"(ii) in section 707, the High Intensity Drug Trafficking Areas Program; and

"(iii) in section 708, the Counterdrug Technology Assessment Center.".

**SEC. 103. APPOINTMENT AND RESPONSIBILITIES OF THE DIRECTOR.**

21 USC 1703.

(a) SUCCESSION.—Section 704(a) is amended by amending paragraph (3) to read as follows:

"(3) ACTING DIRECTOR.—If the Director dies, resigns, or is otherwise unable to perform the functions and duties of the office, the Deputy Director shall perform the functions and duties of the Director temporarily in an acting capacity pursuant to subchapter III of chapter 33 of title 5, United States Code.".

(b) RESPONSIBILITIES.—Section 704(b) is amended—

(1) in paragraph (4), by striking "Federal departments and agencies engaged in drug enforcement" and inserting "National Drug Control Program agencies";

(2) in paragraph (7), by inserting after "President" the following: "and the appropriate congressional committees";

(3) in paragraph (13), by striking "(beginning in 1999)";

(4) by striking paragraph (14) and inserting the following:

Deadline.

"(14) shall submit to the appropriate congressional committees on an annual basis, not later than 60 days after the date of the last day of the applicable period, a summary of—

"(A) each of the evaluations received by the Director under paragraph (13); and

"(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures for the agency developed under section 706(c);";

(5) in paragraph (15), by striking subparagraph (C) and inserting the following:

"(C) supporting the substance abuse information clearinghouse administered by the Administrator of the Substance Abuse and Mental Health Services Administration and established in section 501(d)(16) of the Public Health Service Act by—

"(i) encouraging all National Drug Control Program agencies to provide all appropriate and relevant information; and

"(ii) supporting the dissemination of information to all interested entities;"; and

(6) by inserting at the end the following:

"(16) shall coordinate with the private sector to promote private research and development of medications to treat addiction;

"(17) shall seek the support and commitment of State, local, and tribal officials in the formulation and implementation of the National Drug Control Strategy;

"(18) shall monitor and evaluate the allocation of resources among Federal law enforcement agencies in response to significant local and regional drug trafficking and production threats;

"(19) shall submit an annual report to Congress detailing how the Office of National Drug Control Policy has consulted with and assisted State, local, and tribal governments with respect to the formulation and implementation of the National Drug Control Strategy and other relevant issues; and Reports.

"(20) shall, within 1 year after the date of the enactment of the Office of National Drug Control Policy Reauthorization Act of 2006, report to Congress on the impact of each Federal drug reduction strategy upon the availability, addiction rate, use rate, and other harms of illegal drugs.". Deadline. Reports.

(c) REVIEW AND CERTIFICATION OF NATIONAL DRUG CONTROL PROGRAM BUDGET.—Section 704(c)(3) is amended—

(1) in subparagraph (C)(iii), by inserting "and the appropriate congressional committees," after "House of Representatives"; and

(2) in subparagraph (D)(ii)(II)(bb), by inserting "and the appropriate congressional committees," after "House of Representatives".

(d) POWERS OF DIRECTOR.—Section 704(d) is amended—

(1) in paragraph (9), by striking "Strategy; and" and inserting "Strategy and notify the appropriate congressional committees of any fund control notice issued in accordance with section 704(f)(5);"; and Notification.

(2) in paragraph (10), by inserting before the period the following: "and section 706 of the Department of State Authorization Act for Fiscal Year 2003 (22 U.S.C. 229j–1)".

(e) FUND CONTROL NOTICES.—Section 704(f) is amended by adding at the end the following:

"(4) CONGRESSIONAL NOTICE.—A copy of each fund control notice shall be transmitted to the appropriate congressional committees.

"(5) RESTRICTIONS.—The Director shall not issue a fund control notice to direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated, modified, or altered in any manner—

"(A) contrary, in whole or in part, to a specific appropriation; or

"(B) contrary, in whole or in part, to the expressed intent of Congress.".

(f) DRUG INTERDICTION.—

(1) IN GENERAL.—Section 711 is amended by adding at the end the following: 21 USC 1710.

**"SEC. 711. DRUG INTERDICTION COORDINATOR AND COMMITTEE.**

"(a) UNITED STATES INTERDICTION COORDINATOR.—

"(1) IN GENERAL.—The United States Interdiction Coordinator shall perform the duties of that position described in paragraph (2) and such other duties as may be determined by the Director with respect to coordination of efforts to interdict illicit drugs from entering the United States.

"(2) RESPONSIBILITIES.—The United States Interdiction Coordinator shall be responsible to the Director for—

"(A) coordinating the interdiction activities of the National Drug Control Program agencies to ensure consistency with the National Drug Control Strategy;

Deadline.

"(B) on behalf of the Director, developing and issuing, on or before March 1 of each year and in accordance with paragraph (3), a National Interdiction Command and Control Plan to ensure the coordination and consistency described in subparagraph (A);

"(C) assessing the sufficiency of assets committed to illicit drug interdiction by the relevant National Drug Control Program agencies; and

"(D) advising the Director on the efforts of each National Drug Control Program agency to implement the National Interdiction Command and Control Plan.

"(3) STAFF.—The Director shall assign such permanent staff of the Office as he considers appropriate to assist the United States Interdiction Coordinator to carry out the responsibilities described in paragraph (2), and may also, at his discretion, request that appropriate National Drug Control Program agencies detail or assign staff to the Office of Supply Reduction for that purpose.

"(4) NATIONAL INTERDICTION COMMAND AND CONTROL PLAN.—

"(A) PURPOSES.—The National Interdiction Command and Control Plan shall—

"(i) set forth the Government's strategy for drug interdiction;

"(ii) state the specific roles and responsibilities of the relevant National Drug Control Program agencies for implementing that strategy; and

"(iii) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

"(B) CONSULTATION WITH OTHER AGENCIES.—The United States Interdiction Coordinator shall issue the National Interdiction Command and Control Plan in consultation with the other members of the Interdiction Committee described in subsection (b).

"(C) LIMITATION.—The National Interdiction Command and Control Plan shall not change existing agency authorities or the laws governing interagency relationships, but may include recommendations about changes to such authorities or laws.

"(D) REPORT TO CONGRESS.—On or before March 1 of each year, the United States Interdiction Coordinator shall provide a report on behalf of the Director to the appropriate congressional committees, to the Committee

on Armed Services and the Committee on Homeland Security of the House of Representatives, and to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate, which shall include—

"(i) a copy of that year's National Interdiction Command and Control Plan;

"(ii) information for the previous 10 years regarding the number and type of seizures of drugs by each National Drug Control Program agency conducting drug interdiction activities, as well as statistical information on the geographic areas of such seizures; and

"(iii) information for the previous 10 years regarding the number of air and maritime patrol hours undertaken by each National Drug Control Program agency conducting drug interdiction activities, as well as statistical information on the geographic areas in which such patrol hours took place.

"(E) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the report described in subparagraph (D) that involves information classified under criteria established by an Executive order, or the public disclosure of which, as determined by the Director, the Director of National Intelligence, or the head of any Federal Government agency the activities of which are described in the plan, would be detrimental to the law enforcement or national security activities of any Federal, State, or local agency, shall be presented to Congress separately from the rest of the report.

"(b) INTERDICTION COMMITTEE.—

"(1) IN GENERAL.—The Interdiction Committee shall meet to—

"(A) discuss and resolve issues related to the coordination, oversight and integration of international, border, and domestic drug interdiction efforts in support of the National Drug Control Strategy;

"(B) review the annual National Interdiction Command and Control Plan, and provide advice to the Director and the United States Interdiction Coordinator concerning that plan; and

"(C) provide such other advice to the Director concerning drug interdiction strategy and policies as the committee determines is appropriate.

"(2) CHAIRMAN.—The Director shall designate one of the members of the Interdiction Committee to serve as chairman.

"(3) MEETINGS.—The members of the Interdiction Committee shall meet, in person and not through any delegate or representative, at least once per calendar year, prior to March 1. At the call of either the Director or the current chairman, the Interdiction Committee may hold additional meetings, which shall be attended by the members either in person, or through such delegates or representatives as they may choose.

"(4) REPORT.—Not later than September 30 of each year, the chairman of the Interdiction Committee shall submit a report to the Director and to the appropriate congressional

committees describing the results of the meetings and any significant findings of the Committee during the previous 12 months. Any content of such a report that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director, the chairman, or any member, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or tribal agency, shall be presented to Congress separately from the rest of the report.".

(2) CONFORMING AMENDMENT TO HOMELAND SECURITY ACT OF 2002.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended—

(A) in subsection (c), by striking "Except as provided in subsection (d), the" and inserting "The"; and

(B) by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(3) TECHNICAL AMENDMENTS.—Section 704 (21 U.S.C. 1703) is amended—

(A) by amending subsection (g) to read as follows:

"(g) INAPPLICABILITY TO CERTAIN PROGRAMS.—The provisions of this section shall not apply to the National Intelligence Program, the Joint Military Intelligence Program, and Tactical and Related Activities, unless such program or an element of such program is designated as a National Drug Control Program—

"(1) by the President; or

"(2) jointly by—

"(A) in the case of the National Intelligence Program, the Director and the Director of National Intelligence; or

"(B) in the case of the Joint Military Intelligence Program and Tactical and Related Activities, the Director, the Director of National Intelligence, and the Secretary of Defense."; and

(B) by amending subsection (h) to read as follows:

"(h) CONSTRUCTION.—Nothing in this Act shall be construed as derogating the authorities and responsibilities of the Director of National Intelligence or the Director of the Central Intelligence Agency contained in the National Security Act of 1947 (50 U.S.C. 401 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or any other law.".

**SEC. 104. AMENDMENTS TO ENSURE COORDINATION WITH OTHER AGENCIES.**

21 USC 1704.

Section 705 is amended—

(1) in subsection (a)(1)(A), by striking "abuse";

(2) in subsection (a)(2)(A), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(3) in subsection (a)(2)(B), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence and the Director of the Central Intelligence Agency";

(4) by amending subsection (a)(3) to read as follows:

"(3) REQUIRED REPORTS.—

"(A) SECRETARIES OF THE INTERIOR AND AGRICULTURE.—Not later than July 1 of each year, the Secretaries of Agriculture and the Interior shall jointly submit

to the Director and the appropriate congressional committees an assessment of the quantity of illegal drug cultivation and manufacturing in the United States on lands owned or under the jurisdiction of the Federal Government for the preceding year.

"(B) SECRETARY OF HOMELAND SECURITY.—Not later than July 1 of each year, the Secretary of Homeland Security shall submit to the Director and the appropriate congressional committees information for the preceding year regarding—

"(i) the number and type of seizures of drugs by each component of the Department of Homeland Security seizing drugs, as well as statistical information on the geographic areas of such seizures; and

"(ii) the number of air and maritime patrol hours primarily dedicated to drug supply reduction missions undertaken by each component of the Department of Homeland Security.

"(C) SECRETARY OF DEFENSE.—The Secretary of Defense shall, by July 1 of each year, submit to the Director and the appropriate congressional committees information for the preceding year regarding the number of air and maritime patrol hours primarily dedicated to drug supply reduction missions undertaken by each component of the Department of Defense.

"(D) ATTORNEY GENERAL.—The Attorney General shall, by July 1 of each year, submit to the Director and the appropriate congressional committees information for the preceding year regarding the number and type of—

"(i) arrests for drug violations;

"(ii) prosecutions for drug violations by United States Attorneys; and

"(iii) seizures of drugs by each component of the Department of Justice seizing drugs, as well as statistical information on the geographic areas of such seizures.";

(5) in subsection (b)(2)(B), by striking "Program" and inserting "Strategy"; and

(6) in subsection (c), by striking "in" and inserting "on".

**SEC. 105. BUDGETARY MATTERS.**

(a) SUBMISSION OF DRUG CONTROL BUDGET REQUESTS.—Section 704(c)(1) is amended by adding at the end the following: 21 USC 1703.

"(C) CONTENT OF DRUG CONTROL BUDGET REQUESTS.—A drug control budget request submitted by a department, agency, or program under this paragraph shall include all requests for funds for any drug control activity undertaken by that department, agency, or program, including demand reduction, supply reduction, and State, local, and tribal affairs, including any drug law enforcement activities. If an activity has both drug control and nondrug control purposes or applications, the department, agency, or program shall estimate by a documented calculation the total funds requested for that activity that would be used for drug control, and shall set forth in its request the basis and method for making the estimate.".

(b) NATIONAL DRUG CONTROL BUDGET PROPOSAL.—

(1) NATIONAL ORGANIZATIONS.—Section 704(c)(2) is amended by inserting "and the head of each major national organization that represents law enforcement officers, agencies, or associations" after "agency".

(2) TOTAL BUDGET.—Section 704(c)(2)(A) is amended by inserting before the semicolon: "and to inform Congress and the public about the total amount proposed to be spent on all supply reduction, demand reduction, State, local, and tribal affairs, including any drug law enforcement, and other drug control activities by the Federal Government, which shall conform to the content requirements set forth in paragraph (1)(C)".

(c) REVIEW AND CERTIFICATION OF NATIONAL DRUG CONTROL PROGRAM BUDGET.—Section 704(c)(3) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

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

"(C) SPECIFIC REQUESTS.—The Director shall not confirm the adequacy of any budget request that—

"(i) requests funding for Federal law enforcement activities that do not adequately compensate for transfers of drug enforcement resources and personnel to law enforcement and investigation activities;

"(ii) requests funding for law enforcement activities on the borders of the United States that do not adequately direct resources to drug interdiction and enforcement;

"(iii) requests funding for drug treatment activities that do not provide adequate results and accountability measures;

"(iv) requests funding for any activities of the Safe and Drug-Free Schools Program that do not include a clear anti-drug message or purpose intended to reduce drug use;

"(v) requests funding for drug treatment activities that do not adequately support and enhance Federal drug treatment programs and capacity;

"(vi) requests funding for fiscal year 2007 for activities of the Department of Education, unless it is accompanied by a report setting forth a plan for providing expedited consideration of student loan applications for all individuals who submitted an application for any Federal grant, loan, or work assistance that was rejected or denied pursuant to 484(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) by reason of a conviction for a drug-related offense not occurring during a period of enrollment for which the individual was receiving any Federal grant, loan, or work assistance; and

"(vii) requests funding for the operations and management of the Department of Homeland Security that does not include a specific request for funds for the Office of Counternarcotics Enforcement to carry out its responsibilities under section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458).";

(3) in subparagraph (D)(iii), as so redesignated, by inserting "and the appropriate congressional committees" after "House of Representatives"; and

(4) in subparagraph (E)(ii)(II)(bb), as so redesignated, by inserting "and the appropriate congressional committees" after "House of Representatives".

(d) REPROGRAMMING AND TRANSFER REQUESTS.—Section 704(c)(4)(A) (21 U.S.C. 1703(c)(4)(A)) is amended—

(1) by striking "$5,000,000" and inserting "$1,000,000"; and

(2) adding at the end the following: "If the Director has not responded to a request for reprogramming subject to this subparagraph within 30 days after receiving notice of the request having been made, the request shall be deemed approved by the Director under this subparagraph and forwarded to Congress.". Deadline.

(e) POWERS OF DIRECTOR.—Section 704(d) is amended—

(1) in paragraph (8)(D), by striking "have been authorized by Congress;" and inserting "authorized by law;";

(2) in paragraph (9), by striking "Strategy; and" and inserting "Strategy and notify the appropriate congressional committees of any fund control notice issued; and"; and Notification.

(3) in paragraph (10), by striking "(22 U.S.C. 2291j)." and inserting "(22 U.S.C. 2291j) and section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j–1).".

(f) FUND CONTROL NOTICES.—Section 704(f) (21 U.S.C. 1703(f)) is amended by adding at the end the following:

"(4) CONGRESSIONAL NOTICE.—A copy of each fund control notice shall be transmitted to the appropriate congressional committees.

"(5) RESTRICTIONS.—The Director shall not issue a fund control notice to direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated, modified, or altered in any manner contrary, in whole or in part, to a specific appropriation or statute.".

# TITLE II—THE NATIONAL DRUG CONTROL STRATEGY

**SEC. 201. ANNUAL PREPARATION AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.**

Section 706 is amended to read as follows: 21 USC 1705.

**"SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.**

"(a) TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—

"(1) TIMING.—Not later than February 1 of each year, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan for the year to reduce illicit drug use and the consequences of such illicit drug use in the United States by limiting the availability of, and reducing the demand for, illegal drugs. President.

"(2) CONTENTS.—

"(A) IN GENERAL.—The National Drug Control Strategy submitted under paragraph (1) shall include the following:

"(i) Comprehensive, research-based, long-range, quantifiable goals for reducing illicit drug use and the consequences of illicit drug use in the United States.

"(ii) Annual quantifiable and measurable objectives and specific targets to accomplish long-term quantifiable goals that the Director determines may be achieved during each year beginning on the date on which the National Drug Control Strategy is submitted.

"(iii) A 5-year projection for program and budget priorities.

"(iv) A review of international, State, local, and private sector drug control activities to ensure that the United States pursues coordinated and effective drug control at all levels of government.

"(v) An assessment of current illicit drug use (including inhalants and steroids) and availability, impact of illicit drug use, and treatment availability, which assessment shall include—

"(I) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of nondependent and dependent illicit drug use;

"(II) illicit drug use in the workplace and the productivity lost by such use; and

"(III) illicit drug use by arrestees, probationers, and parolees.

"(vi) An assessment of the reduction of illicit drug availability, as measured by—

"(I) the quantities of cocaine, heroin, marijuana, methamphetamine, ecstasy, and other drugs available for consumption in the United States;

"(II) the amount of marijuana, cocaine, heroin, methamphetamine, ecstasy, and precursor chemicals and other drugs entering the United States;

"(III) the number of illicit drug manufacturing laboratories seized and destroyed and the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

"(IV) the number of metric tons of marijuana, heroin, cocaine, and methamphetamine seized and other drugs; and

"(V) changes in the price and purity of heroin, methamphetamine, and cocaine, changes in the price of ecstasy, and changes in tetrahydrocannabinol level of marijuana and other drugs.

"(vii) An assessment of the reduction of the consequences of illicit drug use and availability, which shall include—

"(I) the burden illicit drug users placed on hospital emergency departments in the United States, such as the quantity of illicit drug-related services provided;

"(II) the annual national health care cost of illicit drug use; and

"(III) the extent of illicit drug-related crime and criminal activity.

"(viii) A determination of the status of drug treatment in the United States, by assessing—

"(I) public and private treatment utilization; and

"(II) the number of illicit drug users the Director estimates meet diagnostic criteria for treatment.

"(ix) A review of the research agenda of the Counterdrug Technology Assessment Center to reduce the availability and abuse of drugs.

"(x) A summary of the efforts made to coordinate with private sector entities to conduct private research and development of medications to treat addiction by—

"(I) screening chemicals for potential therapeutic value;

"(II) developing promising compounds;

"(III) conducting clinical trials;

"(IV) seeking Food and Drug Administration approval for drugs to treat addiction;

"(V) marketing the drug for the treatment of addiction;

"(VI) urging physicians to use the drug in the treatment of addiction; and

"(VII) encouraging insurance companies to reimburse the cost of the drug for the treatment of addiction.

"(xi) An assessment of Federal effectiveness in achieving the National Drug Control Strategy for the previous year, including a specific evaluation of whether the objectives and targets for reducing illicit drug use for the previous year were met and reasons for the success or failure of the previous year's Strategy.

"(xii) A general review of the status of, and trends in, demand reduction activities by private sector entities and community-based organizations, including faith-based organizations, to determine their effectiveness and the extent of cooperation, coordination, and mutual support between such entities and organizations and Federal, State, local, and tribal government agencies.

"(xiii) Such additional statistical data and information as the Director considers appropriate to demonstrate and assess trends relating to illicit drug use, the effects and consequences of illicit drug use (including the effects on children of substance abusers), supply reduction, demand reduction, drug-related law enforcement, and the implementation of the National Drug Control Strategy.

"(xiv) A supplement reviewing the activities of each individual National Drug Control Program agency during the previous year with respect to the National Drug Control Strategy and the Director's assessment

of the progress of each National Drug Control Program agency in meeting its responsibilities under the National Drug Control Strategy.

"(B) CLASSIFIED INFORMATION.—Any contents of the National Drug Control Strategy that involve information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

"(C) SELECTION OF DATA AND INFORMATION.—In selecting data and information for inclusion under subparagraph (A), the Director shall ensure—

"(i) the inclusion of data and information that will permit analysis of current trends against previously compiled data and information where the Director believes such analysis enhances long-term assessment of the National Drug Control Strategy; and

"(ii) the inclusion of data and information to permit a standardized and uniform assessment of the effectiveness of drug treatment programs in the United States.

"(3) PROCESS FOR DEVELOPMENT AND SUBMISSION.—In developing and effectively implementing the National Drug Control Strategy, the Director—

"(A) shall consult with—

"(i) the heads of the National Drug Control Program agencies;

"(ii) Congress;

"(iii) State, local, and tribal officials;

"(iv) private citizens and organizations, including community and faith-based organizations with experience and expertise in demand reduction;

"(v) private citizens and organizations with experience and expertise in supply reduction; and

"(vi) appropriate representatives of foreign governments;

"(B) in satisfying the requirements of subparagraph (A), shall ensure, to the maximum extent possible, that State, local, and tribal officials and relevant private organizations commit to support and take steps to achieve the goals and objectives of the National Drug Control Strategy;

"(C) with the concurrence of the Attorney General, may require the El Paso Intelligence Center to undertake specific tasks or projects to support or implement the National Drug Control Strategy; and

"(D) with the concurrence of the Director of National Intelligence and the Attorney General, may request that the National Drug Intelligence Center undertake specific tasks or projects to support or implement the National Drug Control Strategy.

"(b) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

"(1) at any time, upon a determination of the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; or

"(2) if a new President or Director takes office.".

**SEC. 202. PERFORMANCE MEASUREMENTS.**

Section 706 is amended by adding at the end the following: Deadline.

"(c) PERFORMANCE MEASUREMENT SYSTEM.—Not later than February 1 of each year, the Director shall submit to Congress as part of the National Drug Control Strategy, a description of a national drug control performance measurement system, that—

"(1) develops 2-year and 5-year performance measures and targets for each National Drug Control Strategy goal and objective established for reducing drug use, availability, and the consequences of drug use;

"(2) describes the sources of information and data that will be used for each performance measure incorporated into the performance measurement system;

"(3) identifies major programs and activities of the National Drug Control Program agencies that support the goals and annual objectives of the National Drug Control Strategy;

"(4) evaluates the contribution of demand reduction and supply reduction activities as defined in section 702 implemented by each National Drug Control Program agency in support of the National Drug Control Strategy;

"(5) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that each agency's goals and budgets support and are fully consistent with the National Drug Control Strategy; and

"(6) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

"(A) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the illicit drug user population, and groups that are at risk for illicit drug use;

"(C) the adequacy of the coverage of existing national treatment outcome monitoring systems to measure the effectiveness of drug abuse treatment in reducing illicit drug use and criminal behavior during and after the completion of substance abuse treatment; and

"(D) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of this subsection.

"(d) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug performance measurement system described in subsection (c) shall be included in each report submitted under subsection (b).".

**SEC. 203. ANNUAL REPORT REQUIREMENT.** 21 USC 1708a.

(a) IN GENERAL.—On or before February 1 of each year, the Director shall submit a report to Congress that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse;

(5) all contracts entered into with a corporation, partnership, or individual working on behalf of the national media campaign;

(6) specific policies and steps implemented to ensure compliance with title IV of this Act;

(7) steps taken to ensure that the national media campaign will secure, to the maximum extent possible, no cost matches of advertising time and space or in-kind contributions that are directly related to the campaign in accordance with title IV of this Act; and

(8) a review and evaluation of the effectiveness of the national media campaign strategy for the past year.

(b) AUDIT.—The Government Accountability Office shall, at a frequency of not less than once per year—

(1) conduct and supervise an audit and investigation relating to the programs and operations of the—

(A) Office; or

(B) certain programs within the Office, including—

(i) the High Intensity Drug Trafficking Areas Program;

(ii) the Counterdrug Technology Assessment Center; or

(iii) the National Youth Anti-drug Media Campaign; and

(2) provide the Director and the appropriate congressional committees with a report containing an evaluation of and recommendations on the—

(A) policies and activities of the programs and operations subject to the audit and investigation;

(B) economy, efficiency, and effectiveness in the administration of the reviewed programs and operations; and

(C) policy or management changes needed to prevent and detect fraud and abuse in such programs and operations.

# TITLE III—HIGH INTENSITY DRUG TRAFFICKING AREAS

**SEC. 301. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.**

21 USC 1706.

Section 707 is amended to read as follows:

**"SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program (in this section referred to as the 'Program').

"(2) PURPOSE.—The purpose of the Program is to reduce drug trafficking and drug production in the United States by—

"(A) facilitating cooperation among Federal, State, local, and tribal law enforcement agencies to share information and implement coordinated enforcement activities;

"(B) enhancing law enforcement intelligence sharing among Federal, State, local, and tribal law enforcement agencies;

"(C) providing reliable law enforcement intelligence to law enforcement agencies needed to design effective enforcement strategies and operations; and

"(D) supporting coordinated law enforcement strategies which maximize use of available resources to reduce the supply of illegal drugs in designated areas and in the United States as a whole.

"(b) DESIGNATION.—

"(1) IN GENERAL.—The Director, in consultation with the Attorney General, the Secretary of the Treasury, the Secretary of Homeland Security, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area.

"(2) ACTIVITIES.—After making a designation under paragraph (1) and in order to provide Federal assistance to the area so designated, the Director may—

"(A) obligate such sums as are appropriated for the Program;

"(B) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

"(C) take any other action authorized under section 704 to provide increased Federal assistance to those areas; and

"(D) coordinate activities under this section (specifically administrative, recordkeeping, and funds management activities) with State, local, and tribal officials.

"(c) PETITIONS FOR DESIGNATION.—The Director shall establish regulations under which a coalition of interested law enforcement agencies from an area may petition for designation as a high intensity drug trafficking area. Such regulations shall provide for a regular review by the Director of the petition, including a recommendation regarding the merit of the petition to the Director by a panel of qualified, independent experts. Regulations.

"(d) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

"(1) the area is a significant center of illegal drug production, manufacturing, importation, or distribution;

"(2) State, local, and tribal law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

"(3) drug-related activities in the area are having a significant harmful impact in the area, and in other areas of the country; and

"(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

"(e) ORGANIZATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.—

Establishment.

"(1) EXECUTIVE BOARD AND OFFICERS.—To be eligible for funds appropriated under this section, each high intensity drug trafficking area shall be governed by an Executive Board. The Executive Board shall designate a chairman, vice chairman, and any other officers to the Executive Board that it determines are necessary.

"(2) RESPONSIBILITIES.—The Executive Board of a high intensity drug trafficking area shall be responsible for—

"(A) providing direction and oversight in establishing and achieving the goals of the high intensity drug trafficking area;

"(B) managing the funds of the high intensity drug trafficking area;

"(C) reviewing and approving all funding proposals consistent with the overall objective of the high intensity drug trafficking area; and

"(D) reviewing and approving all reports to the Director on the activities of the high intensity drug trafficking area.

"(3) BOARD REPRESENTATION.—None of the funds appropriated under this section may be expended for any high intensity drug trafficking area, or for a partnership or region of a high intensity drug trafficking area, if the Executive Board for such area, region, or partnership, does not apportion an equal number of votes between representatives of participating Federal agencies and representatives of participating State, local, and tribal agencies. Where it is impractical for an equal number of representatives of Federal agencies and State, local, and tribal agencies to attend a meeting of an Executive Board in person, the Executive Board may use a system of proxy votes or weighted votes to achieve the voting balance required by this paragraph.

"(4) NO AGENCY RELATIONSHIP.—The eligibility requirements of this section are intended to ensure the responsible use of Federal funds. Nothing in this section is intended to create an agency relationship between individual high intensity drug trafficking areas and the Federal Government.

"(f) USE OF FUNDS.—The Director shall ensure that no Federal funds appropriated for the Program are expended for the establishment or expansion of drug treatment programs, and shall ensure that not more than 5 percent of the Federal funds appropriated for the Program are expended for the establishment of drug prevention programs.

"(g) COUNTERTERRORISM ACTIVITIES.—

"(1) ASSISTANCE AUTHORIZED.—The Director may authorize use of resources available for the Program to assist Federal, State, local, and tribal law enforcement agencies in investigations and activities related to terrorism and prevention of terrorism, especially but not exclusively with respect to such investigations and activities that are also related to drug trafficking.

"(2) LIMITATION.—The Director shall ensure—

"(A) that assistance provided under paragraph (1) remains incidental to the purpose of the Program to reduce

drug availability and carry out drug-related law enforcement activities; and

"(B) that significant resources of the Program are not redirected to activities exclusively related to terrorism, except on a temporary basis under extraordinary circumstances, as determined by the Director.

"(h) ROLE OF DRUG ENFORCEMENT ADMINISTRATION.—The Director, in consultation with the Attorney General, shall ensure that a representative of the Drug Enforcement Administration is included in the Intelligence Support Center for each high intensity drug trafficking area.

"(i) ANNUAL HIDTA PROGRAM BUDGET SUBMISSIONS.—As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a budget justification that includes—

"(1) the amount proposed for each high intensity drug trafficking area, conditional upon a review by the Office of the request submitted by the HIDTA and the performance of the HIDTA, with supporting narrative descriptions and rationale for each request;

"(2) a detailed justification that explains—

"(A) the reasons for the proposed funding level; how such funding level was determined based on a current assessment of the drug trafficking threat in each high intensity drug trafficking area;

"(B) how such funding will ensure that the goals and objectives of each such area will be achieved; and

"(C) how such funding supports the National Drug Control Strategy; and

"(3) the amount of HIDTA funds used to investigate and prosecute organizations and individuals trafficking in methamphetamine in the prior calendar year, and a description of how those funds were used.

"(j) EMERGING THREAT RESPONSE FUND.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Director may expend up to 10 percent of the amounts appropriated under this section on a discretionary basis, to respond to any emerging drug trafficking threat in an existing high intensity drug trafficking area, or to establish a new high intensity drug trafficking area or expand an existing high intensity drug trafficking area, in accordance with the criteria established under paragraph (2).

"(2) CONSIDERATION OF IMPACT.—In allocating funds under this subsection, the Director shall consider—

"(A) the impact of activities funded on reducing overall drug traffic in the United States, or minimizing the probability that an emerging drug trafficking threat will spread to other areas of the United States; and

"(B) such other criteria as the Director considers appropriate.

"(k) EVALUATION.—

"(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this section, the Director shall, after consulting with the Executive Boards of each designated high intensity drug trafficking area, submit a report to Congress that describes, for each designated high intensity drug trafficking area—

"(A) the specific purposes for the high intensity drug trafficking area;

"(B) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area;

"(C) the measurements that will be used to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals; and

"(D) the reporting requirements needed to evaluate the performance of the high intensity drug trafficking area in achieving the long-term and short-term goals.

Reports.

"(2) EVALUATION OF HIDTA PROGRAM AS PART OF NATIONAL DRUG CONTROL STRATEGY.—For each designated high intensity drug trafficking area, the Director shall submit, as part of the annual National Drug Control Strategy report, a report that—

"(A) describes—

"(i) the specific purposes for the high intensity drug trafficking area; and

"(ii) the specific long-term and short-term goals and objectives for the high intensity drug trafficking area; and

"(B) includes an evaluation of the performance of the high intensity drug trafficking area in accomplishing the specific long-term and short-term goals and objectives identified under paragraph (1)(B).

Deadline.
Reports.

"(l) ASSESSMENT OF DRUG ENFORCEMENT TASK FORCES IN HIGH INTENSITY DRUG TRAFFICKING AREAS.—Not later than 1 year after the date of enactment of this subsection, and as part of each subsequent annual National Drug Control Strategy report, the Director shall submit to Congress a report—

"(1) assessing the number and operation of all federally funded drug enforcement task forces within each high intensity drug trafficking area; and

"(2) describing—

"(A) each Federal, State, local, and tribal drug enforcement task force operating in the high intensity drug trafficking area;

"(B) how such task forces coordinate with each other, with any high intensity drug trafficking area task force, and with investigations receiving funds from the Organized Crime and Drug Enforcement Task Force;

"(C) what steps, if any, each such task force takes to share information regarding drug trafficking and drug production with other federally funded drug enforcement task forces in the high intensity drug trafficking area;

"(D) the role of the high intensity drug trafficking area in coordinating the sharing of such information among task forces;

"(E) the nature and extent of cooperation by each Federal, State, local, and tribal participant in ensuring that such information is shared among law enforcement agencies and with the high intensity drug trafficking area;

"(F) the nature and extent to which information sharing and enforcement activities are coordinated with joint terrorism task forces in the high intensity drug trafficking area; and

"(G) any recommendations for measures needed to ensure that task force resources are utilized efficiently and effectively to reduce the availability of illegal drugs in the high intensity drug trafficking areas.

"(m) ASSESSMENT OF LAW ENFORCEMENT INTELLIGENCE SHARING IN HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.—Not later than 180 days after the date of the enactment of this section, and as part of each subsequent annual National Drug Control Strategy report, the Director, in consultation with the Director of National Intelligence, shall submit to Congress a report— Deadline. Reports.

"(1) evaluating existing and planned law enforcement intelligence systems supported by each high intensity drug trafficking area, or utilized by task forces receiving any funding under the Program, including the extent to which such systems ensure access and availability of law enforcement intelligence to Federal, State, local, and tribal law enforcement agencies within the high intensity drug trafficking area and outside of it;

"(2) the extent to which Federal, State, local, and tribal law enforcement agencies participating in each high intensity drug trafficking area are sharing law enforcement intelligence information to assess current drug trafficking threats and design appropriate enforcement strategies; and

"(3) the measures needed to improve effective sharing of information and law enforcement intelligence regarding drug trafficking and drug production among Federal, State, local, and tribal law enforcement participating in a high intensity drug trafficking area, and between such agencies and similar agencies outside the high intensity drug trafficking area.

"(n) COORDINATION OF LAW ENFORCEMENT INTELLIGENCE SHARING WITH ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM.—The Director, in consultation with the Attorney General, shall ensure that any drug enforcement intelligence obtained by the Intelligence Support Center for each high intensity drug trafficking area is shared, on a timely basis, with the drug intelligence fusion center operated by the Organized Crime Drug Enforcement Task Force of the Department of Justice.

"(o) USE OF FUNDS TO COMBAT METHAMPHETAMINE TRAFFICKING.—

"(1) REQUIREMENT.—As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a report describing the use of HIDTA funds to investigate and prosecute organizations and individuals trafficking in methamphetamine in the prior calendar year. Reports.

"(2) CONTENTS.—The report shall include—

"(A) the number of methamphetamine manufacturing facilities discovered through HIDTA-funded initiatives in the previous fiscal year;

"(B) the amounts of methamphetamine or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)) seized by HIDTA-funded initiatives in the area during the previous year; and

"(C) law enforcement intelligence and predictive data from the Drug Enforcement Administration showing patterns and trends in abuse, trafficking, and transportation in methamphetamine and listed chemicals.

"(3) CERTIFICATION.—Before the Director awards any funds to a high intensity drug trafficking area, the Director shall certify that the law enforcement entities participating in that HIDTA are providing laboratory seizure data to the national clandestine laboratory database at the El Paso Intelligence Center.

"(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this section—

"(1) $240,000,000 for fiscal year 2007;
"(2) $250,000,000 for fiscal year 2008;
"(3) $260,000,000 for fiscal year 2009;
"(4) $270,000,000 for fiscal year 2010; and
"(5) $280,000,000 for each of fiscal year 2011.".

Dawson Family Community Protection Act. 21 USC 1701 note.

**SEC. 302. FUNDING FOR CERTAIN HIGH INTENSITY DRUG TRAFFICKING AREAS.**

(a) SHORT TITLE.—This section may be cited as the "Dawson Family Community Protection Act".

Carnell Dawson. Angela Dawson. 21 USC 1706 note.

(b) FINDINGS.—Congress finds the following:

(1) In the early morning hours of October 16, 2002, the home of Carnell and Angela Dawson was firebombed in apparent retaliation for Mrs. Dawson's notification to police about persistent drug distribution activity in their East Baltimore City neighborhood.

(2) The arson claimed the lives of Mr. and Mrs. Dawson and their 5 young children, aged 9 to 14.

(3) The horrific murder of the Dawson family is a stark example of domestic narco-terrorism.

(4) In all phases of counternarcotics law enforcement—from prevention to investigation to prosecution to reentry—the voluntary cooperation of ordinary citizens is a critical component.

(5) Voluntary cooperation is difficult for law enforcement officials to obtain when citizens feel that cooperation carries the risk of violent retaliation by illegal drug trafficking organizations and their affiliates.

(6) Public confidence that law enforcement is doing all it can to make communities safe is a prerequisite for voluntary cooperation among people who may be subject to intimidation or reprisal (or both).

(7) Witness protection programs are insufficient on their own to provide security because many individuals and families who strive every day to make distressed neighborhoods livable for their children, other relatives, and neighbors will resist or refuse offers of relocation by local, State, and Federal prosecutorial agencies and because, moreover, the continued presence of strong individuals and families is critical to preserving and strengthening the social fabric in such communities.

(8) Where (as in certain sections of Baltimore City) interstate trafficking of illegal drugs has severe ancillary local consequences within areas designated as high intensity drug trafficking areas, it is important that supplementary High Intensity

Drug Trafficking Areas Program funds be committed to support initiatives aimed at making the affected communities safe for the residents of those communities and encouraging their cooperation with tribal, local, State, and Federal law enforcement efforts to combat illegal drug trafficking.

(c) FUNDING FOR CERTAIN HIGH INTENSITY DRUG TRAFFICKING AREAS.—Section 707, as amended by section 301, is amended by adding at the end the following:

"(q) SPECIFIC PURPOSES.—

"(1) IN GENERAL.—The Director shall ensure that, of the amounts appropriated for a fiscal year for the Program, at least $7,000,000 is used in high intensity drug trafficking areas with severe neighborhood safety and illegal drug distribution problems.

"(2) REQUIRED USES.—The funds used under paragraph (1) shall be used—

"(A) to ensure the safety of neighborhoods and the protection of communities, including the prevention of the intimidation of potential witnesses of illegal drug distribution and related activities; and

"(B) to combat illegal drug trafficking through such methods as the Director considers appropriate, such as establishing or operating (or both) a toll-free telephone hotline for use by the public to provide information about illegal drug-related activities.".

**SEC. 303. ASSESSMENT.**

New York.
New Jersey.

The Director shall assess the ability of the HIDTA Program to respond to the so-called "balloon effect", whereby urban drug traffickers facing intensive law enforcement efforts expand and spread their trafficking and distribution into rural, suburban, and smaller urban areas by conducting a demonstration project examining the ability of the New York/New Jersey HIDTA, with its new single colocated Organized Crime and Drug Enforcement Task Force/High Intensity Drug Trafficking Area Strike Force and HIDTA Regional Intelligence Center, to address the movement of drug traffickers into the more rural, suburban, and smaller areas encompassed by the counties of Albany, Onondaga, Monroe, and Erie in New York State and by annexing these counties into the existing New York/New Jersey HIDTA.

# TITLE IV—TECHNOLOGY

**SEC. 401. COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER.**

(a) CHIEF SCIENTIST.—Section 708(b) is amended to read as follows: 21 USC 1707.

"(b) CHIEF SCIENTIST.—There shall be at the head of the Center the Chief Scientist, who shall be appointed by the Director from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.".

(b) RESPONSIBILITIES.—

(1) RESEARCH AND DEVELOPMENT.—Section 708 is amended by—

(A) redesignating subsection (d) as subsection (e); and

(B) striking subsection (c) and inserting the following:

"(c) RESEARCH AND DEVELOPMENT RESPONSIBILITIES.—The Director, acting through the Chief Scientist, shall—

"(1) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, local, and tribal drug supply reduction agencies, including—

"(A) advanced surveillance, tracking, and radar imaging;

"(B) electronic support measures;

"(C) communications;

"(D) data fusion, advanced computer systems, and artificial intelligence; and

"(E) chemical, biological, radiological (including neutron and electron), and other means of detection;

"(2) identify demand reduction basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

"(A) improving treatment through neuroscientific advances;

"(B) improving the transfer of biomedical research to the clinical setting; and

"(C) in consultation with the National Institute of Drug Abuse and the Substance Abuse and Mental Health Services Administration, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness and availability of drug treatment;

"(3) make a priority ranking of such needs identified in paragraphs (1) and (2) according to fiscal and technological feasibility, as part of a National Counterdrug Research and Development Program;

"(4) oversee and coordinate counterdrug technology initiatives with related activities of other Federal civilian and military departments;

"(5) provide support to the development and implementation of the national drug control performance measurement system established under subsection (c) of section 706; and

"(6) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit requests to Congress for the reprogramming or transfer of funds appropriated for counterdrug technology research and development.

"(d) LIMITATION ON AUTHORITY.—The authority granted to the Director under this section shall not extend to the awarding of contracts, management of individual projects, or other operational activities.".

(2) ASSISTANCE AND SUPPORT.—Subsection (e) of section 708, as redesignated by this section, is amended to read as follows:

"(e) ASSISTANCE AND SUPPORT TO THE OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Health and Human Services shall, to the maximum extent practicable, render assistance and support to the Office and to the Director in the conduct of counterdrug technology assessment.".

(3) TECHNOLOGY TRANSFER PROGRAM.—Section 708 is amended by adding at the end the following:

"(f) TECHNOLOGY TRANSFER PROGRAM.—

"(1) PROGRAM.—The Chief Scientist, with the advice and counsel of experts from State, local, and tribal law enforcement agencies, shall be responsible to the Director for coordination and implementation of a counterdrug technology transfer program.

"(2) PURPOSE.—The purpose of the Technology Transfer Program shall be for the Counterdrug Technology Assessment Center to transfer technology and associated training directly to State, local, and tribal law enforcement agencies.

"(3) PRIORITY OF RECEIPTS.—Transfers shall be made in priority order based on—

"(A) the need of potential recipients for such technology;

"(B) the effectiveness of the technology to enhance current counterdrug activities of potential recipients; and

"(C) the ability and willingness of potential recipients to evaluate transferred technology.

"(4) AGREEMENT AUTHORITY.—The Director may enter into an agreement with the Secretary of Homeland Security to transfer technology with both counterdrug and homeland security applications to State, local, and tribal law enforcement agencies on a reimbursable basis.

"(5) REPORT.—On or before July 1 of each year, the Director shall submit a report to the appropriate congressional committees that addresses the following:

"(A) The number of requests received during the previous 12 months, including the identity of each requesting agency and the type of technology requested.

"(B) The number of requests fulfilled during the previous 12 months, including the identity of each recipient agency and the type of technology transferred.

"(C) A summary of the criteria used in making the determination on what requests were funded and what requests were not funded, except that such summary shall not include specific information on any individual requests.

"(D) A general assessment of the future needs of the program, based on expected changes in threats, expected technologies, and likely need from potential recipients.

"(E) An assessment of the effectiveness of the technologies transferred, based in part on the evaluations provided by the recipients, with a recommendation whether the technology should continue to be offered through the program.".

(c) ASSISTANCE FROM SECRETARY OF HOMELAND SECURITY.—Section 708(d) (21 U.S.C. 1707(d)) is amended by inserting ", the Secretary of Homeland Security," after "The Secretary of Defense".

# TITLE V—NATIONAL YOUTH MEDIA CAMPAIGN

**SEC. 501. NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN.**

(a) IN GENERAL.—Section 709 (21 U.S.C. 1708) is amended to read as follows:

**"SEC. 709. NATIONAL YOUTH ANTI-DRUG MEDIA CAMPAIGN.**

"(a) IN GENERAL.—The Director shall conduct a national youth anti-drug media campaign (referred to in this subtitle as the 'national media campaign') in accordance with this section for the purposes of—

"(1) preventing drug abuse among young people in the United States;

"(2) increasing awareness of adults of the impact of drug abuse on young people; and

"(3) encouraging parents and other interested adults to discuss with young people the dangers of illegal drug use.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts made available to carry out this section for the national media campaign may only be used for the following:

"(A) The purchase of media time and space, including the strategic planning for, and accounting of, such purchases.

"(B) Creative and talent costs, consistent with paragraph (2)(A).

"(C) Advertising production costs.

"(D) Testing and evaluation of advertising.

"(E) Evaluation of the effectiveness of the national media campaign.

"(F) The negotiated fees for the winning bidder on requests for proposals issued either by the Office or its designee to enter into contracts to carry out activities authorized by this section.

"(G) Partnerships with professional and civic groups, community-based organizations, including faith-based organizations, and government organizations related to the national media campaign.

"(H) Entertainment industry outreach, interactive outreach, media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

"(I) Operational and management expenses.

"(2) SPECIFIC REQUIREMENTS.—

"(A) CREATIVE SERVICES.—

"(i) In using amounts for creative and talent costs under paragraph (1)(B), the Director shall use creative services donated at no cost to the Government (including creative services provided by the Partnership for a Drug-Free America) wherever feasible and may only procure creative services for advertising—

"(I) responding to high-priority or emergent campaign needs that cannot timely be obtained at no cost; or

"(II) intended to reach a minority, ethnic, or other special audience that cannot reasonably be obtained at no cost; or

"(III) the Director determines that the Partnership for a Drug-Free America is unable to provide, pursuant to subsection (d)(2)(B).

"(ii) Subject to the availability of appropriations, no more than $1,500,000 may be expended under this section each fiscal year on creative services, except

that the Director may expend up to $2,000,000 in a fiscal year on creative services to meet urgent needs of the national media campaign with advance approval from the Committee on Appropriations of the Senate and of the House of Representatives upon a showing of the circumstances causing such urgent needs of the national media campaign.

"(B) TESTING AND EVALUATION OF ADVERTISING.—In using amounts for testing and evaluation of advertising under paragraph (1)(D), the Director shall test all advertisements prior to use in the national media campaign to ensure that the advertisements are effective and meet industry-accepted standards. The Director may waive this requirement for advertisements using no more than 10 percent of the purchase of advertising time purchased under this section in a fiscal year and no more than 10 percent of the advertising space purchased under this section in a fiscal year, if the advertisements respond to emergent and time-sensitive campaign needs or the advertisements will not be widely utilized in the national media campaign.

"(C) EVALUATION OF EFFECTIVENESS OF MEDIA CAMPAIGN.—In using amounts for the evaluation of the effectiveness of the national media campaign under paragraph (1)(E), the Director shall—

"(i) designate an independent entity to evaluate by April 20 of each year the effectiveness of the national media campaign based on data from—

"(I) the Monitoring the Future Study published by the Department of Health and Human Services;

"(II) the Attitude Tracking Study published by the Partnership for a Drug-Free America;

"(III) the National Household Survey on Drug Abuse; and

"(IV) other relevant studies or publications, as determined by the Director, including tracking and evaluation data collected according to marketing and advertising industry standards; and

"(ii) ensure that the effectiveness of the national media campaign is evaluated in a manner that enables consideration of whether the national media campaign has contributed to reduction of illicit drug use among youth and such other measures of evaluation as the Director determines are appropriate.

"(3) PURCHASE OF ADVERTISING TIME AND SPACE.—Subject to the availability of appropriations, for each fiscal year, not less than 77 percent of the amounts appropriated under this section shall be used for the purchase of advertising time and space for the national media campaign, subject to the following exceptions:

"(A) In any fiscal year for which less than $125,000,000 is appropriated for the national media campaign, not less than 72 percent of the amounts appropriated under this section shall be used for the purchase of advertising time and space for the national media campaign.

"(B) In any fiscal year for which more than $195,000,000 is appropriated under this section, not less

than 82 percent shall be used for advertising production costs and the purchase of advertising time and space for the national media campaign.

"(c) ADVERTISING.—In carrying out this section, the Director shall ensure that sufficient funds are allocated to meet the stated goals of the national media campaign.

"(d) DIVISION OF RESPONSIBILITIES AND FUNCTIONS UNDER THE PROGRAM.—

"(1) IN GENERAL.—The Director, in consultation with the Partnership for a Drug-Free America, shall determine the overall purposes and strategy of the national media campaign.

"(2) RESPONSIBILITIES.—

"(A) DIRECTOR.—The Director shall be responsible for implementing a focused national media campaign to meet the purposes set forth in subsection (a), and shall approve—

"(i) the strategy of the national media campaign;

"(ii) all advertising and promotional material used in the national media campaign; and

"(iii) the plan for the purchase of advertising time and space for the national media campaign.

"(B) THE PARTNERSHIP FOR A DRUG-FREE AMERICA.—The Director shall request that the Partnership for a Drug-Free America—

"(i) develop and recommend strategies to achieve the goals of the national media campaign, including addressing national and local drug threats in specific regions or States, such as methamphetamine and ecstasy;

"(ii) create all advertising to be used in the national media campaign, except advertisements that are—

"(I) provided by other nonprofit entities pursuant to subsection (f);

"(II) intended to respond to high-priority or emergent campaign needs that cannot timely be obtained at no cost (not including production costs and talent reuse payments), provided that any such advertising material is reviewed by the Partnership for a Drug-Free America;

"(III) intended to reach a minority, ethnic, or other special audience that cannot be obtained at no cost (not including production costs and talent reuse payments), provided that any such advertising material is reviewed by the Partnership for a Drug-Free America; or

"(IV) any other advertisements that the Director determines that the Partnership for a Drug-Free America is unable to provide or if the Director determines that another entity is more appropriate, subject to the requirements of subsection (b)(2)(A).

Notification.
Deadline.

If the Director determines that another entity is more appropriate under clause (ii)(IV), the Director shall notify Congress, through the committees of jurisdiction in the House and Senate, in writing, not less than 30 days prior to contracting with a party other than the Partnership for a Drug-Free America.

"(C) MEDIA BUYING CONTRACTOR.—The Director shall enter into a contract with a media buying contractor to plan and purchase advertising time and space for the national media campaign. The media buying contractor shall not provide any other service or material, or conduct any other function or activity which the Director determines should be provided by the Partnership for a Drug-Free America.

"(e) PROHIBITIONS.—None of the amounts made available under subsection (b) may be obligated or expended for any of the following:

"(1) To supplant current anti-drug community-based coalitions.

"(2) To supplant pro bono public service time donated by national and local broadcasting networks for other public service campaigns.

"(3) For partisan political purposes, or express advocacy in support of or to defeat any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal.

"(4) To fund advertising that features any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations.

"(5) To fund advertising that does not contain a primary message intended to reduce or prevent illicit drug use.

"(6) To fund advertising containing a primary message intended to promote support for the media campaign or private sector contributions to the media campaign.

"(f) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—Amounts made available under subsection (b) for media time and space shall be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions of the same value.

"(2) NO-COST MATCH ADVERTISING DIRECT RELATIONSHIP REQUIREMENT.—The Director shall ensure that at least 70 percent of no-cost match advertising provided directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign, except that in any fiscal year in which less than $125,000,000 is appropriated to the national media campaign, the Director shall ensure that at least 85 percent of no-cost match advertising directly relates to substance abuse prevention consistent with the specific purposes of the national media campaign.

"(3) NO-COST MATCH ADVERTISING NOT DIRECTLY RELATED.—The Director shall ensure that no-cost match advertising that does not directly relate to substance abuse prevention consistent with the purposes of the national media campaign includes a clear anti-drug message. Such message is not required to be the primary message of the match advertising.

"(g) FINANCIAL AND PERFORMANCE ACCOUNTABILITY.—The Director shall cause to be performed—

"(1) audits and reviews of costs of the national media campaign pursuant to section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d); and

"(2) an audit to determine whether the costs of the national media campaign are allowable under section 306 of such Act (41 U.S.C. 256).

"(h) REPORT TO CONGRESS.—The Director shall submit on an annual basis a report to Congress that describes—

"(1) the strategy of the national media campaign and whether specific objectives of the media campaign were accomplished;

"(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the national media campaign;

"(3) plans to purchase advertising time and space;

"(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

"(5) all contracts entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

"(i) LOCAL TARGET REQUIREMENT.—The Director shall, to the maximum extent feasible, use amounts made available under this section for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas.

"(j) PREVENTION OF MARIJUANA USE.—

"(1) FINDINGS.—The Congress finds the following:

"(A) 60 percent of adolescent admissions for drug treatment are based on marijuana use.

"(B) Potency levels of contemporary marijuana, particularly hydroponically grown marijuana, are significantly higher than in the past, rising from under 1 percent of THC in the mid-1970s to as high as 30 percent today.

"(C) Contemporary research has demonstrated that youths smoking marijuana early in life may be up to 5 times more likely to use hard drugs.

"(D) Contemporary research has demonstrated clear detrimental effects in adolescent educational achievement resulting from marijuana use.

"(E) Contemporary research has demonstrated clear detrimental effects in adolescent brain development resulting from marijuana use.

"(F) An estimated 9,000,000 Americans a year drive while under the influence of illegal drugs, including marijuana.

"(G) Marijuana smoke contains 50 to 70 percent more of certain cancer causing chemicals than tobacco smoke.

"(H) Teens who use marijuana are up to 4 times more likely to have a teen pregnancy than teens who have not.

"(I) Federal law enforcement agencies have identified clear links suggesting that trade in hydroponic marijuana facilitates trade by criminal organizations in hard drugs, including heroin.

"(J) Federal law enforcement agencies have identified possible links between trade in cannabis products and financing for terrorist organizations.

"(2) EMPHASIS ON PREVENTION OF YOUTH MARIJUANA USE.—In conducting advertising and activities otherwise authorized

under this section, the Director may emphasize prevention of youth marijuana use.

"(k) PREVENTION OF METHAMPHETAMINE ABUSE AND OTHER EMERGING DRUG ABUSE THREATS.—

"(1) REQUIREMENT TO USE 10 PERCENT OF FUNDS FOR METHAMPHETAMINE ABUSE PREVENTION.—The Director shall ensure that, of the amounts appropriated under this section for the national media campaign for a fiscal year, not less than 10 percent shall be expended solely for the activities described in subsection (b)(1) with respect to advertisements specifically intended to reduce the use of methamphetamine.

"(2) AUTHORITY TO USE FUNDS FOR OTHER DRUG ABUSE UPON CERTIFICATION THAT METHAMPHETAMINE ABUSE FELL DURING FISCAL YEAR 2007.—With respect to fiscal year 2008 and any fiscal year thereafter, if the Director certifies in writing to Congress that domestic methamphetamine laboratory seizures (as reported to the El Paso Intelligence Center of the Drug Enforcement Administration) decreased to at least 75 percent of the 2006 level, or the Director has documented a highly, statistically significant increase in a specific drug, from a baseline determined by locally collected data, that can be defined as a local drug crisis, the Director may apply paragraph (1)(A) for that fiscal year with respect to advertisements specifically intended to reduce the use of such other drugs.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Office to carry out this section, $195,000,000 for each of fiscal years 2007 and 2008 and $210,000,000 for each of fiscal years 2009 through 2011.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—The Drug-Free Media Campaign Act of 1998 (21 U.S.C. 1801 et seq.) is repealed. 21 USC 1801–1804.

# TITLE VI—AUTHORIZATIONS AND EXTENSION OF TERMINATION DATE

**SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

Section 714 is amended— 21 USC 1713.

(1) by striking "title," and inserting "title except activities otherwise specified,"; and

(2) by striking "1999 through 2003" and inserting "2006 through 2010".

**SEC. 602. EXTENSION OF TERMINATION DATE.**

Section 715(a) is amended by striking "September 30, 2003, this title and the amendments made by this title" and inserting "September 30, 2010, this title and the amendments made to this title". 21 USC 1714.

# TITLE VII—ANTI-DOPING AGENCY

**SEC. 701. DESIGNATION OF UNITED STATES ANTI-DOPING AGENCY.** 21 USC 2001.

(a) DEFINITIONS.—In this title:

(1) UNITED STATES OLYMPIC COMMITTEE.—The term "United States Olympic Committee" means the organization established by the "Ted Stevens Olympic and Amateur Sports Act" (36 U.S.C. 220501 et seq.).

(2) AMATEUR ATHLETIC COMPETITION.—The term "amateur athletic competition" means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete (36 U.S.C. 220501(b)(2)).

(3) AMATEUR ATHLETE.—The term "amateur athlete" means an athlete who meets the eligibility standards established by the national governing body or paralympic sports organization for the sport in which the athlete competes (36 U.S.C. 22501(b)(1)).

(4) GENE DOPING.—The term "gene doping" means the non-therapeutic use of cells, genes, genetic elements, or of the modulation of gene expression, having the capacity to enhance athletic performance.

(b) IN GENERAL.—The United States Anti-Doping Agency shall—

(1) serve as the independent anti-doping organization for the amateur athletic competitions recognized by the United States Olympic Committee;

(2) ensure that athletes participating in amateur athletic activities recognized by the United States Olympic Committee are prevented from using performance-enhancing drugs, or performance-enhancing genetic modifications accomplished through gene-doping;

(3) implement anti-doping education, research, testing, and adjudication programs to prevent United States Amateur Athletes participating in any activity recognized by the United States Olympic Committee from using performance-enhancing drugs, or performance-enhancing genetic modifications accomplished through gene-doping;

(4) serve as the United States representative responsible for coordination with other anti-doping organizations coordinating amateur athletic competitions recognized by the United States Olympic Committee to ensure the integrity of athletic competition, the health of the athletes and the prevention of use of performance-enhancing drugs, or performance-enhancing genetic modifications accomplished through gene-doping by United States amateur athletes; and

(5) permanently include "gene doping" among any list of prohibited substances adopted by the Agency.

21 USC 2002.

**SEC. 702. RECORDS, AUDIT, AND REPORT.**

(a) RECORDS.—The United States Anti-Doping Agency shall keep correct and complete records of account.

(b) REPORT.—The United States Anti-Doping Agency shall submit an annual report to Congress which shall include—

(1) an audit conducted and submitted in accordance with section 10101 of title 36, United States Code; and

(2) a description of the activities of the agency.

21 USC 2003.

**SEC. 703. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the United States Anti-Doping Agency—

(1) for fiscal year 2007, $9,700,000;

(2) for fiscal year 2008, $10,300,000;

(3) for fiscal year 2009, $10,600,000;

(4) for fiscal year 2010, $11,000,000; and

(5) for fiscal year 2011, $11,500,000.

# TITLE VIII—DRUG-FREE COMMUNITIES

**SEC. 801. REAUTHORIZATION.**

(a) IN GENERAL.—Section 1024(a) of the Drug-Free Communities Act of 1997 (21 U.S.C. 1524(a)) is amended—

(1) in paragraph (9), by striking "and" after the semicolon;

(2) in paragraph (10), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(11) $109,000,000 for fiscal year 2008;

"(12) $114,000,000 for fiscal year 2009;

"(13) $119,000,000 for fiscal year 2010;

"(14) $124,000,000 for fiscal year 2011; and

"(15) $129,000,000 for fiscal year 2012.".

(b) ADMINISTRATION COSTS.—Section 1024(b) of the Drug-Free Communities Act of 1997 (21 U.S.C. 1524(b)) is amended to read as follows:

"(b) ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 3 percent of the funds appropriated for this chapter may be used by the Office of National Drug Control Policy to pay for administrative costs associated with their responsibilities under the chapter.

"(2) DESIGNATED AGENCY.—The agency delegated to carry out this program under section 1031(d) may use up to 5 percent of the funds allocated for grants under this chapter for administrative costs associated with carrying out the program.".

**SEC. 802. SUSPENSION OF GRANTS.**

(a) IN GENERAL.—Section 1032(b) of the Drug-Free Communities Act of 1997 (21 U.S.C. 1532(b)) is amended by adding at the end the following:

"(4) PROCESS FOR SUSPENSION.—A grantee shall not be suspended or terminated under paragraph (1)(A)(ii), (2)(A)(iii), or (3)(E) unless that grantee is afforded a fair, timely, and independent appeal prior to such suspension or termination.".

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to Congress a report detailing the appeals process required by section 1032(b)(4) of the Drug-Free Communities Act of 1997, as added by subsection (a). 21 USC 1532 note.

**SEC. 803. GRANT AWARD INCREASE.**

Subsections (b)(1)(A)(iv), (b)(2)(C)(i), and (b)(3)(F) of section 1032 of the Drug-Free Communities Act of 1997 (21 U.S.C. 1532) are amended by striking "$100,000" and inserting "$125,000".

**SEC. 804. PROHIBITION ON ADDITIONAL ELIGIBILITY CRITERIA.**

Section 1032(a) of the Drug-Free Communities Act of 1997 (21 U.S.C. 1532(a)) is amended by adding at the end the following:

"(7) ADDITIONAL CRITERIA.—The Director shall not impose any eligibility criteria on new applicants or renewal grantees not provided in this chapter.".

**SEC. 805. NATIONAL COMMUNITY ANTI-DRUG COALITION INSTITUTE.**

Section 4 of Public Law 107–82 (21 U.S.C. 1521 note), reauthorizing the Drug-Free Communities Support Program, is amended—

(1) by amending subsection (a) to read as follows:

Grants.

"(a) IN GENERAL.—The Director of the Office of National Drug Control Policy shall, using amounts authorized to be appropriated by subsection (d), make a directed grant to Community Anti-Drug Coalitions of America to provide for the continuation of the National Community Anti-drug Coalition Institute.";

(2) by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively; and

(3) in subsection (c), as redesignated by paragraph (2), by adding at the end the following:

"(4) For each of the fiscal years 2008 through 2012, $2,000,000.".

# TITLE IX—NATIONAL GUARD COUNTERDRUG SCHOOLS

32 USC 112 note.

**SEC. 901. NATIONAL GUARD COUNTERDRUG SCHOOLS.**

(a) AUTHORITY TO OPERATE.—Under such regulations as the Secretary of Defense may prescribe, the Chief of the National Guard Bureau may establish and operate, or provide financial assistance to the States to establish and operate, not more than 5 schools (to be known generally as "National Guard counterdrug schools").

(b) PURPOSE.—The purpose of the National Guard counterdrug schools shall be the provision by the National Guard of training in drug interdiction and counterdrug activities and drug demand reduction activities to personnel of the following:

(1) Federal agencies.

(2) State, local, and tribal law enforcement agencies.

(3) Community-based organizations engaged in such activities.

(4) Other non-Federal governmental and private entities and organizations engaged in such activities.

(c) COUNTERDRUG SCHOOLS SPECIFIED.—The National Guard counterdrug schools operated under the authority in subsection (a) are as follows:

(1) The National Interagency Civil-Military Institute (NICI), San Luis Obispo, California.

(2) The Multi-Jurisdictional Counterdrug Task Force Training (MCTFT), St. Petersburg, Florida.

(3) The Midwest Counterdrug Training Center (MCTC), Johnston, Iowa.

(4) The Regional Counterdrug Training Academy (RCTA), Meridian, Mississippi.

(5) The Northeast Regional Counterdrug Training Center (NCTC), Fort Indiantown Gap, Pennsylvania.

(d) USE OF NATIONAL GUARD PERSONNEL.—

(1) IN GENERAL.—To the extent provided for in the State drug interdiction and counterdrug activities plan of a State in which a National Guard counterdrug school is located, personnel of the National Guard of that State who are ordered to perform full-time National Guard duty authorized under section 112(b) of that title 32, United States Code, may provide training referred to in subsection (b) at that school.

(2) DEFINITION.—In this subsection, the term "State drug interdiction and counterdrug activities plan", in the case of a State, means the current plan submitted by the Governor

of the State to the Secretary of Defense under section 112 of title 32, United States Code.

(e) TREATMENT UNDER AUTHORITY TO PROVIDE COUNTERDRUG SUPPORT.—The provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to any activities of a National Guard counterdrug school under this section that are for an agency referred to in subsection (a) of such section 1004 and for a purpose set forth in subsection (b) of such section 1004. Applicability.

(f) ANNUAL REPORTS ON ACTIVITIES.—

(1) IN GENERAL.—Not later than February 1 each year, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools during the preceding year.

(2) CONTENTS.—Each report under paragraph (1) shall set forth the following:

(A) FUNDING.—The amount made available for each National Guard counterdrug school during the fiscal year ending in the year preceding the year in which such report is submitted.

(B) ACTIVITIES.—A description of the activities of each National Guard counterdrug school during the year preceding the year in which such report is submitted.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is hereby authorized to be appropriated for the Department of Defense for the National Guard for each of fiscal years 2006 through 2010, $30,000,000 for purposes of the National Guard counterdrug schools in such fiscal year.

(2) CONSTRUCTION.—The amount authorized to be appropriated by paragraph (1) for a fiscal year is in addition to any other amount authorized to be appropriated for the Department of Defense for the National Guard for such fiscal year.

# TITLE X—NATIONAL METHAMPHETAMINE INFORMATION CLEARINGHOUSE ACT OF 2006

National Methamphetamine Information Clearinghouse Act of 2006.

**SEC. 1001. SHORT TITLE.**

21 USC 2001 note.

This title may be cited as the "National Methamphetamine Information Clearinghouse Act of 2006".

**SEC. 1002. DEFINITIONS.**

21 USC 2011.

In this title—

(1) the term "Council" means the National Methamphetamine Advisory Council established under section 1003(b)(1);

(2) the term "drug endangered children" means children whose physical, mental, or emotional health are at risk because of the production, use, or other effects of methamphetamine production or use by another person;

(3) the term "National Methamphetamine Information Clearinghouse" or "NMIC" means the information clearinghouse established under section 1003(a); and

(4) the term "qualified entity" means a State, local, or tribal government, school board, or public health, law enforcement, nonprofit, community anti-drug coalition, or other nongovernmental organization providing services related to methamphetamines.

21 USC 2012.

**SEC. 1003. ESTABLISHMENT OF CLEARINGHOUSE AND ADVISORY COUNCIL.**

(a) CLEARINGHOUSE.—There is established, under the supervision of the Attorney General of the United States, an information clearinghouse to be known as the National Methamphetamine Information Clearinghouse.

(b) ADVISORY COUNCIL.—

(1) IN GENERAL.—There is established an advisory council to be known as the National Methamphetamine Advisory Council.

(2) MEMBERSHIP.—The Council shall consist of 10 members appointed by the Attorney General—

(A) not fewer than 3 of whom shall be representatives of law enforcement agencies;

(B) not fewer than 4 of whom shall be representatives of nongovernmental and nonprofit organizations providing services or training and implementing programs or strategies related to methamphetamines; and

(C) 1 of whom shall be a representative of the Department of Health and Human Services.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for 3 years. Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) PERSONNEL MATTERS.—

(A) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(B) NO COMPENSATION.—The members of the Council shall not receive compensation for the performance of the duties of a member of the Council.

21 USC 2013.

**SEC. 1004. NMIC REQUIREMENTS AND REVIEW.**

(a) IN GENERAL.—The NMIC shall promote sharing information regarding successful law enforcement, treatment, environmental, prevention, social services, and other programs related to the production, use, or effects of methamphetamine and grants available for such programs.

Communications and telecommunications. Website.

(b) COMPONENTS.—The NMIC shall include—

(1) a toll-free number; and

(2) a website that provides a searchable database, which—

(A) provides information on the short-term and long-term effects of methamphetamine use;

(B) provides information regarding methamphetamine treatment and prevention programs and strategies and programs for drug endangered children, including descriptions of successful programs and strategies and contact information for such programs and strategies;

(C) provides information regarding grants for methamphetamine-related programs, including contact information and links to websites;

(D) allows a qualified entity to submit items to be posted on the website regarding successful public or private programs or other useful information related to the production, use, or effects of methamphetamine;

(E) includes a restricted section that may only be accessed by a law enforcement organization that contains successful strategies, training techniques, and other information that the Council determines helpful to law enforcement agency efforts to identify or combat the production, use, or effects of methamphetamine;

(F) allows public access to all information not in a restricted section; and

(G) contains any additional information the Council determines may be useful in identifying or combating the production, use, or effects of methamphetamine.

Thirty days after the website in paragraph (2) is operational, no funds shall be expended to continue the website methresources.gov. Deadline. Abolishment.

(c) REVIEW OF POSTED INFORMATION.—

(1) IN GENERAL.—Not later than 30 days after the date of submission of an item by a qualified entity, the Council shall review an item submitted for posting on the website described in subsection (b)(2)— Deadline.

(A) to evaluate and determine whether the item, as submitted or as modified, meets the requirements for posting; and

(B) in consultation with the Attorney General, to determine whether the item should be posted in a restricted section of the website.

(2) DETERMINATION.—Not later than 45 days after the date of submission of an item, the Council shall— Deadline.

(A) post the item on the website described in subsection (b)(2); or

(B) notify the qualified entity that submitted the item regarding the reason such item shall not be posted and modifications, if any, that the qualified entity may make to allow the item to be posted. Notification.

**SEC. 1005. AUTHORIZATION OF APPROPRIATIONS.** 21 USC 2014.

There are authorized to be appropriated—

(1) for fiscal year 2007—

(A) $500,000 to establish the NMIC and Council; and

(B) such sums as are necessary for the operation of the NMIC and Council; and

(2) for each of fiscal years 2008 and 2009, such sums as are necessary for the operation of the NMIC and Council.

# TITLE XI—MISCELLANEOUS PROVISIONS

**SEC. 1101. REPEALS.**

(a) ACT.—Section 710 is repealed. 21 USC 1709.

(b) FORFEITURE ASSETS.—Section 6073 of the Assets Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is repealed.

**SEC. 1102. CONTROLLED SUBSTANCES ACT AMENDMENTS.**

Section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) is amended—

Deadline. Notification.

(1) in subparagraph (B)(iii), by striking "except that the" and inserting the following: "unless, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients. A second notification under this clause shall contain the certifications required by clauses (i) and (ii) of this subparagraph. The"; and

(2) in subparagraph (J)—

(A) in clause (i), by striking "thereafter" and all that follows through the period and inserting "thereafter.";

(B) in clause (ii), by striking "Drug Addiction Treatment Act of 2000" and inserting "Office of National Drug Control Policy Reauthorization Act of 2006"; and

(C) in clause (iii), by striking "this paragraph should not remain in effect, this paragraph ceases to be in effect" and inserting "subparagraph (B)(iii) should be applied by limiting the total number of patients a practitioner may treat to 30, then the provisions in such subparagraph (B)(iii) permitting more than 30 patients shall not apply, effective".

**SEC. 1103. REPORT ON LAW ENFORCEMENT INTELLIGENCE SHARING.**

Not later than 180 days after the date of enactment of this Act, the Director shall submit to Congress a report—

(1) evaluating existing and planned law enforcement intelligence systems used by Federal, State, local, and tribal law enforcement agencies responsible for drug trafficking and drug production enforcement; and

(2) addressing—

(A) the current law enforcement intelligence systems used by Federal, State, local, and tribal law enforcement agencies;

(B) the compatibility of such systems in ensuring access and availability of law enforcement intelligence to Federal, State, local, and tribal law enforcement;

(C) the extent to which Federal, State, local, and tribal law enforcement are sharing law enforcement intelligence information to assess current threats and design appropriate enforcement strategies; and

(D) the measures needed to ensure and to promote effective information sharing among law enforcement intelligence systems operated by Federal, State, local, and tribal law enforcement agencies responsible for drug trafficking and drug production enforcement.

**SEC. 1104. REQUIREMENT FOR SOUTH AMERICAN HEROIN STRATEGY.**

Deadline.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director, in coordination with the Secretary of State, shall submit to Congress a comprehensive strategy that addresses the increased threat from South American heroin, and in particular Colombian heroin, and the emerging threat from opium poppy grown in Peru and often intended for transit to Columbia for processing into heroin.

(b) CONTENTS.—The strategy submitted under subsection (a) shall include—

(1) opium eradication efforts to eliminate the problem at the source to prevent heroin from entering the stream of commerce;

(2) interdiction and precursor chemical controls;

(3) demand reduction and treatment;

(4) alternative development programs, including direct assistance to regional governments to demobilize and provide alternative livelihoods to former members of insurgent or other groups engaged in heroin, cocoa, or other illicit drug production or trafficking;

(5) efforts to inform and involve local citizens in the programs described in paragraphs (1) through (4), such as through leaflets advertising rewards for information; and

(6) an assessment of the specific level of funding and resources necessary to simultaneously address the threat from South American heroin and the threat from Colombian and Peruvian coca.

(c) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the strategy submitted under subsection (a) that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant Federal agency, would be detrimental to the law enforcement of national security activities of any Federal, foreign, or international agency, shall be presented to Congress separately from the rest of the strategy.

**SEC. 1105. MODEL ACTS.**

21 USC 1701 note. Contracts.

(a) IN GENERAL.—The Director of the Office of National Drug Control Policy shall provide for or shall enter into an agreement with a non-profit corporation that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code to—

(1) advise States on establishing laws and policies to address alcohol and other drug issues, based on the model State drug laws developed by the President's Commission on Model State Drug Laws in 1993; and

(2) revise such model State drug laws and draft supplementary model State laws to take into consideration changes in the alcohol and drug abuse problems in the State involved.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 2007 through 2011.

**SEC. 1106. STUDY ON IATROGENIC ADDICTION ASSOCIATED WITH PRESCRIPTION OPIOID ANALGESIC DRUGS.**

(a) IN GENERAL.—

Contracts.

(1) STUDY.—The Director of the Office of National Drug Control Policy shall request the Institute of Medicine of the National Academy of Sciences to enter into an agreement under which the Institute agrees to study certain aspects of iatrogenic addiction to prescription opioid analgesics included in schedules II and III of the Controlled Substances Act (21 U.S.C. 812).

(2) IATROGENIC ADDICTION.—In this section, the term "iatrogenic addiction" means an addiction developed from the use of an opioid analgesic by an individual with no previous history of any addiction, who has lawfully obtained and used the drug

for a legitimate medical purpose by administration from, or pursuant to the prescription or order of, an individual practitioner acting in the usual course of professional practice.

(b) REQUIREMENTS.—The study conducted pursuant to this section shall assess the current scientific literature to determine, if possible—

(1) the rate of iatrogenic addiction associated with the appropriate use of prescription drugs described in subsection (a);

(2) the impact of iatrogenic addiction associated with the appropriate use of prescription drugs described in subsection (a) on the individual, the prescriber, other patients, and society in general;

(3) the comparative abuse liability of prescription drugs described in subsection (a) when used properly by the ultimate user for a legitimate medical purpose; and

(4)(A) what types of prospective or retrospective studies should be undertaken to determine the rate of iatrogenic addiction associated with the appropriate use of the prescription drugs described in subsection (a); and

(B) a feasible timeline for conducting and reporting such studies, should the current state of the scientific literature be insufficient to determine the rate, impact, and comparative abuse liability of prescription drugs described in subsection (a).

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall ensure that the agreement under subsection (a) provides for the submission of a report to the Congress on the status of the study conducted pursuant to this section.

**SEC. 1107. REQUIREMENT FOR STRATEGY TO STOP INTERNET ADVERTISING OF PRESCRIPTION MEDICINES WITHOUT A PRESCRIPTION.**

Deadline.

Not later than 120 days after the date of the enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to Congress a strategy to stop advertisements that provide information about obtaining over the Internet drugs (as defined in section 702(3) of the Office of National Drug Control Policy Reauthorization Act of 1998) for which a prescription is required without the use of such a lawful prescription.

**SEC. 1108. REQUIREMENT FOR STUDY ON DIVERSION AND INAPPROPRIATE USES OF PRESCRIPTION DRUGS.**

Deadline.
Reports.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy, in consultation with the Secretary of Health and Human Services, shall submit to Congress a report that includes a plan to conduct a study on the illegal diversion and inappropriate uses of prescription drugs, including the following:

(1) Methods to utilize both public use surveys that are in existence as of the date of enactment of this Act and other surveys to provide appropriate baseline data on the natural history of diversion and abuse of prescription drugs that are included in schedules under the Controlled Substances Act to evaluate the extent and nature of potential problems with such use to guide corrective actions which may reduce such problems without unintentionally hindering access to these

drugs for legitimate medical purposes. Specifically, other surveys to be considered are those that address the abuse of these substances on a regional or national basis, and those that address the diversion of these substances on a regional or national basis.

(2) A scientifically based analysis of the relative contribution of both innate and acquired genetic factors, environmental factors, psychological factors, and drug characteristics that contribute to addiction to prescription drugs.

**SEC. 1109. REQUIREMENT FOR AFGHAN HEROIN STRATEGY.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to the Congress a comprehensive strategy that addresses the increased threat from Afghan heroin. Deadline.

(b) CONTENTS.—The strategy shall include—

(1) opium crop eradication efforts to eliminate the problem at the source to prevent heroin from entering the stream of commerce;

(2) destruction or other direct elimination of stockpiles of heroin and raw opium, and heroin production and storage facilities;

(3) interdiction and precursor chemical controls;

(4) demand reduction and treatment;

(5) alternative development programs;

(6) measures to improve cooperation and coordination between Federal Government agencies, and between such agencies, agencies of foreign governments, and international organizations with responsibility for the prevention of heroin production in, or trafficking out of, Afghanistan; and

(7) an assessment of the specific level of funding and resources necessary to significantly reduce the production and trafficking of heroin.

(c) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the strategy that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant Federal agency, would be detrimental to the law enforcement or national security activities of any Federal, foreign, or international agency, shall be presented to Congress separately from the rest of the strategy.

**SEC. 1110. REQUIREMENT FOR SOUTHWEST BORDER COUNTERNARCOTICS STRATEGY.** 21 USC 1705 note.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and every 2 years thereafter, the Director of National Drug Control Policy shall submit to the Congress a Southwest Border Counternarcotics Strategy. Deadlines.

(b) PURPOSES.—The Southwest Border Counternarcotics Strategy shall—

(1) set forth the Government's strategy for preventing the illegal trafficking of drugs across the international border between the United States and Mexico, including through ports of entry and between ports of entry on that border;

(2) state the specific roles and responsibilities of the relevant National Drug Control Program agencies (as defined in section 702 of the Office of National Drug Control Policy

Reauthorization Act of 1998 (21 U.S.C. 1701)) for implementing that strategy; and

(3) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement that strategy.

(c) SPECIFIC CONTENT RELATED TO DRUG TUNNELS BETWEEN THE UNITED STATES AND MEXICO.—The Southwest Border Counternarcotics Strategy shall include—

(1) a strategy to end the construction and use of tunnels and subterranean passages that cross the international border between the United States and Mexico for the purpose of illegal trafficking of drugs across such border; and

(2) recommendations for criminal penalties for persons who construct or use such a tunnel or subterranean passage for such a purpose.

(d) CONSULTATION WITH OTHER AGENCIES.—The Director shall issue the Southwest Border Counternarcotics Strategy in consultation with the heads of the relevant National Drug Control Program agencies.

(e) LIMITATION.—The Southwest Border Counternarcotics Strategy shall not change existing agency authorities or the laws governing interagency relationships, but may include recommendations about changes to such authorities or laws.

(f) REPORT TO CONGRESS.—The Director shall provide a copy of the Southwest Border Counternarcotics Strategy to the appropriate congressional committees (as defined in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701)), and to the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate.

(g) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of the Southwest Border Counternarcotics Strategy that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or tribal agency, shall be presented to Congress separately from the rest of the strategy.

**SEC. 1111. REQUIREMENT FOR SCIENTIFIC STUDY OF MYCOHERBICIDE IN ILLICIT DRUG CROP ERADICATION.**

Deadline.
Reports.

(a) REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall submit to the Congress a report that includes a plan to conduct, on an expedited basis, a scientific study of the use of mycoherbicide as a means of illicit drug crop elimination by an appropriate Government scientific research entity, including a complete and thorough scientific peer review. The study shall include an evaluation of the likely human health and environmental impacts of mycoherbicides derived from fungus naturally existing in the soil.

(b) STUDY.—The study required by this section shall be conducted in United States territory and not in any foreign country.

**SEC. 1112. REQUIREMENT FOR STUDY OF STATE PRECURSOR CHEMICAL CONTROL LAWS.**

(a) STUDY.—The Director of National Drug Control Policy, in consultation with the National Alliance for Model State Drug Laws, shall conduct a study of State laws with respect to precursor chemical controls.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Director of National Drug Control Policy shall submit a report to Congress on the results of the study under subsection (a), including—

(1) a comparison of the State laws studied and the effectiveness of each such law; and

(2) a list of best practices observed with respect to such laws.

**SEC. 1113. REQUIREMENT FOR STUDY OF DRUG ENDANGERED CHILDREN PROGRAMS.**

(a) STUDY.—The Director of National Drug Control Policy shall conduct a study of methamphetamine-related activities that are conducted by different Drug Endangered Children programs administered by States.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Director of National Drug Control Policy shall submit to Congress a report on the results of the study under subsection (a). Such report shall include—

(1) an analysis of the best practices of the activities studied; and

(2) recommendations for establishing a national policy to address drug endangered children, based on the Drug Endangered Children programs administered by States.

(c) DEFINITIONS.—In this section—

(1) the term "methamphetamine-related activity" means any activity related to the production, use, or effects of methamphetamine; and

(2) the term "drug endangered children" means children whose physical, mental, or emotional health are at risk because of the production, use, or effects of methamphetamine by another person.

**SEC. 1114. STUDY ON DRUG COURT HEARINGS IN NONTRADITIONAL PLACES.**

Schools.

(a) FINDING.—Congress finds that encouraging drug courts and schools to enter into partnerships that allow students to see the repercussions of drug abuse by non-violent offenders may serve as a strong deterrent and promote demand reduction.

Arkansas.

(b) STUDY.—The Director of the Office of National Drug Control Policy shall conduct a study on drug court programs that conduct hearings in nontraditional public places, such as schools. At a minimum, the study shall evaluate similar programs in operation, such as the program operated in the Fourth Judicial District Drug Court, in Washington County, Arkansas.

Deadline.
Reports.
President.

(c) REQUIREMENT.—At the same time the President submits to Congress the National Drug Control Strategy due February 1, 2007, pursuant to section 706 of the Office of National Drug Control Policy Reauthorization Act of 1998, the President shall submit to Congress a report on the study conducted under subsection (b). The report shall include an evaluation of the results of the

study and such recommendations as the President considers appropriate.

(d) DEMAND REDUCTION.—In this section, the term "demand reduction" has the meaning provided in section 702(1) of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701(1)).

**SEC. 1115. REPORT ON TRIBAL GOVERNMENT PARTICIPATION IN HIDTA PROCESS.**

(a) REPORT REQUIREMENT.—The Director of the Office of National Drug Control Policy shall prepare a report for Congress on the representation of tribal governments in the High Intensity Drug Trafficking Areas Program and in high intensity drug trafficking areas designated under that Program. The report shall include—

(1) a list of the tribal governments represented in the Program and a description of the participation by such governments in the Program;

(2) an explanation of the rationale for the level of representation by such governments; and

(3) recommendations by the Director for methods for increasing the number of tribal governments represented in the Program.

(b) DEADLINE.—The report prepared under subsection (a) shall be submitted not later than 1 year after the date of the enactment of this Act.

(c) DEFINITION.—In this section, the term "High Intensity Drug Trafficking Areas Program" means the program established under section 707 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1706)

**SEC. 1116. REPORT ON SCHOOL DRUG TESTING.**

(a) REPORT REQUIREMENT.—The Director of National Drug Control Policy shall prepare a report on drug testing in schools. The report shall include a list of secondary schools that have initiated drug testing from among those schools that have attended conferences on drug testing sponsored by the Office of National Drug Control Policy.

(b) DEADLINE.—Not later than 120 days after the date of the enactment of this Act, the Director of National Drug Control Policy shall submit to Congress the report required under subsection (a).

**SEC. 1117. REPORT ON ONDCP PERFORMANCE BONUSES.**

(a) REPORT REQUIREMENT.—The Director of National Drug Control Policy shall prepare a report on performance bonuses at the Office of National Drug Control Policy. The report shall include a list of employees who received performance bonuses, and the amount of such bonuses, for the period beginning on October 1, 2004, and ending on the date of submission of the report.

(b) DEADLINE.—Not later than 120 days after the date of the enactment of this Act, the Director of National Drug Control Policy shall submit to Congress the report required under subsection (a).

**SEC. 1118. REQUIREMENT FOR DISCLOSURE OF FEDERAL SPONSORSHIP OF ALL FEDERAL ADVERTISING OR OTHER COMMUNICATION MATERIALS.**

21 USC 1710a.

Section 712 is amended to read as follows:

**"SEC. 712. REQUIREMENT FOR DISCLOSURE OF FEDERAL SPONSORSHIP OF ALL FEDERAL ADVERTISING OR OTHER COMMUNICATION MATERIALS.**

"(a) REQUIREMENT.—Each advertisement or other communication paid for by the Office, either directly or through a contract awarded by the Office, shall include a prominent notice informing the target audience that the advertisement or other communication is paid for by the Office. Notice.

"(b) ADVERTISEMENT OR OTHER COMMUNICATION.—In this section, the term 'advertisement or other communication' includes—

"(1) an advertisement disseminated in any form, including print or by any electronic means; and

"(2) a communication by an individual in any form, including speech, print, or by any electronic means.".

**SEC. 1119. AWARDS FOR DEMONSTRATION PROGRAMS BY LOCAL PARTNERSHIPS TO COERCE ABSTINENCE IN CHRONIC HARD-DRUG USERS UNDER COMMUNITY SUPERVISION THROUGH THE USE OF DRUG TESTING AND SANCTIONS.**

At the end of the Act, insert the following:

**"SEC. 716. AWARDS FOR DEMONSTRATION PROGRAMS BY LOCAL PARTNERSHIPS TO COERCE ABSTINENCE IN CHRONIC HARD-DRUG USERS UNDER COMMUNITY SUPERVISION THROUGH THE USE OF DRUG TESTING AND SANCTIONS.** 21 USC 1714.

"(a) AWARDS REQUIRED.—The Director shall make competitive awards to fund demonstration programs by eligible partnerships for the purpose of reducing the use of illicit drugs by chronic hard-drug users living in the community while under the supervision of the criminal justice system.

"(b) USE OF AWARD AMOUNTS.—Award amounts received under this section shall be used—

"(1) to support the efforts of the agencies, organizations, and researchers included in the eligible partnership;

"(2) to develop and field a drug testing and graduated sanctions program for chronic hard-drug users living in the community under criminal justice supervision; and

"(3) to assist individuals described in subsection (a) by strengthening rehabilitation efforts through such means as job training, drug treatment, or other services.

"(c) ELIGIBLE PARTNERSHIP DEFINED.—In this section, the term 'eligible partnership' means a working group whose application to the Director—

"(1) identifies the roles played, and certifies the involvement of, two or more agencies or organizations, which may include—

"(A) State, local, or tribal agencies (such as those carrying out police, probation, prosecution, courts, corrections, parole, or treatment functions);

"(B) Federal agencies (such as the Drug Enforcement Agency, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and United States Attorney offices); and

"(C) community-based organizations;

"(2) includes a qualified researcher;

"(3) includes a plan for using judicial or other criminal justice authority to administer drug tests to individuals described in subsection (a) at least twice a week, and to swiftly

and certainly impose a known set of graduated sanctions for non-compliance with community-release provisions relating to drug abstinence (whether imposed as a pre-trial, probation, or parole condition or otherwise);

"(4) includes a strategy for responding to a range of substance use and abuse problems and a range of criminal histories;

"(5) includes a plan for integrating data infrastructure among the agencies and organizations included in the eligible partnership to enable seamless, real-time tracking of individuals described in subsection (a);

"(6) includes a plan to monitor and measure the progress toward reducing the percentage of the population of individuals described in subsection (a) who, upon being summoned for a drug test, either fail to show up or who test positive for drugs.

"(d) REPORTS TO CONGRESS.—

"(1) INTERIM REPORT.—Not later than June 1, 2009, the Director shall submit to Congress a report that identifies the best practices in reducing the use of illicit drugs by chronic hard-drug users, including the best practices identified through the activities funded under this section.

"(2) FINAL REPORT.—Not later than June 1, 2010, the Director shall submit to Congress a report on the demonstration programs funded under this section, including on the matters specified in paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,900,000 for each of fiscal years 2007 through 2009.".

**SEC. 1120. POLICY RELATING TO SYRINGE EXCHANGE PROGRAMS.**

Section 703(a) (21 U.S.C. 1702(a)) is amended by adding at the end the following:

"When developing the national drug control policy, any policy of the Director relating to syringe exchange programs for intravenous drug users shall be based on the best available medical and scientific evidence regarding their effectiveness in promoting individual health and preventing the spread of infectious disease, and their impact on drug addiction and use. In making any policy relating to syringe exchange programs, the Director shall consult

with the National Institutes of Health and the National Academy of Sciences.”.

Approved December 29, 2006.

LEGISLATIVE HISTORY—H.R. 6344 (S. 2560):

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed House.
Dec. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Dec. 29, Presidential statement.

# Public Law 109–470
# 109th Congress

## An Act

Jan. 11, 2007
[H.R. 486]

To provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Holloman Air Force Base Land Exchange Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Holloman Air Force Base Land Exchange Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) FEDERAL LAND.—The term "Federal land" means the land administered by the Secretary consisting of a total of approximately 320 acres, as depicted on the map.

(2) MAP.—The term "map" means the map entitled "Holloman AFB Land Exchange" and dated May 19, 2006.

(3) NON-FEDERAL LAND.—The term "non-Federal land" means the parcel consisting of a total of approximately 241 acres of land, as depicted on the map, that is—

(A) contiguous to Holloman Air Force Base, New Mexico; and

(B) located within the required safety zone surrounding munitions storage bunkers at the installation.

(4) OWNER.—The term "owner" means an owner that is able to convey to the United States clear title to the non-Federal land.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

**SEC. 3. LAND EXCHANGE.**

(a) IN GENERAL.—If the owner submits to the Secretary a request to exchange the non-Federal land for the Federal land or a portion of the Federal land, the Secretary shall convey to the owner all right, title, and interest of the United States in and to the Federal land or the applicable portion of the Federal land.

(b) CONSIDERATION.—As consideration for the conveyance of the Federal land under subsection (a), the owner shall convey to the United States all right, title, and interest of the owner in and to the non-Federal land.

(c) ADDITION TO MILITARY RESERVATION.—On acquisition of the non-Federal land by the Secretary, the Secretary shall—

(1) assume jurisdiction over the non-Federal land; and

(2) amend the withdrawal for the Holloman Air Force Base to include the non-Federal land.

(d) INTERESTS INCLUDED IN EXCHANGE.—Subject to valid existing rights, the land exchange under this Act shall include the conveyance of all surface, subsurface, mineral, and water rights to the Federal land and non-Federal land exchanged.

(e) COMPLIANCE WITH FEDERAL LAND POLICY AND MANAGEMENT ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall carry out the land exchange under this section in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(2) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), a cash equalization payment may be made in excess of 25 percent of the appraised value of the Federal land.

(f) NO AMENDMENT TO MANAGEMENT PLAN REQUIRED.—The exchange of Federal land and non-Federal land shall not require an amendment to the White Sands Resource Management Plan.

(g) DISPOSITION AND USE OF PROCEEDS.—

(1) DISPOSITION OF PROCEEDS.—The Secretary shall deposit any cash equalization payments received under this Act in the Federal Land Disposal Account established under section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)).

(2) USE OF PROCEEDS.—Amounts deposited under paragraph (1) shall be expended in accordance with section 206(c) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(c)).

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions for the land exchange that the Secretary considers to be appropriate to protect the interests of the United States.

Approved January 11, 2007.

---

LEGISLATIVE HISTORY—H.R. 486:

SENATE REPORTS: No. 109–313 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Mar. 14, considered and passed House.
Vol. 152 (2006): Dec. 7, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendment.

# Public Law 109–471
# 109th Congress

## An Act

Jan. 11, 2007
[H.R. 4588]

To reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under the Water Resources Research Act of 1984.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Water Resources Research Act Amendments of 2006.
42 USC 10301 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Water Resources Research Act Amendments of 2006".

**SEC. 2. WATER RESOURCES RESEARCH ACT AMENDMENTS.**

(a) SCOPE OF RESEARCH; OTHER ACTIVITIES; COOPERATION AND COORDINATION.—Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended to read as follows:

"(1) plan, conduct, or otherwise arrange for competent applied and peer reviewed research that fosters—

"(A) improvements in water supply reliability;

"(B) the exploration of new ideas that—

"(i) address water problems; or

"(ii) expand understanding of water and water-related phenomena;

"(C) the entry of new research scientists, engineers, and technicians into water resources fields; and

"(D) the dissemination of research results to water managers and the public.".

(b) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—Section 104(e) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(e)) is amended—

(1) by striking "5" and inserting "3"; and

(2) by inserting "at producing measured results and applied water supply research" after "effectiveness".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this section, to remain available until expended, $12,000,000 for each of fiscal years 2007 through 2011.".

(d) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended by striking "$3,000,000 for fiscal year 2001, $4,000,000 for each of fiscal years 2002 and 2003, and $6,000,000 for each of fiscal years 2004 and 2005" and inserting the following: "$6,000,000 for each of fiscal years 2007 through 2011".

(e) COORDINATION.—Section 104(h)(2) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(h)(2)) is amended—

(1) by striking "(2) REPORT" and inserting "(2) REPORTS"; and

(2) by inserting after the first sentence the following: "As part of the annual budget submission to Congress, the Secretary shall also provide a crosscut budget detailing the expenditures on activities listed under subsection (a)(1) and a report which details the level of applied research and the results of the activities authorized by this Act, including potential and actual— Reports.

"(A) increases in annual water supplies;

"(B) increases in annual water yields;

"(C) advances in water infrastructure and water quality improvements; and

"(D) methods for identifying, and determining the effectiveness of, treatment technologies and efficiencies.".

(f) ADMINISTRATIVE COSTS.—Section 107 of the Water Resources Research Act of 1984 (42 U.S.C. 10306) is amended by striking "15" and inserting "7.5".

Approved January 11, 2007.

---

LEGISLATIVE HISTORY—H.R. 4588 (S. 1017):

HOUSE REPORTS: No. 109–630 (Comm. on Resources).
SENATE REPORTS: No. 109–90 accompanying S. 1017 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 25, considered and passed House.
Dec. 6, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendments.

# Public Law 109–472
# 109th Congress

## An Act

Jan. 11, 2007
[H.R. 6060]

To authorize certain activities by the Department of State, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Department of State Authorities Act of 2006.

22 USC 2151 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Department of State Authorities Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. Fraud prevention and detection account.
Sec. 3. Education allowances.
Sec. 4. Interference with protective functions.
Sec. 5. Persons excused from payment of fees for execution and issuance of passports.
Sec. 6. Authority to administratively amend surcharges.
Sec. 7. Extension of privileges and immunities.
Sec. 8. Removal of contracting prohibition.
Sec. 9. Personal services contracting.
Sec. 10. Proliferation interdiction support.
Sec. 11. Safeguarding and elimination of conventional arms.
Sec. 12. Imposition of sanctions to deter the transfer of MANPADS.
Sec. 13. Additional authorities.

**SEC. 2. FRAUD PREVENTION AND DETECTION ACCOUNT.**

Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

(1) in clause (i), by inserting "or primarily" after "exclusively"; and

(2) by amending clause (ii) to read as follows:

"(ii) otherwise to prevent and detect visa fraud, including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15), in cooperation with the Secretary of Homeland Security or pursuant to the terms of a memorandum of understanding or other agreement between the Secretary of State and the Secretary of Homeland Security; and".

**SEC. 3. EDUCATION ALLOWANCES.**

Section 5924(4) of title 5, United States Code, is amended—

(1) in the first sentence of subparagraph (A), by inserting "United States" after "nearest";

(2) by amending subparagraph (B) to read as follows:

"(B) The travel expenses of dependents of an employee to and from a secondary or post-secondary educational institution, not to exceed one annual trip each way for

each dependent, except that an allowance payment under subparagraph (A) may not be made for a dependent during the 12 months following the arrival of the dependent at the selected educational institution under authority contained in this subparagraph."; and

(3) by adding at the end the following:

"(D) Allowances provided pursuant to subparagraphs (A) and (B) may include, at the election of the employee, payment or reimbursement of the costs incurred to store baggage for the employee's dependent at or in the vicinity of the dependent's school during one trip per year by the dependent between the school and the employee's duty station, except that such payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage in connection with the trip, and such payment or reimbursement shall be in lieu of transportation of the baggage.".

**SEC. 4. INTERFERENCE WITH PROTECTIVE FUNCTIONS.**

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

### "§ 118. Interference with certain protective functions

"Any person who knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged, within the United States or the special maritime territorial jurisdiction of the United States, in the performance of the protective functions authorized under section 37 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709) or section 103 of the Diplomatic Security Act (22 U.S.C. 4802) shall be fined under this title, imprisoned not more than 1 year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"118. Interference with certain protective functions.".

**SEC. 5. PERSONS EXCUSED FROM PAYMENT OF FEES FOR EXECUTION AND ISSUANCE OF PASSPORTS.**

Section 1(a) of the Act of June 4, 1920 (22 U.S.C. 214(a)) is amended—

(1) by striking "or from a widow" and inserting "from a widow"; and

(2) by inserting "; or from an individual or individuals abroad, returning to the United States, when the Secretary determines that foregoing the collection of such fee is justified for humanitarian reasons or for law enforcement purposes" after "such member" the second place it appears.

**SEC. 6. AUTHORITY TO ADMINISTRATIVELY AMEND SURCHARGES.**

8 USC 1714 note.

(a) IN GENERAL.—Beginning in fiscal year 2007 and thereafter, the Secretary of State is authorized to amend administratively the amounts of the surcharges related to consular services in support of enhanced border security (provided for in the last paragraph under the heading "DIPLOMATIC AND CONSULAR PROGRAMS" under title IV of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447)) that are in addition to the passport and immigrant visa fees in effect on January 1, 2004.

Effective date.

(b) REQUIREMENTS.—In carrying out subsection (a) and the provision of law described in such subsection, the Secretary shall meet the following requirements:

(1) The amounts of the surcharges shall be reasonably related to the costs of providing services in connection with the activity or item for which the surcharges are charged.

(2) The aggregate amount of surcharges collected may not exceed the aggregate amount obligated and expended for the costs related to consular services in support of enhanced border security incurred in connection with the activity or item for which the surcharges are charged.

(3) A surcharge may not be collected except to the extent the surcharge will be obligated and expended to pay the costs related to consular services in support of enhanced border security incurred in connection with the activity or item for which the surcharge is charged.

(4) A surcharge shall be available for obligation and expenditure only to pay the costs related to consular services in support of enhanced border security incurred in providing services in connection with the activity or item for which the surcharge is charged.

President.

**SEC. 7. EXTENSION OF PRIVILEGES AND IMMUNITIES.**

(a) THE AFRICAN UNION.—Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f–2) is amended—

(1) by inserting "(a)" before "The provisions"; and

(2) by adding at the end the following:

"(b) Under such terms and conditions as the President shall determine, consistent with the purposes of this title, the President is authorized to extend, or enter into an agreement to extend, to the African Union Mission to the United States of America, and to its members, the privileges and immunities enjoyed by diplomatic missions accredited to the United States, and by members of such missions, subject to corresponding conditions and obligations.".

22 USC 228*l*.

(b) THE HOLY SEE.—Under such terms and conditions as the President shall determine, the President is authorized to extend, or to enter into an agreement to extend, to the Permanent Observer Mission of the Holy See to the United Nations in New York, and to its members, the privileges and immunities enjoyed by the diplomatic missions of member states to the United Nations, and their members, subject to corresponding conditions and obligations.

**SEC. 8. REMOVAL OF CONTRACTING PROHIBITION.**

Section 406 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4856) is amended by striking subsection (c).

**SEC. 9. PERSONAL SERVICES CONTRACTING.**

Section 504 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) is amended—

(1) in subsection (a), by striking "broadcasters, producers, and writers" and inserting "broadcasters and other broadcasting specialists"; and

(2) in subsection (c), by striking "December 31, 2006" and inserting "December 31, 2007".

**SEC. 10. PROLIFERATION INTERDICTION SUPPORT.**

(a) ASSISTANCE.—Consistent with section 583 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–2), as amended by subsection (c), the President is authorized to provide assistance to friendly foreign countries for proliferation detection and interdiction activities and for developing complementary capabilities. 22 USC 2349bb–5.

(b) REPORT ON EXISTING PROLIFERATION DETECTION AND INTERDICTION ASSISTANCE.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on proliferation and interdiction assistance. President.

(2) CONTENT.—The report required under paragraph (1) shall—

(A) specify in detail, including program cost, on a country-by-country basis, the assistance being provided by the Department of State to train and equip personnel in friendly foreign countries in the detection and interdiction of proliferation-related shipments of weapons of mass destruction, related materials and means of delivery, and dual-use items of proliferation concern; and

(B) specify, on an agency-by-agency basis, funding that is being transferred by the Department of State to other executive agencies to carry out such programs.

(c) INTERDICTION ASSISTANCE AMENDMENTS.—Section 583 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–2) is amended—

(1) in subsection (a)—

(A) by striking "should ensure that" and inserting "shall ensure that, beginning in fiscal year 2007,";

(B) by striking "expended" and inserting "obligated"; and

(C) by striking "that originate from, and are destined for, other countries" and inserting "to non-state actors and states of proliferation concern"; and

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

"(c) COOPERATIVE AGREEMENTS.—In order to promote cooperation regarding the interdiction of weapons of mass destruction and related materials and delivery systems, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate effective measures to prevent the transportation of such items to non-state actors and states of proliferation concern.

"(d) DETERMINATION AND NOTICE TO CONGRESS.—The Secretary of State shall notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in writing not more than 30 days after making a determination that any friendly country has been determined to be a country eligible for priority consideration of any assistance under subsection (a). Such determination shall set forth the reasons for such determination, and may be submitted in classified and unclassified form, as necessary.". Deadline.

**SEC. 11. SAFEGUARDING AND ELIMINATION OF CONVENTIONAL ARMS.** 22 USC 2349bb–6.

(a) IN GENERAL.—The Secretary of State is authorized to secure, remove, or eliminate stocks of man-portable air defense systems

(MANPADS), small arms and light weapons, stockpiled munitions, abandoned ordnance, and other conventional weapons, including tactical missile systems (hereafter in this section referred to as "MANPADS and other conventional weapons"), as well as related equipment and facilities, located outside the United States that are determined by the Secretary to pose a proliferation threat.

(b) ELEMENTS.—The activities authorized under subsection (a) may include the following:

(1) Humanitarian demining activities.

(2) The elimination or securing of MANPADS.

(3) The elimination or securing of other conventional weapons.

(4) Assistance to countries in the safe handling and proper storage of MANPADS and other conventional weapons.

(5) Cooperative programs with the North Atlantic Treaty Organization and other international organizations to assist countries in the safe handling and proper storage or elimination of MANPADS and other conventional weapons.

(6) The utilization of funds for the elimination or safeguarding of MANPADS and other conventional weapons.

(7) Activities to secure and safeguard MANPADS and other conventional weapons.

(8) Actions to ensure that equipment and funds, including security upgrades at locations for the storage or disposition of MANPADS and other conventional weapons and related equipment that are determined by the Secretary of State to pose a proliferation threat, continue to be used for authorized purposes.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authorities of the Secretary of Defense.

22 USC 2751 note.

**SEC. 12. IMPOSITION OF SANCTIONS TO DETER THE TRANSFER OF MANPADS.**

(a) STATEMENT OF POLICY.—Congress declares that it should be the policy of the United States to hold foreign governments accountable for knowingly transferring MANPADS to state-sponsors of terrorism or terrorist organizations.

(b) DETERMINATION RELATING TO SANCTIONS.—

President.

(1) IN GENERAL.—If the President determines that a foreign government knowingly transfers MANPADS to a foreign government described in paragraph (2) or a terrorist organization, the President shall—

Reports.

(A) submit forthwith to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing such determination; and

(B) impose forthwith on the transferring foreign government the sanctions described in subsection (c).

(2) FOREIGN GOVERNMENT DESCRIBED.—A foreign government described in this paragraph is a foreign government that the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

(c) SANCTIONS DESCRIBED.—The sanctions referred to in subsection (b)(1)(B) are the following:

(1) Termination of United States Government assistance to the transferring foreign government under the Foreign Assistance Act of 1961, except that such termination shall not apply in the case of humanitarian assistance.

(2) Termination of United States Government—

(A) sales to the transferring foreign government of any defense articles, defense services, or design and construction services; and

(B) licenses for the export to the transferring foreign government of any item on the United States Munitions List.

(3) Termination of all foreign military financing for the transferring foreign government.

(d) WAIVER.—Notwithstanding any other provision of law, sanctions shall not be imposed on a transferring foreign government under this section if the President determines and certifies in writing to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the furnishing of the assistance, sales, licensing, or financing that would otherwise be suspended as a result of the imposition of such sanctions is important to the national security interests of the United States.

President. Certification.

(e) DEFINITIONS.—In this section:

(1) DEFENSE ARTICLE.—The term "defense article" has the meaning given the term in section 47(3) of the Arms Export Control Act.

(2) DEFENSE SERVICE.—The term "defense service" has the meaning given the term in section 47(4) of the Arms Export Control Act.

(3) DESIGN AND CONSTRUCTION SERVICES.—The term "design and construction services" has the meaning given the term in section 47(8) of the Arms Export Control Act.

(4) FOREIGN GOVERNMENT.—The term "foreign government" includes any agency or instrumentality of a foreign government.

(5) MANPADS.—The term "MANPADS" means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; or

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

**SEC. 13. ADDITIONAL AUTHORITIES.**

(a) WAR RESERVES STOCKPILE.—

(1) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005.—Section 12001 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1011), is amended—

(A) in subsection (a)(2)(D), by striking "as of the date of enactment of this Act,"; and

(B) in subsection (d), by striking "2" and inserting "4".

(2) FOREIGN ASSISTANCE ACT OF 1961.—Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking "$100,000,000" and inserting "$200,000,000"; and

(ii) by striking "2004 and 2005" and inserting "2007 and 2008"; and

(B) in subparagraph (B), by striking "$100,000,000" and inserting "$200,000,000".

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) takes effect on August 5, 2006.

(b) EXTENSION OF AUTHORITY TO PROVIDE LOAN GUARANTEES.—Chapter 5 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), is amended in the item relating to "LOAN GUARANTEES TO ISRAEL"—

117 Stat. 576.

(1) in the matter preceding the first proviso, by striking "September 30, 2007" and inserting "September 30, 2011"; and

(2) in the second proviso, by striking "September 30, 2007" and inserting "September 30, 2011"

Approved January 11, 2007.

---

LEGISLATIVE HISTORY—H.R. 6060:

HOUSE REPORTS: No. 109–706 (Comm. on International Relations).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 8, considered and passed House and Senate.

# Public Law 109–473
# 109th Congress

## An Act

To make a conforming amendment to the Federal Deposit Insurance Act with respect to examinations of certain insured depository institutions, and for other purposes.

Jan. 11, 2007
[H.R. 6345]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.**

Paragraph (10) of section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(10)) is amended by striking "$250,000,000" and inserting "$500,000,000".

Approved January 11, 2007.

LEGISLATIVE HISTORY—H.R. 6345:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 7, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–474
# 109th Congress

## An Act

Jan. 12, 2007
[H.R. 482]

To provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Pine Springs Land Exchange Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pine Springs Land Exchange Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) FEDERAL LAND.—The term "Federal land" means the 3 parcels of Forest land (including any improvements on the land), comprising approximately 80 acres, as depicted on the map.

(2) FOREST.—The term "Forest" means the Lincoln National Forest in the State of New Mexico.

(3) MAP.—The term "map" means the map entitled "Pine Springs Land Exchange" and dated May 25, 2004.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means the parcel of University land comprising approximately 80 acres, as depicted on the map.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) UNIVERSITY.—The term "University" means Lubbock Christian University in the State of New Mexico.

**SEC. 3. LAND EXCHANGE.**

Lubbock Christian University.

(a) IN GENERAL.—In exchange for the conveyance to the Secretary of the non-Federal land by the University, the Secretary shall convey to the University, by quitclaim deed, all right, title, and interest of the United States in and to the Federal land.

(b) MAP.—

(1) AVAILABILITY OF MAP.—The map shall be on file and available for inspection in—

(A) the Office of the Chief of the Forest Service; and

(B) the Office of the Supervisor of Lincoln National Forest.

(2) MINOR ERRORS.—The Secretary and the University may correct any minor errors in the map.

**SEC. 4. EXCHANGE TERMS AND CONDITIONS.**

(a) IN GENERAL.—The conveyance of Federal land under section 3(a) shall be subject to—

(1) any valid existing rights; and

(2) any additional terms and conditions that the Secretary determines to be appropriate to protect the interests of the United States.

(b) ACCEPTABLE TITLE.—Title to the non-Federal land shall—

(1) conform with the title approval standards of the Attorney General applicable to Federal land acquisitions; and

(2) otherwise be acceptable to the Secretary.

(c) COMPLIANCE WITH FEDERAL LAND POLICY AND MANAGEMENT ACT.—The land exchange authorized under section 3(a) shall be carried out in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(d) COSTS.—The costs of carrying out the exchange of Federal land and non-Federal land shall be shared equally by the Secretary and the University.

**SEC. 5. MISCELLANEOUS PROVISIONS.**

(a) REVOCATION AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land in accordance with this Act.

(2) WITHDRAWAL OF FEDERAL LAND.—Subject to valid existing rights, pending the completion of the land exchange under section 3(a), the Federal land is withdrawn from all forms of location, entry, and patent under the public land laws, including—

(A) the mining and mineral leasing laws; and

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(b) ADMINISTRATION OF LAND ACQUIRED BY THE UNITED STATES.—

(1) BOUNDARY ADJUSTMENT.—On acceptance of title by the Secretary to the non-Federal land—

(A) the non-Federal land shall become part of the Forest; and

(B) the boundaries of the Forest shall be adjusted to include the acquired land.

(2) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Forest, as modified under paragraph (1), shall be considered to be boundaries of the Forest as of January 1, 1965.

(3) MANAGEMENT.—The Secretary shall manage the non-Federal land acquired under section 3(a) in accordance with—

(A) the Act of March 1, 1911 (commonly known as the "Weeks Law") (16 U.S.C. 480 et seq.); and

(B) any other laws (including regulations) applicable to National Forest System land.

(c) DUTIES OF SECRETARY.—In exercising any discretion necessary to carry out this Act, the Secretary shall ensure that the public interest is well served.

Approved January 12, 2007.

LEGISLATIVE HISTORY—H.R. 482:

SENATE REPORTS: No. 109–312 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 151 (2005): Apr. 12, considered and passed House.
Vol. 152 (2006): Dec. 7, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendment.

Public Law 109–475
109th Congress

# An Act

To provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

Jan. 12, 2007
[H.R. 1245]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Gynecologic Cancer Education and Awareness Act of 2005.
42 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Gynecologic Cancer Education and Awareness Act of 2005" or "Johanna's Law".

**SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

Section 317P of the Public Health Service Act (42 U.S.C. 247b–17) is amended—

(1) in the section heading by adding "**(johanna's law)**" at the end; and

(2) by adding at the end the following:

"(d) JOHANNA'S LAW.—

"(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

"(A) IN GENERAL.—The Secretary shall carry out a national campaign to increase the awareness and knowledge of health care providers and women with respect to gynecologic cancers.

"(B) WRITTEN MATERIALS.—Activities under the national campaign under subparagraph (A) shall include—

"(i) maintaining a supply of written materials that provide information to the public on gynecologic cancers; and

"(ii) distributing the materials to members of the public upon request.

"(C) PUBLIC SERVICE ANNOUNCEMENTS.—Activities under the national campaign under subparagraph (A) shall, in accordance with applicable law and regulations, include developing and placing, in telecommunications media, public service announcements intended to encourage women to discuss with their physicians their risks of gynecologic cancers. Such announcements shall inform the public on the manner in which the written materials referred to in subparagraph (B) can be obtained upon request, and shall call attention to early warning signs and risk factors based on the best available medical information.

"(2) REPORT AND STRATEGY.—

"(A) REPORT.—Not later than 6 months after the date of the enactment of this subsection, the Secretary shall submit to the Congress a report including the following:

"(i) A description of the past and present activities of the Department of Health and Human Services to increase awareness and knowledge of the public with respect to different types of cancer, including gynecologic cancers.

"(ii) A description of the past and present activities of the Department of Health and Human Services to increase awareness and knowledge of health care providers with respect to different types of cancer, including gynecologic cancers.

"(iii) For each activity described pursuant to clause (i) or (ii), a description of the following:

"(I) The funding for such activity for fiscal year 2006 and the cumulative funding for such activity for previous fiscal years.

"(II) The background and history of such activity, including—

"(aa) the goals of such activity;

"(bb) the communications objectives of such activity;

"(cc) the identity of each agency within the Department of Health and Human Services responsible for any aspect of the activity; and

"(dd) how such activity is or was expected to result in change.

"(III) How long the activity lasted or is expected to last.

"(IV) The outcomes observed and the evaluation methods, if any, that have been, are being, or will be used with respect to such activity.

"(V) For each such outcome or evaluation method, a description of the associated results, analyses, and conclusions.

"(B) STRATEGY.—

Deadline.

"(i) DEVELOPMENT; SUBMISSION TO CONGRESS.—Not later than 3 months after submitting the report required by subparagraph (A), the Secretary shall develop and submit to the Congress a strategy for improving efforts to increase awareness and knowledge of the public and health care providers with respect to different types of cancer, including gynecological cancers.

"(ii) CONSULTATION.—In developing the strategy under clause (i), the Secretary should consult with qualified private sector groups, including nonprofit organizations.

Deadlines.
Reports.

"(3) FULL COMPLIANCE.—

"(A) IN GENERAL.—Not later than March 1, 2008, the Secretary shall ensure that all provisions of this section, including activities directed to be carried out by the Centers for Disease Control and Prevention and the Food and Drug Administration, are fully implemented and being complied with. Not later than April 30, 2008, the Secretary shall submit to Congress a report that certifies compliance with the preceding sentence and that contains a description of all activities undertaken to achieve such compliance.

Certification.

"(B) If the Secretary fails to submit the certification as provided for under subparagraph (A), the Secretary shall, not later than 3 months after the date on which the report is to be submitted under subparagraph (A), and every 3 months thereafter, submit to Congress an explanation as to why the Secretary has not yet complied with the first sentence of subparagraph (A), a detailed description of all actions undertaken within the month for which the report is being submitted to bring the Secretary into compliance with such sentence, and the anticipated date the Secretary expects to be in full compliance with such sentence.

"(4) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated $16,500,000 for the period of fiscal years 2007 through 2009.".

Approved January 12, 2007.

---

LEGISLATIVE HISTORY—H.R. 1245:

CONGRESSIONAL RECORD, Vol. 152 (2006):

Nov. 14, considered and passed House.

Dec. 8, considered and passed Senate, amended. House concurred in Senate amendment.

# Public Law 109–476
# 109th Congress

## An Act

Jan. 12, 2007
[H.R. 4709]

To amend title 18, United States Code, to strengthen protections for law enforcement officers and the public by providing criminal penalties for the fraudulent acquisition or unauthorized disclosure of phone records.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Telephone Records and Privacy Protection Act of 2006.
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Telephone Records and Privacy Protection Act of 2006".

18 USC 1039 note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) telephone records can be of great use to criminals because the information contained in call logs may include a wealth of personal data;

(2) call logs may reveal the names of telephone users' doctors, public and private relationships, business associates, and more;

(3) call logs are typically maintained for the exclusive use of phone companies, their authorized agents, and authorized consumers;

(4) telephone records have been obtained without the knowledge or consent of consumers through the use of a number of fraudulent methods and devices that include—

(A) telephone company employees selling data to unauthorized data brokers;

(B) "pretexting", whereby a data broker or other person represents that they are an authorized consumer and convinces an agent of the telephone company to release the data; or

(C) gaining unauthorized Internet access to account data by improperly activating a consumer's account management features on a phone company's webpage or contracting with an Internet-based data broker who trafficks in such records; and

(5) the unauthorized disclosure of telephone records not only assaults individual privacy but, in some instances, may further acts of domestic violence or stalking, compromise the personal safety of law enforcement officers, their families, victims of crime, witnesses, or confidential informants, and undermine the integrity of law enforcement investigations.

**SEC. 3. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH OBTAINING CONFIDENTIAL PHONE RECORDS INFORMATION OF A COVERED ENTITY.**

(a) OFFENSE.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1038 the following:

**"§ 1039. Fraud and related activity in connection with obtaining confidential phone records information of a covered entity**

"(a) CRIMINAL VIOLATION.—Whoever, in interstate or foreign commerce, knowingly and intentionally obtains, or attempts to obtain, confidential phone records information of a covered entity, by—

"(1) making false or fraudulent statements or representations to an employee of a covered entity;

"(2) making such false or fraudulent statements or representations to a customer of a covered entity;

"(3) providing a document to a covered entity knowing that such document is false or fraudulent; or

"(4) accessing customer accounts of a covered entity via the Internet, or by means of conduct that violates section 1030 of this title, without prior authorization from the customer to whom such confidential phone records information relates;

shall be fined under this title, imprisoned for not more than 10 years, or both.

"(b) PROHIBITION ON SALE OR TRANSFER OF CONFIDENTIAL PHONE RECORDS INFORMATION.—

"(1) Except as otherwise permitted by applicable law, whoever, in interstate or foreign commerce, knowingly and intentionally sells or transfers, or attempts to sell or transfer, confidential phone records information of a covered entity, without prior authorization from the customer to whom such confidential phone records information relates, or knowing or having reason to know such information was obtained fraudulently, shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) For purposes of this subsection, the exceptions specified in section 222(d) of the Communications Act of 1934 shall apply for the use of confidential phone records information by any covered entity, as defined in subsection (h). Applicability.

"(c) PROHIBITION ON PURCHASE OR RECEIPT OF CONFIDENTIAL PHONE RECORDS INFORMATION.—

"(1) Except as otherwise permitted by applicable law, whoever, in interstate or foreign commerce, knowingly and intentionally purchases or receives, or attempts to purchase or receive, confidential phone records information of a covered entity, without prior authorization from the customer to whom such confidential phone records information relates, or knowing or having reason to know such information was obtained fraudulently, shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) For purposes of this subsection, the exceptions specified in section 222(d) of the Communications Act of 1934 shall apply for the use of confidential phone records information by any covered entity, as defined in subsection (h). Applicability.

"(d) ENHANCED PENALTIES FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, subsection (a), (b), or (c) while

violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000, or more than 50 customers of a covered entity, in a 12-month period shall, in addition to the penalties provided for in such subsection, be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of this title, imprisoned for not more than 5 years, or both.

"(e) ENHANCED PENALTIES FOR USE OF INFORMATION IN FURTHERANCE OF CERTAIN CRIMINAL OFFENSES.—

"(1) Whoever, violates, or attempts to violate, subsection (a), (b), or (c) knowing that such information may be used in furtherance of, or with the intent to commit, an offense described in section 2261, 2261A, 2262, or any other crime of violence shall, in addition to the penalties provided for in such subsection, be fined under this title and imprisoned not more than 5 years.

"(2) Whoever, violates, or attempts to violate, subsection (a), (b), or (c) knowing that such information may be used in furtherance of, or with the intent to commit, an offense under section 111, 115, 1114, 1503, 1512, 1513, or to intimidate, threaten, harass, injure, or kill any Federal, State, or local law enforcement officer shall, in addition to the penalties provided for in such subsection, be fined under this title and imprisoned not more than 5 years.

"(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial jurisdiction over an offense under this section.

"(g) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.

"(h) DEFINITIONS.—In this section:

"(1) CONFIDENTIAL PHONE RECORDS INFORMATION.—The term 'confidential phone records information' means information that—

"(A) relates to the quantity, technical configuration, type, destination, location, or amount of use of a service offered by a covered entity, subscribed to by any customer of that covered entity, and kept by or on behalf of that covered entity solely by virtue of the relationship between that covered entity and the customer;

"(B) is made available to a covered entity by a customer solely by virtue of the relationship between that covered entity and the customer; or

"(C) is contained in any bill, itemization, or account statement provided to a customer by or on behalf of a covered entity solely by virtue of the relationship between that covered entity and the customer.

"(2) COVERED ENTITY.—The term 'covered entity'—

"(A) has the same meaning given the term 'telecommunications carrier' in section 3 of the Communications Act of 1934 (47 U.S.C. 153); and

"(B) includes any provider of IP-enabled voice service.

"(3) CUSTOMER.—The term 'customer' means, with respect to a covered entity, any individual, partnership, association,

joint stock company, trust, or corporation, or authorized representative of such customer, to whom the covered entity provides a product or service.

"(4) IP-ENABLED VOICE SERVICE.—The term 'IP-enabled voice service' means the provision of real-time voice communications offered to the public, or such class of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, (whether part of a bundle of services or separately) with interconnection capability such that the service can originate traffic to, or terminate traffic from, the public switched telephone network, or a successor network.".

(b) CHAPTER ANALYSIS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1038 the following:

"1039. Fraud and related activity in connection with obtaining confidential phone records information of a covered entity.".

**SEC. 4. SENTENCING GUIDELINES.**

28 USC 994 note.

Deadline.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 1039 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

Approved January 12, 2007.

LEGISLATIVE HISTORY—H.R. 4709:

HOUSE REPORTS: No. 109–395 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Apr. 25, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–477
# 109th Congress

## An Act

Jan. 12, 2007
[H.R. 4997]

To extend for 2 years the authority to grant waivers of the foreign country residence requirement with respect to certain international medical graduates.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Physicians for Underserved Areas Act.
8 USC 1101 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Physicians for Underserved Areas Act".

**SEC. 2. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.**

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note; Public Law 103–416) (as amended by section 1(a)(1) of Public Law 108–441) is amended by striking "June 1, 2006." and inserting "June 1, 2008.".

8 USC 1182 note.

**SEC. 3. EFFECTIVE DATE.**

The amendment made by section 2 shall take effect as if enacted on May 31, 2006.

Approved January 12, 2007.

---

LEGISLATIVE HISTORY—H.R. 4997:

HOUSE REPORTS: No. 109–715 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 6, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–478
# 109th Congress

## An Act

To increase the disability earning limitation under the Railroad Retirement Act and to index the amount of allowable earnings consistent with increases in the substantial gainful activity dollar amount under the Social Security Act.

Jan. 12, 2007
[H.R. 5483]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Railroad Retirement Disability Earnings Act. 45 USC 231t note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Railroad Retirement Disability Earnings Act".

**SEC. 2. REFORM OF DISABILITY EARNINGS LIMITATION PROVISIONS.**

(a) IN GENERAL.—Section 2(e)(4) of the Railroad Retirement Act of 1974 is amended— 45 USC 231a.

(1) by striking "$400 in earnings" in the first sentence and inserting "the monthly allowable earnings as defined in the section";

(2) by striking "$4,800" in the fourth sentence and inserting "the amount of earnings computed by totaling the monthly allowable earnings as determined under this section for each month in the year"; and

(3) by striking the fifth sentence and inserting "If the total amount of such individual's earnings during such year (exclusive of earnings for services as described in subdivision (3) and after deduction of disability related work expenses) is in excess of the annual allowable earnings amount, the number of months in such year with respect to which an annuity is not payable by reason of the first and third sentences shall not exceed the number of months derived by dividing the amount by which such annual earnings exceed the annual allowable earnings amount by the monthly allowable earning amount determined under this section. If the computation under the preceding sentence results in a remainder greater than or equal to one-half, the number of months for which an annuity is not payable as determined under the preceding sentence shall be increased by one. The annual allowable earnings amount shall be computed by totaling the amount of monthly allowable earnings as determined under the first sentence of this subdivision for each month in the calender year. If the amount of the individual's annuity has changed during the calendar year, any payment of annuities which become payable solely by reason of the limitations in the preceding three sentences shall be made first with respect to the month or months for which the annuity is larger. For purposes of this subdivision, 'the monthly allowable earnings'

shall be $700, except that for each year after 2007, 'the monthly allowable earnings' amount shall be the larger of the amount for the previous year or the amount calculated by multiplying $700 by the ratio of the national average wage index for the year 2 calender years before the year for which the amount is being calculated to the national average wage index for the year 2005. The amount so computed will be rounded to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(b) EFFECTIVE DATE.—The amendments made by this section take effect January 1, 2007.

Approved January 12, 2007.

LEGISLATIVE HISTORY—H.R. 5483:

HOUSE REPORTS: No. 109–669 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Dec. 8, considered and passed Senate.

# Public Law 109–479
# 109th Congress

## An Act

To amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

Jan. 12, 2007
[H.R. 5946]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.
16 USC 1801 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006".

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
Sec. 3. Changes in findings and definitions.
Sec. 4. Highly migratory species.
Sec. 5. Total allowable level of foreign fishing.
Sec. 6. Western Pacific Sustainable Fisheries Fund.
Sec. 7. Authorization of appropriations.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Cumulative impacts.
Sec. 102. Caribbean Council jurisdiction.
Sec. 103. Regional fishery management councils.
Sec. 104. Fishery management plan requirements.
Sec. 105. Fishery management plan discretionary provisions.
Sec. 106. Limited access privilege programs.
Sec. 107. Environmental review process.
Sec. 108. Emergency regulations.
Sec. 109. Western Pacific and North Pacific community development.
Sec. 110. Secretarial action on State groundfish fishing.
Sec. 111. Joint enforcement agreements.
Sec. 112. Transition to sustainable fisheries.
Sec. 113. Regional coastal disaster assistance, transition, and recovery program.
Sec. 114. Fishery finance program hurricane assistance.
Sec. 115. Fisheries hurricane assistance program.
Sec. 116. Bycatch reduction engineering program.
Sec. 117. Community-based restoration program for fishery and coastal habitats.
Sec. 118. Prohibited acts.
Sec. 119. Shark feeding.
Sec. 120. Clarification of flexibility.
Sec. 121. Southeast Alaska fisheries communities capacity reduction.
Sec. 122. Conversion to catcher/processor shares.

TITLE II—INFORMATION AND RESEARCH

Sec. 201. Recreational fisheries information.
Sec. 202. Collection of information.
Sec. 203. Access to certain information.
Sec. 204. Cooperative research and management program.

Sec. 205. Herring study.
Sec. 206. Restoration study.
Sec. 207. Western Pacific fishery demonstration projects.
Sec. 208. Fisheries conservation and management fund.
Sec. 209. Use of fishery finance program for sustainable purposes.
Sec. 210. Regional ecosystem research.
Sec. 211. Deep sea coral research and technology program.
Sec. 212. Impact of turtle excluder devices on shrimping.
Sec. 213. Hurricane effects on commercial and recreational fishery habitats.
Sec. 214. North Pacific Fisheries Convention.
Sec. 215. New England groundfish fishery.
Sec. 216. Report on council management coordination.
Sec. 217. Study of shortage in the number of individuals with post- baccalaureate degrees in subjects related to fishery science.
Sec. 218. Gulf of Alaska Rockfish demonstration program.

TITLE III—OTHER FISHERIES STATUTES

Sec. 301. Amendments to Northern Pacific Halibut Act.
Sec. 302. Reauthorization of other fisheries Acts.

TITLE IV—INTERNATIONAL

Sec. 401. International monitoring and compliance.
Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce by-catch of protected marine species.
Sec. 404. Monitoring of Pacific insular area fisheries.
Sec. 405. Reauthorization of Atlantic Tunas Convention Act.
Sec. 406. International overfishing and domestic equity.
Sec. 407. United States catch history.
Sec. 408. Secretarial representative for international fisheries.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Appointment of United States commissioners.
Sec. 504. Authority and responsibility of the Secretary of State.
Sec. 505. Rulemaking authority of the Secretary of Commerce.
Sec. 506. Enforcement.
Sec. 507. Prohibited acts.
Sec. 508. Cooperation in carrying out convention.
Sec. 509. Territorial participation.
Sec. 510. Exclusive economic zone notification.
Sec. 511. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. United States representation on joint management committee.
Sec. 604. United States representation on the scientific review group.
Sec. 605. United States representation on joint technical committee.
Sec. 606. United States representation on advisory panel.
Sec. 607. Responsibilities of the secretary.
Sec. 608. Rulemaking.
Sec. 609. Administrative matters.
Sec. 610. Enforcement.
Sec. 611. Authorization of appropriations.

TITLE VII—MISCELLANEOUS

Sec. 701. Study of the acidification of the oceans and effect on fisheries.
Sec. 702. Puget Sound regional shellfish settlement.

TITLE VIII—TSUNAMI WARNING AND EDUCATION

Sec. 801. Short title.
Sec. 802. Definitions.
Sec. 803. Purposes.
Sec. 804. Tsunami forecasting and warning program.
Sec. 805. National tsunami hazard mitigation program.
Sec. 806. Tsunami research program.
Sec. 807. Global tsunami warning and mitigation network.

Sec. 808. Authorization of appropriations.

TITLE IX—POLAR BEARS

Sec. 901. Short title.
Sec. 902. Amendment of Marine Mammal Protection Act of 1972.

**SEC. 2. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.**

(a) ECOSYSTEMS.—Section 2(a) (16 U.S.C. 1801(a)) is amended by adding at the end the following:

"(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.".

(b) IN GENERAL.—Section 3 (16 U.S.C. 1802) is amended—

(1) by inserting after paragraph (13) the following:

"(13A) The term 'regional fishery association' means an association formed for the mutual benefit of members—

"(A) to meet social and economic needs in a region or subregion; and

"(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.";

(2) by inserting after paragraph (20) the following:

"(20A) The term 'import'—

"(A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

"(B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.";

(3) by inserting after paragraph (23) the following:

"(23A) The term 'limited access privilege'—

"(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and

"(B) includes an individual fishing quota; but

"(C) does not include community development quotas as described in section 305(i).

"(23B) The term 'limited access system' means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation."; and

(4) by inserting after paragraph (27) the following:

"(27A) The term 'observer information' means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.".

(c) REDESIGNATION.—Paragraphs (1) through (45) of section 3 (16 U.S.C. 1802), as amended by subsection (a), are redesignated as paragraphs (1) thorough (50), respectively.

(d) CONFORMING AMENDMENTS.—

(1) The following provisions of the Act are amended by striking "an individual fishing quota" and inserting "a limited access privilege":

(A) Section 402(b)(1)(D) (16 U.S.C. 1881a(b)(1)(D)).

(B) Section 407(a)(1)(D) and (c)(1) (16 U.S.C. 1883(a)(1)(D) and (c)(1)).

(2) The following provisions of the Act are amended by striking "individual fishing quota" and inserting "limited access privilege":

(A) Section 304(c)(3) (16 U.S.C. 1854(c)(3)).

(B) Section 304(d)(2)(A)(i) (16 U.S.C. 1854(d)(2)(A)(i)).

(3) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is amended by striking "individual fishing quotas," and inserting "limited access privileges,".

**SEC. 4. HIGHLY MIGRATORY SPECIES.**

Section 102 (16 U.S.C. 1812) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The"; and

(2) by adding at the end the following:

"(b) TRADITIONAL PARTICIPATION.—In managing any fisheries under an international fisheries agreement to which the United States is a party, the appropriate Council or Secretary shall take into account the traditional participation in the fishery, relative to other nations, by fishermen of the United States on fishing vessels of the United States.

"(c) PROMOTION OF STOCK MANAGEMENT.—If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this Act in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.".

**SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**

Section 201(d) (16 U.S.C. 1821(d)) is amended—

(1) by striking "shall be" and inserting "is";

(2) by striking "will not" and inserting "cannot, or will not,"; and

(3) by inserting after "Act." the following: "Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvest capacity.".

**SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.**

Section 204(e) (16 U.S.C. 1824(e)(7)) is amended—

(1) by inserting "and any funds or contributions received in support of conservation and management objectives under a marine conservation plan" after "agreement" in paragraph (7); and

(2) by inserting after "paragraph (4)." in paragraph (8) the following: "In the case of violations by foreign vessels occurring within the exclusive economic zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this Act, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.".

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

Section 4 (16 U.S.C. 1803) is amended to read as follows:

**"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to the Secretary to carry out the provisions of this Act—

"(1) $337,844,000 for fiscal year 2007;
"(2) $347,684,000 for fiscal year 2008;
"(3) $357,524,000 for fiscal year 2009;
"(4) $367,364,000 for fiscal year 2010;
"(5) $377,204,000 for fiscal year 2011;
"(6) $387,044,000 for fiscal year 2012; and
"(7) $396,875,000 for fiscal year 2013.".

# TITLE I—CONSERVATION AND MANAGEMENT

**SEC. 101. CUMULATIVE IMPACTS.**

(a) NATIONAL STANDARDS.—Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended by inserting "by utilizing economic and social data that meet the requirements of paragraph (2)," after "fishing communities".

(b) CONTENTS OF PLANS.—Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by striking "describe the likely effects, if any, of the conservation and management measures on—" and inserting "analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—".

**SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

Section 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is amended by inserting "and of commonwealths, territories, and possessions of the United States in the Caribbean Sea" after "seaward of such States".

**SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.**

(a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Section 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by adding at the end thereof the following:

"(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.".

(b) SCIENTIFIC AND STATISTICAL COMMITTEES.—Section 302(g) (16 U.S.C. 1852(g)) is amended—

(1) by striking so much of subsection (g) as precedes paragraph (2) and inserting the following:

"(g) COMMITTEES AND ADVISORY PANELS.—

Establishment.

"(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

"(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

"(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

"(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

Records.

"(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).

"(F) In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

"(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.".

(2) by striking "other" in paragraph (2); and

(3) by resetting the left margin of paragraphs (2) through (5) 2 ems from the left.

(c) COUNCIL FUNCTIONS.—Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking "authority, and" in paragraph (5) and inserting "authority;";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g); and".

(d) SCIENTIFIC RESEARCH PRIORITIES.—Section 302(h) (16 U.S.C. 1852(h)), as amended by subsection (c), is further amended—

(1) by striking "(g); and" in paragraph (6) and inserting "(g);";

(2) by redesignating paragraph (7), as redesignated by subsection (c)(2), as paragraph (8);

(2) by inserting after paragraph (6) the following:

"(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—

"(A) establish priorities for 5-year periods;

"(B) be updated as necessary; and

"(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and".

(e) REGULAR AND EMERGENCY MEETINGS.—Section 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended by striking "published in local newspapers in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity." and inserting "provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient.". Publication.

(f) CLOSED MEETINGS.—Section 302(i)(3)(B) (16 U.S.C. 1852(i)(3)(B)) is amended by striking "notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports," and inserting "provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient,". Notification.

(g) TRAINING.—Section 302 (16 U.S.C. 1852) is amended by adding at the end the following:

"(k) COUNCIL TRAINING PROGRAM.—

"(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including— Deadline.

"(A) fishery science and basic stock assessment methods;

"(B) fishery management techniques, data needs, and Council procedures;

"(C) social science and fishery economics;

"(D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;

"(E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;

"(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

"(G) public process for development of fishery management plans;

"(H) other topics suggested by the Council; and

"(I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

"(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

Deadline.

"(3) REQUIRED TRAINING.—Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall be considered to have met the training requirement of this paragraph.

"(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.".

(h) PROCEDURAL MATTERS.—Section 302(i) (16 U.S.C. 1852(i)) is amended—

(1) by striking "to the Councils or to the scientific and statistical committees or advisory panels established under subsection (g)." in paragraph (1) and inserting "to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).";

(2) by striking "of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g):" in paragraph (2) and inserting "of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):"; and

(3) by inserting "the Council Coordination Committee established under subsection (l)," in paragraph (3)(A) after "Council,"; and

(4) by inserting "other committees," in paragraph (3)(A) after "committee,".

(i) CONFLICTS OF INTEREST.—Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by inserting "lobbying, advocacy," after "processing," in paragraph (2);

(2) by striking "jurisdiction." in paragraph (2) and inserting "jurisdiction, or with respect to an individual or organization with a financial interest in such activity.";

(3) by striking subparagraph (B) of paragraph (5) and inserting the following:

"(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and"; and

Records. Internet. Public information.

(4) by adding at the end the following:

"(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.".

Deadline. Reports.

(j) GULF OF MEXICO FISHERIES MANAGEMENT COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is amended—

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

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

"(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

"(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

"(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

"(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

"(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

Notice. Federal Register, publication.

"(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

"(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

"(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.".

Expiration date.

**SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

(a) IN GENERAL.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking "and charter fishing" in paragraph (5) and inserting "charter fishing, and fish processing";

(2) by inserting "economic information necessary to meet the requirements of this Act," in paragraph (5) after "number of hauls,";

(3) by striking "and" after the semicolon in paragraph (9)(A);

(4) by inserting "and" after the semicolon in paragraph (9)(B);

(5) by inserting after paragraph (9)(B) the following:

"(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;";

(6) by striking "fishery" the first place it appears in paragraph (13) and inserting "fishery, including its economic impact,";

(7) by striking "and" after the semicolon in paragraph (13);

(8) by striking "allocate" in paragraph (14) and inserting "allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector,";

(9) by striking "fishery." in paragraph (14) and inserting "fishery and;"; and

(10) by adding at the end the following:

Regulations.

"(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.".

16 USC 1853 note.

(b) EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

(c) CLARIFICATION OF REBUILDING PROVISION.—Section 304(e) (16 U.S.C. 1854(e)) is amended—

(1) by striking "one year of" in paragraph (3) and inserting "2 years after";

(2) by inserting "and implement" after "prepare" in paragraph (3);

(3) by inserting "immediately" after "overfishing" in paragraph (3)(A);

(4) by striking "ending overfishing and" in paragraph (4)(A); and

(5) by striking "one-year" in paragraph (5) and inserting "2-year".

(d) EFFECTIVE DATE FOR SUBSECTION (c).—The amendments made by subsection (c) shall take effect 30 months after the date of enactment of this Act.

16 USC 1854 note.

**SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY PROVISIONS.**

Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by inserting "(A)" after "(2)" in paragraph (2);

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

"(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

"(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

"(i) is based on the best scientific information available;

"(ii) includes criteria to assess the conservation benefit of the closed area;

"(iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and

"(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;";

(3) by striking "fishery;" in paragraph (5) and inserting "fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;";

(4) by striking paragraph (6) and inserting the following:

"(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

"(A) present participation in the fishery;

"(B) historical fishing practices in, and dependence on, the fishery;

"(C) the economics of the fishery;

"(D) the capability of fishing vessels used in the fishery to engage in other fisheries;

"(E) the cultural and social framework relevant to the fishery and any affected fishing communities;

"(F) the fair and equitable distribution of access privileges in the fishery; and

"(G) any other relevant considerations;";

(5) by striking "(other than economic data)" in paragraph (7);

(6) by striking "and" after the semicolon in paragraph (11); and

(7) by redesignating paragraph (12) as paragraph (14) and inserting after paragraph (11) the following:

"(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and".

**SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.**

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended—

16 USC 1853.

(1) by striking section 303(d); and

(2) by inserting after section 303 the following:

16 USC 1853a.

**"SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

"(a) IN GENERAL.—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

"(b) NO CREATION OF RIGHT, TITLE, OR INTEREST.—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

"(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

"(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

"(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

"(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

"(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

"(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

"(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

"(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

"(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

"(C) promote—

"(i) fishing safety;

"(ii) fishery conservation and management; and

"(iii) social and economic benefits;

"(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any

person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

"(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

"(F) specify the goals of the program;

"(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years); Deadlines.

"(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

"(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

"(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

"(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

"(A) the fishery has historically processed the fish outside of the United States; and

"(B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

"(3) FISHING COMMUNITIES.—

"(A) IN GENERAL.—

"(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

"(I) be located within the management area of the relevant Council;

"(II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register; Criteria. Federal Register, publication.

"(III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and

"(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social Plan.

and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

"(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

"(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—

"(i) traditional fishing or processing practices in, and dependence on, the fishery;

"(ii) the cultural and social framework relevant to the fishery;

"(iii) economic barriers to access to fishery;

"(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

"(v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and

"(vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

"(4) REGIONAL FISHERY ASSOCIATIONS.—

"(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

"(i) be located within the management area of the relevant Council;

Criteria.
Federal Register, publication.

"(ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;

"(iii) be a voluntary association with established by-laws and operating procedures;

"(iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;

"(v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is members contribute; and

"(vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register. Plan.

"(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

"(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

"(i) traditional fishing or processing practices in, and dependence on, the fishery;

"(ii) the cultural and social framework relevant to the fishery;

"(iii) economic barriers to access to fishery;

"(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

"(v) the administrative and fiduciary soundness of the association; and

"(vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

"(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

"(A) establish procedures to ensure fair and equitable initial allocations, including consideration of— Procedures.

"(i) current and historical harvests;

"(ii) employment in the harvesting and processing sectors;

"(iii) investments in, and dependence upon, the fishery; and

"(iv) the current and historical participation of fishing communities;

"(B) consider the basic cultural and social framework of the fishery, especially through—

"(i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and

"(ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

"(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

"(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

"(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and

"(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

"(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

"(6) PROGRAM INITIATION.—

"(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

"(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

"(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

"(D) NEW ENGLAND AND GULF REFERENDUM.—

"(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than ⅔ of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with

respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

"(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

Referendum. Notification.

Deadline. Publication. Guidelines. Procedures.

"(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

Applicability.

"(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

"(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

Criteria.

"(vi) In this subparagraph, the term 'individual fishing quota' does not include a sector allocation.

"(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

"(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

Criteria.

"(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

"(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

Applicability.

"(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term 'antitrust laws' has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade

Applicability.

Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

"(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

"(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

"(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

"(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

"(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

Permit period.

"(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

"(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

"(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

"(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

"(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

"(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

"(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

"(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

"(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

"(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

"(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

"(i) TRANSITION RULES.—

"(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that— Deadlines.

"(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program; Applicability.

"(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

"(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

"(2) PACIFIC GROUNDFISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.".

(b) FEES.—Section 304(d)(2)(A) (16 U.S.C. 1854(d)(2)(A)) is amended by striking "management and enforcement" and inserting "management, data collection, and enforcement".

(c) INVESTMENT IN UNITED STATES SEAFOOD PROCESSING FACILITIES.—The Secretary of Commerce shall work with the Small Business Administration and other Federal agencies to develop financial and other mechanisms to encourage United States investment in seafood processing facilities in the United States for fisheries that lack capacity needed to process fish harvested by United States vessels in compliance with the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). 16 USC 1891.

(d) CONFORMING AMENDMENT.—Section 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended by striking "section 305(h)(5)(B)" and all that follows and inserting "section 305(h)(5)(B).".

16 USC 1853a note.

(e) APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a), shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

**SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

Section 304 (16 U.S.C. 1854) is amended by adding at the end the following:

"(i) ENVIRONMENTAL REVIEW PROCESS.—

"(1) PROCEDURES.—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—

"(A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and

"(B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

"(2) USAGE.—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.

"(3) SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.—The Secretary shall—

Deadline.

"(A) propose revised procedures within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006;

Public comments.

"(B) provide 90 days for public review and comments; and

Deadline.

"(C) promulgate final procedures no later than 12 months after the date of enactment of that Act.

"(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.".

**SEC. 108. EMERGENCY REGULATIONS.**

(a) LENGTHENING OF SECOND EMERGENCY PERIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is amended by striking "180 days," the second time it appears and inserting "186 days,".

(b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D) (16 U.S.C. 1855(c)(3)(D)) is amended by inserting "or interim measures" after "emergency regulations".

**SEC. 109. WESTERN PACIFIC AND NORTH PACIFIC COMMUNITY DEVELOPMENT.**

Section 305 (16 U.S.C. 1855) is amended by adding at the end thereof the following:

"(j) WESTERN PACIFIC AND NORTHERN PACIFIC REGIONAL MARINE EDUCATION AND TRAINING.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program for regionally-based marine education and training programs in the Western Pacific and the Northern Pacific to foster understanding, practical use of knowledge (including native Hawaiian, Alaskan Native, and other Pacific Islander-based knowledge), and technical expertise relevant to stewardship of living marine resources. The Secretary shall, in cooperation with the Western Pacific and the North Pacific Regional Fishery Management Councils, regional educational institutions, and local Western Pacific and Northern Pacific community training entities, establish programs or projects that will improve communication, education, and training on marine resource issues throughout the region and increase scientific education for marine-related professions among coastal community residents, including indigenous Pacific islanders, Native Hawaiians, Alaskan Natives, and other underrepresented groups in the region.

"(2) PROGRAM COMPONENTS.—The program shall—

"(A) include marine science and technology education and training programs focused on preparing community residents for employment in marine related professions, including marine resource conservation and management, marine science, marine technology, and maritime operations;

"(B) include fisheries and seafood-related training programs, including programs for fishery observers, seafood safety and seafood marketing, focused on increasing the involvement of coastal community residents in fishing, fishery management, and seafood-related operations;

"(C) include outreach programs and materials to educate and inform consumers about the quality and sustainability of wild fish or fish products farmed through responsible aquaculture, particularly in Hawaii, Alaska, the Western Pacific, the Northern Pacific, and the Central Pacific;

"(D) include programs to identify, with the fishing industry, methods and technologies that will improve the data collection, quality, and reporting and increase the sustainability of fishing practices, and to transfer such methods and technologies among fisheries sectors and to other nations in the Western, Northern, and Central Pacific;

"(E) develop means by which local and traditional knowledge (including Pacific islander, Native Hawaiian, and Alaskan Native knowledge) can enhance science-based management of fishery resources of the region; and

"(F) develop partnerships with other Western Pacific Island and Alaskan agencies, academic institutions, and other entities to meet the purposes of this section.".

**SEC. 110. SECRETARIAL ACTION ON STATE GROUNDFISH FISHING.**

Section 305 (16 U.S.C. 1855), as amended by section 109 of this Act, is further amended by adding at the end thereof the following:

"(k) MULTISPECIES GROUNDFISH.—

Deadline.

"(1) IN GENERAL.—Within 60 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary of Commerce shall determine whether fishing in State waters—

"(A) without a New England multispecies groundfish fishery permit on regulated species within the multispecies complex is not consistent with the applicable Federal fishery management plan; or

"(B) without a Federal bottomfish and seamount groundfish permit in the Hawaiian archipelago on regulated species within the complex is not consistent with the applicable Federal fishery management plan or State data are not sufficient to make such a determination.

Notification.

"(2) CURE.—If the Secretary makes a determination that such actions are not consistent with the plan, the Secretary shall, in consultation with the Council, and after notifying the affected State, develop and implement measures to cure the inconsistency pursuant to section 306(b).".

**SEC. 111. JOINT ENFORCEMENT AGREEMENTS.**

(a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is amended—

(1) by striking "and" after the semicolon in subsection (b)(1)(A)(iv);

(2) by inserting "and" after the semicolon in subsection (b)(1)(A)(v);

(3) by inserting after clause (v) of subsection (b)(1)(A) the following:

"(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 402;";

(4) by redesignating subsection (h) as subsection (j); and

(5) by inserting after subsection (g) the following:

"(h) JOINT ENFORCEMENT AGREEMENTS.—

"(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

"(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf

of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

"(3) REQUIREMENTS.—Joint enforcement agreements executed under paragraph (1)—

"(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

"(B) may include specifications for joint management responsibilities as provided by the first section of Public Law 91–412 (15 U.S.C. 1525); and

"(C) shall provide for confidentiality of data and information submitted to the State under section 402.

"(4) ALLOCATION OF FUNDS.—The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided to the State by the Secretary under the agreement.

"(i) IMPROVED DATA SHARING.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall implement data-sharing measures to make any data required to be provided by this Act from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems— Deadline.

"(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

"(B) available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 402(b)(1)(B) of this Act.

"(2) AGREEMENT REQUIRED.—The Secretary shall promptly enter into an agreement with a State under section 402(b)(1)(B) of this Act if—

"(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

"(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.".

(b) REPORT.—Within 15 months after the date of enactment of this Act, the National Marine Fisheries Service and the United States Coast Guard shall transmit a joint report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources containing—

(1) a cost-to-benefit analysis of the feasibility, value, and cost of using vessel monitoring systems, satellite-based maritime distress and safety systems, or similar systems for fishery management, conservation, enforcement, and safety purposes with the Federal government bearing the capital costs of any such system;

(2) an examination of the cumulative impact of existing requirements for commercial vessels;

(3) an examination of whether satellite-based maritime distress and safety systems, or similar requirements would overlap existing requirements or render them redundant;

(4) an examination of how data integration from such systems could be addressed;

(5) an examination of how to maximize the data-sharing opportunities between relevant State and Federal agencies and provide specific information on how to develop these opportunities, including the provision of direct access to satellite-based maritime distress and safety system or similar system data to State enforcement officers, while considering the need to maintain or provide an appropriate level of individual vessel confidentiality where practicable; and

(6) an assessment of how the satellite-based maritime distress and safety system or similar systems could be developed, purchased, and distributed to regulated vessels.

**SEC. 112. TRANSITION TO SUSTAINABLE FISHERIES.**

(a) IN GENERAL.—Section 312 (16 U.S.C. 1861a) is amended—

(1) by striking "measures;" in subsection (a)(1)(B) and inserting "measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment;";

(2) by striking "1996, 1997, 1998, and 1999." in subsection (a)(4) and inserting "2007 through 2013.";

(3) by striking "or the Governor of a State for fisheries under State authority, may conduct a fishing" in subsection (b)(1) and inserting "the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing";

(4) by inserting "practicable" after "entrants," in subsection (b)(1)(B)(i);

(5) by striking "cost-effective and" in subsection (b)(1)(C) and inserting "cost-effective and, in the instance of a program involving an industry fee system, prospectively";

(6) by striking subparagraph (A) of subsection (b)(2) and inserting the following:

"(A) the owner of a fishing vessel, if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the vessel owner and permit holder relinquish any claim associated with the vessel or permit that could qualify such owner or holder for any present or future limited access system permit in the fishery for which the program is established or in any other fishery and such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions (including loss of the vessel's fisheries endorsement) that permanently prohibit and effectively prevent its

use in fishing in federal or state waters, or fishing on the high seas or in the waters of a foreign nation; or";

(7) by striking "The Secretary shall consult, as appropriate, with Councils," in subsection (b)(4) and inserting "The harvester proponents of each program and the Secretary shall consult, as appropriate and practicable, with Councils,";

(8) by adding at the end of subsection (b) the following:

"(5) PAYMENT CONDITION.—The Secretary may not make a payment under paragraph (2) with respect to a vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of a foreign nation or fishing on the high seas. Certification.

"(6) REPORT.—

"(A) IN GENERAL.—Subject to the availability of funds, the Secretary shall, within 12 months after the date of the enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 submit to the Congress a report—

"(i) identifying and describing the 20 fisheries in United States waters with the most severe examples of excess harvesting capacity in the fisheries, based on value of each fishery and the amount of excess harvesting capacity as determined by the Secretary;

"(ii) recommending measures for reducing such excess harvesting capacity, including the retirement of any latent fishing permits that could contribute to further excess harvesting capacity in those fisheries; and

"(iii) potential sources of funding for such measures.

"(B) BASIS FOR RECOMMENDATIONS.—The Secretary shall base the recommendations made with respect to a fishery on—

"(i) the most cost effective means of achieving voluntary reduction in capacity for the fishery using the potential for industry financing; and

"(ii) including measures to prevent the capacity that is being removed from the fishery from moving to other fisheries in the United States, in the waters of a foreign nation, or on the high seas.";

(9) by striking "Secretary, at the request of the appropriate Council," in subsection (d)(1)(A) and inserting "Secretary";

(10) by striking "Secretary, in consultation with the Council," in subsection (d)(1)(A) and inserting "Secretary";

(11) by striking "a two-thirds majority of the participants voting." in subsection (d)(1)(B) and inserting "at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participated in the fishery.";

(12) by striking "establish;" in subsection (d)(2)(C) and inserting "establish, unless the Secretary determines that such fees should be collected from the seller;"; and

(13) striking subsection (e) and inserting the following:

"(e) IMPLEMENTATION PLAN.—

"(1) FRAMEWORK REGULATIONS.—The Secretary shall propose and adopt framework regulations applicable to the implementation of all programs under this section.

"(2) PROGRAM REGULATIONS.—The Secretary shall implement each program under this section by promulgating regulations that, together with the framework regulations, establish each program and control its implementation.

"(3) HARVESTER PROPONENTS' IMPLEMENTATION PLAN.—The Secretary may not propose implementation regulations for a program to be paid for by an industry fee system until the harvester proponents of the program provide to the Secretary a proposed implementation plan that, among other matters—

"(A) proposes the types and numbers of vessels or permits that are eligible to participate in the program and the manner in which the program shall proceed, taking into account—

"(i) the requirements of this section;

"(ii) the requirements of the framework regulations;

"(iii) the characteristics of the fishery and affected fishing communities;

"(iv) the requirements of the applicable fishery management plan and any amendment that such plan may require to support the proposed program;

"(v) the general needs and desires of harvesters in the fishery;

"(vi) the need to minimize program costs; and

"(vii) other matters, including the manner in which such proponents propose to fund the program to ensure its cost effectiveness, as well as any relevant factors demonstrating the potential for, or necessary to obtain, the support and general cooperation of a substantial number of affected harvesters in the fishery (or portion of the fishery) for which the program is intended; and

"(B) proposes procedures for program participation (such as submission of owner bids under an auction system or fair market-value assessment), including any terms and conditions for participation, that the harvester proponents deem to be reasonably necessary to meet the program's proposed objectives.

"(4) PARTICIPATION CONTRACTS.—The Secretary shall contract with each person participating in a program, and each such contract shall, in addition to including such other matters as the Secretary deems necessary and appropriate to effectively implement each program (including penalties for contract nonperformance) be consistent with the framework and implementing regulations and all other applicable law.

"(5) REDUCTION AUCTIONS.—Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids, the Secretary shall accept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively accepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.

"(6) BID INVITATIONS.—Each program shall proceed by the Secretary issuing invitations to bid setting out the terms and conditions for participation consistent with the framework and implementing regulations. Each bid that the Secretary receives in response to the invitation to bid shall constitute an irrevocable offer from the bidder.".

(b) TECHNICAL AMENDMENT.—Sections 116, 203, 204, 205, and 206 of the Sustainable Fisheries Act are deemed to have added sections 312, 402, 403, 404, and 405, respectively to the Act as of the date of enactment of the Sustainable Fisheries Act. 15 USC 1861a note.

**SEC. 113. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.**

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

**"SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.** 16 USC 1864.

"(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

"(b) PROGRAM COMPONENTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

"(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;

"(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

"(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

"(D) any other activities authorized under section 312 of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

"(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

"(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

"(4) NO MATCHING REQUIRED.—The Secretary may waive the matching requirements of section 312 of this Act, section

308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

"(A) no reasonable means are available through which applicants can meet the matching requirement; and

"(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

"(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.

Deadline.

"(c) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

"(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term 'catastrophic regional fishery disaster' means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures resulting from judicial action) to protect human health or the marine environment, that—

"(1) results in economic losses to coastal or fishing communities;

"(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and

"(3) is determined by the Secretary to be a commercial fishery failure under section 312(a) of this Act or a fishery resource disaster or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).".

16 USC 460ss note.
Deadline.

(b) SALMON PLAN AND STUDY.—

(1) RECOVERY PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public.

(2) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on—

(A) the actions taken under the recovery plan and other law relating to recovery of Klamath River Coho salmon, and how those actions are specifically contributing to its recovery;

(B) the progress made on the restoration of salmon spawning habitat, including water conditions as they relate to salmon health and recovery, with emphasis on the Klamath River and its tributaries below Iron Gate Dam;

(C) the status of other Klamath River anadromous fish populations, particularly Chinook salmon; and

(D) the actions taken by the Secretary to address the calendar year 2003 National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks.

(c) OREGON AND CALIFORNIA SALMON FISHERY.—Federally recognized Indian tribes and small businesses, including fishermen, fish processors, and related businesses serving the fishing industry, adversely affected by Federal closures and fishing restrictions in the Oregon and California 2006 fall Chinook salmon fishery are eligible to receive direct assistance under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)). The Secretary may use no more than 4 percent of any monetary assistance to pay for administrative costs.

**SEC. 114. FISHERY FINANCE PROGRAM HURRICANE ASSISTANCE.**

(a) LOAN ASSISTANCE.—Subject to availability of appropriations, the Secretary of Commerce shall provide assistance to eligible holders of fishery finance program loans and allocate such assistance among eligible holders based upon their outstanding principal balances as of December 2, 2005, for any of the following purposes:

(1) To defer principal payments on the debt for 1 year and re-amortize the debt over the remaining term of the loan.

(2) To allow for an extension of the term of the loan for up to 1 year beyond the remaining term of the loan, or September 30, 2013, whichever is later.

(3) To pay the interest costs for such loans over fiscal years 2007 through 2013, not to exceed amounts authorized under subsection (d).

(4) To provide opportunities for loan forgiveness, as specified in subsection (c).

(b) LOAN FORGIVENESS.—Upon application made by an eligible holder of a fishery finance program loan, made at such time, in such manner, and containing such information as the Secretary may require, the Secretary, on a calendar year basis beginning in 2005, may, with respect to uninsured losses—

(1) offset against the outstanding balance on the loan an amount equal to the sum of the amounts expended by the holder during the calendar year to repair or replace covered vessels or facilities, or to invest in new fisheries infrastructure within or for use within the declared fisheries disaster area; or

(2) cancel the amount of debt equal to 100 hundred percent of actual expenditures on eligible repairs, reinvestment, expansion, or new investment in fisheries infrastructure in the disaster region, or repairs to, or replacement of, eligible fishing vessels.

(c) DEFINITIONS.—In this section:

(1) DECLARED FISHERIES DISASTER AREA.—The term "declared fisheries disaster area" means fisheries located in the major disaster area designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Katrina or Hurricane Rita.

(2) ELIGIBLE HOLDER.—The term "eligible holder" means the holder of a fishery finance program loan if—

(A) that loan is used to guarantee or finance any fishing vessel or fish processing facility home-ported or located within the declared fisheries disaster area; and

(B) the holder makes expenditures to repair or replace such covered vessels or facilities, or invests in new fisheries infrastructure within or for use within the declared fisheries disaster area, to restore such facilities following the disaster.

(3) FISHERY FINANCE PROGRAM LOAN.—The term "fishery finance program loan" means a loan made or guaranteed under the fishery finance program under chapter 537 of title 46, United States Code.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the purposes of this section not more than $15,000,000 for each eligible holder for the period beginning with fiscal year 2007 through fiscal year 2013.

16 USC 1864 note.

**SEC. 115. FISHERIES HURRICANE ASSISTANCE PROGRAM.**

(a) IN GENERAL.—The Secretary of Commerce shall establish an assistance program for the Gulf of Mexico commercial and recreational fishing industry.

State listing.

(b) ALLOCATION OF FUNDS.—Under the program, the Secretary shall allocate funds appropriated to carry out the program among the States of Alabama, Louisiana, Florida, Mississippi, and Texas in proportion to the percentage of the fishery (including crawfish) catch landed by each State before August 29, 2005, except that the amount allocated to Florida shall be based exclusively on the proportion of such catch landed by the Florida Gulf Coast fishery.

(c) USE OF FUNDS.—Of the amounts made available to each State under the program—

(1) 2 percent shall be retained by the State to be used for the distribution of additional payments to fishermen with a demonstrated record of compliance with turtle excluder and bycatch reduction device regulations; and

(2) the remainder of the amounts shall be used for—

(A) personal assistance, with priority given to food, energy needs, housing assistance, transportation fuel, and other urgent needs;

(B) assistance for small businesses, including fishermen, fish processors, and related businesses serving the fishing industry;

(C) domestic product marketing and seafood promotion;

(D) State seafood testing programs;

(E) the development of limited entry programs for the fishery;

(F) funding or other incentives to ensure widespread and proper use of turtle excluder devices and bycatch reduction devices in the fishery; and

(G) voluntary capacity reduction programs for shrimp fisheries under limited access programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $17,500,000 for each of fiscal years 2007 through 2012 to carry out this section.

**SEC. 116. BYCATCH REDUCTION ENGINEERING PROGRAM.**

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.), as amended by section 113 of this Act, is further amended by adding at the end the following:

**"SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**

16 USC 1865.

"(a) BYCATCH REDUCTION ENGINEERING PROGRAM.—Not later than 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program, including grants, to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird interactions, bycatch mortality, and post-release mortality in Federally managed fisheries. The program shall—

Deadline.

"(1) be regionally based;

"(2) be coordinated with projects conducted under the cooperative research and management program established under this Act;

"(3) provide information and outreach to fishery participants that will encourage adoption and use of technologies developed under the program; and

"(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of methods developed under the program in fishery management plans developed by the Councils.

"(b) INCENTIVES.—Any fishery management plan prepared by a Council or by the Secretary may establish a system of incentives to reduce total bycatch and seabird interactions, amounts, bycatch rates, and post-release mortality in fisheries under the Council's or Secretary's jurisdiction, including—

"(1) measures to incorporate bycatch into quotas, including the establishment of collective or individual bycatch quotas;

"(2) measures to promote the use of gear with verifiable and monitored low bycatch and seabird interactions, rates; and

"(3) measures that, based on the best scientific information available, will reduce bycatch and seabird interactions, bycatch mortality, post-release mortality, or regulatory discards in the fishery.

"(c) COORDINATION ON SEABIRD INTERACTIONS.—The Secretary, in coordination with the Secretary of Interior, is authorized to undertake projects in cooperation with industry to improve information and technology to reduce seabird bycatch, including—

"(1) outreach to industry on new technologies and methods;

"(2) projects to mitigate for seabird mortality; and

"(3) actions at appropriate international fishery organizations to reduce seabird interactions in fisheries.

"(d) REPORT.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources that—

"(1) describes funding provided to implement this section;

"(2) describes developments in gear technology achieved under this section; and

"(3) describes improvements and reduction in bycatch and seabird interactions associated with implementing this section, as well as proposals to address remaining bycatch or seabird interaction problems.".

(b) CDQ BYCATCH LIMITATIONS.—

(1) IN GENERAL.—Section 305(i) (16 U.S.C. 1855(i)) is amended—

Effective date.

(A) by striking "directed fishing allocation" and all that follows in paragraph (1)(B)(ii)(I), and inserting "total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008; and";

(B) by striking "directed fishing allocation of 10 percent." in paragraph (1)(B)(ii)(II) and inserting "total allocation (directed and nontarget combined) of 10.7 percent.";

Applicability.

(C) by inserting after paragraph (1)(B)(ii) the following: "The total allocation (directed and nontarget combined) for a fishery to which subclause (I) or (II) applies may not be exceeded."; and

(D) by inserting "Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting. Notwithstanding the first sentence of this subparagraph, seven-tenths of one percent of the total allowable catch, guideline harvest level, or other annual catch limit, within the amount allocated to the program by subclause (I) or subclause (II) of subparagraph (B)(ii), shall be allocated among the eligible entities by the panel established in subparagraph (G), or allocated by the Secretary based on the nontarget needs of eligible entities in the absence of a panel decision." after "2006." in paragraph (1)(C).

16 USC 1855 note.

(2) EFFECTIVE DATE.—The allocation percentage in subclause (I) of section 305(i)(1)(B)(ii) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(1)(B)(ii)), as amended by paragraph (1) of this subsection, shall be in effect in 2007 with respect to any sector of a fishery to which such subclause applies and in which a fishing cooperative is established in 2007, and such sector's 2007 allocation shall be reduced by a pro rata amount to accomplish such increased allocation to the program. For purposes of section 305(i)(1) of that Act and of this subsection, the term "fishing cooperative" means a fishing cooperative whether or not authorized by a fishery management council or Federal agency, if a majority of the participants in the sector are participants in the fishing cooperative.

16 USC 1891a.

**SEC. 117. COMMUNITY-BASED RESTORATION PROGRAM FOR FISHERY AND COASTAL HABITATS.**

(a) IN GENERAL.—The Secretary of Commerce shall establish a community-based fishery and coastal habitat restoration program to implement and support the restoration of fishery and coastal habitats.

(b) AUTHORIZED ACTIVITIES.—In carrying out the program, the Secretary may—

(1) provide funding and technical expertise to fishery and coastal communities to assist them in restoring fishery and coastal habitat;

(2) advance the science and monitoring of coastal habitat restoration;

(3) transfer restoration technologies to the private sector, the public, and other governmental agencies;

(4) develop public-private partnerships to accomplish sound coastal restoration projects;

(5) promote significant community support and volunteer participation in fishery and coastal habitat restoration;

(6) promote stewardship of fishery and coastal habitats; and

(7) leverage resources through national, regional, and local public-private partnerships.

**SEC. 118. PROHIBITED ACTS.**

Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" after the semicolon in subparagraph (O);

(2) by striking "carcass." in subparagraph (P) and inserting "carcass;"; and

(3) by inserting after subparagraph (P) and before the last sentence the following:

"(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation; or

"(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or in the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under section 312(b)(2).".

**SEC. 119. SHARK FEEDING.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 116 of this Act, is further amended by adding at the end the following:

**"SEC. 317. SHARK FEEDING.**

Hawaii. Territories. 16 USC 1866.

"Except to the extent determined by the Secretary, or under State law, as presenting no public health hazard or safety risk, or when conducted as part of a research program funded in whole or in part by appropriated funds, it is unlawful to introduce, or attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks within the Exclusive Economic Zone seaward of the State of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean Area.".

**SEC. 120. CLARIFICATION OF FLEXIBILITY.**

Extension.

(a) IN GENERAL.—The Secretary of Commerce has the discretion under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) to extend the time for rebuilding the summer flounder fishery to not later than January 1, 2013, only if—

(1) the Secretary has determined that—

(A) overfishing is not occurring in the fishery and that a mechanism is in place to ensure overfishing does not occur in the fishery; and

(B) stock biomass levels are increasing;

(2) the biomass rebuilding target previously applicable to such stock will be met or exceeded within the new time for rebuilding;

(3) the extension period is based on the status and biology of the stock and the rate of rebuilding;

(4) monitoring will ensure rebuilding continues;

(5) the extension meets the requirements of section 301(a)(1) of that Act (16 U.S.C. 1851(a)(1)); and

(6) the best scientific information available shows that the extension will allow continued rebuilding.

(b) AUTHORITY.—Nothing in this section shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary under that Act concerning other species.

**SEC. 121. SOUTHEAST ALASKA FISHERIES COMMUNITIES CAPACITY REDUCTION.**

Section 209 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2884) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 209.";

(2) by striking "is authorized to" in the first sentence and inserting "shall";

(3) by striking "$50,000,000" and all that follows in the first sentence and inserting "up to $25,000,000 pursuant to section 57735 of title 46, United States Code.";

(4) by striking the third sentence and inserting: "The loan shall have a term of 40 years."; and

(5) by adding at the end the following:

"(b) SOUTHEAST ALASKA FISHERIES PROGRAM.—

"(1) CONDUCT OF PROGRAM BY RSA.—The program described in subsection (a) shall be conducted under Alaska law by the Southeast Revitalization Association.

"(2) TREATMENT UNDER CHAPTER 577 OF TITLE 46.—For purposes of section 57735 of title 46, United States Code, the program shall be considered to be a program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

"(3) APPLICATION OF MAGNUSON-STEVENS ACT.—Notwithstanding paragraph (2), the program shall not be subject to section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a), except for subsections (b)(1)(C) and (d) of that section.

"(c) SOUTHEAST ALASKA FISHERIES PROGRAM APPROVAL AND REFERENDUM.—

"(1) IN GENERAL.—The Secretary of Commerce may approve a capacity reduction plan submitted by the Southeast Revitalization Association under subsection (b).

"(2) REFERENDUM.—The Secretary shall conduct an industry fee system referendum for the buyback under the program in accordance with section 312(d)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a), except that—

"(A) no Council request and no consultation shall be required; and

"(B) the fee shall not exceed 3 percent of the annual ex-vessel value of all salmon harvested in the southeast Alaska purse seine fishery.

"(d) DISBURSAL OF LOAN PROCEEDS.—If the industry fee system is approved as provided in section 312(d)(1)(B) of that Act (16 U.S.C. 1861a(d)(1)(B)), the Secretary shall disburse the loan in the form of reduction payments to participants in such amounts as the Southeast Revitalization Association certifies to have been accepted under Alaska law for reduction payments. The Secretary shall thereafter administer the fee system in accordance with section 312(d)(2) of that Act (16 U.S.C. 1861a(d)(2)), and any person paying or collecting the fee shall make such payments or collection such fees in accordance with the requirements of that Act (16 U.S.C. 1801 et seq.)". Certification. Fees.

**SEC. 122. CONVERSION TO CATCHER/PROCESSOR SHARES.**

(a) IN GENERAL.—

(1) AMENDMENT OF PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce shall amend the fishery management plan for the Bering Sea/Aleutian Islands King and Tanner Crabs for the Northern Region (as that term is used in the plan) to authorize— Deadline. Alaska.

(A) an eligible entity holding processor quota shares to elect on an annual basis to work together with other entities holding processor quota shares and affiliated with such eligible entity through common ownership to combine any catcher vessel quota shares for the Northern Region with their processor quota shares and to exchange them for newly created catcher/processor owner quota shares for the Northern Region; and

(B) an eligible entity holding catcher vessel quota shares to elect on an annual basis to work together with other entities holding catcher vessel quota shares and affiliated with such eligible entity through common ownership to combine any processor quota shares for the Northern Region with their catcher vessel quota shares and to exchange them for newly created catcher/processor owner quota shares for the Northern Region.

(2) ELIGIBILITY AND LIMITATIONS.—

(A) The authority provided in paragraph (1)(A) shall— Applicability.

(i)(I) apply only to an entity which was initially awarded both catcher/processor owner quota shares, and processor quota shares under the plan (in combination with the processor quota shares of its commonly owned affiliates) of less than 7 percent of the Bering Sea/Aleutian Island processor quota shares; or

(II) apply only to an entity which was initially awarded both catcher/processor owner quota shares under the plan and processor quota shares under section 417(a) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; 120 Stat. 546);

(ii) be limited to processor quota shares initially awarded to such entities and their commonly owned affiliates under the plan or section 417(a) of that Act; and

(iii) shall not exceed 1 million pounds per entity during any calendar year.

Applicability.

(B) The authority provided in paragraph (1)(B) shall—

(i) apply only to an entity which was initially awarded both catcher/processor owner quota shares, and processor quota shares under the plan (in combination with the processor quota shares of its commonly owned affiliates) of more than 7 percent of the Bering Sea/Aleutian Island processor quota shares;

(ii) be limited to catcher vessel quota shares initially awarded to such entity and its commonly owned affiliates; and

(iii) shall not exceed 1 million pounds per entity during any calendar year.

(3) EXCHANGE RATE.—The entities referred to in paragraph (1) shall receive under the amendment 1 unit of newly created catcher/processor owner quota shares in exchange for 1 unit of catcher vessel owner quota shares and 0.9 units of processor quota shares.

(4) AREA OF VALIDITY.—Each unit of newly created catcher/processor owner quota shares under this subsection shall only be valid for the Northern Region.

(b) FEES.—

(1) LOCAL FEES.—The holder of the newly created catcher/processor owner quota shares under subsection (a) shall pay a fee of 5 percent of the ex-vessel value of the crab harvested pursuant to those shares to any local governmental entities in the Northern Region if the processor quota shares used to produce those newly created catcher/processor owner quota shares were originally derived from the processing activities that occurred in a community under the jurisdiction of those local governmental entities.

(2) STATE FEE.—The State of Alaska may collect from the holder of the newly created catcher/processor owner quota shares under subsection (a) a fee of 1 percent of the ex-vessel value of the crab harvested pursuant to those shares.

(c) OFF-LOADING REQUIREMENT.—Crab harvested pursuant to catcher/processor owner quota shares created under this subsection shall be off-loaded in those communities receiving the local governmental entities fee revenue set forth in subsection (b)(1).

(d) PERIODIC COUNCIL REVIEW.—As part of its periodic review of the plan, the North Pacific Fishery Management Council may review the effect, if any, of this subsection upon communities in the Northern Region. If the Council determines that this section adversely affects the communities, the Council may recommend to the Secretary of Commerce, and the Secretary may approve, such changes to the plan as are necessary to mitigate those adverse effects.

(e) USE CAPS.—

(1) IN GENERAL.—Notwithstanding sections 680.42(b)(ii)(2) and 680.7(a)(ii)(7) of title 50, Code of Federal Regulations, custom processing arrangements shall not count against any use cap for the processing of opilio crab in the Northern Region so long as such crab is processed in the Northern Region by a shore-based crab processor.

(2) SHORE-BASED CRAB PROCESSOR DEFINED.—In this paragraph, the term "shore-based crab processor" means any person

or vessel that receives, purchases, or arranges to purchase unprocessed crab, that is located on shore or moored within the harbor.

# TITLE II—INFORMATION AND RESEARCH

**SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

Section 401 (16 U.S.C. 1881) is amended by striking subsection (g) and inserting the following:

"(g) RECREATIONAL FISHERIES.—

"(1) FEDERAL PROGRAM.—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for—

"(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

"(i) in the Exclusive Economic Zone;

"(ii) for anadromous species; or

"(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

"(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

"(2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary's use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries. Exemption.

"(3) DATA COLLECTION.—

"(A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery. Deadline.

"(B) NRC REPORT RECOMMENDATIONS.—The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report Review of Recreational Fisheries Survey Methods (2006), including—

"(i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of

management decisions, and its usefulness for social and economic analyses; and

"(ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.

"(C) METHODOLOGY.—Unless the Secretary determines that alternate methods will achieve this goal more efficiently and effectively, the program shall, to the extent possible, include—

"(i) an adequate number of intercepts to accurately estimate recreational catch and effort;

"(ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

"(iii) collection and analysis of vessel trip report data from charter fishing vessels;

"(iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and

"(v) an independent committee composed of recreational fishermen, academics, persons with expertise in stock assessments and survey design, and appropriate personnel from the National Marine Fisheries Service to review the collection estimates, geographic, and other variables related to dockside intercepts and to identify deficiencies in recreational data collection, and possible correction measures.

"(D) DEADLINE.—The Secretary shall complete the program under this paragraph and implement the improved Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

"(4) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.".

**SEC. 202. COLLECTION OF INFORMATION.**

Section 402(a) (16 U.S.C. 1881a(a)) is amended—

(1) by striking "(a) COUNCIL REQUESTS.—" in the subsection heading and inserting "(a) COLLECTION PROGRAMS.—";

(2) by resetting the text following "(a) COLLECTION PROGRAMS.—" as a new paragraph 2 ems from the left margin;

(3) by inserting "(1) COUNCIL REQUESTS.—" before "If a Council";

(4) by striking "subsection" in the last sentence and inserting "paragraph";

(5) by striking "(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)" each place it appears; and

(6) by adding at the end the following:

"(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information

collection or observer program requiring submission of such additional information for the fishery.".

**SEC. 203. ACCESS TO CERTAIN INFORMATION.**

(a) IN GENERAL.—Section 402(b) (16 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3) and resetting it 2 ems from the left margin;

(2) by striking all preceding paragraph (3), as redesignated, and inserting the following:

"(b) CONFIDENTIALITY OF INFORMATION.—

"(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

"(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

"(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

"(D) when required by court order;

"(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

"(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

"(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

"(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

"(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

"(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

"(B) when such information is necessary in proceedings to adjudicate observer certifications; or

"(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the

observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

"(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

"(ii) to validate the accuracy of the observer information collected."; and

(3) by striking "(1)(E)." in paragraph (3), as redesignated, and inserting "(2)(A).".

(b) CONFORMING AMENDMENT.—Section 404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by striking "under section 401".

**SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 119 of this Act, is further amended by adding at the end the following:

16 USC 1867.

**"SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.**

"(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.

"(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

"(c) FUNDING.—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

"(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

"(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.

"(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.

"(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

"(5) Projects designed to collect and compile economic and social data.

Deadline.
Regulations.

"(d) EXPERIMENTAL PERMITTING PROCESS.—Not later than 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based

process to promote issuance, where practicable, of experimental fishing permits.

"(e) GUIDELINES.—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant's catch history or unexpended days-at-sea as part of a limited entry system.

"(f) EXEMPTED PROJECTS.—The procedures of this section shall not apply to research funded by quota set-asides in a fishery.".

**SEC. 205. HERRING STUDY.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 204, is further amended by adding at the end the following:

**"SEC. 319. HERRING STUDY.** 16 USC 1868.

"(a) IN GENERAL.—The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.

"(b) REPORT.—The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.".

**SEC. 206. RESTORATION STUDY.**

Title III (16 U.S.C. 1851 et seq.), as amended by section 205, is further amended by adding at the end the following:

**"SEC. 320. RESTORATION STUDY.** 16 USC 1869.

"(a) IN GENERAL.—The Secretary may conduct a study to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types and synthesize the results in a format easily understandable by restoration practitioners and local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for fiscal year 2007 to conduct this study.".

**SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION PROJECTS.**

Section 111(b) of the Sustainable Fisheries Act (16 U.S.C. 1855 note) is amended—

(1) by striking "and the Secretary of the Interior are" in paragraph (1) and inserting "is";

(2) by striking "not less than three and not more than five" in paragraph (1); and

(3) by striking paragraph (6) and inserting the following:

"(6) In this subsection the term 'Western Pacific community' means a community eligible to participate under section 305(i)(2)(B)(i) through (iv) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).".

16 USC 1891b.

**SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT FUND.**

(a) IN GENERAL.—The Secretary shall establish and maintain a fund, to be known as the "Fisheries Conservation and Management Fund", which shall consist of amounts retained and deposited into the Fund under subsection (c).

(b) PURPOSES.—Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (e) for—

(1) efforts to improve fishery harvest data collection including—

(A) expanding the use of electronic catch reporting programs and technology; and

(B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;

(2) cooperative fishery research and analysis, in collaboration with fishery participants, academic institutions, community residents, and other interested parties;

(3) development of methods or new technologies to improve the quality, health safety, and value of fish landed;

(4) conducting analysis of fish and seafood for health benefits and risks, including levels of contaminants and, where feasible, the source of such contaminants;

(5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States;

(6) improving data collection under the Marine Recreational Fishery Statistics Survey in accordance with section 401(g)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881(g)(3)); and

(7) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia.

(c) DEPOSITS TO THE FUND.—

(1) QUOTA SET-ASIDES.—Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the Fishery Conservation and Management Fund, may be deposited in the Fund.

(2) OTHER FUNDS.—In addition to amounts received pursuant to paragraph (1) of this subsection, the Fishery Conservation and Management Fund may also receive funds from—

(A) appropriations for the purposes of this section; and

(B) States or other public sources or private or nonprofit organizations for purposes of this section.

(d) REGIONAL ALLOCATION.—The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to recommendations of the Councils, based on regional priorities identified through the Council process, except that no

region shall receive less than 5 percent of the Fund in each allocation period.

(e) LIMITATION ON THE USE OF THE FUND.—No amount made available from the Fund may be used to defray the costs of carrying out requirements of this Act or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) other than those uses identified in this section.

**SEC. 209. USE OF FISHERY FINANCE PROGRAM FOR SUSTAINABLE PURPOSES.**

Section 53706(a)(7) of title 46, United States Code, is amended to read as follows:

"(7) Financing or refinancing—

"(A) the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (including the reimbursement of obligors for expenditures previously made for such a purchase);

"(B) activities that assist in the transition to reduced fishing capacity; or

"(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.".

**SEC. 210. REGIONAL ECOSYSTEM RESEARCH.**

Section 406 (16 U.S.C. 1882) is amended by adding at the end the following:

"(f) REGIONAL ECOSYSTEM RESEARCH.—

"(1) STUDY.—Within 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall undertake and complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management. The study should build upon the recommendations of the advisory panel and include— Deadline.

"(A) recommendations for scientific data, information and technology requirements for understanding ecosystem processes, and methods for integrating such information from a variety of federal, state, and regional sources;

"(B) recommendations for processes for incorporating broad stake holder participation;

"(C) recommendations for processes to account for effects of environmental variation on fish stocks and fisheries; and

"(D) a description of existing and developing council efforts to implement ecosystem approaches, including lessons learned by the councils.

"(2) AGENCY TECHNICAL ADVICE AND ASSISTANCE, REGIONAL PILOT PROGRAMS.—The Secretary is authorized to provide necessary technical advice and assistance, including grants, to the Councils for the development and design of regional pilot programs that build upon the recommendations of the advisory panel and, when completed, the study.".

**SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.**

Title IV (16 U.S.C. 1881 et seq.) is amended by adding at the end the following:

16 USC 1884.

**"SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.**

"(a) IN GENERAL.—The Secretary, in consultation with appropriate regional fishery management councils and in coordination with other federal agencies and educational institutions, shall, subject to the availability of appropriations, establish a program—

"(1) to identify existing research on, and known locations of, deep sea corals and submit such information to the appropriate Councils;

"(2) to locate and map locations of deep sea corals and submit such information to the Councils;

"(3) to monitor activity in locations where deep sea corals are known or likely to occur, based on best scientific information available, including through underwater or remote sensing technologies and submit such information to the appropriate Councils;

"(4) to conduct research, including cooperative research with fishing industry participants, on deep sea corals and related species, and on survey methods;

"(5) to develop technologies or methods designed to assist fishing industry participants in reducing interactions between fishing gear and deep sea corals; and

"(6) to prioritize program activities in areas where deep sea corals are known to occur, and in areas where scientific modeling or other methods predict deep sea corals are likely to be present.

"(b) REPORTING.—Beginning 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.".

**SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON SHRIMPING.**

Contracts.

(a) IN GENERAL.—The Undersecretary of Commerce for Oceans and Atmosphere shall execute an agreement with the National Academy of Sciences to conduct, jointly, a multi-year, comprehensive in-water study designed—

(1) to measure accurately the efforts and effects of shrimp fishery efforts to utilize turtle excluder devices;

(2) to analyze the impact of those efforts on sea turtle mortality, including interaction between turtles and shrimp trawlers in the inshore, nearshore, and offshore waters of the Gulf of Mexico and similar geographical locations in the waters of the Southeastern United States; and

(3) to evaluate innovative technologies to increase shrimp retention in turtle excluder devices while ensuring the protection of endangered and threatened sea turtles.

(b) OBSERVERS.—In conducting the study, the Undersecretary shall ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary.

(c) INTERIM REPORTS.—During the course of the study and until a final report is submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, the National Academy of Sciences shall transmit interim reports to the Committees biannually containing a summary of preliminary findings and conclusions from the study.

**SEC. 213. HURRICANE EFFECTS ON COMMERCIAL AND RECREATION FISHERY HABITATS.**

(a) FISHERIES REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on—

(1) commercial and recreational fisheries in the States of Alabama, Louisiana, Florida, Mississippi, and Texas; State listing.

(2) shrimp fishing vessels in those States; and

(3) the oyster industry in those States.

(b) HABITAT REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on habitat, including the habitat of shrimp and oysters in those States.

(c) HABITAT RESTORATION.—The Secretary shall carry out activities to restore fishery habitats, including the shrimp and oyster habitats in Louisiana and Mississippi.

**SEC. 214. NORTH PACIFIC FISHERIES CONVENTION.**

Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "all fisheries under the Council's jurisdiction except salmon fisheries" in subsection (a) and inserting "any fishery under the Council's jurisdiction except a salmon fishery";

(2) by striking subsection (a)(2) and inserting the following:

"(2) establishes a system, or system, of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan.";

(3) by striking "observers" in subsection (b)(2)(A) and inserting "observers, or electronic monitoring systems,";

(4) by inserting "a fixed amount reflecting actual observer costs as described in subparagraph (A) or" in subsection (b)(2)(E) after "expressed as";

(5) by inserting "some or" in subsection (b)(2)(F) after "against";

(6) by inserting "or an electronic monitoring system" after "observer" in subsection (b)(2)(F);

(7) by striking "and" after the semicolon in subsection (b)(2)(H); and

(8) by redesignating subparagraph (I) of subsection (b)(2) as subparagraph (J) and inserting after subparagraph (H) the following:

"(I) provide that fees collected will be credited against any fee for stationing observers or electronic monitoring systems on board fishing vessels and United States fish processors

and the actual cost of inputting collected data to which a fishing vessel or fish processor is subject under section 304(d) of this Act; and".

**SEC. 215. NEW ENGLAND GROUNDFISH FISHERY.**

(a) REVIEW.—The Secretary of Commerce shall conduct a unique, thorough examination of the potential impact on all affected and interested parties of Framework 42 to the Northeast Multispecies Fishery Management Plan.

(b) REPORT.—The Secretary shall report the Secretary's findings under subsection (a) within 30 days after the date of enactment of this Act. The Secretary shall include in the report a detailed discussion of each of the following:

(1) The economic and social implications for affected parties within the fishery, including potential losses to infrastructure, expected from the imposition of Framework 42.

(2) The estimated average annual income generated by fishermen in New England, separated by State and vessel size, and the estimated annual income expected after the imposition of Framework 42.

(3) Whether the differential days-at-sea counting imposed by Framework 42 would result in a reduction in the number of small vessels actively participating in the New England Fishery.

(4) The percentage and approximate number of vessels in the New England fishery, separated by State and vessel type, that are incapable of fishing outside the areas designated in Framework 42 for differential days-at-sea counting.

(5) The percentage of the annual groundfish catch in the New England fishery that is harvested by small vessels.

(6) The current monetary value of groundfish permits in the New England fishery and the actual impact that the potential imposition of Framework 42 is having on such value.

(7) Whether permitting days-at-sea to be leased is altering the market value for groundfish permits or days-at-sea in New England.

(8) Whether there is a substantially high probability that the biomass targets used as a basis for Amendment 13 remain achievable.

(9) An identification of the year in which the biomass targets used as a basis for Amendment 13 were last evident or achieved, and the evidence used to determine such date.

(10) Any separate or non-fishing factors, including environmental factors, that may be leading to a slower rebuilding of groundfish than previously anticipated.

(11) The potential harm to the non-fishing environment and ecosystem from the reduction in fishing resulting from Framework 42 and the potential redevelopment of the coastal land for other purposes, including potential for increases in non-point source of pollution and other impacts.

**SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINATION.**

The Mid-Atlantic Fishery Council, in consultation with the New England Fishery Council, shall submit a report to the Senate Committee on Commerce, Science, and Transportation within 9 months after the date of enactment of this Act—

(1) describing the role of council liaisons between the Mid-Atlantic and New England Councils, including an explanation

of council policies regarding the liaison's role in Council decision-making since 1996;

(2) describing how management actions are taken regarding the operational aspects of current joint fishery management plans, and how such joint plans may undergo changes through amendment or framework processes;

(3) evaluating the role of the New England Fishery Council and the Mid-Atlantic Fishery Council liaisons in the development and approval of management plans for fisheries in which the liaisons or members of the non-controlling Council have a demonstrated interest and significant current and historical landings of species managed by either Council;

(4) evaluating the effectiveness of the various approaches developed by the Councils to improve representation for affected members of the non-controlling Council in Council decision-making, such as use of liaisons, joint management plans, and other policies, taking into account both the procedural and conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act; and

(5) analyzing characteristics of North Carolina and Florida that supported their inclusion as voting members of more than one Council and the extent to which those characteristics support Rhode Island's inclusion on a second Council (the Mid-Atlantic Council).

**SEC. 217. STUDY OF SHORTAGE IN THE NUMBER OF INDIVIDUALS WITH POST- BACCALAUREATE DEGREES IN SUBJECTS RELATED TO FISHERY SCIENCE.**

(a) IN GENERAL.—The Secretary of Commerce and the Secretary of Education shall collaborate to conduct a study of—

(1) whether there is a shortage in the number of individuals with post-baccalaureate degrees in subjects related to fishery science, including fishery oceanography, fishery ecology, and fishery anthropology, who have the ability to conduct high quality scientific research in fishery stock assessment, fishery population dynamics, and related fields, for government, non-profit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees; and

(3) what institutions of higher education, the private sector, and the Congress could do to try to increase the number of individuals with such post-baccalaureate degrees.

(b) REPORT.—Not later than 8 months after the date of enactment of this Act, the Secretaries of Commerce and Education shall transmit a report to each committee of Congress with jurisdiction over the programs referred to in subsection (a), detailing the findings and recommendations of the study under this section.

**SEC. 218. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM.**

Section 802 of Public Law 108–199 (118 Stat. 110) is amended by striking "2 years" and inserting "5 years". 16 USC 1851 note.

# TITLE III—OTHER FISHERIES STATUTES

**SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT.**

(a) CIVIL PENALTIES.—Section 8(a) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amended—

(1) by striking "$25,000" and inserting "$200,000";

(2) by striking "violation, the degree of culpability, and history of prior offenses, ability to pay," in the fifth sentence and inserting "violator, the degree of culpability, any history of prior offenses,"; and

(3) by adding at the end the following: "In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.".

(b) PERMIT SANCTIONS.—Section 8 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended by adding at the end the following:

"(e) REVOCATION OR SUSPENSION OF PERMIT.—

"(1) IN GENERAL.—The Secretary may take any action described in paragraph (2) in any case in which—

"(A) a vessel has been used in the commission of any act prohibited under section 7;

"(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 7; or

"(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

"(2) PERMIT-RELATED ACTIONS.—Under the circumstances described in paragraph (1) the Secretary may—

"(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(C) deny such permit; or

"(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

"(3) FACTORS TO BE CONSIDERED.—In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(4) TRANSFERS OF OWNERSHIP.—Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, permit, or interest in a permit, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel, permit, or interest at the time of the transfer.

"(5) REINSTATEMENT.—In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty, criminal fine, or any amount in settlement of a civil forfeiture, the Secretary shall reinstate the permit upon payment of the penalty, fine, or settlement amount and interest thereon at the prevailing rate.

"(6) HEARING.—No sanction shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed either in conjunction with a civil penalty proceeding under this section or otherwise.

"(7) PERMIT DEFINED.—In this subsection, the term 'permit' means any license, certificate, approval, registration, charter, membership, exemption, or other form of permission issued by the Commission or the Secretary, and includes any quota share or other transferable quota issued by the Secretary.".

(c) CRIMINAL PENALTIES.—Section 9(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b)) is amended—

(1) by striking "$50,000" and inserting "$200,000"; and

(2) by striking "$100,000," and inserting "$400,000,".

**SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

(a) ATLANTIC STRIPED BASS CONSERVATION ACT.—Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 5156(a)) is amended to read as follows:

"(a) AUTHORIZATION.—For each of fiscal years 2007, 2008, 2009, 2010, 2011, there are authorized to be appropriated to carry out this Act—

"(1) $1,000,000 to the Secretary of Commerce; and

"(2) $250,000 to the Secretary of the Interior.".

(b) YUKON RIVER SALMON ACT OF 2000.—Section 208 of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727) is amended by striking "$4,000,000 for each of fiscal years 2004 through 2008," and inserting "$4,000,000 for each of fiscal years 2007 through 2011".

(c) SHARK FINNING PROHIBITION ACT.—Section 10 of the Shark Finning Prohibition Act (16 U.S.C. 1822 note) is amended by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2007 through 2011".

(d) PACIFIC SALMON TREATY ACT.—

(1) TRANSFER OF SECTION TO ACT.—The text of section 623 of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Public Law 106–113), and amended by Public Law 106–533 (114 Stat. 2762A–108)— 16 USC 3645.

(A) is transferred to the Pacific Salmon Treaty Act (16 U.S.C. 3631 et seq.) and inserted after section 15; and

(B) amended—

(i) by striking "SEC. 623."; and

(ii) inserting before "(a) NORTHERN FUND AND SOUTHERN FUND.—" the following:

**"SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IMPLEMENTATION; ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.".**

(2) REAUTHORIZATION.—Section 16(d)(2)(A) of the Pacific Salmon Treaty Act, as transferred by paragraph (1), is amended—

(1) by inserting "sustainable salmon fisheries," after "enhancement,";

(2) by inserting "2005, 2006, 2007, 2008, and 2009," after "2003,"; and

(3) by inserting "Idaho," after "Oregon,".

(e) STATE AUTHORITY FOR DUNGENESS CRAB FISHERY MANAGEMENT.—Section 203 of Public Law 105–384 (16 U.S.C. 1856 note) is amended—

(1) by striking "September 30, 2006." in subsection (i) and inserting "September 30, 2016.";

(2) by striking "health" in subsection (j) and inserting "status"; and

(3) by striking "California." in subsection (j) and inserting "California, including—

"(1) stock status and trends throughout its range;

"(2) a description of applicable research and scientific review processes used to determine stock status and trends; and

"(3) measures implemented or planned that are designed to prevent or end overfishing in the fishery.".

(f) PACIFIC FISHERY MANAGEMENT COUNCIL.—

Proposal.

(1) IN GENERAL.—The Pacific Fishery Management Council shall develop a proposal for the appropriate rationalization program for the Pacific trawl groundfish and whiting fisheries, including the shore-based sector of the Pacific whiting fishery under its jurisdiction. The proposal may include only the Pacific whiting fishery, including the shore-based sector, if the Pacific Council determines that a rationalization plan for the fishery as a whole cannot be achieved before the report is required to be submitted under paragraph (3).

(2) REQUIRED ANALYSIS.—In developing the proposal to rationalize the fishery, the Pacific Council shall fully analyze alternative program designs, including the allocation of limited access privileges to harvest fish to fishermen and processors working together in regional fishery associations or some other cooperative manner to harvest and process the fish, as well as the effects of these program designs and allocations on competition and conservation. The analysis shall include an assessment of the impact of the proposal on conservation and the economics of communities, fishermen, and processors participating in the trawl groundfish fisheries, including the shore-based sector of the Pacific whiting fishery.

(3) REPORT.—The Pacific Council shall submit the proposal and related analysis to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources no later than 24 months after the date of enactment of this Act.

(g) REAUTHORIZATION OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for apportionment to carry out the purposes of this title $5,000,000 for each of fiscal years 2007 through 2012."; and

(2) by striking "$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006" in subsection (c) and inserting "$900,000 for each of fiscal years 2007 through 2012".

(h) REAUTHORIZATION AND AMENDMENT OF THE ANADROMOUS FISH CONSERVATION ACT.—Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

**"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.** 16 USC 757d.

"There are authorized to be appropriated to carry out the purposes of this Act not to exceed $4,500,000 for each of fiscal years 2007 through 2012.".

(i) REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.—Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking "2006" and inserting "2012".

# TITLE IV—INTERNATIONAL

**SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.**

Title II (16 U.S.C. 1821 et seq.) is amended by adding at the end the following:

**"SEC. 207. INTERNATIONAL MONITORING AND COMPLIANCE.** 16 USC 1829.

"(a) IN GENERAL.—The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this title.

"(b) SPECIFIC AUTHORITIES.—In carrying out subsection (a), the Secretary may—

"(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

"(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

"(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

"(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;

"(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported,

or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

"(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

Deadline.

"(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.".

**SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNREPORTED, AND UNREGULATED FISHING.**

Section 2(a) (16 U.S.C. 1801(a)), as amended by section 3 of this Act, is further amended by adding at the end the following:

"(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.".

**SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UNREGULATED FISHING AND REDUCE BYCATCH OF PROTECTED MARINE SPECIES.**

(a) IN GENERAL.—Title VI of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.), is amended by adding at the end the following:

16 USC 1826h.

**"SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.**

"The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and every 2 years thereafter, a report that includes—

"(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

"(2) a list of nations whose vessels have been identified under section 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

"(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

"(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

"(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

**"SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.** 16 USC 1826i.

"The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. These actions shall include—

"(1) urging international fishery management organizations to which the United States is a member—

"(A) to incorporate multilateral market-related measures against member or nonmember governments whose vessels engage in illegal, unreported, or unregulated fishing;

"(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

"(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in areas under an international fishery management organization's jurisdiction;

"(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems; and

"(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish;

"(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

"(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

"(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

"(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing,

including advance transmission of catch documents to ports of entry; and

"(3) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

16 USC 1826j.

**"SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.**

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding 2 years, in illegal, unreported, or unregulated fishing—

"(1) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

"(2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

"(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.

Deadline.
Notification.

"(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

"(1) notify nations listed in the report of the requirements of this section;

"(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

"(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

"(d) IUU CERTIFICATION PROCEDURE.—

"(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining if a nation identified under subsection (a) and listed in the report under section 607 has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

Deadlines.
Regulations.

"(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or

"(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

"(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that—

"(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

"(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

"(3) EFFECT OF CERTIFICATION.—

"(A) IN GENERAL.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))—

Applicability.

"(i) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection; but

"(ii) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(B) EXCEPTIONS.—Subparagraph (A)(i) does not apply—

"(i) to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or

"(ii) if there is no applicable international fishery agreement, to the extent that such provisions would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing.

"(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

"(1) IN GENERAL.—In this Act the term 'illegal, unreported, or unregulated fishing' has the meaning established under paragraph (2).

"(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish a definition of the term 'illegal, unreported, or unregulated fishing' for purposes of this Act.

Deadline.
Publication.

"(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

"(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements;

"(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

"(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

16 USC 1826k.

**"SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

"(1) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in fishing activities or practices;

"(A) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

"(B) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

"(2) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

"(3) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

"(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

Notification.

"(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

"(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

"(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture

Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

"(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

"(c) CONSERVATION CERTIFICATION PROCEDURE.—

"(1) DETERMINATION.—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—

"(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

"(2) PROCEDURAL REQUIREMENT.—The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by any such nation.

Deadlines.

"(3) CERTIFICATION.—The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

Certification.

"(4) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (3) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

"(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

Applicability.

"(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary

has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

"(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

"(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

"(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

"(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

"(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term 'protected living marine resource'—

"(1) means non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

"(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF PORT PRIVILEGES.—Section 101(b) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)) is amended by inserting "or illegal, unreported, or unregulated fishing" after "fishing" in paragraph (1)(A)(i), paragraph (1)(B), paragraph (2), and paragraph (4)(A)(i).

(2) DURATION OF DENIAL.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by inserting "or illegal, unreported , or unregulated fishing" after "fishing".

**SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISHERIES.**

(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16 U.S.C. 1821(h)(2)(B)) is amended by striking "that is at least equal in effectiveness to the program established by the Secretary;" and inserting "or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;".

(b) MARINE CONSERVATION PLANS.—Section 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to read as follows:

"(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;".

**SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CONVENTION ACT.**

(a) IN GENERAL.—Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

**"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention—

"(1) $5,770,000 for each of fiscal years 2007 and 2008;

"(2) $6,058,000 for each of fiscal years 2009 and 2010; and

"(3) $6,361,000 for each of fiscal years 2011 and 2013.

"(b) ALLOCATION.—Of the amounts made available under subsection (a) for each fiscal year—

"(1) $160,000 are authorized for the advisory committee established under section 4 of this Act and the species working groups established under section 4A of this Act; and

"(2) $7,500,000 are authorized for research activities under this Act and section 3 of Public Law 96–339 (16 U.S.C. 971i), of which $3,000,000 shall be for the cooperative research program under section 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H).".

(b) ATLANTIC BILLFISH COOPERATIVE RESEARCH PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16 U.S.C. 971i(b)(2)) is amended—

(1) by striking "and" after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I); and

(3) by inserting after subparagraph (G) the following:

"(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and".

(c) SENSE OF CONGRESS REGARDING FISH HABITAT.—Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following:

"(e) SENSE OF CONGRESS REGARDING FISH HABITAT.—It is the sense of the Congress that the United States Commissioners should seek to include ecosystem considerations in fisheries management, including the conservation of fish habitat.".

**SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC EQUITY.**

(a) INTERNATIONAL OVERFISHING.—Section 304 (16 U.S.C. 1854) is amended by adding at the end thereof the following: Applicability.

"(i) INTERNATIONAL OVERFISHING.—The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

"(1) the Secretary, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end the overfishing; and

Deadline. Recommendations.

"(2) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—

"(A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

"(B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.".

(b) HIGHLY MIGRATORY SPECIES TAGGING RESEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is amended by striking "(16 U.S.C. 971d)" and inserting "(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act,".

16 USC 1891c.

**SEC. 407. UNITED STATES CATCH HISTORY.**

In establishing catch allocations under international fisheries agreements, the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State, shall ensure that all catch history associated with a vessel of the United States remains with the United States and is not transferred or credited to any other nation or vessel of such nation, including when a vessel of the United States is sold or transferred to a citizen of another nation or to an entity controlled by citizens of another nation.

16 USC 1891d.

**SEC. 408. SECRETARIAL REPRESENTATIVE FOR INTERNATIONAL FISHERIES.**

(a) IN GENERAL.—The Secretary, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within the National Oceanic and Atmospheric Administration to perform the duties of the Secretary with respect to international agreements involving fisheries and other living marine resources, including policy development and representation as a U.S. Commissioner, under any such international agreements.

(b) ADVICE.—The designated official shall, in consultation with the Deputy Assistant Secretary for International Affairs and the Administrator of the National Marine Fisheries Service, advise the Secretary, Undersecretary of Commerce for Oceans and Atmosphere, and other senior officials of the Department of Commerce and the National Oceanic and Atmospheric Administration on development of policy on international fisheries conservation and management matters.

(c) CONSULTATION.—The designated official shall consult with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Resources on matters pertaining to any regional or international negotiation concerning living marine resources, including shellfish.

(d) DELEGATION.—The designated official may delegate and authorize successive re-delegation of such functions, powers, and duties to such officers and employees of the National Oceanic and Atmospheric Administration as deemed necessary to discharge the responsibility of the Office.

(e) EFFECTIVE DATE.—This section shall take effect on January 1, 2009.

# TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Western and Central Pacific Fisheries Convention Implementation Act.

**SEC. 501. SHORT TITLE.**

16 USC 6901 note.

This title may be cited as the "Western and Central Pacific Fisheries Convention Implementation Act".

**SEC. 502. DEFINITIONS.**

16 USC 6901.

In this title:

(1) 1982 CONVENTION.—The term "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) AGREEMENT.—The term "Agreement" means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(3) COMMISSION.—The term "Commission" means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention.

(4) CONVENTION AREA.—The term "convention area" means all waters of the Pacific Ocean bounded to the south and to the east by the following line:

From the south coast of Australia due south along the 141th meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

(5) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(6) FISHING.—The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment; and

(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.

(7) FISHING VESSEL.—The term "fishing vessel" means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) HIGHLY MIGRATORY FISH STOCKS.—The term "highly migratory fish stocks" means all fish stocks of the species listed in Annex 1 of the 1982 Convention, except sauries, occurring in the Convention Area, and such other species of fish as the Commission may determine.

(9) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) TRANSHIPMENT.—The term "transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) WCPFC CONVENTION; WESTERN AND CENTRAL PACIFIC CONVENTION.—The terms "WCPFC Convention" and "Western and Central Pacific Convention" means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, (including any annexes, amendments, or protocols which are in force, or have come into force, for the United States) which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

16 USC 6902.

**SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.**

President.

(a) IN GENERAL.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council and the Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among

members who are officers or employees of the United States Government.

(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(A) injury compensation under chapter 81 of title 5, United States Code;

(B) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(C) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion. and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Publication. Public information.

(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(2) ADMINISTRATIVE MATTERS.—

(A) SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall be considered Federal employees while performing service as members of an advisory committee only for purposes of—

(I) injury compensation under chapter 81 of title 5, United States Code;

(II) requirements concerning ethics, conflicts-of-interest, and corruption, as provided by title 18, United States Code; and

(III) any other criminal or civil statute or regulation governing the conduct of Federal employees in their capacity as Federal employees.

(f) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding

with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

**SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.** 16 USC 6903.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

**SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.** 16 USC 6904.

(a) PROMULGATION OF REGULATIONS.—The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this title, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) ADDITIONS TO FISHERY REGIMES AND REGULATIONS.—The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

16 USC 6905.

**SEC. 506. ENFORCEMENT.**

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this title; and

(B) the conduct of scientific, research, and other programs under this title;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this title, to recover the actual costs to the United States of management and enforcement under this title, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this title; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

(b) CONSISTENCY WITH OTHER LAWS.—The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971).

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) CONFIDENTIALITY.—

(1) IN GENERAL.—Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business or any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

(2) USE OF INFORMATION.—The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted in compliance with any requirement or regulation under this Act. Regulations.

**SEC. 507. PROHIBITED ACTS.** 16 USC 6906.

(a) IN GENERAL.—It is unlawful for any person—

(1) to violate any provision of this title or any regulation or permit issued pursuant to this title;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, on an applicable permit issued pursuant to this title;

(3) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this title;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this title or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that

such other person has committed any chapter prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this title;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this title, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 506(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this title to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 506(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 506(a) of this title.

(b) ENTRY CERTIFICATION.—In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 506(a) of this title.

16 USC 6907.

**SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The Secretary may cooperate with agencies of the United States government, any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the WCPFC Convention, in carrying out responsibilities under this title.

(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies are authorized, upon the request of the Secretary, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

(c) SANCTIONED FISHING OPERATIONS AND BIOLOGICAL EXPERIMENTS.—Nothing in this title, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the WCPFC Convention.

(d) STATE JURISDICTION NOT AFFECTED.—Except as provided in subsection (e) of this section, nothing in this title shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(e) APPLICATION OF REGULATIONS—

(1) IN GENERAL.—Regulations promulgated under section 506(a) of this title shall apply within the boundaries of any State bordering on the Convention area if the Secretary has provided notice to such State, the State does not request an agency hearing, and the Secretary determines that the State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this title, enacted laws or promulgated regulations that implement the recommendations of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations that implement the recommendations of the commission within the boundaries of such State that—

(i) are less restrictive that the regulations promulgated under section 506(a) of this title; or

(ii) are not effectively enforced.

(2) DETERMINATION BY SECRETARY.—The regulations promulgated pursuant to section 506(a) of this title shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures that are not less restrictive than the regulations promulgated under section 506(a) of this title.

(3) HEARING.—If a State requests a formal agency hearing, the Secretary shall not apply the regulations promulgated pursuant section 506(a) of this title within that State's boundaries unless the hearing record supports a determination under paragraph (1)(A) or (B).

(f) REVIEW OF STATE LAWS AND REGULATIONS.—To ensure that the purposes of subsection (e) are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (e) applies or may apply and the extent to which such laws and regulations are enforced.

**SEC. 509. TERRITORIAL PARTICIPATION.** 16 USC 6908.

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.

**SEC. 510. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.** 16 USC 6909.

Hawaii. Territories.

Masters of commercial fishing vessels of nations fishing for species under the management authority of the Western and Central Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to, or as soon as reasonably possible after, entering and transiting the Exclusive Economic Zone seaward of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area—

Notification.

(1) notify the United States Coast Guard or the National Marine Fisheries Service Office of Law Enforcement in the appropriate region of the name, flag state, location, route, and destination of the vessel and of the circumstances under which it will enter United States waters;

(2) ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it is not readily available for fishing; and

(3) where requested by an enforcement officer, proceed to a specified location so that a vessel inspection can be conducted.

16 USC 6910.

**SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this title and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

Pacific Whiting Act of 2006.

# TITLE VI—PACIFIC WHITING

16 USC 7001 note.

**SEC. 601. SHORT TITLE.**

This title may be cited as the "Pacific Whiting Act of 2006".

16 USC 7001.

**SEC. 602. DEFINITIONS.**

In this title:

(1) ADVISORY PANEL.—The term "advisory panel" means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) AGREEMENT.—The term "Agreement" means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) CATCH.—The term "catch" means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) JOINT MANAGEMENT COMMITTEE.—The term "joint management committee" means the joint management committee established by the Agreement.

(5) JOINT TECHNICAL COMMITTEE.—The term "joint technical committee" means the joint technical committee established by the Agreement.

(6) OFFSHORE WHITING RESOURCE.—The term "offshore whiting resource" means the transboundary stock of Merluccius productus that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) SCIENTIFIC REVIEW GROUP.—The term "scientific review group" means the scientific review group established by the Agreement.

(8) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(9) UNITED STATES SECTION.—The term "United States Section" means the United States representatives on the joint management committee.

**SEC. 603. UNITED STATES REPRESENTATION ON JOINT MANAGEMENT COMMITTEE.** 16 USC 7002.

(a) REPRESENTATIVES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) TERM OF OFFICE.—Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) CHAIR.—Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) ALTERNATE REPRESENTATIVES.—The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

**SEC. 604. UNITED STATES REPRESENTATION ON THE SCIENTIFIC REVIEW GROUP.** 16 USC 7003.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) TERM.—An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy

occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.

(c) JOINT APPOINTMENTS.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel—

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

16 USC 7004.

**SEC. 605. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.**

(a) SCIENTIFIC EXPERTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) INDEPENDENT MEMBER.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

16 USC 7005.

**SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY PANEL.**

(a) IN GENERAL.—

(1) APPOINTMENT.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

16 USC 7006.

**SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

(a) IN GENERAL.—The Secretary is responsible for carrying out the Agreement and this title, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) REGULATIONS; COOPERATION WITH CANADIAN OFFICIALS.—In exercising responsibilities under this title, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this title; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

**SEC. 608. RULEMAKING.** 16 USC 7007.

(a) APPLICATION WITH MAGNUSON-STEVENS ACT.—The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this title rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this title.

(b) JOINT MANAGEMENT COMMITTEE RECOMMENDATIONS.—For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located. Applicability.

(c) YEARS WITH NO APPROVED CATCH RECOMMENDATIONS.—If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

(4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

**SEC. 609. ADMINISTRATIVE MATTERS.** 16 USC 7008.

(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title who are serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(1) injury compensation under chapter 81 of title 5, United States Code;

(2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(3) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual appointed under this title shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this title.

(2) SCIENTIFIC REVIEW GROUP.—Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 604(a) to serve as a scientific expert on the scientific review group who is not employed by the United States Government, a State government, or an Indian tribal government in accordance with section 3109 of title 5, United States Code.

(c) TRAVEL EXPENSES.—Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this title in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(d) JOINT APPOINTEES.—With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 604(c), and the 1 independent member to the joint technical committee jointly appointed under section 605(b), the Secretary may pay up to 50 percent of—

(1) any compensation paid to such individuals; and

(2) the necessary travel expenses of such individuals.

16 USC 7009.

**SEC. 610. ENFORCEMENT.**

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this title, subject to sections 552 and 552a of title 5, United States Code.

(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and

provisions of that Act were incorporated into and made a part of this title.

(d) PENALTIES.—This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Secretary under this title were a violation of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

**SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

16 USC 7010.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this title.

# TITLE VII—MISCELLANEOUS

**SEC. 701. STUDY OF THE ACIDIFICATION OF THE OCEANS AND EFFECT ON FISHERIES.**

The Secretary of Commerce shall request the National Research Council to conduct a study of the acidification of the oceans and how this process affects the United States.

**SEC. 702. PUGET SOUND REGIONAL SHELLFISH SETTLEMENT.**

Washington. Native Americans.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the Tribes have established treaty rights to take shellfish from public and private tidelands in Washington State, including from some lands owned, leased, or otherwise subject to harvest by commercial shellfish growers;

(B) the district court that adjudicated the Tribes' treaty rights to take shellfish found that the growers are innocent purchasers who had no notice of the Tribes' fishing right when they acquired their properties;

(C) numerous unresolved issues remain outstanding regarding implementation of the Tribes' treaty right to take shellfish from lands owned, leased, or otherwise subject to harvest by the growers;

(D) the Tribes, the growers, the State of Washington, and the United States Department of the Interior have resolved by a settlement agreement many of the disputes between and among them regarding implementation of the Tribes' treaty right to take shellfish from covered tidelands owned or leased by the growers;

(E) the settlement agreement does not provide for resolution of any claims to take shellfish from lands owned or leased by the growers that potentially may be brought in the future by other Tribes;

(F) in the absence of congressional actions, the prospect of other Tribes claims to take shellfish from lands owned or leased by the growers could be pursued through the courts, a process which in all likelihood could consume many years and thereby promote uncertainty in the State of Washington and the growers and to the ultimate detriment of both the Tribes and other Tribes and their members;

(G) in order to avoid this uncertainty, it is the intent of Congress that other Tribes have the option of resolving their claims, if any, to a treaty right to take shellfish

from covered tidelands owned or leased by the growers; and

(H) this Act represents a good faith effort on the part of Congress to extend to other Tribes the same fair and just option of resolving their claims to take shellfish from covered tidelands owned or leased by the growers that the Tribes have agreed to in the settlement agreement.

(2) PURPOSES.—The purposes of this section are—

(A) to approve, ratify, and confirm the settlement agreement entered into by and among the Tribes, commercial shellfish growers, the State of Washington, and the United States;

(B) to provide other Tribes with a fair and just resolution of any claims to take shellfish from covered tidelands, as that term is defined in the settlement agreement, that potentially could be brought in the future by other Tribes; and

(C) to authorize the Secretary to implement the terms and conditions of the settlement agreement and this section.

(b) APPROVAL OF SETTLEMENT AGREEMENT.—

(1) IN GENERAL.—The settlement agreement is hereby approved, ratified, and confirmed, and section 6 of the settlement agreement, Release of Claims, is specifically adopted and incorporated into this section as if fully set forth herein.

(2) AUTHORIZATION FOR IMPLEMENTATION.—The Secretary is hereby authorized to implement the terms and conditions of the settlement agreement in accordance with the settlement agreement and this section.

(c) FUND, SPECIAL HOLDING ACCOUNT, AND CONDITIONS.—

(1) PUGET SOUND REGIONAL SHELLFISH SETTLEMENT TRUST FUND.—

(A) There is hereby established in the Treasury of the United States an account to be designated as the "Puget Sound Regional Shellfish Settlement Trust Fund". The Secretary shall deposit funds in the amount of $22,000,000 at such time as appropriated pursuant to this section into the Fund.

(B) The Fund shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938 (25 U.S.C. 162a) until such time as all monies are transferred from the Fund.

(C) The Secretary shall transfer monies held in the Fund to each Tribe of the Tribes in the amounts and manner specified by and in accordance with the payment agreement established pursuant to the settlement agreement and this section.

(2) PUGET SOUND REGIONAL SHELLFISH SETTLEMENT SPECIAL HOLDING ACCOUNT.—

(A) There is hereby established in the Treasury of the United States a fund to be designated as the "Puget Sound Regional Shellfish Settlement Special Holding Account". The Secretary shall deposit funds in the amount of $1,500,000 into the Special Holding Account in fiscal year 2011 at such time as such funds are appropriated pursuant to this section.

(B) The Special Holding Account shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938, (25 U.S.C. 162a) until such time as all monies are transferred from the Special Holding Account.

(C) If a court of competent jurisdiction renders a final decision declaring that any of the other Tribes has an established treaty right to take or harvest shellfish in covered tidelands, as that term is defined in the settlement agreement, and such tribe opts to accept a share of the Special Holding Account, rather than litigate this claim against the growers, the Secretary shall transfer the appropriate share of the monies held in the Special Holding Account to each such tribe of the other Tribes in the amounts appropriate to compensate the other Tribes in the same manner and for the same purposes as the Tribes who are signatory to the settlement agreement. Such a transfer to a tribe shall constitute full and complete satisfaction of that tribe's claims to shellfish on the covered tidelands.

(D) The Secretary may retain such amounts of the Special Holding Account as necessary to provide for additional tribes that may judicially establish their rights to take shellfish in the covered tidelands within the term of that Account, provided that the Secretary pays the remaining balance to the other Tribes prior to the expiration of the term of the Special Holding Account.

(E) The Tribes shall have no interest, possessory or otherwise, in the Special Holding Account.

(F) Twenty years after the deposit of funds into the Special Holding Account, the Secretary shall close the Account and transfer the balance of any funds held in the Special Holding Account at that time to the Treasury. However, the Secretary may continue to maintain the Special Holding Account in order to resolve the claim of an other Tribe that has notified the Secretary in writing within the 20-year term of that Tribe's interest in resolving its claim in the manner provided for in this section.

(G) It is the intent of Congress that the other Tribes, if any, shall have the option of agreeing to similar rights and responsibilities as the Tribes that are signatories to the settlement agreement, if they opt not to litigate against the growers.

(3) ANNUAL REPORT.—Each tribe of the Tribes, or any of the other Tribes accepting a settlement of its claims to shellfish on covered lands pursuant to paragraph (2)(C), shall submit to the Secretary an annual report that describes all expenditures made with monies withdrawn from the Fund or Special Holding Account during the year covered by the report.

(4) JUDICIAL AND ADMINISTRATIVE ACTION.—The Secretary may take judicial or administrative action to ensure that any monies withdrawn from the Fund or Special Holding Account are used in accordance with the purposes described in the settlement agreement and this section.

Effective date.

(5) CLARIFICATION OF TRUST RESPONSIBILITY.—Beginning on the date that monies are transferred to a tribe of the Tribes or a tribe of the other Tribes pursuant to this section,

any trust responsibility or liability of the United States with respect to the expenditure or investment of the monies withdrawn shall cease.

(d) STATE OF WASHINGTON PAYMENT.—The Secretary shall not be accountable for nor incur any liability for the collection, deposit, management or nonpayment of the State of Washington payment of $11,000,000 to the Tribes pursuant to the settlement agreement.

(e) RELEASE OF OTHER TRIBES CLAIMS.—

Effective date.

(1) RIGHT TO BRING ACTIONS.—As of the date of enactment of this section, all right of any other Tribes to bring an action to enforce or exercise its treaty rights to take shellfish from public and private tidelands in Washington State, including from some lands owned, leased, or otherwise subject to harvest by any and all growers shall be determined in accordance with the decisions of the Courts of the United States in United States v. Washington, Civ. No. 9213 (Western District of Washington).

(2) CERTAIN RIGHTS GOVERNED BY THIS SECTION.—If a tribe falling within the other Tribes category opts to resolve its claims to take shellfish from covered tidelands owned or leased by the growers pursuant to subsection (c)(2)(C) of this section, that tribe's rights shall be governed by this section, as well as by the decisions of the Courts in United States v. Washington, Civ. No. 9213.

(3) NO BREACH OF TRUST.—Notwithstanding whether the United States has a duty to initiate such an action, the failure or declination by the United States to initiate any action to enforce any other Tribe's or other Tribes' treaty rights to take shellfish from public and private tidelands in Washington State, including from covered tidelands owned, leased, or otherwise subject to harvest by any and all growers shall not constitute a breach of trust by the United States or be compensable to other Tribes.

Deadline.

(f) CAUSE OF ACTION.—If any payment by the United States is not paid in the amount or manner specified by this section, or is not paid within 6 months after the date specified by the settlement agreement, such failure shall give rise to a cause of action by the Tribes either individually or collectively against the United States for money damages for the amount authorized but not paid to the Tribes, and the Tribes, either individually or collectively, are authorized to bring an action against the United States in the United States Court of Federal Claims for such funds plus interest.

(g) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Puget Sound Shellfish Settlement Trust Fund Account established by this section.

(2) GROWERS.—The term "growers" means Taylor United, Inc.; Olympia Oyster Company; G.R. Clam & Oyster Farm; Cedric E. Lindsay; Minterbrook Oyster Company; Charles and Willa Murray; Skookum Bay Oyster Company; J & G Gunstone Clams, Inc.; and all persons who qualify as "growers" in accordance with and pursuant to the settlement agreement.

(3) OTHER TRIBES.—The term "other Tribes" means any federally recognized Indian nation or tribe other than the Tribes described in paragraph (6) that, within 20 years after the deposit of funds in the Special Holding Account, establishes a legally enforceable treaty right to take shellfish from covered

tidelands described in the settlement agreement, owned, leased or otherwise subject to harvest by those persons or entities that qualify as growers.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the settlement agreement entered into by and between the Tribes, commercial shellfish growers, the State of Washington and the United States, to resolve certain disputes between and among them regarding implementation of the Tribes' treaty right to take shellfish from certain covered tidelands owned, leased or otherwise subject to harvest by the growers.

(6) TRIBES.—The term "Tribes" means the following federally recognized Tribes that executed the settlement agreement: Tulalip, Stillaguamish, Sauk Suiattle, Puyallup, Squaxin Island, Makah, Muckleshoot, Upper Skagit, Nooksack, Nisqually, Skokomish, Port Gamble S'Klallam, Lower Elwha Klallam, Jamestown S'Klallam, and Suquamish Tribes, the Lummi Nation, and the Swinomish Indian Tribal Community.

(7) SPECIAL HOLDING ACCOUNT.—The term "Special Holding Account" means the Puget Sound Shellfish Settlement Special Holding Account established by this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $23,500,000 to carry out this section—

(A) $2,000,000 for fiscal year 2007;

(B) $5,000,000 for each of fiscal years 2008 through 2010; and

(C) $6,500,000 for fiscal year 2011.

# TITLE VIII—TSUNAMI WARNING AND EDUCATION

Tsunami Warning and Education Act.

**SEC. 801. SHORT TITLE.**

33 USC 3201 note.

This title may be cited as the "Tsunami Warning and Education Act".

**SEC. 802. DEFINITIONS.**

33 USC 3201.

In this title:

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

**SEC. 803. PURPOSES.**

33 USC 3202.

The purposes of this title are—

(1) to improve tsunami detection, forecasting, warnings, notification, outreach, and mitigation to protect life and property in the United States;

(2) to enhance and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms, and increase the accuracy of forecasts and warnings, and to expand detection and warning systems to include other vulnerable States and United States territories, including the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico areas;

(3) to improve mapping, modeling, research, and assessment efforts to improve tsunami detection, forecasting, warnings, notification, outreach, mitigation, response, and recovery;

(4) to improve and increase education and outreach activities and ensure that those receiving tsunami warnings and the at-risk public know what to do when a tsunami is approaching;

(5) to provide technical and other assistance to speed international efforts to establish regional tsunami warning systems in vulnerable areas worldwide, including the Indian Ocean; and

(6) to improve Federal, State, and international coordination for detection, warnings, and outreach for tsunami and other coastal impacts.

33 USC 3203.

**SEC. 804. TSUNAMI FORECASTING AND WARNING PROGRAM.**

(a) IN GENERAL.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall operate a program to provide tsunami detection, forecasting, and warnings for the Pacific and Arctic Ocean regions and for the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico region.

(b) COMPONENTS.—The program under this section shall—

(1) include the tsunami warning centers established under subsection (d);

(2) utilize and maintain an array of robust tsunami detection technologies;

(3) maintain detection equipment in operational condition to fulfill the detection, forecasting, and warning requirements of this title;

(4) provide tsunami forecasting capability based on models and measurements, including tsunami inundation models and maps for use in increasing the preparedness of communities, including through the TsunamiReady program;

(5) maintain data quality and management systems to support the requirements of the program;

(6) include a cooperative effort among the Administration, the United States Geological Survey, and the National Science Foundation under which the Geological Survey and the National Science Foundation shall provide rapid and reliable seismic information to the Administration from international and domestic seismic networks;

(7) provide a capability for the dissemination of warnings to at-risk States and tsunami communities through rapid and reliable notification to government officials and the public, including utilization of and coordination with existing Federal warning systems, including the National Oceanic and Atmospheric Administration Weather Radio All Hazards Program;

(8) allow, as practicable, for integration of tsunami detection technologies with other environmental observing technologies; and

(9) include any technology the Administrator considers appropriate to fulfill the objectives of the program under this section.

(c) SYSTEM AREAS.—The program under this section shall operate—

(1) a Pacific tsunami warning system capable of forecasting tsunami anywhere in the Pacific and Arctic Ocean regions and providing adequate warnings; and

(2) an Atlantic Ocean, Caribbean Sea, and Gulf of Mexico tsunami warning system capable of forecasting tsunami and providing adequate warnings in areas of the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico that are determined—

(A) to be geologically active, or to have significant potential for geological activity; and

(B) to pose significant risks of tsunami for States along the coastal areas of the Atlantic Ocean, Caribbean Sea, or Gulf of Mexico.

(d) TSUNAMI WARNING CENTERS.—

(1) IN GENERAL.—The Administrator, through the National Weather Service, shall maintain or establish— Establishment.

(A) a Pacific Tsunami Warning Center in Hawaii;

(B) a West Coast and Alaska Tsunami Warning Center in Alaska; and

(C) any additional forecast and warning centers determined by the National Weather Service to be necessary.

(2) RESPONSIBILITIES.—The responsibilities of each tsunami warning center shall include—

(A) continuously monitoring data from seismological, deep ocean, and tidal monitoring stations;

(B) evaluating earthquakes that have the potential to generate tsunami;

(C) evaluating deep ocean buoy data and tidal monitoring stations for indications of tsunami resulting from earthquakes and other sources;

(D) disseminating forecasts and tsunami warning bulletins to Federal, State, and local government officials and the public;

(E) coordinating with the tsunami hazard mitigation program described in section 805 to ensure ongoing sharing of information between forecasters and emergency management officials; and

(F) making data gathered under this title and post-warning analyses conducted by the National Weather Service or other relevant Administration offices available to researchers.

(e) TRANSFER OF TECHNOLOGY; MAINTENANCE AND UPGRADES.—

(1) IN GENERAL.—In carrying out this section, the National Weather Service, in consultation with other relevant Administration offices, shall—

(A) develop requirements for the equipment used to forecast tsunami, which shall include provisions for multi-purpose detection platforms, reliability and performance metrics, and to the maximum extent practicable how the equipment will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System;

(B) develop and execute a plan for the transfer of technology from ongoing research described in section 806 into the program under this section; and

(C) ensure that maintaining operational tsunami detection equipment is the highest priority within the program carried out under this title.

(2) REPORT TO CONGRESS.—

(A) Not later than 1 year after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit to Congress a report on how the tsunami forecast system under this section will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System.

(B) Not later than 3 years after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit a report to Congress on how technology developed under section 806 is being transferred into the program under this section.

(f) FEDERAL COOPERATION.—When deploying and maintaining tsunami detection technologies, the Administrator shall seek the assistance and assets of other appropriate Federal agencies.

(g) ANNUAL EQUIPMENT CERTIFICATION.—At the same time Congress receives the budget justification documents in support of the President's annual budget request for each fiscal year, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a certification that—

(1) identifies the tsunami detection equipment deployed pursuant to this title, as of December 31 of the preceding calendar year;

(2) certifies which equipment is operational as of December 31 of the preceding calendar year;

(3) in the case of any piece of such equipment that is not operational as of such date, identifies that equipment and describes the mitigation strategy that is in place—

(A) to repair or replace that piece of equipment within a reasonable period of time; or

(B) to otherwise ensure adequate tsunami detection coverage;

(4) identifies any equipment that is being developed or constructed to carry out this title but which has not yet been deployed, if the Administration has entered into a contract for that equipment prior to December 31 of the preceding calendar year, and provides a schedule for the deployment of that equipment; and

(5) certifies that the Administrator expects the equipment described in paragraph (4) to meet the requirements, cost, and schedule provided in that contract.

Deadline.

(h) CONGRESSIONAL NOTIFICATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives within 30 days of—

(1) impaired regional forecasting capabilities due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami forecasting and warning system.

(i) REPORT.—Not later than January 31, 2010, the Comptroller General of the United States shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that—

(1) evaluates the current status of the tsunami detection, forecasting, and warning system and the tsunami hazard mitigation program established under this title, including progress toward tsunami inundation mapping of all coastal areas vulnerable to tsunami and whether there has been any degradation of services as a result of the expansion of the program;

(2) evaluates the National Weather Service's ability to achieve continued improvements in the delivery of tsunami detection, forecasting, and warning services by assessing policies and plans for the evolution of modernization systems, models, and computational abilities (including the adoption of new technologies); and

(3) lists the contributions of funding or other resources to the program by other Federal agencies, particularly agencies participating in the program.

(j) EXTERNAL REVIEW.—The Administrator shall enter into an arrangement with the National Academy of Sciences to review the tsunami detection, forecast, and warning program established under this title to assess further modernization and coverage needs, as well as long-term operational reliability issues, taking into account measures implemented under this title. The review shall also include an assessment of how well the forecast equipment has been integrated into other United States and global ocean and coastal observation systems and the global earth observing system of systems. Not later than 2 years after the date of enactment of this Act, the Administrator shall transmit a report containing the National Academy of Sciences' recommendations, the Administrator's responses to the recommendations, including those where the Administrator disagrees with the Academy, a timetable to implement the accepted recommendations, and the cost of implementing all the Academy's recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

Deadline.
Reports.

(k) REPORT.—Not later than 3 months after the date of enactment of this Act, the Administrator shall establish a process for monitoring and certifying contractor performance in carrying out the requirements of any contract to construct or deploy tsunami detection equipment, including procedures and penalties to be imposed in cases of significant contractor failure or negligence.

**SEC. 805. NATIONAL TSUNAMI HAZARD MITIGATION PROGRAM.**

33 USC 3204.

(a) IN GENERAL.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall conduct a community-based tsunami hazard mitigation program to improve tsunami preparedness of at-risk areas in the United States and its territories.

(b) COORDINATING COMMITTEE.—In conducting the program under this section, the Administrator shall establish a coordinating committee comprising representatives of Federal, State, local, and tribal government officials. The Administrator may establish subcommittees to address region-specific issues. The committee shall—

Establishment.

(1) recommend how funds appropriated for carrying out the program under this section will be allocated;

(2) ensure that areas described in section 804(c) in the United States and its territories can have the opportunity to participate in the program;

(3) provide recommendations to the National Weather Service on how to improve the TsunamiReady program, particularly on ways to make communities more tsunami resilient through the use of inundation maps and other mitigation practices; and

(4) ensure that all components of the program are integrated with ongoing hazard warning and risk management activities, emergency response plans, and mitigation programs in affected areas, including integrating information to assist in tsunami evacuation route planning.

(c) PROGRAM COMPONENTS.—The program under this section shall—

(1) use inundation models that meet a standard of accuracy defined by the Administration to improve the quality and extent of inundation mapping, including assessment of vulnerable inner coastal and nearshore areas, in a coordinated and standardized fashion to maximize resources and the utility of data collected;

(2) promote and improve community outreach and education networks and programs to ensure community readiness, including the development of comprehensive coastal risk and vulnerability assessment training and decision support tools, implementation of technical training and public education programs, and providing for certification of prepared communities;

(3) integrate tsunami preparedness and mitigation programs into ongoing hazard warning and risk management activities, emergency response plans, and mitigation programs in affected areas, including integrating information to assist in tsunami evacuation route planning;

(4) promote the adoption of tsunami warning and mitigation measures by Federal, State, tribal, and local governments and nongovernmental entities, including educational programs to discourage development in high-risk areas; and

(5) provide for periodic external review of the program.

(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to require a change in the chair of any existing tsunami hazard mitigation program subcommittee.

33 USC 3205.

**SEC. 806. TSUNAMI RESEARCH PROGRAM.**

The Administrator shall, in consultation with other agencies and academic institutions, and with the coordinating committee established under section 805(b), establish or maintain a tsunami research program to develop detection, forecast, communication, and mitigation science and technology, including advanced sensing techniques, information and communication technology, data collection, analysis, and assessment for tsunami tracking and numerical forecast modeling. Such research program shall—

(1) consider other appropriate research to mitigate the impact of tsunami;

(2) coordinate with the National Weather Service on technology to be transferred to operations;

(3) include social science research to develop and assess community warning, education, and evacuation materials; and

(4) ensure that research and findings are available to the scientific community.

**SEC. 807. GLOBAL TSUNAMI WARNING AND MITIGATION NETWORK.** 33 USC 3206.

(a) INTERNATIONAL TSUNAMI WARNING SYSTEM.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, in coordination with other members of the United States Interagency Committee of the National Tsunami Hazard Mitigation Program, shall provide technical assistance and training to the Intergovernmental Oceanographic Commission, the World Meteorological Organization, and other international entities, as part of international efforts to develop a fully functional global tsunami forecast and warning system comprising regional tsunami warning networks, modeled on the International Tsunami Warning System of the Pacific.

(b) INTERNATIONAL TSUNAMI INFORMATION CENTER.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, in cooperation with the Intergovernmental Oceanographic Commission, shall operate an International Tsunami Information Center to improve tsunami preparedness for all Pacific Ocean nations participating in the International Tsunami Warning System of the Pacific, and may also provide such assistance to other nations participating in a global tsunami warning system established through the Intergovernmental Oceanographic Commission. As part of its responsibilities around the world, the Center shall—

(1) monitor international tsunami warning activities around the world;

(2) assist member states in establishing national warning systems, and make information available on current technologies for tsunami warning systems;

(3) maintain a library of materials to promulgate knowledge about tsunami in general and for use by the scientific community; and

(4) disseminate information, including educational materials and research reports.

(c) DETECTION EQUIPMENT; TECHNICAL ADVICE AND TRAINING.—In carrying out this section, the National Weather Service—

(1) shall give priority to assisting nations in identifying vulnerable coastal areas, creating inundation maps, obtaining or designing real-time detection and reporting equipment, and establishing communication and warning networks and contact points in each vulnerable nation;

(2) may establish a process for transfer of detection and communication technology to affected nations for the purposes of establishing the international tsunami warning system; and

(3) shall provide technical and other assistance to support international tsunami programs.

(d) DATA-SHARING REQUIREMENT.—The National Weather Service, when deciding to provide assistance under this section, may take into consideration the data sharing policies and practices of nations proposed to receive such assistance, with a goal to encourage all nations to support full and open exchange of data.

33 USC 3207.

**SEC. 808. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Administrator to carry out this title—

(1) $25,000,000 for fiscal year 2008, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806;

(2) $26,000,000 for fiscal year 2009, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806;

(3) $27,000,000 for fiscal year 2010, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806;

(4) $28,000,000 for fiscal year 2011, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806; and

(5) $29,000,000 for fiscal year 2012, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806.

# TITLE IX—POLAR BEARS

United States-Russia Polar Bear Conservation and Management Act of 2006.
16 USC 1361 note.

**SEC. 901. SHORT TITLE.**

This title may be cited as the "United States-Russia Polar Bear Conservation and Management Act of 2006".

**SEC. 902. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.**

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end thereof the following:

# "TITLE V—POLAR BEARS

16 USC 1423.

**"SEC. 501. DEFINITIONS.**

"In this title:

"(1) AGREEMENT.—The term 'Agreement' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

"(2) ALASKA NANUUQ COMMISSION.—The term 'Alaska Nanuuq Commission' means the Alaska Native entity, in existence on the date of enactment of the United States-Russia Polar Bear Conservation and Management Act of 2006, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

"(3) IMPORT.—The term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

"(4) POLAR BEAR PART OR PRODUCT.—The term 'part or product of a polar bear' means any polar bear part or product, including the gall bile and gall bladder.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(6) TAKING.—The term 'taking' has the meaning given the term in the Agreement.

"(7) COMMISSION.—The term 'Commission' means the commission established under article 8 of the Agreement.

**"SEC. 502. PROHIBITIONS.** 16 USC 1423a.

"(a) IN GENERAL.—It is unlawful for any person who is subject to the jurisdiction of the United States or any person in waters or on lands under the jurisdiction of the United States—

"(1) to take any polar bear in violation of the Agreement;

"(2) to take any polar bear in violation of the Agreement or any annual taking limit or other restriction on the taking of polar bears that is adopted by the Commission pursuant to the Agreement;

"(3) to import, export, possess, transport, sell, receive, acquire, or purchase, exchange, barter, or offer to sell, purchase, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of paragraph (2);

"(4) to import, export, sell, purchase, exchange, barter, or offer to sell, purchase, exchange, or barter, any polar bear gall bile or polar bear gall bladder;

"(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

"(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

"(b) EXCEPTIONS.—For the purpose of forensic testing or any other law enforcement purpose, the Secretary, and Federal law enforcement officials, and any State or local law enforcement official authorized by the Secretary, may import a polar bear or any part or product of a polar bear.

16 USC 1423b.

**"SEC. 503. ADMINISTRATION.**

"(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement.

"(b) UTILIZATION OF OTHER GOVERNMENT RESOURCES AND AUTHORITIES.—

"(1) OTHER GOVERNMENT RESOURCES.—The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this title or the Agreement.

"(2) OTHER POWERS AND AUTHORITIES.—Any person authorized by the Secretary under this subsection to enforce this title or the Agreement shall have the authorities that are enumerated in section 6(b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)).

"(c) ENSURING COMPLIANCE.—

"(1) TITLE I AUTHORITIES.—The Secretary may use authorities granted under title I for enforcement, imposition of penalties, and the seizure of cargo for violations under this title, provided that any polar bear or any part or product of a polar bear taken, imported, exported, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered, or offered for sale, purchase, exchange, or barter in violation of this title, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution under this Act.

"(2) ADDITIONAL AUTHORITIES.—Any gun, trap, net, or other equipment used, and any vessel, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this title shall be subject to seizure and forfeiture under section 106.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out this title and the Agreement.

"(2) ORDINANCES AND REGULATIONS.—If necessary to carry out this title and the Agreement, and to improve compliance with any annual taking limit or other restriction on taking adopted by the Commission and implemented by the Secretary in accordance with this title, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuuq Commission.

16 USC 1423c.

**"SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AUTHORITY TO DELEGATE ENFORCEMENT AUTHORITY.**

"(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, may share authority under this title for the management of the taking of polar bears

for subsistence purposes with the Alaska Nanuuq Commission if such commission is eligible under subsection (b).

"(b) DELEGATION.—To be eligible for the management authority described in subsection (a), the Alaska Nanuuq Commission shall—

"(1) enter into a cooperative agreement with the Secretary under section 119 for the conservation of polar bears;

"(2) meaningfully monitor compliance with this title and the Agreement by Alaska Natives; and

"(3) administer its co-management program for polar bears in accordance with—

"(A) this title; and

"(B) the Agreement.

**"SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION, TRAVEL EXPENSES, AND CLAIMS.** 16 USC 1423d.

"(a) APPOINTMENT OF UNITED STATES COMMISSIONERS.—

"(1) APPOINTMENT.—The United States commissioners on the Commission shall be appointed by the President, in accordance with paragraph 2 of article 8 of the Agreement, after taking into consideration the recommendations of— President.

"(A) the Secretary;

"(B) the Secretary of State; and

"(C) the Alaska Nanuuq Commission.

"(2) QUALIFICATIONS.—With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement—

"(A) 1 United States commissioner shall be an official of the Federal Government;

"(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and Native Alaskans.

"(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

"(3) SERVICE AND TERM.—Each United States commissioner shall serve—

"(A) at the pleasure of the President; and

"(B) for an initial 4-year term and such additional terms as the President shall determine.

"(4) VACANCIES.—

"(A) IN GENERAL.—Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

"(B) MANNER.—Any vacancy on the Commission shall be filled in the same manner as the original appointment.

"(b) ALTERNATE COMMISSIONERS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State and the Alaska Nanuuq Commission, shall designate an alternate commissioner for each member of the United States section.

"(2) DUTIES.—In the absence of a United States commissioner, an alternate commissioner may exercise all functions of the United States commissioner at any meetings of the Commission or of the United States section.

"(3) REAPPOINTMENT.—An alternate commissioner—

President.

"(A) shall be eligible for reappointment by the President; and

"(B) may attend all meetings of the United States section.

"(c) DUTIES.—The members of the United States section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this title and the Agreement.

"(d) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—A member of the United States section shall serve without compensation.

"(2) TRAVEL EXPENSES.—A member of the United States section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

"(e) AGENCY DESIGNATION.—The United States section shall, for the purpose of title 28, United States Code, relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

16 USC 1423e.

**"SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION ON MATTERS BEFORE THE COMMISSION.**

"In accordance with paragraph 3 of article 8 of the Agreement, the United States section, made up of commissioners appointed by the President, shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the United States commissioners regarding the vote.

16 USC 1423f.

**"SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE COMMISSION.**

"(a) IN GENERAL.—The Secretary shall take all necessary actions to implement the decisions and determinations of the Commission under paragraph 7 of article 8 of the Agreement.

Deadline.
Notice.
Federal Register, publication.

"(b) TAKING LIMITATION.—Not later than 60 days after the date on which the Secretary receives notice of the determination of the Commission of an annual taking limit, or of the adoption by the Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

16 USC 1423g.

**"SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.**

"(a) IN GENERAL.—The authority of the Secretary under this title is in addition to, and shall not affect—

"(1) the authority of the Secretary under other titles of this Act or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 101(b) of this Act as applied to other marine mammal populations; or

"(2) the authorities provided under title II of this Act.

"(b) CERTAIN PROVISIONS INAPPLICABLE.—The provisions of titles I through IV of this Act do not apply with respect to the implementation or administration of this title, except as specified in section 503.

**"SEC. 509. AUTHORIZATION OF APPROPRIATIONS.** 16 USC 1423h.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this title and the Agreement $1,000,000 for each of fiscal years 2006 through 2010.

"(b) COMMISSION.—There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section $150,000 for each of fiscal years 2006 through 2010.

"(c) ALASKAN COOPERATIVE MANAGEMENT PROGRAM.—There are authorized to be appropriated to the Secretary to carry out this title and the Agreement in Alaska $150,000 for each of fiscal years 2006 through 2010.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

"TITLE V—POLAR BEARS

"Sec. 501. Definitions.
"Sec. 502. Prohibitions.
"Sec. 503. Administration.
"Sec. 504. Cooperative management agreement; authority to delegate enforcement authority.
"Sec. 505. Commission appointments; compensation, travel expenses, and claims.
"Sec. 506. Votes taken by the United States Section on matters before the Commission.
"Sec. 507. Implementation of actions taken by the Commission.
"Sec. 508. Application with other titles of Act.
"Sec. 509. Authorization of appropriations.".

(c) TREATMENT OF CONTAINERS.—Section 107(d)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1377(d)(2)) is amended by striking "vessel or other conveyance" each place it appears and inserting "vessel, other conveyance, or container".

Approved January 12, 2007.

---

LEGISLATIVE HISTORY—H.R. 5946 (S. 2012):

SENATE REPORTS: No. 109–229 accompanying S. 2012 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 27, considered and passed House.
Dec. 7, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 43 (2007):
Jan. 12, Presidential statement.

# Public Law 109–480
# 109th Congress

## An Act

Jan. 12, 2007
[H.R. 5948]

To reauthorize the Belarus Democracy Act of 2004.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Belarus Democracy Reauthorization Act of 2006.
22 USC 5801 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Belarus Democracy Reauthorization Act of 2006".

**SEC. 2. FINDINGS.**

Section 2 of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) is amended to read as follows:

**"SEC. 2. FINDINGS.**

"Congress makes the following findings:

"(1) The Government of the Republic of Belarus has engaged in a pattern of clear and uncorrected violations of human rights and fundamental freedoms.

"(2) The Government of Belarus has engaged in a pattern of clear and uncorrected violations of basic principles of democratic governance, including through a series of fundamentally flawed presidential and parliamentary elections undermining the legitimacy of executive and legislative authority in that country.

"(3) The most recent presidential elections in Belarus held on March 19, 2006, failed to meet the commitments of the Organization for Security and Cooperation in Europe (OSCE) for democratic elections and the arbitrary use of state power and widespread detentions show a disregard for the basic rights of freedom of assembly, association, and expression, and raise doubts regarding the willingness of authorities in Belarus to tolerate political competition.

"(4) The regime of Aleksandr Lukashenka has maintained power in Belarus by orchestrating an illegal and unconstitutional referendum that enabled him to impose a new constitution, abolish the duly-elected parliament, the 13th Supreme Soviet, install a largely powerless National Assembly, extend his term of office, and remove applicable term limits.

"(5) The Government of Belarus has failed to make a credible effort to solve the cases of disappeared opposition figures Yuri Zakharenka, Viktor Gonchar, and Anatoly Krasovsky in 1999 and journalist Dmitry Zavadsky in 2000, even though credible allegations and evidence exist linking top officials of the Lukashenka regime with these disappearances.

"(6) Political opposition figures Aleksandr Kozulin, Tsimafei Dranchuk, Mikalay Astreyka, Artur Finkevich, Mikalay Razumau, Katsyaryna Sadouskaya, Zmitser Dashkevich, Mikhail Marynich, Mikalay Statkevych, Pavel Sevyarinets, Andrei Klimau, Valery Levaneusky, and Siarhei Skrebets have been imprisoned or served 'corrective labor' sentences because of their political activity.

"(7) Hundreds of pro-democratic political activists have been subjected to frequent harassment and jailings, especially during, and in the aftermath of the fatally flawed March 19, 2006, presidential elections in Belarus.

"(8) The Government of Belarus has attempted to maintain a monopoly over the country's information space, targeting independent media for systematic reprisals and elimination, while suppressing the right to freedom of speech and expression of those dissenting from the regime.

"(9) The Belarusian authorities have perpetuated a climate of fear in Belarus by mounting a systematic crackdown on civil society through the harassment, repression, and closure of nongovernmental organizations and independent trade unions.

"(10) The Lukashenka regime has increasingly subjected leaders and members of minority and unregistered religious communities to harassment, including the imposition of heavy fines, denying permission to meet for religious services, prosecutions, and jail terms for activities in the practice of their faith.

"(11) The Belarusian authorities have further attempted to silence dissent through retribution against human rights and pro-democracy activists through threats, firings, expulsions, beatings and other forms of intimidation.".

**SEC. 3. STATEMENT OF POLICY.**

The Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) is amended—

(1) by striking section 8;

(2) by redesignating sections 3 through 7 as sections 4 through 8, respectively; and

(3) by inserting after section 2 the following new section:

**"SEC. 3. STATEMENT OF POLICY.**

"It is the policy of the United States—

"(1) to call upon the immediate release without preconditions of all political prisoners in Belarus;

"(2) to support the aspirations of the people of the Republic of Belarus for democracy, human rights, and the rule of law;

"(3) to support the aspirations of the people of the Republic of Belarus to preserve the independence and sovereignty of their country;

"(4) to seek and support the growth of democratic movements and institutions in Belarus, with the ultimate goal of ending tyranny in that country;

"(5) to refuse to accept the results of the fatally flawed March 19, 2006, presidential elections held in Belarus and support the call for new presidential elections;

"(6) to refuse to recognize any possible referendum, or the results of any referendum, that would affect the sovereignty of Belarus; and

"(7) to work closely with other countries and international organizations, including the European Union, to promote the conditions necessary for the integration of Belarus into the European community of democracies.".

**SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN BELARUS.**

(a) PURPOSES OF ASSISTANCE.—Section 4(a) of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended—

(1) in paragraph (1), by striking "regaining their freedom and to enable them" and inserting "their pursuit of freedom, democracy, and human rights and in their aspiration";

(2) in paragraph (2)—

(A) by striking "free and fair" and inserting "free, fair, and transparent"; and

(B) by adding at the end before the period the following: "and independent domestic observers"; and

(3) in paragraph (3), by striking "restoring and strengthening institutions of democratic governance" and inserting "the development of a democratic political culture and civil society".

(b) ACTIVITIES SUPPORTED.—Section 4(c) of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively;

(2) by striking paragraphs (1) through (5) and inserting the following new paragraphs:

"(1) expanding independent radio and television broadcasting to and within Belarus;

"(2) facilitating the development of independent broadcast, print, and Internet media working within Belarus and from locations outside the country and supported by nonstate-controlled printing facilities;

"(3) aiding the development of civil society through assistance to nongovernmental organizations promoting democracy and supporting human rights, including youth groups, entrepreneurs, and independent trade unions;

"(4) supporting the work of human rights defenders;

"(5) enhancing the development of democratic political parties;

"(6) assisting the promotion of free, fair, and transparent electoral processes;"; and

(3) in paragraph (7) (as redesignated), by inserting "enhancing" before "international exchanges".

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AMENDMENT.—Section 4(d)(1) of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended by striking "2005 and 2006" and inserting "2007 and 2008".

22 USC 5811 note.

(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to the authorization of appropriations under section 4(d) of the Belarus Democracy Act of 2004 (as redesignated) before the date of the enactment of this Act.

**SEC. 5. RADIO AND TELEVISION BROADCASTING TO BELARUS.**

(a) PURPOSE.—Section 5(a) of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended by striking "radio broadcasting" and inserting "radio and television broadcasting".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5(b) of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended by striking "radio broadcasting" and inserting "radio and television broadcasting".

(c) CONFORMING AMENDMENT.—Section 5 of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended in the heading by striking "**RADIO BROADCASTING**" and inserting "**RADIO AND TELEVISION BROADCASTING**".

**SEC. 6. SANCTIONS AGAINST THE GOVERNMENT OF BELARUS.**

Section 6 of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended to read as follows:

**"SEC. 6. SANCTIONS AGAINST THE GOVERNMENT OF BELARUS.**

President. Certification.

"(a) APPLICATION OF SANCTIONS.—The sanctions described in subsections (c) through (f) should apply with respect to the Republic of Belarus until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b).

"(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

"(1) The release of individuals in Belarus who have been jailed based on political or religious beliefs.

"(2) The withdrawal of politically motivated legal charges against all opposition activists and independent journalists in Belarus.

Victor Gonchar. Anatoly Krasovsky. Yuri Zakharenka. Dmitry Zavadsky.

"(3) A full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are in any way responsible for their disappearances.

"(4) The cessation of all forms of harassment and repression against the independent media, independent trade unions, nongovernmental organizations, youth groups, religious organizations (including their leadership and members), and the political opposition in Belarus.

"(5) The prosecution of senior leadership of the Government of Belarus responsible for the administration of fraudulent elections.

"(6) A full accounting of the embezzlement of state assets by senior leadership of the Government of Belarus, their family members, and other associates.

"(7) The holding of free, fair and transparent presidential and parliamentary elections in Belarus consistent with OSCE standards and under the supervision of internationally recognized observers and independent domestic observers.

"(c) DENIAL OF ENTRY INTO THE UNITED STATES OF SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—Notwithstanding any other provision of law, the President may exercise the authority under section 212(f) of the Immigration and Nationality Act (8

U.S.C. 1182(f)) to deny the entry into the United States of any alien who—

"(1) holds a position in the senior leadership of the Government of Belarus;

"(2) is an immediate family member of a person inadmissible under subparagraph (A); or

"(3) through his or her business dealings with senior leadership of the Government of Belarus derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus.

"(d) PROHIBITION ON LOANS AND INVESTMENT.—

"(1) UNITED STATES GOVERNMENT FINANCING.—It is the sense of Congress that no loan, credit guarantee, insurance, financing, or other similar financial assistance should be extended by any agency of the Government of the United States (including the Export-Import Bank of the United States and the Overseas Private Investment Corporation) to the Government of Belarus, except with respect to the provision of humanitarian goods and agricultural or medical products.

"(2) TRADE AND DEVELOPMENT AGENCY.—It is the sense of Congress that no funds available to the Trade and Development Agency should be available for activities of the Agency in or for Belarus.

"(e) MULTILATERAL FINANCIAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States Executive Director of each international financial institution to which the United States is a member to use the voice and vote of the United States to oppose any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Belarus, except for loans and assistance that serve humanitarian needs.

"(f) BLOCKING OF ASSETS AND OTHER PROHIBITED ACTIVITIES.—

"(1) BLOCKING OF ASSETS.—It is the sense of Congress that the President should block all property and interests in property, including all commercial, industrial, or public utility undertakings or entities, that, on or after the date of the enactment of the Belarus Democracy Reauthorization Act of 2006—

"(A) are owned, in whole or in part, by the Government of Belarus, or by any member or family member closely linked to any member of the senior leadership of the Government of Belarus, or any person who through his or her business dealings with senior leadership of the Government of Belarus derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus; and

"(B) are in the United States, or in the possession or control of the Government of the United States or of any United States financial institution, including any branch or office of such financial institution that is located outside the United States.

"(2) PROHIBITED ACTIVITIES.—Activities prohibited by reason of the blocking of property and interests in property under paragraph (1) should include—

"(A) payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person, to the Government of Belarus, to any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by that government, or to any member of the senior leadership of the Government of Belarus;

"(B) the export or reexport to any entity owned, controlled, or operated by the Government of Belarus, directly or indirectly, of any goods, technology, or services, either—

"(i) by a United States person; or

"(ii) involving the use of any air carrier (as defined in section 40102 of title 49, United States Code) or a vessel documented under the laws of the United States; and

"(C) the performance by any United States person of any contract, including a contract providing a loan or other financing, in support of an industrial, commercial, or public utility operated, controlled, or owned by the Government of Belarus.

"(3) PAYMENT OF EXPENSES.—All expenses incident to the blocking and maintenance of property blocked under paragraph (1) should be charged to the owners or operators of such property. Such expenses may not be paid from blocked funds.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit any contract or other financial transaction with any private or nongovernmental organization or business in Belarus.

"(5) EXCEPTIONS.—Paragraphs (1) and (2) do not apply to—

"(A) assistance authorized under section 4 or 5 of this Act; or

"(B) medicine, medical equipment or supplies, food, as well as any other form of humanitarian assistance provided to Belarus as relief in response to a humanitarian crisis.

"(6) PENALTIES.—Any person who violates any prohibition or restriction imposed under this subsection should be subject to the penalties under section 6 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as for a violation under that Act.

"(7) DEFINITIONS.—In this subsection:

"(A) AIR CARRIER.—The term 'air carrier' has the meaning given that term in section 40102 of title 49, United States Code.

"(B) UNITED STATES PERSON.—The term 'United States person' means—

"(i) any United States citizen or alien admitted for permanent residence to the United States;

"(ii) any entity organized under the laws of the United States; and

"(iii) any person in the United States.".

**SEC. 7. MULTILATERAL COOPERATION.**

Section 7 of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) (as redesignated) is amended—

(1) by striking "to coordinate with" and inserting "the support of"; and

(2) by striking "a comprehensive" and inserting "for a comprehensive".

**SEC. 8. DEFINITIONS.**

Section 9(3) of the Belarus Democracy Act of 2004 (22 U.S.C. 5811 note) is amended—

(1) in subparagraph (A), by inserting "governors, heads of state enterprises," after "Chairmen of State Committees,"; and

(2) in subparagraph (B)—

(A) by striking "who is" and inserting the following: "who—

"(i) is";

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

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

"(ii) is otherwise engaged in public corruption in Belarus; and".

Approved January 12, 2007.

LEGISLATIVE HISTORY—H.R. 5948:

CONGRESSIONAL RECORD, Vol. 152 (2006):

Dec. 7, considered in House.

Dec. 8, considered and passed House and Senate.

# Public Law 109–481
# 109th Congress

## An Act

To amend title 18, United States Code, to prevent and repress the misuse of the Red Crescent distinctive emblem and the Third Protocol (Red Crystal) distinctive emblem.

Jan. 12, 2007
[H.R. 6338]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Geneva Distinctive Emblems Protection Act of 2006.
18 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Geneva Distinctive Emblems Protection Act of 2006".

**SEC. 2. GENEVA DISTINCTIVE EMBLEMS.**

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by inserting after section 706 the following:

### "§ 706a. Geneva distinctive emblems

"(a) Whoever wears or displays the sign of the Red Crescent or the Third Protocol Emblem (the Red Crystal), or any insignia colored in imitation thereof for the fraudulent purpose of inducing the belief that he is a member of or an agent for an authorized national society using the Red Crescent or the Third Protocol Emblem, the International Committee of the Red Cross, or the International Federation of Red Cross and Red Crescent Societies shall be fined under this title or imprisoned not more than 6 months, or both.

"(b) Except as set forth in section (c) and (d), whoever, whether a corporation, association, or person, uses the emblem of the Red Crescent or the Third Protocol Emblem on a white ground or any sign or insignia made or colored in imitation thereof or the designations 'Red Crescent' or 'Third Protocol Emblem' shall be fined under this title or imprisoned not more than 6 months, or both.

"(c) The following may use such emblems and designations consistent with the Geneva Conventions of August 12, 1949, and, if applicable, the Additional Protocols:

"(1) Authorized national societies that are members of the International Federation of Red Cross and Red Crescent Societies and their duly authorized employees and agents.

"(2) The International Committee of the Red Cross and its duly authorized employees and agents.

"(3) The International Federation of Red Cross and Red Crescent Societies and its duly authorized employees and agents.

"(4) The sanitary and hospital authorities of the armed forces of State Parties to the Geneva Conventions of August 12, 1949.

"(d) This section does not make unlawful the use of any such emblem, sign, insignia, or words which was lawful on or before December 8, 2005, if such use would not appear in time of armed conflict to confer the protections of the Geneva Conventions of August 12, 1949, and, if applicable, the Additional Protocols.

"(e) A violation of this section or section 706 may be enjoined at the civil suit of the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 18, United States Code, is amended by inserting after the item relating to section 706 the following new item:

"706a. Geneva distinctive emblems.".

Approved January 12, 2007.

LEGISLATIVE HISTORY—H.R. 6338:

CONGRESSIONAL RECORD, Vol. 152 (2006):
Dec. 5, considered and passed House.
Dec. 8, considered and passed Senate.

Public Law 109–482
109th Congress

# An Act

To amend title IV of the Public Health Service Act to revise and extend the authorities of the National Institutes of Health, and for other purposes.

Jan. 15, 2007
[H.R. 6164]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*,

**SECTION 1. SHORT TITLE.**

National Institutes of Health Reform Act of 2006.
42 USC 201 note.

This Act may be cited as the "National Institutes of Health Reform Act of 2006".

# TITLE I—NIH REFORM

**SEC. 101. ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.**

(a) IN GENERAL.—Section 401 of the Public Health Service Act (42 U.S.C. 281) is amended to read as follows:

**"SEC. 401. ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.**

"(a) RELATION TO PUBLIC HEALTH SERVICE.—The National Institutes of Health is an agency of the Service.

"(b) NATIONAL RESEARCH INSTITUTES AND NATIONAL CENTERS.—The following agencies of the National Institutes of Health are national research institutes or national centers:

"(1) The National Cancer Institute.

"(2) The National Heart, Lung, and Blood Institute.

"(3) The National Institute of Diabetes and Digestive and Kidney Diseases.

"(4) The National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(5) The National Institute on Aging.

"(6) The National Institute of Allergy and Infectious Diseases.

"(7) The National Institute of Child Health and Human Development.

"(8) The National Institute of Dental and Craniofacial Research.

"(9) The National Eye Institute.

"(10) The National Institute of Neurological Disorders and Stroke.

"(11) The National Institute on Deafness and Other Communication Disorders.

"(12) The National Institute on Alcohol Abuse and Alcoholism.

"(13) The National Institute on Drug Abuse.

"(14) The National Institute of Mental Health.

"(15) The National Institute of General Medical Sciences.

"(16) The National Institute of Environmental Health Sciences.

"(17) The National Institute of Nursing Research.

"(18) The National Institute of Biomedical Imaging and Bioengineering.

"(19) The National Human Genome Research Institute.

"(20) The National Library of Medicine.

"(21) The National Center for Research Resources.

"(22) The John E. Fogarty International Center for Advanced Study in the Health Sciences.

"(23) The National Center for Complementary and Alternative Medicine.

"(24) The National Center on Minority Health and Health Disparities.

"(25) Any other national center that, as an agency separate from any national research institute, was established within the National Institutes of Health as of the day before the date of the enactment of the National Institutes of Health Reform Act of 2006.

"(c) DIVISION OF PROGRAM COORDINATION, PLANNING, AND STRATEGIC INITIATIVES.—

"(1) IN GENERAL.—Within the Office of the Director of the National Institutes of Health, there shall be a Division of Program Coordination, Planning, and Strategic Initiatives (referred to in this subsection as the 'Division').

"(2) OFFICES WITHIN DIVISION.—

"(A) OFFICES.—The following offices are within the Division: The Office of AIDS Research, the Office of Research on Women's Health, the Office of Behavioral and Social Sciences Research, the Office of Disease Prevention, the Office of Dietary Supplements, the Office of Rare Diseases, and any other office located within the Office of the Director of NIH as of the day before the date of the enactment of the National Institutes of Health Reform Act of 2006. In addition to such offices, the Director of NIH may establish within the Division such additional offices or other administrative units as the Director determines to be appropriate.

"(B) AUTHORITIES.—Each office in the Division—

"(i) shall continue to carry out the authorities that were in effect for the office before the date of enactment referred to in subparagraph (A); and

"(ii) shall, as determined appropriate by the Director of NIH, support the Division with respect to the authorities described in section 402(b)(7).

"(d) ORGANIZATION.—

"(1) NUMBER OF INSTITUTES AND CENTERS.—In the National Institutes of Health, the number of national research institutes and national centers may not exceed a total of 27, including any such institutes or centers established under authority of paragraph (2) or under authority of this title as in effect on the day before the date of the enactment of the National Institutes of Health Reform Act of 2006.".

(b) ADDITIONAL PROVISIONS REGARDING ORGANIZATION.—Section 401 of the Public Health Service Act, as added by subsection (a) of this section, is amended—

(1) in subsection (d), by adding at the end the following:

"(3) REORGANIZATION OF OFFICE OF DIRECTOR.—Notwithstanding subsection (c), the Director of NIH may, after a series of public hearings, and with the approval of the Secretary, reorganize the offices within the Office of the Director, including the addition, removal, or transfer of functions of such offices, and the establishment or termination of such offices, if the Director determines that the overall management and operation of programs and activities conducted or supported by such offices would be more efficiently carried out under such a reorganization.

"(4) INTERNAL REORGANIZATION OF INSTITUTES AND CENTERS.—Notwithstanding any conflicting provisions of this title, the director of a national research institute or a national center may, after a series of public hearings and with the approval of the Director of NIH, reorganize the divisions, centers, or other administrative units within such institute or center, including the addition, removal, or transfer of functions of such units, and the establishment or termination of such units, if the director of such institute or center determines that the overall management and operation of programs and activities conducted or supported by such divisions, centers, or other units would be more efficiently carried out under such a reorganization."; and

(2) by adding after subsection (d) the following:

"(e) SCIENTIFIC MANAGEMENT REVIEW BOARD FOR PERIODIC ORGANIZATIONAL REVIEWS.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of the National Institutes of Health Reform Act of 2006, the Secretary shall establish an advisory council within the National Institutes of Health to be known as the Scientific Management Review Board (referred to in this subsection as the 'Board').

Deadline.
Establishment.

"(2) DUTIES.—

"(A) REPORTS ON ORGANIZATIONAL ISSUES.—The Board shall provide advice to the appropriate officials under subsection (d) regarding the use of the authorities established in paragraphs (2), (3), and (4) of such subsection to reorganize the National Institutes of Health (referred to in this subsection as 'organizational authorities'). Not less frequently than once each 7 years, the Board shall—

"(i) determine whether and to what extent the organizational authorities should be used; and

"(ii) issue a report providing the recommendations of the Board regarding the use of the authorities and the reasons underlying the recommendations.

"(B) CERTAIN RESPONSIBILITIES REGARDING REPORTS.—The activities of the Board with respect to a report under subparagraph (A) shall include the following:

"(i) Reviewing the research portfolio of the National Institutes of Health (referred to in this subsection as 'NIH') in order to determine the progress and effectiveness and value of the portfolio and the allocation among the portfolio activities of the resources of NIH.

"(ii) Determining pending scientific opportunities, and public health needs, with respect to research within the jurisdiction of NIH.

"(iii) For any proposal for organizational changes to which the Board gives significant consideration as a possible recommendation in such report—

"(I) analyzing the budgetary and operational consequences of the proposed changes;

"(II) taking into account historical funding and support for research activities at national research institutes and centers that have been established recently relative to national research institutes and centers that have been in existence for more than two decades;

"(III) estimating the level of resources needed to implement the proposed changes;

"(IV) assuming the proposed changes will be made and making a recommendation for the allocation of the resources of NIH among the national research institutes and national centers; and

"(V) analyzing the consequences for the progress of research in the areas affected by the proposed changes.

"(C) CONSULTATION.—In carrying out subparagraph (A), the Board shall consult with—

"(i) the heads of national research institutes and national centers whose directors are not members of the Board;

"(ii) other scientific leaders who are officers or employees of NIH and are not members of the Board;

"(iii) advisory councils of the national research institutes and national centers;

"(iv) organizations representing the scientific community; and

"(v) organizations representing patients.

"(3) COMPOSITION OF BOARD.—The Board shall consist of the Director of NIH, who shall be a permanent nonvoting member on an ex officio basis, and an odd number of additional members, not to exceed 21, all of whom shall be voting members. The voting members of the Board shall be the following:

"(A) Not fewer than 9 officials who are directors of national research institutes or national centers. The Secretary shall designate such officials for membership and shall ensure that the group of officials so designated includes directors of—

"(i) national research institutes whose budgets are substantial relative to a majority of the other institutes;

"(ii) national research institutes whose budgets are small relative to a majority of the other institutes;

"(iii) national research institutes that have been in existence for a substantial period of time without significant organizational change under subsection (d);

"(iv) as applicable, national research institutes that have undergone significant organization changes under such subsection, or that have been established under such subsection, other than national research institutes

for which such changes have been in place for a substantial period of time; and

"(v) national centers.

"(B) Members appointed by the Secretary from among individuals who are not officers or employees of the United States. Such members shall include—

"(i) individuals representing the interests of public or private institutions of higher education that have historically received funds from NIH to conduct research; and

"(ii) individuals representing the interests of private entities that have received funds from NIH to conduct research or that have broad expertise regarding how the National Institutes of Health functions, exclusive of private entities to which clause (i) applies.

"(4) CHAIR.—The Chair of the Board shall be selected by the Secretary from among the members of the Board appointed under paragraph (3)(B). The term of office of the Chair shall be 2 years.

"(5) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at the call of the Chair or upon the request of the Director of NIH, but not fewer than 5 times with respect to issuing any particular report under paragraph (2)(A). The location of the meetings of the Board is subject to the approval of the Director of NIH.

"(B) PARTICULAR FORUMS.—Of the meetings held under subparagraph (A) with respect to a report under paragraph (2)(A)—

"(i) one or more shall be directed toward the scientific community to address scientific needs and opportunities related to proposals for organizational changes under subsection (d), or as the case may be, related to a proposal that no such changes be made; and

"(ii) one or more shall be directed toward consumer organizations to address the needs and opportunities of patients and their families with respect to proposals referred to in clause (i).

"(C) AVAILABILITY OF INFORMATION FROM FORUMS.— For each meeting under subparagraph (B), the Director of NIH shall post on the Internet site of the National Institutes of Health a summary of the proceedings. Website.

"(6) COMPENSATION; TERM OF OFFICE.—The provisions of subsections (b)(4) and (c) of section 406 apply with respect to the Board to the same extent and in the same manner as such provisions apply with respect to an advisory council referred to in such subsections, except that the reference in such subsection (c) to 4 years regarding the term of an appointed member is deemed to be a reference to 5 years. Applicability.

"(7) REPORTS.—

"(A) RECOMMENDATIONS FOR CHANGES.—Each report under paragraph (2)(A) shall be submitted to—

"(i) the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives;

"(ii) the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate;

"(iii) the Secretary; and

"(iv) officials with organizational authorities, other than any such official who served as a member of the Board with respect to the report involved.

Website.

"(B) AVAILABILITY TO PUBLIC.—The Director of NIH shall post each report under paragraph (2) on the Internet site of the National Institutes of Health.

"(C) REPORT ON BOARD ACTIVITIES.—Not later than 18 months after the date of the enactment of the National Institutes of Health Reform Act of 2006, the Board shall submit to the committees specified in subparagraph (A) a report describing the activities of the Board.

"(f) ORGANIZATIONAL CHANGES PER RECOMMENDATION OF SCIENTIFIC MANAGEMENT REVIEW BOARD.—

Deadlines.

"(1) IN GENERAL.—With respect to an official who has organizational authorities within the meaning of subsection (e)(2)(A), if a recommendation to the official for an organizational change is made in a report under such subsection, the official shall, except as provided in paragraphs (2), (3), and (4) of this subsection, make the change in accordance with the following:

"(A) Not later than 100 days after the report is submitted under subsection (e)(7)(A), the official shall initiate the applicable public process required in subsection (d) toward making the change.

"(B) The change shall be fully implemented not later than the expiration of the 3-year period beginning on the date on which such process is initiated.

"(2) INAPPLICABILITY TO CERTAIN REORGANIZATIONS.—Paragraph (1) does not apply to a recommendation made in a report under subsection (e)(2)(A) if the recommendation is for—

"(A) an organizational change under subsection (d)(2) that constitutes the establishment, termination, or consolidation of one or more national research institutes or national centers; or

"(B) an organizational change under subsection (d)(3).

"(3) OBJECTION BY DIRECTOR OF NIH.—

Deadline.
Reports.

"(A) IN GENERAL.—Paragraph (1) does not apply to a recommendation for an organizational change made in a report under subsection (e)(2)(A) if, not later than 90 days after the report is submitted under subsection (e)(7)(A), the Director of NIH submits to the committees specified in such subsection a report providing that the Director objects to the change, which report includes the reasons underlying the objection.

"(B) SCOPE OF OBJECTION.—For purposes of subparagraph (A), an objection by the Director of NIH may be made to the entirety of a recommended organizational change or to 1 or more aspects of the change. Any aspect of a change not objected to by the Director in a report under subparagraph (A) shall be implemented in accordance with paragraph (1).

Regulations.

"(4) CONGRESSIONAL REVIEW.—An organizational change under subsection (d)(2) that is initiated pursuant to paragraph

(1) shall be carried out by regulation in accordance with the procedures for substantive rules under section 553 of title 5, United States Code. A rule under the preceding sentence shall be considered a major rule for purposes of chapter 8 of such title (relating to congressional review of agency rulemaking).

"(g) DEFINITIONS.—For purposes of this title:

"(1) The term 'Director of NIH' means the Director of the National Institutes of Health.

"(2) The terms 'national research institute' and 'national center' mean an agency of the National Institutes of Health that is—

"(A) listed in subsection (b) and not terminated under subsection (d)(2)(A); or

"(B) established by the Director of NIH under such subsection.

"(h) REFERENCES TO NIH.—For purposes of this title, a reference to the National Institutes of Health includes its agencies.".

(c) CONFORMING AMENDMENTS.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) by redesignating subpart 3 of part E as subpart 19; 42 USC 287c.

(2) by transferring subpart 19, as so redesignated, to part C of such title IV;

(3) by inserting subpart 19, as so redesignated, after subpart 18 of such part C; and

(4) in subpart 19, as so redesignated—

(A) by redesignating section 485B as section 464z–1; 42 USC 287c, 285s.

(B) by striking "National Center for Human Genome Research" each place such term appears and inserting "National Human Genome Research Institute"; and 42 USC 285s.

(C) by striking "Center" each place such term appears and inserting "Institute".

**SEC. 102. AUTHORITY OF DIRECTOR OF NIH.**

(a) SECRETARY ACTING THROUGH THE DIRECTOR.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) by redesignating paragraph (14) as paragraph (22);

(2) by striking paragraphs (12) and (13);

(3) by redesignating paragraphs (4) through (11) as paragraphs (14) through (21);

(4) in paragraph (21) (as so redesignated), by inserting "and" after the semicolon at the end;

(5) in the matter after and below paragraph (22) (as so redesignated), by striking "paragraph (6)" and inserting "paragraph (16)"; and

(6) by striking "the Secretary" in the matter preceding paragraph (1) and all that follows through paragraph (1) and inserting the following: "the Secretary, acting through the Director of NIH—

"(1) shall carry out this title, including being responsible for the overall direction of the National Institutes of Health and for the establishment and implementation of general policies respecting the management and operation of programs and activities within the National Institutes of Health;".

(b) ADDITIONAL AUTHORITIES.—Section 402(b) of the Public Health Service Act, as amended by subsection (a) of this section,

is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) shall coordinate and oversee the operation of the national research institutes, national centers, and administrative entities within the National Institutes of Health;

"(3) shall, in consultation with the heads of the national research institutes and national centers, be responsible for program coordination across the national research institutes and national centers, including conducting priority-setting reviews, to ensure that the research portfolio of the National Institutes of Health is balanced and free of unnecessary duplication, and takes advantage of collaborative, cross-cutting research;

"(4) shall assemble accurate data to be used to assess research priorities, including information to better evaluate scientific opportunity, public health burdens, and progress in reducing health disparities;

"(5) shall ensure that scientifically based strategic planning is implemented in support of research priorities as determined by the agencies of the National Institutes of Health;

"(6) shall ensure that the resources of the National Institutes of Health are sufficiently allocated for research projects identified in strategic plans;

"(7)(A) shall, through the Division of Program Coordination, Planning, and Strategic Initiatives—

"(i) identify research that represents important areas of emerging scientific opportunities, rising public health challenges, or knowledge gaps that deserve special emphasis and would benefit from conducting or supporting additional research that involves collaboration between 2 or more national research institutes or national centers, or would otherwise benefit from strategic coordination and planning;

"(ii) include information on such research in reports under section 403; and

"(iii) in the case of such research supported with funds referred to in subparagraph (B)—

"(I) require as appropriate that proposals include milestones and goals for the research;

"(II) require that the proposals include timeframes for funding of the research; and

"(III) ensure appropriate consideration of proposals for which the principal investigator is an individual who has not previously served as the principal investigator of research conducted or supported by the National Institutes of Health;

"(B) may, with respect to funds reserved under section 402A(c)(1) for the Common Fund, allocate such funds to the national research institutes and national centers for conducting and supporting research that is identified under subparagraph (A); and

"(C) may assign additional functions to the Division in support of responsibilities identified in subparagraph (A), as determined appropriate by the Director;

"(8) shall, in coordination with the heads of the national research institutes and national centers, ensure that such institutes and centers—

"(A) preserve an emphasis on investigator-initiated research project grants, including with respect to research involving collaboration between 2 or more such institutes or centers; and

"(B) when appropriate, maximize investigator-initiated research project grants in their annual research portfolios;

"(9) shall ensure that research conducted or supported by the National Institutes of Health is subject to review in accordance with section 492 and that, after such review, the research is reviewed in accordance with section 492A(a)(2) by the appropriate advisory council under section 406 before the research proposals are approved for funding;

"(10) shall have authority to review and approve the establishment of all centers of excellence recommended by the national research institutes;

"(11)(A) shall oversee research training for all of the national research institutes and National Research Service Awards in accordance with section 487; and

"(B) may conduct and support research training—

"(i) for which fellowship support is not provided under section 487; and

"(ii) that does not consist of residency training of physicians or other health professionals;

"(12) may, from funds appropriated under section 402A(b), reserve funds to provide for research on matters that have not received significant funding relative to other matters, to respond to new issues and scientific emergencies, and to act on research opportunities of high priority;

"(13) may, subject to appropriations Acts, collect and retain registration fees obtained from third parties to defray expenses for scientific, educational, and research-related conferences;".

(c) CERTAIN AUTHORITIES.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by striking subsections (i) and (l); and

(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(d) ADVISORY COUNCIL FOR DIRECTOR OF NIH.—Section 402 of the Public Health Service Act, as amended by subsection (c) of this section, is amended by adding after subsection (j) the following subsection:

"(k) COUNCIL OF COUNCILS.—

"(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of the National Institutes of Health Reform Act of 2006, the Director of NIH shall establish within the Office of the Director an advisory council to be known as the 'Council of Councils' (referred to in this subsection as the 'Council') for the purpose of advising the Director on matters related to the policies and activities of the Division of Program Coordination, Planning, and Strategic Initiatives, including making recommendations with respect to the conduct and support of research described in subsection (b)(7). Deadline.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Council shall be composed of 27 members selected by the Director of NIH with approval from the Secretary from among the list of nominees under subparagraph (C).

"(B) CERTAIN REQUIREMENTS.—In selecting the members of the Council, the Director of NIH shall ensure—

"(i) the representation of a broad range of disciplines and perspectives; and

"(ii) the ongoing inclusion of at least 1 representative from each national research institute whose budget is substantial relative to a majority of the other institutes.

Records.

"(C) NOMINATION.—The Director of NIH shall maintain an updated list of individuals who have been nominated to serve on the Council, which list shall consist of the following:

"(i) For each national research institute and national center, 3 individuals nominated by the head of such institute or center from among the members of the advisory council of the institute or center, of which—

"(I) two shall be scientists; and

"(II) one shall be from the general public or shall be a leader in the field of public policy, law, health policy, economics, or management.

"(ii) For each office within the Division of Program Coordination, Planning, and Strategic Initiatives, 1 individual nominated by the head of such office.

"(iii) Members of the Council of Public Representatives.

"(3) TERMS.—

"(A) IN GENERAL.—The term of service for a member of the Council shall be 6 years, except as provided in subparagraphs (B) and (C).

"(B) TERMS OF INITIAL APPOINTEES.—Of the initial members selected for the Council, the Director of NIH shall designate—

"(i) nine for a term of 6 years;

"(ii) nine for a term of 4 years; and

"(iii) nine for a term of 2 years.

"(C) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.".

(e) REVIEW BY ADVISORY COUNCILS OF RESEARCH PROPOSALS.—Section 492A(a)(2) of the Public Health Service Act (42 U.S.C. 289a–1(a)(2)) is amended by inserting before the period the following: ", and unless a majority of the voting members of the appropriate advisory council under section 406, or as applicable, of the advisory council under section 402(k), has recommended the proposal for approval".

(f) CONFORMING AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

42 USC 282.

(A) in section 402(a), by striking "Director of the National Institutes of Health" and all that follows through "who shall" and inserting "Director of NIH who shall"; and

(B) in sections 405(c)(3)(A), 452(c)(1)(E)(i), and 492(a)(2), by striking the term "402(b)(6)" each place such term appears and inserting "402(b)(16)". 42 USC 284, 285g–4, 289a.

(2) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 561(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb) is amended in the matter following paragraph (7) by striking "402(j)(3)" and inserting "402(i)(3)".

(g) RULE OF CONSTRUCTION REGARDING AUTHORITIES OF NATIONAL RESEARCH INSTITUTES AND NATIONAL CENTERS.—This Act and the amendments made by this Act may not be construed as affecting the authorities of the national research institutes and national centers that were in effect under the Public Health Service Act on the day before the date of the enactment of this Act, subject to the authorities of the Secretary of Health and Human Services and the Director of NIH under section 401 of the Public Health Service Act (as amended by section 101 of this Act). For purposes of the preceding sentence, the terms "national research institute", "national center", and "Director of NIH" have the meanings given such terms in such section 401. 42 USC 281 note.

**SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

(a) FUNDING.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by inserting after section 402 the following:

**"SEC. 402A. AUTHORIZATION OF APPROPRIATIONS.** 42 USC 282a.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated—

"(1) $30,331,309,000 for fiscal year 2007;

"(2) $32,831,309,000 for fiscal year 2008; and

"(3) such sums as may be necessary for fiscal year 2009.

"(b) OFFICE OF THE DIRECTOR.—Of the amount authorized to be appropriated under subsection (a) for a fiscal year, there are authorized to be appropriated for programs and activities under this title carried out through the Office of the Director of NIH such sums as may be necessary for each of the fiscal years 2007 through 2009.

"(c) TRANS-NIH RESEARCH.—

"(1) COMMON FUND.—

"(A) ACCOUNT.—For the purpose of allocations under section 402(b)(7)(B) (relating to research identified by the Division of Program Coordination, Planning, and Strategic Initiatives), there is established an account to be known as the Common Fund.

"(B) RESERVATION.—

"(i) IN GENERAL.—Of the total amount appropriated under subsection (a) for fiscal year 2007 or any subsequent fiscal year, the Director of NIH shall reserve an amount for the Common Fund, subject to any applicable provisions in appropriations Acts.

"(ii) MINIMUM AMOUNT.—For each fiscal year, the percentage constituted by the amount reserved under clause (i) relative to the total amount appropriated under subsection (a) for such year may not be less than the percentage constituted by the amount so reserved for the preceding fiscal year relative to the total amount appropriated under subsection (a) for

such preceding fiscal year, subject to any applicable provisions in appropriations Acts.

"(C) COMMON FUND STRATEGIC PLANNING REPORT.—Not later than June 1, 2007, and every 2 years thereafter, the Secretary, acting through the Director of NIH, shall submit a report to the Congress containing a strategic plan for funding research described in section 402(b)(7)(A)(i) (including personnel needs) through the Common Fund. Each such plan shall include the following:

"(i) An estimate of the amounts determined by the Director of NIH to be appropriate for maximizing the potential of such research.

"(ii) An estimate of the amounts determined by the Director of NIH to be sufficient only for continuing to fund research activities previously identified by the Division of Program Coordination, Planning, and Strategic Initiatives.

"(iii) An estimate of the amounts determined by the Director of NIH to be necessary to fund research described in section 402(b)(7)(A)(i)—

"(I) that is in addition to the research activities described in clause (ii); and

"(II) for which there is the most substantial need.

Deadline. Recommendations.

"(D) EVALUATION.—During the 6-month period following the end of the first fiscal year for which the total amount reserved under subparagraph (B) is equal to 5 percent of the total amount appropriated under subsection (a) for such fiscal year, the Secretary, acting through the Director of NIH, in consultation with the advisory council established under section 402(k), shall submit recommendations to the Congress for changes regarding amounts for the Common Fund.

"(2) TRANS-NIH RESEARCH REPORTING.—

"(A) LIMITATION.—With respect to the total amount appropriated under subsection (a) for fiscal year 2008 or any subsequent fiscal year, if the head of a national research institute or national center fails to submit the report required by subparagraph (B) for the preceding fiscal year, the amount made available for the institute or center for the fiscal year involved may not exceed the amount made available for the institute or center for fiscal year 2006.

"(B) REPORTING.—Not later than January 1, 2008, and each January 1st thereafter—

"(i) the head of each national research institute or national center shall submit to the Director of NIH a report on the amount made available by the institute or center for conducting or supporting research that involves collaboration between the institute or center and 1 or more other national research institutes or national centers; and

"(ii) the Secretary shall submit a report to the Congress identifying the percentage of funds made available by each national research institute and national center with respect to such fiscal year for

conducting or supporting research described in clause (i).

"(C) DETERMINATION.—For purposes of determining the amount or percentage of funds to be reported under subparagraph (B), any amounts made available to an institute or center under section 402(b)(7)(B) shall be included.

"(D) VERIFICATION OF AMOUNTS.—Upon receipt of each report submitted under subparagraph (B)(i), the Director of NIH shall review and, in cases of discrepancy, verify the accuracy of the amounts specified in the report.

"(E) WAIVER.—At the request of any national research institute or national center, the Director of NIH may waive the application of this paragraph to such institute or center if the Director finds that the conduct or support of research described in subparagraph (B)(i) is inconsistent with the mission of such institute or center.

"(d) TRANSFER AUTHORITY.—Of the total amount appropriated under subsection (a) for a fiscal year, the Director of NIH may (in addition to the reservation under subsection (c)(1) for such year) transfer not more than 1 percent for programs or activities that are authorized in this title and identified by the Director to receive funds pursuant to this subsection. In making such transfers, the Director may not decrease any appropriation account under subsection (a) by more than 1 percent.

"(e) RULE OF CONSTRUCTION.—This section may not be construed as affecting the authorities of the Director of NIH under section 401.".

(b) ELIMINATION OF OTHER AUTHORIZATIONS OF APPROPRIATIONS.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) by striking the first sentence of paragraph (5) of section 402(i) (as redesignated by section 102(b));

(2) by striking subsection (e) of section 403A; 42 USC 283a.

(3) by striking subsection (c) of section 404B; 42 USC 283d.

(4) by striking subsection (h) of section 404E; 42 USC 283g.

(5) by striking subsection (d) of section 404F; 42 USC 283h.

(6) by striking subsection (e) of section 404G; 42 USC 283i.

(7) by striking subsection (d) of section 409A; 42 USC 284e.

(8) in section 409B— 42 USC 284f.

(A) in subsection (a), by striking "under subsection (e)" and inserting "to carry out this section"; and

(B) by striking subsection (e);

(9) by striking subsection (e) of section 409C; 42 USC 284g.

(10) in section 409D— 42 USC 284h.

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d);

(11) by striking subsection (e) of section 409E; 42 USC 284i.

(12) by striking subsection (c) of section 409F; 42 USC 284j.

(13) in section 409H, by striking— 42 USC 284*l*.

(A) paragraph (3) of subsection (a);

(B) paragraph (3) of subsection (b);

(C) paragraph (5) of subsection (c); and

(D) paragraph (4) of subsection (d);

(14) by striking subsection (d) of section 409I; 42 USC 284m.

(15) by striking section 417B; 42 USC 285a–8.

(16) by striking subsection (g) of section 417C; 42 USC 285a–9.

42 USC 285a–10.

(17) in section 417D, by striking—

(A) paragraph (3) of subsection (a); and

(B) paragraph (3) of subsection (b);

42 USC 285b–7a.

(18) by striking subsection (d) of section 424A;

42 USC 285b–7b.

(19) by striking subsection (c) of section 424B;

42 USC 285b–8.

(20) by striking section 425;

42 USC 285c–9.

(21) by striking subsection (d) of section 434A;

42 USC 285d–6a.

(22) by striking subsection (d) of section 441A;

42 USC 285d–8.

(23) by striking subsection (c) of section 442A;

42 USC 285e–10.

(24) in section 445H—

(A) by striking subsection (b); and

(B) in subsection (a), by striking "(a)";

42 USC 285e–10a.

(25) by striking subsection (d) of section 445I;

42 USC 285e–11.

(26) by striking section 445J;

42 USC 285f–2.

(27) in section 447A—

(A) by striking subsection (b); and

(B) in subsection (a), by striking "(a)";

42 USC 285f–3.

(28) by striking subsection (d) of section 447B;

42 USC 285g–5.

(29) by striking subsection (g) in section 452A;

42 USC 285g–9.

(30) by striking paragraph (7) in section 452E(b);

42 USC 285g–10.

(31) in section 452G—

(A) by striking subsection (b); and

(B) in subsection (a), by striking "(a) ENHANCED SUPPORT.—";

42 USC 285n.

(32) by striking subsection (d) of section 464H;

42 USC 285o.

(33) by striking subsection (d) of section 464L;

42 USC 285o–2.

(34) by striking paragraph (4) of section 464N(c);

42 USC 285o–4.

(35) by striking subsection (e) of section 464P;

42 USC 285p.

(36) by striking subsection (f) of section 464R;

42 USC 285r.

(37) by striking subsection (d) of section 464z;

42 USC 286a–1.

(38) in section 467—

(A) by striking the first sentence;

(B) by striking "for such buildings and facilities" and inserting "for suitable and adequate buildings and facilities for use of the Library"; and

(C) by striking "The amounts authorized to be appropriated by this section include" and inserting "Amounts appropriated to carry out this section may be used for";

42 USC 286a–2.

(39) by striking section 468;

42 USC 287a–2.

(40) in section 481A—

(A) in the matter preceding subparagraph (A) of subsection (c)(2)—

(i) by striking the term "under subsection (i)(1)" and inserting "to carry out this section"; and

(ii) by striking "under such subsection" and inserting "to carry out this section"; and

(B) by striking subsection (i);

42 USC 287a–3.

(41) in subsection (a) of section 481B, by striking "under section 481A(h)" and inserting "to carry out section 481A";

42 USC 287a–4.

(42) by striking subsection (c) in the section 481C that relates to general clinical research centers;

42 USC 287c–11.

(43) by striking subsection (e) in section 485C;

42 USC 287c–31.

(44) by striking subsection (l) in section 485E;

42 USC 287c–32.

(45) by striking subsection (h) in section 485F;

42 USC 287c–33.

(46) by striking subsection (e) in section 485G;

42 USC 288.

(47) by striking subsection (d) of section 487;

42 USC 288–1.

(48) by striking subsection (c) of section 487A; and

(49) by striking subsection (c) in the section 487F that relates to a loan repayment program regarding clinical researchers. 42 USC 288–5a.

(c) RULE OF CONSTRUCTION REGARDING CONTINUATION OF PROGRAMS.—The amendment of a program by a provision of subsection (b) may not be construed as terminating the authority of the Federal agency involved to carry out the program. 42 USC 282 note.

**SEC. 104. REPORTS.**

(a) REPORT OF DIRECTOR OF NIH.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 103(a) of this Act, is amended—

(1) by redesignating section 403A as section 403C; 42 USC 283a, 283a–3.

(2) in section 1710(a), by striking "section 403A" and inserting "section 403C"; and 42 USC 300u–9.

(3) by striking section 403 and inserting the following sections: 42 USC 283.

**"SEC. 402B. ELECTRONIC CODING OF GRANTS AND ACTIVITIES.** 42 USC 282b.

"The Secretary, acting through the Director of NIH, shall establish an electronic system to uniformly code research grants and activities of the Office of the Director and of all the national research institutes and national centers. The electronic system shall be searchable by a variety of codes, such as the type of research grant, the research entity managing the grant, and the public health area of interest. When permissible, the Secretary, acting through the Director of NIH, shall provide information on relevant literature and patents that are associated with research activities of the National Institutes of Health.

**"SEC. 403. BIENNIAL REPORTS OF DIRECTOR OF NIH.** 42 USC 283.

"(a) IN GENERAL.—The Director of NIH shall submit to the Congress on a biennial basis a report in accordance with this section. The first report shall be submitted not later than 1 year after the date of the enactment of the National Institutes of Health Reform Act of 2006. Each such report shall include the following information:

"(1) An assessment of the state of biomedical and behavioral research.

"(2) A description of the activities conducted or supported by the agencies of the National Institutes of Health and policies respecting the programs of such agencies.

"(3) Classification and justification for the priorities established by the agencies, including a strategic plan and recommendations for future research initiatives to be carried out under section 402(b)(7) through the Division of Program Coordination, Planning, and Strategic Initiatives.

"(4) A catalog of all the research activities of the agencies, prepared in accordance with the following:

"(A) The catalog shall, for each such activity—

"(i) identify the agency or agencies involved;

"(ii) state whether the activity was carried out directly by the agencies or was supported by the agencies and describe to what extent the agency was involved; and

"(iii) identify whether the activity was carried out through a center of excellence.

"(B) In the case of clinical research, the catalog shall, as appropriate, identify study populations by demographic variables and other variables that contribute to research on minority health and health disparities.

"(C) Research activities listed in the catalog shall include, where applicable, the following:

"(i) Epidemiological studies and longitudinal studies.

"(ii) Disease registries, information clearinghouses, and other data systems.

"(iii) Public education and information campaigns.

"(iv) Training activities, including—

"(I) National Research Service Awards and Clinical Transformation Science Awards;

"(II) graduate medical education programs, including information on the number and type of graduate degrees awarded during the period in which the programs received funding under this title;

"(III) investigator-initiated awards for postdoctoral training;

"(IV) a breakdown by demographic variables and other appropriate categories; and

"(V) an evaluation and comparison of outcomes and effectiveness of various training programs.

"(v) Clinical trials, including a breakdown of participation by study populations and demographic variables and such other information as may be necessary to demonstrate compliance with section 492B (regarding inclusion of women and minorities in clinical research).

"(vi) Translational research activities with other agencies of the Public Health Service.

"(5) A summary of the research activities throughout the agencies, which summary shall be organized by the following categories, where applicable:

"(A) Cancer.

"(B) Neurosciences.

"(C) Life stages, human development, and rehabilitation.

"(D) Organ systems.

"(E) Autoimmune diseases.

"(F) Genomics.

"(G) Molecular biology and basic science.

"(H) Technology development.

"(I) Chronic diseases, including pain and palliative care.

"(J) Infectious diseases and bioterrorism.

"(K) Minority health and health disparities.

"(L) Such additional categories as the Director determines to be appropriate.

"(6) A review of each entity receiving funding under this title in its capacity as a center of excellence (in this paragraph referred to as a 'center of excellence'), including the following:

"(A) An evaluation of the performance and research outcomes of each center of excellence.

"(B) Recommendations for promoting coordination of information among the centers of excellence.

"(C) Recommendations for improving the effectiveness, efficiency, and outcomes of the centers of excellence.

"(D) If no additional centers of excellence have been funded under this title since the previous report under this section, an explanation of the reasons for not funding any additional centers.

"(b) REQUIREMENT REGARDING DISEASE-SPECIFIC RESEARCH ACTIVITIES.—In a report under subsection (a), the Director of NIH, when reporting on research activities relating to a specific disease, disorder, or other adverse health condition, shall—

"(1) present information in a standardized format;

"(2) identify the actual dollar amounts obligated for such activities; and

"(3) include a plan for research on the specific disease, disorder, or other adverse health condition, including a statement of objectives regarding the research, the means for achieving the objectives, a date by which the objectives are expected to be achieved, and justifications for revisions to the plan.

"(c) ADDITIONAL REPORTS.—In addition to reports required by subsections (a) and (b), the Director of NIH or the head of a national research institute or national center may submit to the Congress such additional reports as the Director or the head of such institute or center determines to be appropriate.

**"SEC. 403A. ANNUAL REPORTING TO INCREASE INTERAGENCY COLLABORATION AND COORDINATION.** 42 USC 283a.

"(a) COLLABORATION WITH OTHER HHS AGENCIES.—On an annual basis, the Director of NIH shall submit to the Secretary a report on the activities of the National Institutes of Health involving collaboration with other agencies of the Department of Health and Human Services.

"(b) CLINICAL TRIALS.—Each calendar year, the Director of NIH shall submit to the Commissioner of Food and Drugs a report that identifies each clinical trial that is registered during such calendar year in the databank of information established under section 402(i).

"(c) HUMAN TISSUE SAMPLES.—On an annual basis, the Director of NIH shall submit to the Congress a report that describes how the National Institutes of Health and its agencies store and track human tissue samples.

"(d) FIRST REPORT.—The first report under subsections (a), (b), and (c) shall be submitted not later than 1 year after the date of the enactment of the National Institutes of Health Reform Act of 2006.

**"SEC. 403B. ANNUAL REPORTING TO PREVENT FRAUD AND ABUSE.** 42 USC 283a–1.

"(a) WHISTLEBLOWER COMPLAINTS.—

"(1) IN GENERAL.—On an annual basis, the Director of NIH shall submit to the Inspector General of the Department of Health and Human Services, the Secretary, the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate a report summarizing the activities

of the National Institutes of Health relating to whistleblower complaints.

"(2) CONTENTS.—For each whistleblower complaint pending during the year for which a report is submitted under this subsection, the report shall identify the following:

"(A) Each agency of the National Institutes of Health involved.

"(B) The status of the complaint.

"(C) The resolution of the complaint to date.

"(b) EXPERTS AND CONSULTANTS.—On an annual basis, the Director of NIH shall submit to the Inspector General of the Department of Health and Human Services, the Secretary, the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate a report that—

"(1) identifies the number of experts and consultants, including any special consultants, whose services are obtained by the National Institutes of Health or its agencies;

"(2) specifies whether such services were obtained under section 207(f), section 402(d), or other authority;

"(3) describes the qualifications of such experts and consultants;

"(4) describes the need for hiring such experts and consultants; and

"(5) if such experts and consultants make financial disclosures to the National Institutes of Health or any of its agencies, specifies the income, gifts, assets, and liabilities so disclosed.

"(c) FIRST REPORT.—The first report under subsections (a) and (b) shall be submitted not later than 1 year after the date of the enactment of the National Institutes of Health Reform Act of 2006.

42 USC 283a–2.

**"SEC. 403C. ANNUAL REPORTING REGARDING TRAINING OF GRADUATE STUDENTS FOR DOCTORAL DEGREES.**

"(a) IN GENERAL.—Each institution receiving an award under this title for the training of graduate students for doctoral degrees shall annually report to the Director of NIH, with respect to each degree-granting program at such institution—

"(1) the percentage of students admitted for study who successfully attain a doctoral degree; and

"(2) for students described in paragraph (1), the average time between the beginning of graduate study and the receipt of a doctoral degree.

"(3) PROVISION OF INFORMATION TO APPLICANTS.—Each institution described in subsection (a) shall provide to each student submitting an application for a program of graduate study at such institution the information described in paragraphs (1) and (2) of such subsection with respect to the program or programs to which such student has applied.".

(b) STRIKING OF OTHER REPORTING REQUIREMENTS FOR NIH.—

(1) PUBLIC HEALTH SERVICE ACT; TITLE IV.—Title IV of the Public Health Service Act, as amended by section 103(b) of this Act, is amended—

42 USC 283g.

(A) in section 404E(b)—

(i) by amending paragraph (3) to read as follows:

"(3) COORDINATION OF CENTERS.—The Director of NIH shall, as appropriate, provide for the coordination of information among centers under paragraph (1) and ensure regular communication between such centers."; and

(ii) by striking subsection (f) and redesignating subsection (g) as subsection (f);

(B) in section 404F(b)(1), by striking subparagraphs (F) and (G); 42 USC 283h.

(C) by striking section 407; 42 USC 284b.

(D) in section 409C(b), by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; 42 USC 284g.

(E) in section 409E, by striking subsection (d); 42 USC 284i.

(F) in section 417C, by striking subsection (f); 42 USC 285a–9.

(G) in section 424B(a)— 42 USC 285b–7b.

(i) in paragraph (1), by adding "and" after the semicolon at the end;

(ii) in paragraph (2), by striking "; and" and inserting a period; and

(iii) by striking paragraph (3);

(H) in section 429, by striking subsections (c) and (d); 42 USC 285c–3.

(I) in section 442, by striking subsection (j) and redesignating subsection (k) as subsection (j); 42 USC 285d–7.

(J) in section 464D, by striking subsection (j); 42 USC 285m–4.

(K) in section 464E, by striking subsection (e); 42 USC 285m–5.

(L) in section 464T, by striking subsection (e); 42 USC 285p–2.

(M) in section 481A, by striking subsection (h); 42 USC 287a–2.

(N) in section 485E, by striking subsection (k); 42 USC 287c–31.

(O) in section 485H— 42 USC 287c–34.

(i) by striking "(a)" and all that follows through "The Secretary," and inserting "The Secretary,"; and

(ii) by striking subsection (b); and

(P) in section 494— 42 USC 289c.

(i) by striking "(a) If the Secretary" and inserting "If the Secretary"; and

(ii) by striking subsection (b).

(2) PUBLIC HEALTH SERVICE ACT; OTHER PROVISIONS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(A) in section 399E, by striking subsection (e); 42 USC 280e–3.

(B) in section 1122— 42 USC 300c–12.

(i) by striking "(a) From the sums" and inserting "From the sums"; and

(ii) by striking subsections (b) and (c);

(C) by striking section 2301; 42 USC 300cc.

(D) in section 2354, by striking subsection (b) and redesignating subsection (c) as subsection (b); 42 USC 300cc–41.

(E) in section 2356, by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and 42 USC 300cc–43.

(F) in section 2359(b)— 42 USC 300cc–45.

(i) by striking paragraph (2);

(ii) by striking " (b) EVALUATION AND REPORT" and all that follows through "Not later than 5 years" and inserting " (b) EVALUATION.—Not later than 5 years"; Deadline.

(iii) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively; and

(iv) by moving each of paragraphs (1) through (3) (as so redesignated) 2 ems to the left.

(3) OTHER ACTS.—Provisions of Federal law are amended as follows:

42 USC 241 note.

(A) Section 7 of Public Law 97–414 is amended—

(i) in subsection (a)—

(I) in paragraph (2), by inserting "and" at the end;

(II) in paragraph (3), by striking "; and" and inserting a period; and

(III) by striking paragraph (4); and

(ii) in subsection (b), by striking the last sentence of paragraph (3).

42 USC 242q–3.
42 USC 242q–4, 242q–5.

(B) Title III of Public Law 101–557 (42 U.S.C. 242q et seq.) is amended by striking section 304 and redesignating section 305 and 306 as sections 304 and 305, respectively.

42 USC 254c–2 note.

(C) Section 4923 of Public Law 105–33 is amended by striking subsection (b).

42 USC 247b–4e.

(D) Public Law 106–310 is amended by striking section 105.

42 USC 285g note.

(E) Section 1004 of Public Law 106–310 is amended by striking subsection (d).

114 Stat. 1236.

(F) Section 3633 of Public Law 106–310 (as amended by section 2502 of Public Law 107–273) is repealed.

42 USC 287c–31 note.

(G) Public Law 106–525 is amended by striking section 105.

42 USC 247b–18 note.

(H) Public Law 107–84 is amended by striking section 6.

118 Stat. 2430, 2431.

(I) Public Law 108–427 is amended by striking section 3 and redesignating sections 4 and 5 as sections 3 and 4, respectively.

42 USC 284n.

**SEC. 105. CERTAIN DEMONSTRATION PROJECTS.**

(a) BRIDGING THE SCIENCES.—

(1) IN GENERAL.—From amounts to be appropriated under section 402A(b) of the Public Health Service Act, the Secretary of Health and Human Services, acting through the Director of NIH, (in this subsection referred to as the "Secretary") in consultation with the Director of the National Science Foundation, the Secretary of Energy, and other agency heads when necessary, may allocate funds for the national research institutes and national centers to make grants for the purpose of improving the public health through demonstration projects for biomedical research at the interface between the biological, behavioral, and social sciences and the physical, chemical, mathematical, and computational sciences.

(2) GOALS, PRIORITIES, AND METHODS; INTERAGENCY COLLABORATION.—The Secretary shall establish goals, priorities, and methods of evaluation for research under paragraph (1), and shall provide for interagency collaboration with respect to such research. In developing such goals, priorities, and methods, the Secretary shall ensure that—

(A) the research reflects the vision of innovation and higher risk with long-term payoffs; and

(B) the research includes a wide spectrum of projects, funded at various levels, with varying timeframes.

(3) PEER REVIEW.—A grant may be made under paragraph (1) only if the application for the grant has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a) and has been reviewed by the advisory council under section 402(k) of such Act (as added by section 102(c) of this Act) or has been reviewed by an advisory council composed of representatives from appropriate scientific disciplines who can fully evaluate the applicant.

(b) HIGH-RISK, HIGH-REWARD RESEARCH.—

(1) IN GENERAL.—From amounts to be appropriated under section 402A(b) of the Public Health Service Act, the Secretary, acting through the Director of NIH, may allocate funds for the national research institutes and national centers to make awards of grants or contracts or to engage in other transactions for demonstration projects for high-impact, cutting-edge research that fosters scientific creativity and increases fundamental biological understanding leading to the prevention, diagnosis, and treatment of diseases and disorders. The head of a national research institute or national center may conduct or support such high-impact, cutting-edge research (with funds allocated under the preceding sentence or otherwise available for such purpose) if the institute or center gives notice to the Director of NIH beforehand and submits a report to the Director of NIH on an annual basis on the activities of the institute or center relating to such research.

(2) SPECIAL CONSIDERATION.—In carrying out the program under paragraph (1), the Director of NIH shall give special consideration to coordinating activities with national research institutes whose budgets are substantial relative to a majority of the other institutes.

(3) ADMINISTRATION OF PROGRAM.—Activities relating to research described in paragraph (1) shall be designed by the Director of NIH or the head of a national research institute or national center, as applicable, to enable such research to be carried out with maximum flexibility and speed.

(4) PUBLIC-PRIVATE PARTNERSHIPS.—In providing for research described in paragraph (1), the Director of NIH or the head of a national research institute or national center, as applicable, shall seek to facilitate partnerships between public and private entities and shall coordinate when appropriate with the Foundation for the National Institutes of Health.

(5) PEER REVIEW.—A grant for research described in paragraph (1) may be made only if the application for the grant has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a) and has been reviewed by the advisory council under section 402(k) of such Act (as added by section 102(c) of this Act).

(c) REPORT TO CONGRESS.—Not later than the end of fiscal year 2009, the Secretary, acting through the Director of NIH, shall conduct an evaluation of the activities under this section and submit a report to the Congress on the results of such evaluation.

(d) DEFINITIONS.—For purposes of this section, the terms "Director of NIH", "national research institute", and "national center" have the meanings given such terms in section 401 of the Public Health Service Act.

42 USC 284 note.

**SEC. 106. ENHANCING THE CLINICAL AND TRANSLATIONAL SCIENCE AWARD.**

(a) IN GENERAL.—In administering the Clinical and Translational Science Award, the Director of NIH shall establish a mechanism to preserve independent funding and infrastructure for pediatric clinical research centers by—

(1) allowing the appointment of a secondary principal investigator under a single Clinical and Translational Science Award, such that a pediatric principal investigator may be appointed with direct authority over a separate budget and infrastructure for pediatric clinical research; or

(2) otherwise securing institutional independence of pediatric clinical research centers with respect to finances, infrastructure, resources, and research agenda.

(b) REPORT.—As part of the biennial report under section 403 of the Public Health Service Act, the Director of NIH shall provide an evaluation and comparison of outcomes and effectiveness of training programs under subsection (a).

(c) DEFINITION.—For purposes of this section, the term "Director of NIH" has the meaning given such term in section 401 of the Public Health Service Act.

**SEC. 107. FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.**

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (D)(ii) to read as follows:

Termination.

"(ii) Upon the appointment of the appointed members of the Board under clause (i)(II), the terms of service as members of the Board of the ex officio members of the Board described in clauses (i) and (ii) of subparagraph (B) shall terminate. The ex officio members of the Board described in clauses (iii) and (iv) of subparagraph (B) shall continue to serve as ex officio members of the Board."; and

(ii) in subparagraph (G), by inserting "appointed" after "that the number of";

(B) by amending paragraph (3)(B) to read as follows:

"(B) Any vacancy in the membership of the appointed members of the Board shall be filled in accordance with the bylaws of the Foundation established in accordance with paragraph (6), and shall not affect the power of the remaining appointed members to execute the duties of the Board."; and

(C) in paragraph (5), by inserting "appointed" after "majority of the";

(2) in subsection (j)—

(A) in paragraph (2), by striking "(d)(2)(B)(i)(II)" and inserting "(d)(6)";

(B) in paragraph (4)—

(i) in subparagraph (A), by inserting ", including an accounting of the use of amounts transferred under subsection (l)" before the period at the end; and

(ii) by striking subparagraph (C) and inserting the following:

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

"(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge that shall not exceed the cost of providing the copy; and

Public information.

"(ii) to the appropriate committees of Congress."; and

(C) in paragraph (10), by striking "of Health." and inserting "of Health and the National Institutes of Health may accept transfers of funds from the Foundation."; and

(3) by striking subsection (l) and inserting the following:

"(l) FUNDING.—From amounts appropriated to the National Institutes of Health, for each fiscal year, the Director of NIH shall transfer not less than $500,000 and not more than $1,250,000 to the Foundation.".

**SEC. 108. MISCELLANEOUS AMENDMENTS.**

(a) CERTAIN AUTHORITIES OF THE SECRETARY.—

(1) IN GENERAL.—Section 401 of the Public Health Service Act, as added and amended by section 101, is amended in subsection (d) by inserting after paragraph (1) a subsection that is identical to section 401(c) of such Act as in effect on the day before the date of the enactment of this Act. The subsection so inserted is amended—

(A) by striking "(c)(1) The Secretary may" and inserting the following:

"(2) REORGANIZATION OF INSTITUTES.—

"(A) IN GENERAL.—The Secretary may";

(B) by striking "(A) the Secretary determines" and inserting the following:

"(i) the Secretary determines";

(C) by striking "(B) the additional" and inserting the following:

"(ii) the additional"; and

(D) by striking "(2) The Secretary may" and inserting the following:

"(B) ADDITIONAL AUTHORITY.—The Secretary may".

(2) CONFORMING AMENDMENTS.—Section 401(d)(2) of the Public Health Service Act, as designated by paragraph (1) of this subsection, is amended—

(A) in subparagraph (A)(ii), by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) by striking "Labor and Human Resources" each place such term appears and inserting "Health, Education, Labor, and Pensions".

(b) CERTAIN RESEARCH CENTERS.—Section 414 of the Public Health Service Act (42 U.S.C. 285a–3) is amended by adding at the end the following subsection:

"(d) Research centers under this section may not be considered centers of excellence for purposes of section 402(b)(10).".

**SEC. 109. APPLICABILITY.**

42 USC 281 note.

This title and the amendments made by this title apply only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years.

# TITLE II—MISCELLANEOUS PROVISIONS

**SEC. 201. REDISTRIBUTION OF CERTAIN UNUSED SCHIP ALLOTMENTS FOR FISCAL YEARS 2004 AND 2005 TO REDUCE FUNDING SHORTFALLS FOR FISCAL YEAR 2007.**

(a) REDISTRIBUTION OF CERTAIN UNUSED SCHIP ALLOTMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES TO ADDRESS FISCAL YEAR 2007 SHORTFALLS.—

"(1) REDISTRIBUTION OF UNUSED FISCAL YEAR 2004 ALLOTMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (f) and subject to subparagraphs (C) and (D), with respect to months beginning during fiscal year 2007, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2004 under subsection (b) that are not expended by the end of fiscal year 2006, to a shortfall State described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for such State for the month.

"(B) SHORTFALL STATE DESCRIBED.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates, subject to paragraph (4)(B) and on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

"(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that was not expended by the end of fiscal year 2006; and

"(ii) the amount of the State's allotment for fiscal year 2007.

"(C) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under subparagraph (A) to shortfall States described in subparagraph (B) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2007. The Secretary shall only make redistributions under this paragraph to the extent that there are unexpended fiscal year 2004 allotments under subsection (b) available for such redistributions.

"(D) PRORATION RULE.—If the amounts available for redistribution under subparagraph (A) for a month are less than the total amounts of the estimated shortfalls determined for the month under that subparagraph, the amount computed under such subparagraph for each shortfall State shall be reduced proportionally.

"(2) FUNDING REMAINDER OF REDUCTION OF SHORTFALL FOR FISCAL YEAR 2007 THROUGH REDISTRIBUTION OF CERTAIN UNUSED FISCAL YEAR 2005 ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (C) and (D) and paragraph (5)(B), with respect to months beginning during fiscal year 2007 after March 31, 2007, the Secretary shall provide for a redistribution under subsection (f) from amounts made available for redistribution under paragraph (3) to each shortfall State described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for such State for the month.

Effective date.

"(B) SHORTFALL STATE DESCRIBED.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates, subject to paragraph (4)(B) and on a monthly basis using the most recent data available to the Secretary as of March 31, 2007, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

"(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that was not expended by the end of fiscal year 2006;

"(ii) the amount, if any, that is to be redistributed to the State in accordance with paragraph (1); and

"(iii) the amount of the State's allotment for fiscal year 2007.

"(C) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under subparagraph (A) to shortfall States described in subparagraph (B) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2007. The Secretary shall only make redistributions under this paragraph to the extent that such amounts are available for such redistributions.

"(D) PRORATION RULE.—If the amounts available for redistribution under paragraph (3) for a month are less than the total amounts of the estimated shortfalls determined for the month under subparagraph (A), the amount computed under such subparagraph for each shortfall State shall be reduced proportionally.

"(3) TREATMENT OF CERTAIN STATES WITH FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT THE END OF THE FIRST HALF OF FISCAL YEAR 2007.—

"(A) IDENTIFICATION OF STATES.—The Secretary, on the basis of the most recent data available to the Secretary as of March 31, 2007—

"(i) shall identify those States that received an allotment for fiscal year 2005 under subsection (b) which have not expended all of such allotment by March 31, 2007; and

"(ii) for each such State shall estimate—

"(I) the portion of such allotment that was not so expended by such date; and

"(II) whether the State is described in subparagraph (B).

"(B) STATES WITH FUNDS IN EXCESS OF 200 PERCENT OF NEED.—A State described in this subparagraph is a

State for which the Secretary determines, on the basis of the most recent data available to the Secretary as of March 31, 2007, that the total of all available allotments under this title to the State as of such date, is at least equal to 200 percent of the total projected expenditures under this title for the State for fiscal year 2007.

"(C) REDISTRIBUTION AND LIMITATION ON AVAILABILITY OF PORTION OF UNUSED ALLOTMENTS FOR CERTAIN STATES.—

Deadline.

"(i) IN GENERAL.—In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the applicable amount described in clause (ii) shall not be available for expenditure by the State on or after April 1, 2007, and shall be redistributed in accordance with paragraph (2).

"(ii) APPLICABLE AMOUNT.—For purposes of clause (i), the applicable amount described in this clause is the lesser of—

"(I) 50 percent of the amount described in subparagraph (A)(ii)(I); or

"(II) $20,000,000.

"(4) SPECIAL RULES.—

"(A) EXPENDITURES LIMITED TO COVERAGE FOR POPULATIONS ELIGIBLE ON OCTOBER 1, 2006.—A State shall use amounts redistributed under this subsection only for expenditures for providing child health assistance or other health benefits coverage for populations eligible for such assistance or benefits under the State child health plan (including under a waiver of such plan) on October 1, 2006.

"(B) REGULAR FMAP FOR EXPENDITURES FOR COVERAGE OF NONCHILD POPULATIONS.—To the extent a State uses amounts redistributed under this subsection for expenditures for providing child health assistance or other health benefits coverage to an individual who is not a child or a pregnant woman, the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) applicable to the State for the fiscal year shall apply to such expenditures for purposes of making payments to the State under subsection (a) of section 2105 from such amounts.

"(5) RETROSPECTIVE ADJUSTMENT.—

Deadline.

"(A) IN GENERAL.—The Secretary may adjust the estimates and determinations made under paragraphs (1), (2), and (3) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be and as approved by the Secretary, but in no case may the applicable amount described in paragraph (3)(C)(ii) exceed the amount determined by the Secretary on the basis of the most recent data available to the Secretary as of March 31, 2007.

"(B) FUNDING OF ANY RETROSPECTIVE ADJUSTMENTS ONLY FROM UNEXPENDED 2005 ALLOTMENTS.—Notwithstanding subsections (e) and (f), to the extent the Secretary determines it necessary to adjust the estimates and determinations made for purposes of paragraphs (1), (2), and

(3), the Secretary may use only the allotments for fiscal year 2005 under subsection (b) that remain unexpended through the end of fiscal year 2007 for providing any additional amounts to States described in paragraph (2)(B) (without regard to whether such unexpended allotments are from States described in paragraph (3)(B)).

"(C) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as—

"(i) authorizing the Secretary to use the allotments for fiscal year 2006 or 2007 under subsection (b) of States described in paragraph (3)(B) to provide additional amounts to States described in paragraph (2)(B) for purposes of eliminating the funding shortfall for such States for fiscal year 2007; or

"(ii) limiting the authority of the Secretary to redistribute the allotments for fiscal year 2005 under subsection (b) that remain unexpended through the end of fiscal year 2007 and are available for redistribution under subsection (f) after the application of subparagraph (B).

"(6) 1-YEAR AVAILABILITY; NO FURTHER REDISTRIBUTION.— Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2007 shall only remain available for expenditure by the State through September 30, 2007, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f). Nothing in the preceding sentence shall be construed as limiting the ability of the Secretary to adjust the determinations made under paragraphs (1), (2), and (3) in accordance with paragraph (5). Deadline.

"(7) DEFINITION OF STATE.—For purposes of this subsection, the term 'State' means a State that receives an allotment for fiscal year 2007 under subsection (b).".

(b) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(1)(A) of such Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking "or 2005" and inserting "2005, 2006, or 2007".

(c) REPORT TO CONGRESS.—Not later than April 30, 2007, the Secretary of Health and Human Services shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate regarding the amounts redistributed to States under section 2104 of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007. Such report shall include descriptions and analyses of—

(1) the extent to which such redistributed amounts have reduced or eliminated such shortfalls on the basis of reports by States submitted to the Secretary as of April 1, 2007; and

(2) the effect of the redistribution and limited availability of unexpended fiscal year 2005 allotments under such program on the States described in section 2104(h)(3)(B) of the Social

Security Act (42 U.S.C. 1397dd(h)(3)(B)) on the basis of reports by States submitted to the Secretary as of such date.

Approved January 15, 2007.

LEGISLATIVE HISTORY—H.R. 6164:

HOUSE REPORTS: No. 109–687 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 152 (2006):
Sept. 26, considered and passed House.
Dec. 8, considered and passed Senate, amended. House concurred in Senate amendment.

# PRIVATE LAWS

SECOND SESSION, ONE HUNDRED NINTH CONGRESS

# Private Law 109–1
# 109th Congress

## An Act

To require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park.

May 12, 2006
[S. 584]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Betty Dick Residence Protection Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Betty Dick Residence Protection Act".

**SEC. 2. PURPOSE.**

The purpose of this Act is to require the Secretary of the Interior to permit the continued occupancy and use of the property described in section 4(b) by Betty Dick for the remainder of her natural life.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term "Agreement" means the agreement between the National Park Service and Fred Dick entitled "Settlement Agreement" and dated July 17, 1980.

Fred Dick.

(2) MAP.—The term "map" means the map entitled "RMNP Land Occupancy" and dated September 2005, which identifies approximately 8 acres for the occupancy and use by the tenant.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TENANT.—The term "tenant" means Betty Dick, widow of George Fredrick Dick, who held a 25-year reservation of occupancy and use at a property within the boundaries of Rocky Mountain National Park.

**SEC. 4. RIGHT OF OCCUPANCY.**

(a) IN GENERAL.—The Secretary shall allow the tenant to continue to occupy and use the property described in subsection (b) for the remainder of the natural life of the tenant, subject to the requirements of this Act.

(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the land and any improvements to the land within the boundaries of Rocky Mountain National Park identified on the map as "residence" and "occupancy area".

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the occupancy and use of the property identified in subsection (b) by the tenant shall be subject to the same terms and conditions specified in the Agreement.

(2) PAYMENTS.—

(A) IN GENERAL.—In exchange for the continued occupancy and use of the property, the tenant shall annually pay to the Secretary an amount equal to 1/25 of the amount specified in section 3(B) of the Agreement.

(B) ADVANCE PAYMENT REQUIRED.—The annual payments required under subparagraph (A) shall be paid in advance by not later than May 1 of each year.

(C) DISPOSITION.—Amounts received by the Secretary under this paragraph shall be—

(i) deposited in a special account in the Treasury of the United States; and

(ii) made available, without further appropriation, to the Rocky Mountain National Park until expended.

(3) PUBLIC ACCESS.—The public shall have access to both banks of the main channel of the Colorado River.

(d) TERMINATION.—The right of occupancy and use authorized under this Act—

(1) shall not be extended to any individual other than the tenant; and

(2) shall terminate—

(A) on the death of the tenant;

(B) if the tenant does not make a payment required under subsection (c)(2); or

(C) if the tenant otherwise fails to comply with the terms of this Act.

(e) EFFECT.—Nothing in this Act—

(1) allows the construction of any structure on the property described in subsection (b) not in existence on November 30, 2004; or

(2) applies to the occupancy or use of the property described in subsection (b) by any person other than the tenant.

Approved May 12, 2006.

# CONCURRENT RESOLUTIONS

SECOND SESSION, ONE HUNDRED NINTH CONGRESS

## JOINT SESSION

Jan. 25, 2006
[S. Con. Res. 77]

*Resolved by the Senate (the House of Representatives concurring),* That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 31, 2006, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

Agreed to January 25, 2006.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Feb. 1, 2006
[H. Con. Res. 332]

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Wednesday, February 1, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, February 7, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Wednesday, February 8, 2006, or Thursday, February 9, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, February 14, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker or his designee, after consultation with the Minority Leader, shall notify the Members of the House to reassemble at such place and time as he may designate if, in his opinion, the public interest shall warrant it.

Agreed to February 1, 2006.

## PALESTINIAN AUTHORITY—RESTRICTING UNITED STATES ASSISTANCE

Feb. 1, 2006
[S. Con. Res. 79]

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that no United States assistance should be provided directly to the Palestinian Authority if any representative political party holding a majority of parliamentary seats within the Palestinian Authority maintains a position calling for the destruction of Israel.

Agreed to February 1, 2006.

Feb. 9, 2006
[H. Con. Res. 331]

# WEST VIRGINIA COAL MINERS AND VOLUNTEERS—HONORING SACRIFICE AND COURAGE

Whereas coal generates more than half of domestic electricity, providing millions of Americans with energy for their homes and businesses;

Whereas West Virginia is the Nation's second largest coal producing State;

Whereas an average of 7,600 pounds of coal per person per year is used in the United States;

Whereas the United States has an estimated 275,000,000,000 tons of recoverable coal reserves representing about 95 percent of all fossil fuel reserves in the nation;

Whereas coal continues to be the economic engine for many communities;

Whereas coal miners are among the most productive of all American workers, producing 7 tons of coal per miner per day, which results in coal consistently being the most cost-effective choice for generating electricity in the United States;

Whereas during the last century over 100,000 coal miners have been killed in mining accidents in the Nation's coal mines;

Whereas the Nation is greatly indebted to coal miners for the difficult and dangerous work they perform to provide the fuel needed to operate the Nation's industries and to provide energy to homes and businesses;

Whereas 13 West Virginia miners were trapped 260 feet below the surface in the Sago mine for over 40 hours following an explosion on January 2, 2006;

Whereas Federal, State, and local rescue crews worked relentlessly in an attempt to save the miners;

Whereas many residents of Upshur County, West Virginia, and the surrounding areas came together at the Sago Baptist Church to support the miners' families;

Whereas 12 miners, Thomas Anderson, Alva Martin Bennett, Jim Bennett, Jerry Groves, George Hamner Jr., Terry Helms, David Lewis, Martin Toler, Fred Ware Jr., Jack Weaver, Jesse Jones, and Marshall Winans, lost their lives on January 3, 2006;

Whereas only one miner, Randal McCloy, was safely rescued;

Whereas 2 West Virginia miners were trapped by a fire in the Aracoma Alma Mine on January 19, 2006;

Whereas Don Israel Bragg and Ellery "Elvis" Hatfield lost their lives in the Aracoma Alma Mine;

Whereas 2 West Virginia miners lost their lives in separate incidents in Boone County on February 1, 2006; and

Whereas Edmund Vance perished in the Long Branch No. 18 Mine and Paul Moss perished at the Elk Run Black Castle mine: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) recognizes Thomas Anderson, Alva Martin Bennett, Jim Bennett, Jerry Groves, George Hamner Jr., Terry Helms, David

Lewis, Martin Toler, Fred Ware Jr., Jack Weaver, Jesse Jones, and Marshall Winans for their sacrifice in the Sago, West Virginia, coal mine;

(2) recognizes Don Israel Bragg and Ellery "Elvis" Hatfield for their sacrifice in the Aracoma Alma, West Virginia coal mine;

(3) recognizes Edmund Vance and Paul Moss for their sacrifice in the Boone County, West Virginia, coal mines;

(4) extends the deepest condolences of the Nation to the families of these men;

(5) recognizes Randal McCloy for his stamina and courage that enabled him to survive in severe conditions for over 40 hours;

(6) recognizes the rescue crews for their outstanding effort resulting in the safe rescue of Randal McCloy; and

(7) recognizes the many volunteers who provided support for the miners' families during the rescue operations.

Agreed to February 9, 2006.

## CARIBBEAN-AMERICAN HERITAGE MONTH—SUPPORT

Feb. 14, 2006
[H. Con. Res. 71]

Whereas people of Caribbean heritage are found in every State of the Union;

Whereas emigration from the Caribbean region to the American Colonies began as early as 1619 with the arrival of indentured workers in Jamestown, Virginia;

Whereas during the 17th, 18th, and 19th centuries, a significant number of slaves from the Caribbean region were brought to the United States;

Whereas since 1820, millions of people have emigrated from the Caribbean region to the United States;

Whereas much like the United States, the countries of the Caribbean faced obstacles of slavery and colonialism and struggled for independence;

Whereas also like the United States, the people of the Caribbean region have diverse racial, cultural, and religious backgrounds;

Whereas the independence movements in many countries in the Caribbean during the 1960's and the consequential establishment of independent democratic countries in the Caribbean strengthened ties between the region and the United States;

Whereas Alexander Hamilton, a founding father of the United States and the first Secretary of the Treasury, was born in the Caribbean;

Whereas there have been many influential Caribbean-Americans in the history of the United States, including Jean Baptiste Point du Sable, the pioneer settler of Chicago; Claude McKay, a poet of the Harlem Renaissance; James Weldon Johnson, the writer of the Black National Anthem; Shirley Chisolm, the first African-American Congresswoman and first African-American

woman candidate for President; and Celia Cruz, the world renowned queen of Salsa music;

Whereas the many influential Caribbean-Americans in the history of the United States also include Colin Powell, the first African-American Secretary of State; Sidney Poitier, the first African-American actor to receive the Academy Award for best actor in a leading role; Harry Belafonte, a musician, actor, and activist; Marion Jones, an Olympic gold medalist; Roberto Clemente, the first Latino inducted into the baseball hall of fame; and Al Roker, a meteorologist and television personality;

Whereas Caribbean-Americans have played an active role in the civil rights movement and other social and political movements in the United States;

Whereas Caribbean-Americans have contributed greatly to education, fine arts, business, literature, journalism, sports, fashion, politics, government, the military, music, science, technology, and other areas in the United States;

Whereas Caribbean-Americans share their culture through carnivals, festivals, music, dance, film, and literature that enrich the cultural landscape of the United States;

Whereas the countries of the Caribbean are important economic partners of the United States;

Whereas the countries of the Caribbean represent the United States third border;

Whereas the people of the Caribbean region share the hopes and aspirations of the people of the United States for peace and prosperity throughout the Western Hemisphere and the rest of the world; and

Whereas June is an appropriate month to establish a Caribbean-American Heritage Month: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of Congress that—

(1) a Caribbean-American Heritage Month should be established; and

(2) the people of the United States should observe the month with appropriate ceremonies, celebrations, and activities.

Agreed to February 14, 2006.

Feb. 14, 2006
[H. Con. Res. 315]

## AMERICAN JEWISH HISTORY MONTH—SUPPORT

*Resolved by the House of Representatives (the Senate concurring)*, That Congress urges the President to issue each year a proclamation calling on State and local governments and the people of the United States to observe an American Jewish History Month with appropriate programs, ceremonies, and activities.

Agreed to February 14, 2006.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Feb. 17, 2006
[H. Con. Res. 345]

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, February 16, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, February 28, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, February 17, 2006, through Tuesday, February 21, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, February 27, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to February 17, 2006.

## DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST COMMEMORATION CEREMONY—CAPITOL ROTUNDA AUTHORIZATION

Mar. 16, 2006
[H. Con. Res. 350]

*Resolved by the House of Representatives (the Senate concurring)*,

**SECTION 1. USE OF ROTUNDA FOR HOLOCAUST DAYS OF REMEMBRANCE CEREMONY.**

The rotunda of the Capitol is authorized to be used on April 27, 2006, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Agreed to March 16, 2006.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Mar. 16, 2006
[H. Con. Res. 361]

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, March 16, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned

until 2 p.m. on Tuesday, March 28, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, March 16, 2006, Friday, March 17, 2006, or Saturday, March 18, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, March 27, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to March 16, 2006.

Apr. 4, 2006
[S. Con. Res. 60]

## AMERICA'S NATIONAL NEGRO LEAGUES BASEBALL MUSEUM—DESIGNATION

Whereas the Negro Leagues Baseball Museum in Kansas City, Missouri, was founded in 1990, in honor of those individuals who played in the Negro Baseball Leagues as a result of segregation in America;

Whereas the Negro Leagues Baseball Museum is the only public museum in the Nation that exists for the exclusive purpose of interpreting the experiences of the players in the Negro Leagues from 1920 through 1970;

Whereas the Negro Leagues Baseball Museum project began in the 1980s, through a large scale, grass roots, civic and fundraising effort by citizens and baseball fans in the Kansas City metropolitan area;

Whereas the first Negro Leagues Baseball Museum was located at 1615 East 18th Street in the historic "18th and Vine District", which was designated by the city of Kansas City, Missouri, in 1988 as historic in nature and the birthplace of the Negro Leagues;

Whereas the current Negro Leagues Baseball Museum was opened at 1616 East 18th Street in 1997, with a dramatic expansion of core exhibition and gallery space and over 10,000 square feet of new interpretive and educational exhibits;

Whereas the Negro Leagues Baseball Museum continues to receive strong support from the residents of the Kansas City metropolitan area and annually entertains over 60,000 visitors from all 50 States, and numerous foreign countries;

Whereas there remains a need to preserve the evidence of honor, courage, sacrifice, and triumph in the face of segregation of those African Americans who played in the Negro Leagues;

Whereas the Negro Leagues Baseball Museum seeks to educate a diverse audience through its comprehensive collection of historical materials, important artifacts, and oral histories of the participants in the Negro Leagues and the impact that segregation played in the lives of these individuals and their fans; and

Whereas a great opportunity exists to use the invaluable resources of the Negro Leagues Baseball Museum to teach the Nation's school children, through on-site visits, traveling exhibits, classroom curriculum, distance learning, and other educational initiatives: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) designates the Negro Leagues Baseball Museum in Kansas City, Missouri, including the museums future and expanded exhibits, collections library, archives, artifacts and education programs as "America's National Negro Leagues Baseball Museum";

(2) supports the efforts of the Negro Leagues Baseball Museum to recognize and preserve the history of the Negro Leagues and the impact of segregation on our Nation;

(3) recognizes that the continued collection, preservation, and interpretation of the historical objects and other historical materials held by the Negro Leagues Baseball Museum enhances our knowledge and understanding of the experience of African Americans during legal segregation;

(4) commends the ongoing development and visibility of the "Power Alley" educational outreach program for teachers and students throughout the Nation sponsored by the Negro Leagues Baseball Museum;

(5) asks all Americans to join in celebrating the Negro Leagues Baseball Museum and its mission of preserving and interpreting the legacy of the Negro Leagues; and

(6) encourages present and future generations to understand the sensitive issues surrounding the Negro Leagues, how they helped shape our Nation and Major League Baseball, and how the sacrifices made by Negro League players helped make baseball America's national pastime.

Agreed to April 4, 2006.

## NATIONAL PEACE OFFICERS' MEMORIAL SERVICE—CAPITOL GROUNDS AUTHORIZATION

Apr. 6, 2006
[H. Con. Res. 360]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.**

(a) IN GENERAL.—The Grand Lodge of the Fraternal Order of Police and its auxiliary (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event, the 25th annual National Peace Officers' Memorial Service (in this resolution referred to as the "event"), on the Capitol Grounds, in order to honor the law enforcement officers who died in the line of duty during 2005.

(b) DATE OF EVENT.—The event shall be held on May 15, 2006, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate jointly designate.

**SEC. 2. TERMS AND CONDITIONS.**

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

**SEC. 3. EVENT PREPARATIONS.**

Subject to the approval of the Architect of the Capitol, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event.

**SEC. 4. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

Agreed to April 6, 2006.

Apr. 6, 2006
[H. Con. Res. 371]

## MINNESOTA NATIONAL GUARD—150TH ANNIVERSARY

Whereas the Minnesota National Guard traces its origins to the formation of the Pioneer Guard in the Minnesota territory in 1856, two years before Minnesota became the 32nd State in the Union;

Whereas the First Minnesota Infantry regiment was among the first militia regiments in the Nation to respond to President Lincoln's call for troops in April 1861 when it volunteered for three years of service during the Civil War;

Whereas during the Civil War the First Minnesota Infantry regiment saw battle at Bull Run, Antietam, and Gettysburg;

Whereas during a critical moment in the Battle of Gettysburg on July 3, 1863, 262 soldiers of the First Minnesota Infantry, along with other Union forces, bravely charged and stopped Confederate troops attacking the center of the Union position on Cemetery Ridge;

Whereas only 47 men answered the roll after this valiant charge, earning the First Minnesota Infantry the highest casualty rate of any unit in the Civil War;

Whereas the Minnesota National Guard was the first to volunteer for service in the Philippines and Cuba during the Spanish-American War of 1898, with enough men to form three regiments;

Whereas one of the three Minnesota regiments to report for duty in the War with Spain, the 13th Volunteer regiment, under the command of Major General Arthur MacArthur, saw among the heaviest fighting of the war in the battle of Manila and suffered more casualties than all other regiments combined during that key confrontation to free the Philippines;

Whereas after the cross-border raids of Pancho Villa and the attempted instigation of a war between the United States and Mexico, the border was secured in part by the Minnesota National Guard;

Whereas the Minnesota National Guard was mobilized for duty in World War I, where many Minnesotans saw duty in France, including the 151st Field Artillery, which saw duty as part of the famed 42nd "Rainbow" Division;

Whereas the first federally recognized Air National Guard unit in the Nation was the 109th Observation Squadron of the Minnesota National Guard, which passed its muster inspection on January 17, 1921;

Whereas a tank company of the Minnesota National Guard from Brainerd, Minnesota was shipped to the Philippines in 1941 to shore up American defenses against Japan as World War II neared;

Whereas these men from Brainerd fought hard and bravely as American forces were pushed into the Bataan Peninsula and ultimately endured the Bataan Death March;

Whereas men of the Minnesota National Guard's 175th Field Artillery, as part of the 34th "Red Bull" Division, became the first American Division to be deployed to Europe in January of 1942;

Whereas when the 34th Division was shipped to North Africa, it fired the first American shells against the Nazi forces;

Whereas the 34th Division participated in six major Army campaigns in North Africa, Sicily, and Italy, which led to the division being credited with taking many of the enemy-defended hills in the European Theater as well as having more combat days than any other division in Europe;

Whereas the Minnesota National Guard served with distinction on the ground and in the air during Operations Desert Shield and Desert Storm;

Whereas Minnesota National Guard troops have helped keep the peace in the former Yugoslavia, including 1,100 troops who have seen service in Bosnia, Croatia, and Kosovo;

Whereas the Minnesota National Guard has participated in keeping America safe after September 11th, 2001, in numerous ways, including airport security;

Whereas the Duluth-based 148th Fighter Wing's F–16s flew patrols over cities after September 11th for a longer time than any other air defense unit;

Whereas over 11,000 members of the Minnesota National Guard have been called up for full-time service since the September 11th terrorist attacks;

Whereas as of March 20, 2006, Minnesota National Guard troops are serving in national defense missions in Afghanistan, Pakistan, Kuwait, Qatar, Oman, and Iraq;

Whereas more than 600 Minnesota National Guard troops have been deployed to Afghanistan in Operation Enduring Freedom;

Whereas members of the Minnesota National Guard, serving in the 1st Brigade Combat Team of the 34th Infantry Division,

have been a part of the State's largest troop deployment since World War II, with more than 2,600 citizen soldiers called to service in support of Operation Iraqi Freedom;

Whereas the Minnesota National Guard has greatly contributed not only to battles but to the suppressing of violent riots, such as the 1947 national meat processors strike, in which they aided helpless police officers, and the fight against natural disasters such as the Red River flood in 1997 in which they organized search and rescue missions, helped shelter people who were left homeless, ran logistics, and helped sandbagging efforts; and

Whereas on April 17, 2006, the Minnesota National Guard will celebrate its 150th anniversary along with its historical and recent accomplishments: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) honors and congratulates the Minnesota National Guard for its spirit of dedication and service to the State of Minnesota and to the Nation on its 150th anniversary; and

(2) recognizes that the role of the National Guard, the Nation's citizen-soldier based militia, which was formed before the United States Army, has been and still is extremely important to the security and freedom of the Nation.

Agreed to April 6, 2006.

Apr. 7, 2006
[H. Con. Res. 366]

## SPACE SHUTTLE COLUMBIA—25TH ANNIVERSARY

Whereas Space Shuttle Columbia was the first manned, reusable spacecraft that was flown into orbit without benefit of previous unmanned orbital test flights;

Whereas the Space Shuttle Columbia was the first spacecraft to launch with wings, using solid rocket boosters;

Whereas the Space Shuttle Columbia was the first reentry spacecraft to land on a conventional runway;

Whereas the Space Shuttle program has allowed the United States to partner with other nations to build and to inhabit the International Space Station;

Whereas the successful return to flight of the Space Shuttle represents the first leg of the Nation's Vision for Space Exploration;

Whereas the men and women of America's Space Shuttle program have been instrumental in ensuring the Nation's preeminence in space exploration for 25 years;

Whereas the very specialized and highly valued workforce of the Space Shuttle program will contribute greatly to the Vision for Space Exploration as we return to the Moon, and go on to Mars and beyond;

Whereas, like the explorers Lewis and Clark who explored our great Nation, John Young and Robert Crippen opened a new era of human exploration beyond our planet; and

Whereas heroes such as John Young and Robert Crippen are a great inspiration to our next generation of Americans as they

stimulate interest in the study of math and science: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) congratulates the National Aeronautics and Space Administration on the 25th anniversary of the first flight of the Space Transportation System;

(2) honors Commander John Young and the Pilot Robert Crippen, who flew Space Shuttle Columbia on April 12–14, 1981, on its first orbital test flight; and

(3) commends the men and women of the National Aeronautics and Space Administration and all those supporting America's space program for their accomplishments and their role in inspiring the American people.

Agreed to April 7, 2006.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Apr. 7, 2006
[H. Con. Res. 382]

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, April 6, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, April 25, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, April 6, 2006, through Sunday, April 9, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 24, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to April 7, 2006.

## SOAP BOX DERBY RACES—CAPITOL GROUNDS AUTHORIZATION

May 2, 2006
[H. Con. Res. 349]

*Resolved by the House of Representatives (the Senate concurring)*,

**SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.**

The Greater Washington Soap Box Derby Association (in this resolution referred to as the "Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol Grounds on June 17, 2006, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate.

**SEC. 2. CONDITIONS.**

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

**SEC. 3. STRUCTURES AND EQUIPMENT.**

For the purposes of this resolution, the Association is authorized to erect upon the Capitol Grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

**SEC. 4. ADDITIONAL ARRANGEMENTS.**

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

**SEC. 5. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event to be carried out under this resolution.

Agreed to May 2, 2006.

May 3, 2006
[H. Con. Res. 90]

## MURDERS OF YOUNG WOMEN IN CIUDAD JUÁREZ AND CHIHUAHUA, MEXICO—CONDOLENCES

Whereas the Mexican cities of Ciudad Juárez and Chihuahua have been plagued with the abduction, sexual assault, and brutal murders of over 400 young women since 1993;

Whereas there have been at least 56 murders of women in Ciudad Juárez and the city of Chihuahua since 2004;

Whereas at least 152 of the victims were sexually assaulted prior to their murders;

Whereas more than half of the victims are women and girls between the ages of 13 and 22, and many were abducted in broad daylight in well-populated areas;

Whereas these murders have brought pain to the families and friends of the victims on both sides of the border as they struggle to cope with the loss of their loved ones;

Whereas many of the victims have yet to be positively identified;

Whereas the perpetrators of most of these heinous acts remain unknown;

Whereas the Mexican Federal Government has taken steps to prevent these abductions and murders in Ciudad Juárez, including setting up a commission to coordinate Federal and State efforts, establishing a 40-point plan, appointing a special commissioner, and appointing a special prosecutor;

Whereas the Mexican Federal special prosecutor's review of the Ciudad Juárez murder investigations found evidence that over 100 police, prosecutors, forensics experts, and other State of Chihuahua justice officials failed to properly investigate the crimes, and recommended that they be held accountable for their acts of negligence, abuse of authority, and omission;

Whereas the Government of Mexico has recognized the importance of the work of the Mexican Federal special prosecutor and has shifted the mission of the prosecutor's office to assist local authorities in investigating and prosecuting crimes of violence against women throughout the country;

Whereas in 2003 the El Paso Field Office of the Federal Bureau of Investigation and the El Paso Police Department began providing Mexican Federal, State, and municipal law enforcement authorities with training in investigation techniques and methods;

Whereas the United States Agency for International Development has begun providing assistance to the State of Chihuahua for judicial reform;

Whereas the government of the State of Chihuahua has jurisdiction over these crimes;

Whereas the Governor and Attorney General of the State of Chihuahua have expressed willingness to collaborate with the Mexican Federal Government and United States officials in addressing these crimes;

Whereas the Department of State has provided consular services on behalf of the American citizen and her husband who were tortured into confessing to one of the murders;

Whereas Mexico is a party to the following international treaties and declarations that relate to abductions and murders: the Charter of the Organization of American States, the American Convention on Human Rights, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the United Nations Declaration on Violence Against Women, the Convention on the Rights of the Child, the Convention of Belem do Para, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on Forced Disappearance, and the United Nations Declaration on the Protection of All Persons From Enforced Disappearance; and

Whereas continuing impunity for these crimes is a threat to the rule of law in Mexico: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) condemns the ongoing abductions and murders of young women in Ciudad Juárez and the city of Chihuahua in the State of Chihuahua, Mexico, since 1993;

(2) expresses its sincerest condolences and deepest sympathy to the families of the victims of these murders;

(3) recognizes the courageous struggle of the victims' families in seeking justice for the victims;

(4) urges the President and Secretary of State to incorporate the investigative and preventative efforts of the Mexican Government in the bilateral agenda between the Governments of Mexico and the United States and to continue to express concern over these abductions and murders to the Government of Mexico;

(5) urges the President and Secretary of State to continue to express support for the efforts of the victims' families to seek justice for the victims, to express concern relating to the continued harassment of these families and the human rights defenders with whom they work, and to express concern with respect to impediments in the ability of the families to receive prompt and accurate information in their cases;

(6) supports ongoing efforts to identify unknown victims through forensic analysis, including DNA testing, conducted by independent, impartial experts who are sensitive to the special needs and concerns of the victims' families, as well as efforts to make these services available to any families who have doubts about the results of prior forensic testing;

(7) condemns the use of torture as a means of investigation into these crimes;

(8) encourages the Secretary of State to continue to include in the annual Country Report on Human Rights of the Department of State all instances of improper investigatory methods, threats against human rights activists, and the use of torture with respect to cases involving the murder and abduction of young women in the State of Chihuahua;

(9) encourages the Secretary of State to urge the Government of Mexico and the State of Chihuahua to review the cases of murdered women in which those accused or convicted of murder have credibly alleged they were tortured or forced by a state agent to confess to the crime;

(10) strongly recommends that the United States Ambassador to Mexico visit Ciudad Juárez and the city of Chihuahua for the purpose of meeting with the families of the victims, women's rights organizations, and Mexican Federal and State officials responsible for investigating these crimes and preventing future such crimes;

(11) encourages the Secretary of State to urge the Government of Mexico to ensure fair and proper judicial proceedings for the individuals who are accused of these abductions and murders and to impose appropriate punishment for those individuals subsequently determined to be guilty of such crimes;

(12) encourages the Secretary of State to urge the State of Chihuahua to hold accountable those law enforcement officials whose failure to adequately investigate the murders,

whether through negligence, omission, or abuse, has led to impunity for these crimes;

(13) encourages the Secretary of State to urge the Government of Mexico to ensure that the Mexican Federal special prosecutor's office, responsible for assisting local authorities in investigating and prosecuting crimes of violence against women throughout the country, gives particular attention to the murders of women in Ciudad Juárez and Chihuahua City;

(14) strongly supports the work of the special commissioner to prevent violence against women in Ciudad Juárez and Chihuahua City;

(15) condemns all senseless acts of violence in all parts of the world and, in particular, violence against women; and

(16) expresses the solidarity of the people of the United States with the people of Mexico in the face of these tragic and senseless acts.

Agreed to May 3, 2006.

## 2006 DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN—CAPITOL GROUNDS AUTHORIZATION

May 4, 2006
[H. Con. Res. 359]

*Resolved by the House of Representatives (the Senate concurring)*,

**SECTION 1. AUTHORIZATION OF USE OF CAPITOL GROUNDS FOR D.C. SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN.**

On June 9, 2006, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, the 2006 District of Columbia Special Olympics Law Enforcement Torch Run (in this resolution referred to as the "event") may be run through the Capitol Grounds as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games.

**SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.**

The Capitol Police Board shall take such actions as may be necessary to carry out the event.

**SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.**

The Architect of the Capitol may prescribe conditions for physical preparations for the event.

**SEC. 4. ENFORCEMENT OF RESTRICTIONS.**

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

Agreed to May 4, 2006.

May 10, 2006
[H. Con. Res. 335]

# NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE—97TH ANNIVERSARY RECOGNITION

Whereas the National Association for the Advancement of Colored People (NAACP), originally known as the National Negro Committee, was founded in New York City on February 12, 1909, the centennial of Abraham Lincoln's birth, by a multiracial group of activists who answered "The Call" for a national conference to discuss the civil and political rights of African Americans;

Whereas the National Association for the Advancement of Colored People was founded by a distinguished group of leaders in the struggle for civil and political liberty, including Ida Wells-Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villiard, and William English Walling;

Whereas the NAACP is the oldest and largest civil rights organization in the United States;

Whereas the mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination;

Whereas the NAACP is committed to achieving its goals through nonviolence;

Whereas the NAACP advances its mission through reliance upon the press, the petition, the ballot, and the courts, and has been persistent in the use of legal and moral persuasion, even in the face of overt and violent racial hostility;

Whereas the NAACP has used political pressure, marches, demonstrations, and effective lobbying to serve the voice, as well as the shield, for minority Americans;

Whereas after years of fighting segregation in public schools, the NAACP, under the leadership of Special Counsel Thurgood Marshall, won one of its greatest legal victories in the Supreme Court's 1954 decision in Brown v. Board of Education;

Whereas in 1955, NAACP member Rosa Parks was arrested and fined for refusing to give up her seat on a segregated bus in Montgomery, Alabama—an act of courage that would serve as the catalyst for the largest grassroots civil rights movement in the history of the United States;

Whereas the NAACP was prominent in lobbying for the passage of the Civil Rights Acts of 1957, 1960, and 1964, the Voting Rights Act of 1965, and the Fair Housing Act, laws which ensured Government protection for legal victories achieved; and

Whereas in 2005, the National Association for the Advancement of Colored People launched the Disaster Relief Fund to help survivors in Louisiana, Mississippi, Texas, Florida, and Alabama to rebuild their lives: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) recognizes the 97th anniversary of the historic founding of the National Association for the Advancement of Colored People; and

(2) honors and praises the National Association for the Advancement of Colored People on the occasion of its anniversary for its work to ensure the political, educational, social, and economic equality of all persons.

Agreed to May 10, 2006.

## NATIONAL CYSTIC FIBROSIS AWARENESS MONTH—SUPPORT

May 24, 2006
[H. Con. Res. 357]

Whereas cystic fibrosis is one of the most common life-threatening genetic diseases in the United States and one for which there is no known cure;

Whereas the average life expectancy of an individual with cystic fibrosis is 35 years, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas approximately 30,000 people in the United States have cystic fibrosis, more than half of them children;

Whereas one of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas more than 10,000,000 Americans are unknowing, symptom-free carriers of the cystic fibrosis gene;

Whereas the Centers for Disease Control and Prevention recommends that all States consider newborn screening for cystic fibrosis;

Whereas the Cystic Fibrosis Foundation urges all States to implement newborn screening for cystic fibrosis to facilitate early diagnosis and treatment which improves health and longevity;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas innovative research is progressing faster and is being conducted more aggressively than ever before, due, in part, to the Cystic Fibrosis Foundation's establishment of a model clinical trials network;

Whereas although the Cystic Fibrosis Foundation continues to fund a research pipeline for more than two dozen potential therapies and funds a nationwide network of care centers that extend the length and quality of life for people with cystic fibrosis, lives continue to be lost to this disease every day;

Whereas education of the public about cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis; and

Whereas the Cystic Fibrosis Foundation will conduct activities to honor National Cystic Fibrosis Awareness Month in May, 2006: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) honors the goals and ideals of National Cystic Fibrosis Awareness Month;

(2) promotes further public awareness and understanding of cystic fibrosis;

(3) advocates for increased support for people who have cystic fibrosis and their families;

(4) encourages early diagnosis and access to quality care for people with cystic fibrosis to improve the quality of their lives; and

(5) supports research to find a cure for cystic fibrosis by fostering an enhanced research program through a strong Federal commitment and expanded public-private partnerships.

Agreed to May 24, 2006.

May 26, 2006
[H. Con. Res. 418]

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, May 25, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 6, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, May 25, 2006, through Sunday, May 28, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 5, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to May 26, 2006.

June 19, 2006
[H. Con. Res. 372]

## INTERSTATE HIGHWAY SYSTEM—50TH ANNIVERSARY RECOGNITION

Whereas on June 29, 1956, President Dwight D. Eisenhower signed the Federal-Aid Highway Act of 1956 to establish a 41,000-mile National System of Interstate and Defense Highways, known as the "Interstate Highway System", and the Highway Revenue Act of 1956 to create a Highway Trust Fund;

Whereas in 1990, the National System of Interstate and Defense Highways was renamed the "Dwight D. Eisenhower National System of Interstate and Defense Highways" to recognize President Eisenhower's role in the creation of the system;

Whereas in 2006, this web of superhighways, now spanning a total of 46,876 miles throughout the United States, has had a powerful and positive impact on our national life;

Whereas the Interstate Highway System has proven vital in transporting people and goods from one region to another speedily and safely;

Whereas the Interstate Highway System has facilitated trade both within our national borders and globally and helped create unprecedented economic expansion and opportunities for millions of Americans;

Whereas the Interstate Highway System has brought diverse communities throughout our land closer together and kept us connected to one another as well as the larger world;

Whereas the Interstate Highway System has made it easier and often more enjoyable to travel to long-distance destinations and spend time with family members and friends who live far away;

Whereas the Interstate Highway System is a pivotal component in our national system of defense and emergency preparedness efforts;

Whereas the Interstate Highway System remains one of our country's paramount assets as well as a symbol of human ingenuity and freedom; and

Whereas this anniversary provides an occasion to both honor one of the largest public works achievements of all time and reflect on how it can remain effective in the years ahead: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) recognizes the golden anniversary year of the Dwight D. Eisenhower National System of Interstate and Defense Highways;

(2) recognizes the achievements of the Federal Highway Administration (and its predecessor, the Bureau of Public Roads), the State departments of transportation, and the highway construction industry, including contractors, designers, engineers, laborers, materials producers, and equipment companies, for their contributions to the construction of the Interstate Highway System and the quality of life of the citizens of the United States; and

(3) encourages citizens, communities, government agencies, and other organizations to promote and participate in celebratory and educational activities marking this uniquely important and historic milestone.

Agreed to June 19, 2006.

June 22, 2006
[H. Con. Res. 409]

## KING BHUMIBOL ADULYADEJ OF THAILAND, ASCENSION TO THE THRONE—60TH ANNIVERSARY COMMEMORATION

Whereas on June 9, 1946, His Majesty Bhumibol Adulyadej ascended the throne and this year celebrates his 60th year as King of Thailand;

Whereas His Majesty King Bhumibol is the longest-serving monarch in the world;

Whereas on May 26, 2006, His Majesty King Bhumibol received the inaugural special Human Development Lifetime Achievement Award from the United Nations Development Program for his dedication to social justice, growth with equity, human security, democratic governance, and sustainability;

Whereas during the reign of His Majesty King Bhumibol, Thailand has become a democratically governed constitutional democracy in which Thai citizens enjoy the right to change their government through periodic free and fair elections held on the basis of universal suffrage;

Whereas His Majesty King Bhumibol has enjoyed a special relationship with the United States, having been born in 1927 in Cambridge, Massachusetts, where his father, Prince Mahidol of Songkla, was studying medicine at the Harvard Medical School;

Whereas the United States and Thailand have enjoyed over 170 years of friendship since the signing of the Treaty of Amity and Commerce in 1833, the first such treaty signed between the United States and any Asian country;

Whereas the United States and Thailand are treaty allies, and on December 30, 2003, President George W. Bush designated the Kingdom of Thailand as a major non-NATO ally; and

Whereas the bonds of friendship and mutual respect are strong between the United States and Thailand: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That Congress—

(1) commemorates the 60th anniversary of the ascension to the throne of His Majesty King Bhumibol Adulyadej of Thailand;

(2) offers its sincere congratulations to His Majesty King Bhumibol and best wishes for continued prosperity to his Majesty and the Kingdom of Thailand; and

(3) looks forward to continued, enduring ties of friendship between the Thai and American people.

Agreed to June 22, 2006.

June 22, 2006
[S. Con. Res. 103]

## ENROLLMENT CORRECTIONS—H.R. 889

*Resolved by the Senate (the House of Representatives concurring),* That, in the enrollment of the bill H.R. 889, the Clerk of the House of Representatives shall make the following corrections:

(1) In the table of contents in section 2, strike the item relating to section 414 and insert the following:

"Sec. 414. Navigational safety of certain facilities.".

(2) Strike section 414 and insert the following:

**"SEC. 414. NAVIGATIONAL SAFETY OF CERTAIN FACILITIES.**

"(a) CONSIDERATION OF ALTERNATIVES.—In reviewing a lease, easement, or right-of-way for an offshore wind energy facility in Nantucket Sound under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)), not later than 60 days before the date established by the Secretary of the Interior for publication of a draft environmental impact statement, the Commandant of the Coast Guard shall specify the reasonable terms and conditions the Commandant determines to be necessary to provide for navigational safety with respect to the proposed lease, easement, or right-of-way and each alternative to the proposed lease, easement, or right-of-way considered by the Secretary.

"(b) INCLUSION OF NECESSARY TERMS AND CONDITIONS.—In granting a lease, easement, or right-of-way for an offshore wind energy facility in Nantucket Sound under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)), the Secretary shall incorporate in the lease, easement, or right-of-way reasonable terms and conditions the Commandant determines to be necessary to provide for navigational safety.".

Agreed to June 22, 2006.

## NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION, HISTORIC CONGRESSIONAL CHARTER—100TH ANNIVERSARY RECOGNITION

June 26, 2006
[H. Con. Res. 367]

Whereas the National Society of the Sons of the American Revolution (in this resolution referred to as the "SAR") was founded on April 30, 1889, and chartered by Congress 100 years ago on June 9, 1906;

Whereas the Charter was signed by Theodore Roosevelt, himself a member of the SAR;

Whereas the SAR was conceived as a fraternal and civic society composed of lineal descendants of the men who wintered at Valley Forge, signed the Declaration of Independence, fought in the battles of the American Revolution, served in the Continental Congress, or otherwise supported the cause of American Independence;

Whereas 16 American Presidents have been proud members of the SAR;

Whereas the Charter of National Society of the Sons of the American Revolution describes the objects and purposes of the Society as "* * * patriotic, historical and educational" and that it is charged with perpetuating the memory of the men who, by their services or sacrifices during the war of the American Revolution, achieved the independence of the American people;

Whereas the Society is also dedicated to inspiring its members and the community at large with a more profound reference for the principles of the Government founded by our forefathers and to encourage historical research about the American Revolution;

Whereas the SAR has a long record of accomplishments in teaching about the Revolutionary War and those who gained our freedom during the War for Independence;

Whereas it is largely through efforts by the SAR in the late 1800s and early 1900s that the National Archives were established to gather the records of the men who fought and provided services during the Revolutionary War;

Whereas the SAR advances its mission through commemorations of battles and events that led to our freedom;

Whereas the SAR devotes a great deal of its time, energy, and resources to working with children so that they might have a better understanding of the history of the United States;

Whereas the SAR is currently working to establish a Center for Advancing America's Heritage adjacent to its national headquarters in Louisville, Kentucky; and

Whereas the SAR's almost 27,000 members are organized in Chapters throughout the 50 States and the District of Columbia and in several countries overseas that helped the American Colonies gain their freedom: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress—

(1) recognizes the 100th anniversary of the historic Congressional Charter of the National Society of the Sons of the American Revolution; and

(2) honors and praises the National Society of the Sons of the American Revolution on the occasion of its anniversary for its work to perpetuate and honor the memory of the brave men who fought to gain our freedom during the Revolutionary War and for the Society's unfailing devotion to our Nation's youth.

Agreed to June 26, 2006.

June 29, 2006
[H. Con. Res. 426]

## FOOD AND DRUG ADMINISTRATION—100TH ANNIVERSARY RECOGNITION

Whereas the Food and Drugs Act of June 30, 1906 (34 Stat. 768; chapter 3915), transformed the Food and Drug Administration ("FDA") into a scientific regulatory agency;

Whereas the FDA is the oldest consumer protection agency in the United States;

Whereas the FDA is the primary consumer protection agency in the United States and the world;

Whereas FDA has the critical mission of protecting the public health by ensuring that—

(1) foods are safe, wholesome, sanitary, and properly labeled;

(2) human and veterinary drugs are safe and effective;

(3) devices intended for human use are safe and effective;
(4) cosmetics are properly labeled; and
(5) consumers are protected from electronic product radiation;

Whereas FDA is also responsible for advancing the public health by helping to speed innovations which improve peoples' lives;

Whereas, in protecting and promoting the health of citizens of the United States, the FDA has been a pioneer and leader in the field of food and drug science;

Whereas people around the world enjoy a higher quality of life due, in part, to the work of the FDA to expand food safety, medical product safety, and regulatory science; and

Whereas the centennial anniversary of the passage of the 1906 Food and Drugs Act occurs on June 30, 2006, marks the 100th anniversary of the Agency's founding, and is a major milestone in FDA's celebrated history: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That the Congress recognizes the Food and Drug Administration of the Department of Health and Human Services and its employees for—

(1) 100 years of service in working to ensure the safety of our food and the safety and efficacy of our medical products;
(2) providing leadership to the world in the regulatory sciences; and
(3) their hard work and extraordinary dedication to the protection and promotion of our Nation's public health.

Agreed to June 29, 2006.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

June 29, 2006
[H. Con. Res. 440]

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, June 29, 2006, or Friday, June 30, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, July 10, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, June 29, 2006, Friday, June 30, 2006, or Saturday, July 1, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 10, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to June 29, 2006.

July 11, 2006
[H. Con. Res. 427]

## DEPARTMENT OF VETERANS AFFAIRS, 75TH ANNIVERSARY CEREMONY—CAPITOL ROTUNDA AUTHORIZATION

*Resolved by the House of Representatives (the Senate concurring)*, That the Rotunda of the Capitol is authorized to be used on July 19, 2006, for a ceremony to commemorate the 75th anniversary of the establishment of the Department of Veterans Affairs. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Agreed to July 11, 2006.

July 12, 2006
[S. Con. Res. 108]

## POCKET VERSION OF THE UNITED STATES CONSTITUTION, "OUR FLAG", AND "A BOTANIC GARDEN FOR THE NATION"—SENATE PRINTS

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. POCKET VERSION OF THE UNITED STATES CONSTITUTION.**

(a) IN GENERAL.—The 22nd edition of the pocket version of the United States Constitution shall be printed as a Senate document under the direction of the Joint Committee on Printing.

(b) ADDITIONAL COPIES.—In addition to the usual number, there shall be printed the lesser of—

(1) 550,000 copies of the document, of which 440,000 copies shall be for the use of the House of Representatives, 100,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $198,000 with distribution to be allocated in the same proportion as described in paragraph (1), except that in no case shall the number of copies be less than 1 for each Member of Congress.

**SEC. 2. OUR FLAG.**

(a) IN GENERAL.—The 2006 revised edition of the publication entitled "Our Flag" shall be printed as a Senate document under the direction of the Joint Committee on Printing.

(b) ADDITIONAL COPIES.—In addition to the usual number, there shall be printed the lesser of—

(1) 550,000 copies of the document, of which 440,000 copies shall be for the use of the House of Representatives, 100,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $215,000 with distribution to be allocated in the same proportion as described in paragraph (1), except that in no case shall the number of copies be less than 1 for each Member of Congress.

**SEC. 3. A BOTANIC GARDEN FOR THE NATION.**

(a) IN GENERAL.—There shall be printed as a Senate document under the direction of the Joint Committee on Printing the book entitled "A Botanic Garden for the Nation", prepared by the United States Botanic Gardens.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 3,075 copies of the document, of which 725 copies shall be for the use of the Senate and 1,470 for the use of the House of Representatives with distribution determined by the Joint Committee on Printing, 880 copies for the use of the Botanic Gardens with distribution determined by the Joint Committee of Congress on the Library; or

(2) a number of copies that does not have a total production and printing cost of more than $102,000.

Agreed to July 12, 2006.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, SPACE SHUTTLE DISCOVERY STS–121 MISSION—COMMENDATION

July 21, 2006
[H. Con. Res. 448]

Whereas, on July 4, 2006, the National Aeronautics and Space Administration performed a successful launch of the Space Shuttle Discovery;

Whereas this mission, known as STS–121, marks the second Return-to-Flight mission;

Whereas the crew of the Discovery consisted of Colonel Steve Lindsey, Commander Mark Kelly, Piers Sellers, Ph.D, Lieutenant Colonel Mike Fossum, Commander Lisa Nowak, Stephanie Wilson, and Thomas Reiter;

Whereas the STS–121 mission tested Space Shuttle safety improvements, building on findings from Discovery's flight last year, including a redesign of the Space Shuttle's External Tank foam insulation, in-flight inspection of the shuttle's heat shield, and improved imagery during launch;

Whereas the STS–121 mission re-supplied the International Space Station by delivering more than 28,000 pounds of equipment and supplies, as well as added a third crew member to the International Space Station;

Whereas, due to the overall success of the launch and on-orbit operations, the mission was able to be extended from 12 to 13 days, allowing for an additional space walk to the two originally scheduled;

Whereas the success of the STS–121 mission is a tribute to the skills and dedication of the Space Shuttle crew, the National Aeronautics and Space Administration, and its industrial partners;

Whereas all Americans benefit from the technological advances gained through the Space Shuttle program; and

Whereas the National Aeronautics and Space Administration plays a vital role in sustaining America's preeminence in space: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that the National Aeronautics and Space Administration be commended for—

(1) the successful completion of the Space Shuttle Discovery's STS–121 mission; and

(2) its pioneering work in space exploration which is strengthening the Nation and benefitting all Americans.

Agreed to July 21, 2006.

July 29, 2006
[S. Con. Res. 112]

## ENROLLMENT CORRECTION—S. 3693

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of the bill, S. 3693, the Secretary of the Senate shall insert "or reentries" after "States, reentry" in section 212(a)(9)(C)(iii)(II) of the Immigration and Nationality Act, as added by section 6(b)(1)(C) of the bill.

Agreed to July 29, 2006.

Aug. 2, 2006
[H. Con. Res. 399]

## CALIFORNIA VICTORY AT THE 1976 PARIS WINE TASTING—30TH ANNIVERSARY RECOGNITION

Whereas on May 24th, 1976 in Paris, France, the premier wines of California and France were judged in a blind taste test by leading French wine experts;

Whereas the winning red wine was the 1973 Stag's Leap Wine Cellars SLV Napa Valley Cabernet crafted by winemaker Warren Winiarski;

Whereas the winning white wine was the 1973 Chateau Montelena Napa Valley Chardonnay crafted by winemaker Miljenko "Mike" Grgich;

Whereas this event became known as the Tasting Heard 'Round the World, and heralded the beginning of the rise to preeminence of California wines;

Whereas the Smithsonian Institution's National Museum of American History has placed bottles of the winning wines in its permanent collection;

Whereas wines from all over the United States are now enjoyed all over the world; and

Whereas the domestic wine industry now contributes over $50 billion a year to the United States economy: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) recognizes and honors the 30th Anniversary of the California victory at the 1976 Paris Wine Tasting; and

(2) recognizes the historical significance of this event to the United States wine industry.

Agreed to August 2, 2006.

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Aug. 3, 2006
[H. Con. Res. 467]

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on any day from Wednesday, August 2, 2006, through Tuesday, August 8, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Wednesday, September 6, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, August 3, 2006, through Tuesday, August 8, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 5, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to August 3, 2006.

## HALL OF FAMER BOB FELLER, HISTORIC 1946 BASEBALL SEASON—60TH ANNIVERSARY COMMEMORATION

Sept. 11, 2006
[H. Con. Res. 449]

Whereas Robert William Andrew Feller was born on November 3, 1918, near Van Meter, Iowa, and resides in Gates Mills, Ohio;

Whereas Bob Feller enlisted in the Navy 2 days after the attack on Pearl Harbor in 1941;

Whereas, at the time of his enlistment, Bob Feller was at the peak of his baseball career, as he had been signed to the Cleveland Indians at the age of 16, had struck out 15 batters in his first Major League Baseball start in August 1936, and established a Major League record by striking out 18 Detroit Tigers in a single, 9-inning game;

Whereas Bob Feller is the first pitcher in modern Major League Baseball history to win 20 or more games before the age of 21;

Whereas Bob Feller pitched the only opening day no-hitter in Major League Baseball history;

Whereas, on April 16, 1940, at Comiskey Park in Chicago, Bob Feller threw his first no-hitter and began the season for which he was awarded Major League Baseball Player of the Year;

Whereas Bob Feller served with valor in the Navy for nearly 4 years, missing almost 4 full baseball seasons;

Whereas Bob Feller was stationed mostly aboard the U.S.S. Alabama as a gunnery specialist, where he kept his pitching arm in shape by tossing a ball on the deck of that ship;

Whereas Bob Feller earned 8 battle stars and was discharged in late 1945, and was able to pitch 9 games at the end of that season, compiling a record of 5 wins and 3 losses;

Whereas 60 years ago, amid great speculation that, after nearly 4 seasons away from baseball, his best pitching days were behind him, Bob Feller had 1 of the most amazing seasons in baseball history;

Whereas, in the 1946 season, Bob Feller pitched 36 complete games in 42 starts;

Whereas, on April 30, 1946, in a game against the New York Yankees, Bob Feller pitched his second career no-hitter;

Whereas, in 1946, Bob Feller pitched in relief 6 times, saving 4 games;

Whereas, in 1946, Bob Feller routinely threw between 125 and 140 pitches a game, a feat not often seen today;

Whereas, in 1946, Bob Feller pitched 371⅓ innings and had 348 strikeouts;

Whereas, in 1946, Bob Feller had an earned run average of 2.18;

Whereas, in 1946, a fastball thrown by Bob Feller was clocked at 109 mph;

Whereas Bob Feller was the winning pitcher in the 1946 All Star Game, throwing 3 scoreless innings in a 12–0 victory by the American League;

Whereas, in 1946, Bob Feller led the American League in wins, shutouts, strikeouts, games pitched, and innings;

Whereas the baseball career of Bob Feller ended in 1956, but not before pitching his third no-hitter against the Detroit Tigers on July 1, 1951, pitching 12 1-hit games, amassing 266 victories and 2,581 strikeouts, and leading the league in strikeouts 7 times;

Whereas Bob Feller was inducted into the Baseball Hall of Fame in 1962; and

Whereas Bob Feller, a beloved baseball figure known as "Bullet Bob" and "Rapid Robert," placed service to his country ahead of playing the game he loved and is a decorated war veteran: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress commemorates the 60th anniversary of

the 1946 season of Bob Feller and his return from military service to the United States.

Agreed to September 11, 2006.

## ENROLLMENT CORRECTIONS—S. 2590

Sept. 13, 2006
[S. Con. Res. 114]

*Resolved by the Senate (the House of Representatives concurring),* That, in the enrollment of the bill S. 2590, the Secretary of the Senate shall make the following corrections:

(1) In section 2(a), strike paragraphs (2) and (3) and insert the following:

"(2) FEDERAL AWARD.—The term 'Federal award'—

"(A) means Federal financial assistance and expenditures that—

"(i) include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

"(ii) include contracts, subcontracts, purchase orders, task orders, and delivery orders;

"(B) does not include individual transactions below $25,000; and

"(C) before October 1, 2008, does not include credit card transactions.

"(3) SEARCHABLE WEBSITE.—The term 'searchable website' means a website that allows the public to—

"(A) search and aggregate Federal funding by any element required by subsection (b)(1);

"(B) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(i), by fiscal year;

"(C) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(ii), by fiscal year; and

"(D) download data included in subparagraph (A) included in the outcome from searches.".

(2) In section 2(b)(1), strike "section and section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note)," and insert "section, section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.),".

(3) In section 2, strike subsection (c) and insert the following:

"(c) WEBSITE.—The website established under this section—

"(1) may use as the source of its data the Federal Procurement Data System, Federal Assistance Award Data System, and Grants.gov, if all of these data sources are searchable through the website and can be accessed in a search on the website required by this Act, provided that the user may—

"(A) specify such search shall be confined to Federal contracts and subcontracts;

"(B) specify such search shall be confined to include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

"(2) shall not be considered in compliance if it hyperlinks to the Federal Procurement Data System website, Federal Assistance Award Data System website, Grants.gov website, or other existing websites, so that the information elements required by subsection (b)(1) cannot be searched electronically by field in a single search;

"(3) shall provide an opportunity for the public to provide input about the utility of the site and recommendations for improvements;

"(4) shall be updated not later than 30 days after the award of any Federal award requiring a posting; and

"(5) shall provide for separate searches for Federal awards described in subsection (a) to distinguish between the Federal awards described in subsection (a)(2)(A)(i) and those described in subsection (a)(2)(A)(ii).".

(4) Add at the end the following:

**"SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORTING REQUIREMENT.**

"Not later than January 1, 2010, the Comptroller General shall submit to Congress a report on compliance with this Act.".

Agreed to September 13, 2006.

Sept. 25, 2006
[H. Con. Res. 235]

## STATE DRIVER'S LICENSE CANDIDATES—MANDATE REGARDING THE VISUALLY IMPAIRED

Whereas many people in the United States who are blind or otherwise visually impaired have the ability to travel throughout their communities without assistance;

Whereas visually impaired individuals encounter hazards that a pedestrian with average vision could easily avoid, many of which involve crossing streets and roadways;

Whereas the white cane and guide dog should be generally recognized as aids to mobility for visually impaired individuals;

Whereas many States do not require candidates for driver's licenses to associate the use of the white cane or guide dog with potentially visually impaired individuals; and

Whereas visually impaired individuals have had their white canes and guide dogs run over by motor vehicles, have been struck by the side-view mirrors of motor vehicles, and have suffered serious personal injury and death as the result of being hit by motor vehicles: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress that each State should require any candidate for a driver's license in such State to demonstrate, as a condition of obtaining a driver's license, an ability to associate the use of the white cane and guide dog with visually impaired individuals and to exercise greatly increased caution when driving in proximity to a potentially visually impaired individual.

Agreed to September 25, 2006.

## ENROLLMENT CORRECTIONS—H.R. 3127

Sept. 26, 2006
[H. Con. Res. 480]

*Resolved by the House of Representatives (the Senate concurring),* That, in the enrollment of the bill (H.R. 3127) entitled "An Act to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes", the Clerk of the House of Representatives is hereby authorized and directed to make the following corrections in section 8(c)(1) of the bill:

(1) Strike "to support" and insert "and to support".

(2) Strike "and to implement" and insert "or to implement".

Agreed to September 26, 2006.

## ENROLLMENT CORRECTION—S. 203

Sept. 29, 2006
[H. Con. Res. 456]

*Resolved by the House of Representatives (the Senate concurring)*, That in the enrollment of the bill, S. 203, the Secretary of the Senate shall make the following correction: After section 702 insert the following new section (and amend the table of contents accordingly):

**SEC. 703. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Public Law 100–515 (16 U.S.C. 1244 note) is amended by striking section 6 and inserting the following:

**"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts made available under subsection (a) shall be used only for—

"(A) technical assistance; and

"(B) the design and fabrication of interpretative materials, devices, and signs.

"(2) LIMITATIONS.—No funds made available under subsection (a) shall be used for—

"(A) operation, repair, or construction costs, except for the costs of constructing interpretative exhibits; or

"(B) operation, maintenance, or repair costs for any road or related structure.

"(3) COST-SHARING REQUIREMENT.—

"(A) FEDERAL SHARE.—The Federal share of any project carried out with amounts made available under subsection (a)—

"(i) may not exceed 50 percent of the total project costs; and

"(ii) shall be provided on a matching basis.

"(B) FORM OF NON-FEDERAL SHARE.—The non-Federal share of carrying out a project with amounts made available under subsection (a) may be in the form of cash, materials,

or in-kind services, the value of which shall be determined by the Secretary.

"(c) TERMINATION OF AUTHORITY.—The authorities provided to the Secretary under this Act shall terminate on September 30, 2007.".

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary of the Interior shall prepare a strategic plan for the New Jersey Coastal Heritage Trail Route.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

(B) organizational options for sustaining the New Jersey Coastal Heritage Trail Route.

Agreed to September 29, 2006.

Sept. 29, 2006
[H. Con. Res. 483]

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Friday, September 29, 2006, Saturday, September 30, 2006, or Sunday, October 1, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Thursday, November 9, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on the legislative day of Thursday, November 9, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, November 13, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the Senate recesses or adjourns on any day from Friday, September 29, 2006, through Wednesday, October 4, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Thursday, November 9, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, November 9, 2006, on a motion offered by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 13, 2006, or Tuesday, November 14, 2006, as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to September 29, 2006.

## AFRICAN DESCENDANTS OF THE TRANSATLANTIC SLAVE TRADE—ACHIEVEMENTS AND CONTRIBUTIONS

Nov. 16, 2006
[H. Con. Res. 175]

Whereas during Black History Month it is important that we not forget that African-Americans are not the only survivors of the transatlantic slave trade;

Whereas like the United States, many European nations benefited greatly from the colonization of Latin America and the Caribbean and their participation in the slave trade;

Whereas the story of African descendants in all of the Americas remains untold, leading them to be forgotten, made invisible, and allowed to suffer unjustly;

Whereas it is important to acknowledge that as a result of the slave trade and immigration, approximately 80,000,000 to 150,000,000 persons of African descent live in Latin America and the Caribbean, making them the largest population of persons of African descent outside of Africa;

Whereas Afro-descendants are present in most all Latin American countries, including Argentina, Bolivia, Chile, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela;

Whereas the size of Afro-descendant populations vary in range from less than 1 percent in some countries to as much as 30 percent in Colombia and 46 percent in Brazil and make up the majority in some Spanish speaking Caribbean nations, such as Cuba and the Dominican Republic;

Whereas Afro-descendant populations have made significant economic, social, and cultural contributions to their countries and the Western Hemisphere from their unfortunate involvement in the transatlantic slave trade to their recent contributions to trade, tourism, and other industries;

Whereas although persons of African descent have made significant achievements in education, employment, economic, political, and social spheres in some countries, the vast majority are marginalized—living in impoverished communities where they are excluded from centers of education, government, and basic human rights based upon the color of their skin and ancestry;

Whereas Afro-descendants have shorter life expectancies, higher rates of infant mortality, higher incidences of HIV/AIDS, higher rates of illiteracy, and lower incomes than do other populations;

Whereas Afro-descendants encounter problems of access to healthcare, basic education, potable water, housing, land titles, credit, equal justice and representation under the law, political representation, and other economic, political, health, and basic human rights; and

Whereas skin color and ancestry have led African-Americans in the United States and African descendants in Latin America and the Caribbean to share similar injustices, leading to economic, social, health, and political inequalities: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) recognizes and honors African descendants in the Americas for their contributions to the economic, social, and cultural fabric of the countries in the Americas, particularly in Latin American and Caribbean societies;

(2) recognizes that as a result of their skin color and ancestry, African descendants in the Americas have wrongfully experienced economic, social, and political injustices;

(3) urges the President to take appropriate measures to encourage the celebration and remembrance of the achievements of African descendants in the Americas and a resolution of injustices suffered by African descendants in the Americas;

(4) encourages the United States and the international community to work to ensure that extreme poverty is eradicated, universal education is achieved, quality healthcare is made available, and equal access to justice and representation under the law is granted in Afro-descendant communities in Latin America and the Caribbean; and

(5) encourages the United States and the international community to achieve these goals in Latin America and the Caribbean by—

(A) promoting research that focuses on identifying and eradicating racial disparities in economic, political, and social spheres;

(B) promoting programs that focus on Afro-descendant communities;

(C) providing technical support and training to Afro-descendant advocacy groups that work to uphold basic human rights in the region;

(D) promoting the creation of an international working group that focuses on problems of communities of Afro-descendants in the Americas; and

(E) promoting trade and other bilateral and multilateral agreements that take into account the needs of Afro-descendant communities.

Agreed to November 16, 2006.

Nov. 16, 2006
[H. Con. Res. 384]

## ALPHA PHI ALPHA FRATERNITY—100TH ANNIVERSARY RECOGNITION

Whereas the Alpha Phi Alpha Fraternity was founded on December 4, 1906, by seven young men, respectfully known as the Seven Jewels, at Cornell University in Ithaca, New York;

Whereas Henry Arthur Callis, Charles Henry Chapman, Eugene Kinckle Jones, George Biddle Kelley, Nathaniel Allison Murray, Robert Harold Ogle, and Vertner Woodson Tandy, the founders of the Fraternity, recognized the need for a strong bond of brotherhood among African descendants in this country;

Whereas the aims of the Alpha Phi Alpha Fraternity are manly deeds, scholarship, and love for all mankind;

Whereas for 100 years, the Alpha Phi Alpha Fraternity has played a fundamental role in the positive development of the character and education of more than 175,000 men;

Whereas the brothers of Alpha Phi Alpha have shared countless friendships and a common belief in the founding ideals of the Fraternity;

Whereas alumni from Alpha Phi Alpha include many noteworthy leaders in the areas of government, business, entertainment, science, and higher education;

Whereas the Alpha Phi Alpha Fraternity has 350 college campus chapters and 350 alumni chapters in 44 States, the District of Columbia, Africa, Asia, the Caribbean, and Europe; and

Whereas the Alpha Phi Alpha Fraternity continues to enrich the lives of its members who, in turn, carry out in their communities a commitment to service and the uplifting of humanity: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That Congress—

(1) recognizes and honors the 100th anniversary of the founding of the Alpha Phi Alpha Fraternity;

(2) commends all Alpha Phi Alpha brothers, past and present, for their bond of friendship, common ideals and beliefs, and service to community; and

(3) expresses its best wishes for the Alpha Phi Alpha Fraternity's continued success and growth.That

Agreed to November 16, 2006.

## "A HISTORY, COMMITTEE ON THE JUDICIARY, UNITED STATES HOUSE OF REPRESENTATIVES, 1813–2006"—HOUSE PRINT

Nov. 16, 2006
[H. Con. Res. 423]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. PRINTING OF DOCUMENT.**

(a) IN GENERAL.—The document entitled "A History, Committee on the Judiciary, United States House of Representatives, 1813–2006" (or the document of the history of the Committee on the Judiciary which is prepared during the One Hundred Ninth Congress with such similar title as may be provided by the Committee), prepared under the direction of the Committee on the Judiciary of the House of Representatives, shall be printed as a House document, with illustrations and suitable binding, in a style and manner determined by the Joint Committee on Printing.

(b) ADDITIONAL COPIES.—With respect to the document described in subsection (a), in addition to the usual number there shall be printed the lesser of—

(1) 200 copies, of which 60 shall be casebound for the use of Members of the Committee on the Judiciary; or

(2) the maximum number of copies for which the total production and printing cost does not exceed $7,000, with production and distribution to be allocated in the same proportion as described in paragraph (1).

Agreed to November 16, 2006.

Nov. 16, 2006
[H. Con. Res. 496]

## ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Wednesday, November 15, 2006, Thursday, November 16, 2006, or Friday, November 17, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 10 a.m. on Tuesday, December 5, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, November 16, 2006, or Friday, November 17, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, December 4, 2006, or Tuesday, December 5, 2006, as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

Agreed to November 16, 2006.

Dec. 6, 2006
[H. Con. Res. 419]

## NATIONAL PURPLE HEART HALL OF HONOR—RECOGNITION AND SUPPORT

Whereas George Washington, at his headquarters in Newburgh, New York, on August 7, 1782, devised a Badge of Military Merit to be given to enlisted men and noncommissioned officers for meritorious action;

Whereas the Badge of Military Merit became popularly known as the "Purple Heart" because it consisted of the figure of a

heart in purple cloth or silk edged with narrow lace or binding and was affixed to the uniform coat over the left breast;

Whereas Badges of Military Merit were awarded during the Revolutionary War by General George Washington at his headquarters, in Newburgh, New York, on May 3 and June 8, 1783;

Whereas the Badge of Military Merit, an award for military merit in the Revolutionary War, is the inspiration for today's Purple Heart medal;

Whereas on the bicentennial of General Washington's birthday in February 1932, the Badge of Military Merit was redesignated by General Douglas MacArthur, then Chief of Staff of the Army, as the Purple Heart, to be awarded to persons killed or wounded in action against an enemy of the United States;

Whereas more than 800,000 members of the Armed Forces have been awarded the Purple Heart;

Whereas the State of New York has dedicated substantial resources to the creation of the National Purple Heart Hall of Honor to be constructed at the New Windsor Cantonment, a New York State Historic Site, in New Windsor, New York, to honor those individuals who have been awarded the Purple Heart and to inform and educate the people of the United States about the history and importance of that distinguished combat award;

Whereas the National Purple Heart Hall of Honor will be a permanent place of remembrance of the service and sacrifices made by the members of the Armed Forces wounded or killed in service to America throughout the Nation's history, both at home and abroad; and

Whereas as the Nation continues to defend the American Way, there will be a need for a distinguished place to honor those who in the future are awarded the Purple Heart for their service and sacrifice: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) recognizes and supports the efforts of the State of New York to develop and maintain the National Purple Heart Hall of Honor in New Windsor, New York, to honor those individuals who have been awarded the Purple Heart and to inform and educate the people of the United States about the history and importance of that distinguished combat award; and

(2) encourages the people of the United States as well as Federal departments and agencies to cooperate, assist, and participate in educating and informing individuals about the history and importance of the Purple Heart and about the National Purple Heart Hall of Honor.

Agreed to December 6, 2006.

Dec. 6, 2006
[S. Con. Res. 91]

# LEROY "SATCHEL" PAIGE, POSTHUMOUS PRESIDENTIAL MEDAL OF FREEDOM AWARD—SUPPORT

Whereas Satchel Paige, who was born on July 7, 1906, in Mobile, Alabama, lived a life that was marked by his outstanding contributions to the game of baseball;

Whereas Satchel Paige was a dominating pitcher whose baseball career spanned several decades, from 1927 to 1965;

Whereas Satchel Paige played in the Negro Leagues and became famous for his unusual pitching style and his ability to strike out almost any player he faced;

Whereas Satchel Paige pitched 62 consecutive scoreless innings in 1933;

Whereas due to the practice of segregation in baseball, Satchel Paige was prohibited for many years from playing baseball at the major league level;

Whereas Satchel Paige played for many Negro League teams, including—

(1) the Chattanooga Black Lookouts;
(2) the Birmingham Black Barons;
(3) the Nashville Elite Giants;
(4) the Mobile Tigers;
(5) the Pittsburgh Crawfords; and
(6) the Kansas City Monarchs;

Whereas while pitching for the Kansas City Monarchs, Satchel Paige won 4 consecutive league pennants from 1939 to 1942, and later won a 5th pennant in 1946 with that team;

Whereas after the desegregation of baseball, Satchel Paige signed a contract to pitch for the Cleveland Indians at age 42, and soon thereafter became the oldest rookie ever to play baseball at the major league level;

Whereas the extraordinary pitching of Satchel Paige helped the Cleveland Indians complete a championship season in 1948, as the team won the American League Championship and the World Series;

Whereas Satchel Paige threw an estimated 300 career shutouts;

Whereas in 1971, Satchel Paige became the first Negro League player to be inducted into the Major League Baseball Hall of Fame;

Whereas the legendary pitching of Satchel Paige earned him numerous awards and accolades, including—

(1) a nomination to the All Century Team by Major League Baseball as 1 of the greatest players of the 20th century; and
(2) a selection to the 50 Legends of Baseball by the Postal Service;

Whereas despite years of discrimination that limited the play of Satchel Paige to the Negro Leagues, his prowess on the pitching mound earned him the respect and admiration of fans and players throughout the world of baseball;

Whereas Satchel Paige passed away on June 8, 1982; and

Whereas the Presidential Medal of Freedom, the highest civilian honor in the United States, was established in 1945 to recognize citizens of the United States who have made exceptional contributions to—

(1) the security or national interests of the United States;
(2) world peace;
(3) the culture of the United States or the world; or
(4) the citizens of the United States or the world: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the President should award the Presidential Medal of Freedom posthumously to Leroy "Satchel" Paige in honor of his distinguished baseball career and the contributions that he has made to the improvement of the society of the United States and the world.

Agreed to December 6, 2006.

## ARNOLD "RED" AUERBACH—HONORING

Dec. 7, 2006
[H. Con. Res. 497]

Whereas Arnold "Red" Auerbach was born on September 20, 1917, in Brooklyn, New York, the son of immigrants from Minsk, Russia;

Whereas Red started playing basketball as a public school student in Brooklyn and later became a star guard for Eastern District High School, making all-scholastic second team in his senior year;

Whereas Red started his coaching career at St. Albans Prep School and Roosevelt High School in Washington, D.C., before serving in the United States Navy from 1943 to 1946;

Whereas, in 1946, Red began his professional coaching career with the Washington Capitols in the Basketball Association of America (BAA) and led the team to the 1947 and 1949 division titles, joining the Boston Celtics as coach in 1950 after the BAA merged with the National Basketball Association (NBA);

Whereas Red's record of success on the basketball court and in the Celtics' front office is unmatched;

Whereas during Red's leadership of the Boston Celtics, the team won 16 NBA championships, including 9 championships, with a record 8 in a row, during Red's tenure as coach;

Whereas when Red retired from coaching in 1966 to become general manager of the Celtics, he was the winningest coach in NBA history with 1,037 victories and had won almost two-thirds of the games he had coached over a 20-year NBA coaching career;

Whereas during his nearly 57-year tenure with the Celtics as Head Coach, General Manager, Vice Chairman of the Board, and President, Red was the architect of one of the greatest dynasties in the history of professional sports;

Whereas Red infused the Celtics organization with the values of teamwork, respect, tenacity, and loyalty, creating a culture known as "Celtic Pride" that will be forever associated with the Boston Celtics franchise;

Whereas Red's imprint on the Celtics, the NBA, and the game of basketball is permanent and visible today in innovations that Red developed, including the "sixth man" role and fast break style of play;

Whereas Red was an effective and tireless ambassador for the game of basketball, both in the United States and overseas, conducting clinics, barnstorming with the Celtics, starring in the successful television series "Red on Roundball", writing 7 books on basketball, including the influential "Basketball For The Player, The Coach, and The Fan", and participating with Celtic great and Hall of Famer Larry Bird in the instructional video, "Winning Basketball";

Whereas Red received numerous awards and honors in recognition of his extraordinary achievements, such as selection as the NBA Coach of the Year in 1965, induction into the Naismith Memorial Basketball Hall of Fame in 1969, designation as the NBA "Executive of the Year" in 1980, and selection as "The Greatest Coach in the History of the NBA" by the Professional Basketball Writers' Association of America in 1980;

Whereas Red's lighting of his cigar in the closing moments of an imminent Celtics' victory became an enduring symbol of success in Boston and around the world;

Whereas Red's legacy extends beyond the game of basketball and includes his important contributions to the advancement of a colorblind society through his decision to draft the NBA's first African-American player, Chuck Cooper, in 1950, hire the first African-American head coach in professional sports, Bill Russell, in 1966, and field the first starting lineup in the NBA consisting entirely of African-American players in 1964; and

Whereas the name "Red Auerbach" will forever be synonymous with winning, intensity, integrity, and charitable causes: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that—

(1) Arnold "Red" Auerbach was a basketball genius who embodied the values of creativity, determination, versatility, and commitment to helping the less fortunate;

(2) Red Auerbach was a leader in the effort to remove racial barriers and allow merit to prevail in professional sports, through his decisions to draft, hire, and prominently feature African-Americans on the Boston Celtics basketball team; and

(3) Red Auerbach's place among the greatest coaches and executives of all time is assured, his contributions to the betterment of society will always endure, and his life exemplifies the very best ideals of the United States.

Agreed to December 7, 2006.

Dec. 8, 2006
[S. Con. Res. 123]

## ENROLLMENT CORRECTIONS—H.R. 5946

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of the bill H.R. 5946, the Clerk of the House shall make the following corrections:

(1) In the table of contents, strike the item relating to section 702 and redesignate the item relating to section 703 as relating to section 702.

(2) In title VII, strike section 702 and redesignate section 703 as section 702.

Agreed to December 8, 2006.

## "UNITED STATES HOUSE OF REPRESENTATIVES, THE COMMITTEE ON WAYS AND MEANS: A HISTORY, 1789–2006"—HOUSE PRINT

Dec. 9, 2006
[H. Con. Res. 495]

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. PRINTING OF DOCUMENT.**

(a) IN GENERAL.—The document entitled "United States House of Representatives, The Committee on Ways and Means: A History, 1789–2006", prepared under the direction of the Office of the Historian, United States House of Representatives, shall be printed as a House document, with illustrations and suitable binding, in a style and manner determined by the Joint Committee on Printing.

(b) ADDITIONAL COPIES.—With respect to the document described in subsection (a), in addition to the usual number there shall be printed the lesser of—

(1) 1,500 copies, of which 50 shall be bound in leather for the use of Members of the Committee on Ways and Means and 500 shall be casebound for distribution by the Committee on Ways and Means; or

(2) the maximum number of copies for which the total production and printing cost does not exceed $40,000, with production and distribution to be allocated in the same proportion as described in paragraph (1).

Agreed to December 9, 2006.

## ENROLLMENT CORRECTION—H.R. 5682

Dec. 9, 2006
[H. Con. Res. 502]

*Resolved by the House of Representatives (the Senate concurring),* That, in the enrollment of the bill, H.R. 5682, the Clerk of the House of Representatives shall make the following correction in section 110(10): Strike "point" and insert "pound".

Agreed to December 9, 2006.

# PROCLAMATIONS

**Proclamation 7973 of January 13, 2006**

## Martin Luther King, Jr., Federal Holiday, 2006

*By the President of the United States of America*
*A Proclamation*

As we observe the 20th anniversary of the Martin Luther King, Jr., Federal Holiday, we reflect on the history of civil rights in America and honor Dr. King for the power of his intellect, the truth of his words, and the example of his courage. Dr. King created a powerful and enduring legacy for all Americans by calling upon our Nation to ensure equal justice under law and uphold our founding ideals of life, liberty, and the pursuit of happiness for all people.

Dr. King became an active leader in the civil rights movement in the 1950s, strengthened in his resolve by the quiet courage of Rosa Parks' refusal to give up her seat on a Montgomery, Alabama, bus. He advocated non-violent action as a means to overcome the evil of racism in America, and he led the effort that resulted in the Civil Rights Act of 1964. Dr. King later said that the legislation was the work of every citizen who took to the streets and marched for justice and equality. The Voting Rights Act, which became law the next year, guaranteed all citizens the right to vote, regardless of race, and helped our country realize the promise of the 15th Amendment to our Constitution.

Dr. King believed that all people are made in God's image and created equal. He dedicated his life to empowering people, no matter their circumstances, and challenged them to lift up their neighbors and communities. He broke down barriers within our society by encouraging Americans to look past their differences and refused to rest until our Nation fulfilled its pledge of liberty and justice for all.

As we observe and honor Dr. King's birthday, we are reminded that great causes often involve great sacrifices. In the five decades since Dr. King and Mrs. Parks stood together in Montgomery, Alabama, our country has made great progress toward equality for every citizen. Yet more work remains. In the words of Dr. King, ''We will not be satisfied until 'justice rolls down like waters and righteousness like a mighty stream.' ''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, January 16, 2006, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service programs and activities in honor of the memory and legacy of Dr. King.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7974 of January 13, 2006**

## Religious Freedom Day, 2006

*By the President of the United States of America*
*A Proclamation*

The right to religious freedom is a foundation of America. On Religious Freedom Day, our Nation celebrates the passage of the 1786 Virginia Statute for Religious Freedom and the protection of religious freedom in the First Amendment to the United States Constitution.

Our Founding Fathers knew the importance of freedom of religion to a stable democracy, and our Constitution protects individuals' rights to worship as they choose. We reject religious discrimination in every form, and we continue our efforts to oppose prejudice and to counter any infringements on religious freedom.

Today, we are also working to advance freedom of religion abroad. The Department of State's Office of International Religious Freedom plays an important role in these efforts, advocating for religious freedom and actively working against religious persecution around the world. In recent years, we have seen important progress, including in Vietnam, Laos, India, Georgia, and the United Arab Emirates, and with the release of many individuals in countries throughout the world who had been imprisoned because of their faith. By helping to secure the religious freedom of people in other countries, we promote the spread of liberty and human dignity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 2006, as Religious Freedom Day. I call on all Americans to reflect on the great blessing of religious liberty, endeavor to preserve this freedom for future generations, and commemorate this day with appropriate events and activities in their schools, places of worship, neighborhoods, and homes.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7975 of January 20, 2006**

## National Sanctity of Human Life Day, 2006

*By the President of the United States of America*
*A Proclamation*

Our Nation was founded on the belief that every human being has rights, dignity, and value. On National Sanctity of Human Life Day, we underscore our commitment to building a culture of life where all individuals are welcomed in life and protected in law.

America is making great strides in our efforts to protect human life. One of my first actions as President was to sign an order banning the use of taxpayer money on programs that promote abortion overseas. Over the past 5 years, I also have been proud to sign into law the Born-Alive Infants Protection Act, the Unborn Victims of Violence Act, and a ban on partial-birth abortion. In addition, my Administration continues to fund abstinence and adoption programs and numerous faith-based and community initiatives that support these efforts.

When we seek to advance science and improve our lives, we must always preserve human dignity and remember that human life is a gift from our Creator. We must not sanction the creation of life only to destroy it. America must pursue the tremendous possibilities of medicine and research and at the same time remain an ethical and compassionate society.

National Sanctity of Human Life Day is an opportunity to strengthen our resolve in creating a society where every life has meaning and our most vulnerable members are protected and defended—including unborn children, the sick and dying, and persons with disabilities and birth defects. This is an ideal that appeals to the noblest and most generous instincts within us, and this is the America we will achieve by working together.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, January 22, 2006, as National Sanctity of Human Life Day. I call upon all Americans to recognize this day with appropriate ceremonies and to reaffirm our commitment to respecting and defending the life and dignity of every human being.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7976 of January 27, 2006**

## National African American History Month, 2006

*By the President of the United States of America*

*A Proclamation*

As we celebrate National African American History Month, we recognize the many contributions of African Americans to our country and reinforce our commitment to be a Nation of opportunity and hope for every citizen.

Throughout our history, African Americans have courageously worn our Nation's uniform while defending peace and liberty around the globe. Patriots like Thurgood Marshall and Rosa Parks broke down racial barriers and inspired our Nation to make good on the promise of equal justice under law. Educators like Mary McLeod Bethune and Dr. Frederick Patterson transformed the academic world, with the goal of

ensuring that every child has access to a good education. Athletes such as Jesse Owens and Wilma Rudolph and entertainers such as Ossie Davis and Ray Charles have brought pride and joy to generations of Americans. Today, the accomplishments of African Americans in every aspect of our society continue to encourage people to reach as far as their vision and dreams may take them.

African-American organizations have played a vital role in achieving justice and equal rights, and they have helped make communities across our country stronger and better. This year's theme of African American History Month, ''Celebrating Community: A Tribute to Black Fraternal, Social, and Civic Institutions,'' recognizes the African-American groups that have worked to confront injustices and expand opportunities. These organizations believe in the potential and worth of every person, and they have worked to help all Americans receive a quality education, to feed the hungry and house the homeless, to encourage youth to make healthy choices, and to reach out to others in need. By answering the call to love a neighbor as we would like to be loved ourselves, these groups have set a positive example, and we continue to be inspired by their compassion and service to others.

Working together, Federal, State, and local government, community organizations, and individual citizens will continue to foster hope and build a better tomorrow for all our children and grandchildren.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 2006 as National African American History Month. I call upon public officials, educators, and all the people of the United States to observe this month with appropriate programs and activities that honor the significant contributions African Americans have made to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7977 of January 30, 2006**

## Fourth Anniversary of the USA Freedom Corps, 2006

*By the President of the United States of America*
*A Proclamation*

Americans enjoy great liberty and prosperity, and with these blessings comes an obligation to reach out to those in need. Over the past 4 years, USA Freedom Corps has worked to rally America's armies of compassion and bring together individuals and organizations committed to volunteer service. More than 65 million people volunteered in 2005, an increase of 6.5 million since 2002. As we celebrate the fourth anniversary of USA Freedom Corps, we recognize the many Americans who have stepped forward to help others, and we underscore our commitment to serving our Nation and people around the world.

USA Freedom Corps was created to build on the countless acts of service, sacrifice, and generosity that followed the terrorist attacks of September 11, 2001. In the wake of the devastating tsunami of 2004 and hurricanes of 2005, Americans have continued to demonstrate that the true strength of our Nation lies in the hearts and souls of our citizens. By reaching out to aid the victims of these tragedies, people across our country helped rebuild shattered lives and communities. Their acts of service again demonstrated that by loving our neighbors as ourselves, we can offer hope and healing to those who suffer.

USA Freedom Corps is dedicated to expanding volunteer service and extending the goodwill of the American people. To help support our communities, respond to crises at home, and spread compassion around the globe, USA Freedom Corps works to strengthen public service programs such as the Peace Corps, Senior Corps, AmeriCorps, and Citizen Corps. USA Freedom Corps encourages and promotes the good work of non-profit, faith-based, and community organizations. Through the President's Greeter Program and the President's Volunteer Service Award, USA Freedom Corps and the President's Council on Service and Civic Participation recognize Americans who have made serving their neighbors a central part of their lives. USA Freedom Corps has also created a comprehensive network of volunteer opportunities to help more Americans find ways to get involved in serving their communities.

Through USA Freedom Corps, my Administration will continue to build a culture of service, citizenship, and responsibility in our country. To learn more about opportunities for volunteering, citizens can visit the USA Freedom Corps website at www.volunteer.gov. By working together for a cause greater than self, we can strengthen our Nation, one person, one neighborhood, and one community at a time.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the Fourth Anniversary of USA Freedom Corps. I call upon the citizens of this great country to find ways to volunteer and help their fellow Americans. I commend the efforts of USA Freedom Corps and all those who have already answered the call to serve, and I encourage all Americans to donate their time, energy, and talents to the work ahead.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7978 of February 1, 2006**

## American Heart Month, 2006

*By the President of the United States of America*
*A Proclamation*

More than 70 million Americans live with some form of heart disease, and this disease remains the leading cause of death in the United

States. During American Heart Month, we reinforce our commitment to fighting heart disease by promoting awareness about its risks, its causes, and the ways to reduce the chance of developing this deadly illness.

Many of the factors that lead to heart disease, such as high blood pressure, high blood cholesterol, and obesity, can be controlled with commonsense steps and healthy lifestyles. Through the HealthierUS Initiative, my Administration encourages Americans to work toward four simple goals that can lead to a healthy heart: exercise daily; develop good eating habits; avoid tobacco, drugs, and excessive alcohol; and take advantage of preventive screenings to detect problems early.

First Lady Laura Bush helps lead ''The Heart Truth'' campaign through her Women's Health and Wellness Initiative. The campaign was launched by business, non-profit, and government organizations, including the National Heart, Lung, and Blood Institute, to educate women about the risks of heart disease and to encourage them to make their cardiovascular health a priority. Along with the American Heart Association's ''Go Red for Women'' campaign, these initiatives use the red dress as a symbol to remind women to make healthy choices and talk with their doctors about heart disease.

As a result of the Medicare Modernization Act, our seniors have more choices to prevent, diagnose, and treat potential problems before they become worse. Medicare now covers preventive screenings, a ''Welcome to Medicare'' physical for new beneficiaries, and innovative programs to help seniors fight chronic threats. I urge all Medicare beneficiaries to take advantage of these measures as part of a healthy lifestyle.

All Americans can improve their heart health and live longer, better lives by taking an active role in their health care decisions and consulting their physician for the latest information. As we observe American Heart Month, we recognize those battling heart disease; we express gratitude to the family members and friends who are a source of love and encouragement; and we commend the medical professionals and researchers who provide assistance and work to find cures and improve treatments.

In acknowledgement of the importance of the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963, as amended (77 Stat. 843; 36 U.S.C. 101), has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim February 2006 as American Heart Month, and I invite all Americans to participate in National Wear Red Day on February 3, 2006. I also invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in recognizing and reaffirming our commitment to combating heart disease.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord two thousand six, and of the Inde-

pendence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7979 of February 3, 2006**

## National Consumer Protection Week, 2006

*By the President of the United States of America*
*A Proclamation*

During National Consumer Protection Week, we highlight the importance of consumer education in the ongoing fight against fraud and encourage consumers to make wise decisions.

Each year, nearly 25 million adults are victims of consumer fraud. These crimes damage lives and shake consumer confidence. The Federal Trade Commission (FTC) and other organizations recommend several steps that Americans can take to help protect themselves against fraud. First, consumers should be cautious about giving out personal information such as Social Security and account numbers. Second, they should be aware of the credentials of an organization before making a transaction, especially through the mail, over the phone, or on the Internet. Third, before finalizing a purchase or agreement, the FTC suggests considering offers with care, avoiding immediate decisions, and requesting to have information in writing. In addition, when using the Internet, the FTC recommends that consumers exercise caution in responding to solicitations and that consumers use and regularly update their anti-virus software and firewall.

My Administration is committed to vigorous enforcement of the consumer protection statutes, and the Department of Justice's Office of Consumer Litigation and other Federal agencies are working diligently to that end. The FTC is working to fight unsolicited e-mail under the Controlling the Assault of Non-Solicited Pornography and Marketing Act and is establishing new rules under the Fair and Accurate Credit Transactions Act to further protect against identity theft. We are protecting American consumers through the National Do-Not-Call Registry. Millions of Americans have registered already, and individuals may call 1–888–382–1222 or visit the Do-Not-Call website at www.donotcall.gov to have their number added to the list. Citizens can learn more about ways to fight fraud from the National Consumer Protection Week website at www.consumer.gov/ncpw. By actively guarding against fraud, consumers can protect themselves and enhance the strength and integrity of our Nation's economy.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 5 through February 11, 2006, as National Consumer Protection Week. I call upon Government officials, industry leaders, and consumer advocates to provide citizens with information about how they can be responsible consumers, and I encourage all citizens to take an active role in protecting their personal information.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7980 of February 6, 2006**

## Death of Coretta Scott King

*By the President of the United States of America*
*A Proclamation*

As a mark of respect for the memory of Coretta Scott King, I hereby order, by the authority vested in me by the Constitution and laws of the United States of America, that on February 7, 2006, the day of her interment, the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on such day. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7981 of February 22, 2006**

## To Modify the Duty Free Treatment Under the Generalized System of Preferences

*By the President of the United States of America*
*A Proclamation*

1. Section 502 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2462), authorizes the President to designate countries as beneficiary developing countries, and to designate any beneficiary developing country as a least-developed beneficiary developing country, for purposes of the Generalized System of Preferences (GSP) program.

2. Pursuant to section 502 of the 1974 Act, and taking into account the factors set forth in section 502(c) (19 U.S.C. 2462(c)), I have determined that the suspension pursuant to Proclamation 6123 of April 26, 1990, of preferential treatment for Liberia as a beneficiary developing country under the GSP should be ended.

3. Pursuant to section 502 of the 1974 Act, and having considered the factors set forth in sections 501 (19 U.S.C. 2461) and 502(c), I have also determined that Liberia should be desig nated as a least-developed beneficiary developing country for purposes of the GSP.

4. Section 604 of the 1974 Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule (HTS) of the United States the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including title V and section 604 of the 1974 Act (19 U.S.C. 2461–67, 2483), do proclaim that:

(1) In order to reflect in the HTS the restoration of preferential treatment for Liberia as a beneficiary developing country under the GSP, general note 4(a) is modified by adding in alphabetical order ''Liberia'' to the list entitled ''Independent Countries.''

(2) In order to reflect in the HTS the designation of Liberia as a least-developed beneficiary developing country under the GSP, general note 4(b)(i) is modified by adding in alphabetical order ''Liberia.''

(3) The modifications to the HTS made by paragraph 1 of this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of this proclamation.

(4) The modifications to the HTS made by paragraph 2 of this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 60 days after the date of this proclamation.

(5) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7982 of February 24, 2006**

## American Red Cross Month

*By the President of the United States of America*

*A Proclamation*

Throughout our Nation's history, Americans have worked together to care for those in need. The work of the American Red Cross exemplifies this tradition and reflects the good heart of our country. This year during American Red Cross Month, we recognize this organization for

its 125 years of faithful service to our Nation and for its continued mission to help those in need at home and abroad.

Since Clara Barton founded the organization in 1881, the American Red Cross has offered aid and disaster relief to millions of individuals. From conducting blood drives and arranging family communications and other forms of support for our troops to providing relief for victims of natural disasters, the American Red Cross carries out emergency response around the globe. Local chapters help American communities respond to regional catastrophes and promote emergency preparedness with American Red Cross First Aid and CPR courses. Members of these chapters serve their communities by visiting homebound seniors, mentoring youth, distributing hot lunches, volunteering at homeless shelters, and offering transitional housing. They also educate young people on violence and substance abuse prevention and help in hospitals and nursing homes.

In 2005, a devastating hurricane season left millions displaced and homeless. The American Red Cross network of more than 800 chapters and thousands of volunteers provided food, shelter, counseling, and care to more than a million Gulf Coast families. Working in coordination with the International Red Cross and Red Crescent Movement, the American Red Cross has also assisted with relief efforts for victims of hurricanes and landslides in Latin America and the recent earthquake in South Asia.

By donating their time and energy to selflessly serve others, American Red Cross volunteers demonstrate the compassion and generosity for which Americans are known. Their service paves the way to a brighter future for our citizens and people around the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2006 as American Red Cross Month. I commend the good work of the American Red Cross, and I encourage all Americans to continue to help the recovery efforts in the Gulf Coast region and around the world through volunteering their time, energy, and talents for others.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7983 of February 24, 2006**

## Irish-American Heritage Month

*By the President of the United States of America*

*A Proclamation*

The histories of Ireland and the United States are deeply intertwined. For generations, the sons and daughters of Ireland have come to America with a spirit of determination and optimism that has strengthened

our Nation's character and enriched our history. During Irish-American Heritage Month, we celebrate Irish Americans and the significant contributions they have made to our Nation.

During the Great Potato Famine of the 19th century, approximately 1 million Irish came to America. And over the last 150 years, millions more have come from Ireland to the United States. In this country, Irish Americans have ably served in their communities, in the government, and in the Armed Forces. They have achieved great success in all walks of life. Actress Grace Kelly entertained us and influenced our culture; industrialist Henry Ford transformed factory production and transportation; and President Ronald Reagan dedicated himself to the spread of peace, liberty, and democracy, helping to change our country and the world.

This month, we recognize the proud history and many accomplishments of Irish Americans. Our Nation is grateful for the role they have played in defending and renewing the ideals that we cherish. Their hard work, firm values, and strong faith have made our Nation a better place.

NOW, THEREFORE I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2006 as Irish-American Heritage Month. I call upon all Americans to observe this month by celebrating the contributions of Irish Americans to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7984 of February 27, 2006**

## Establishment of the African American Burial Ground National Monument

*By the President of the United States of America*

*A Proclamation*

In Lower Manhattan, at the corners of Duane and Elk Streets, lies an undeveloped parcel of approximately 15,000 square feet that constitutes a remaining portion of New York City's early African Burial Ground. The site is part of an approximately 7-acre National Historic Landmark established on April 19, 1993. From the 1690s to the 1790s, the African Burial Ground served as the final resting place of enslaved and free Africans in New York City, New York. It contains the remains of those interred, as well as the archeological resources and artifacts associated with their burials. Prior to the date of this proclamation, the site was administered by the General Services Administration (GSA), and it will be the location of a memorial, to be constructed soon according to a design selected on April 29, 2005, through a competition

conducted by the GSA with the participation of the National Park Service (NPS) and other interested parties.

Whereas the African Burial Ground National Monument will promote understanding of related resources, encourage continuing research, and present interpretive opportunities and programs for visitors to better understand and honor the culture and vital contributions of generations of Africans and Americans of African descent to our Nation;

Whereas section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431) (the ''Antiquities Act'') authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

Whereas it would be in the public interest to preserve the portion of the African Burial Ground at the corner of Duane and Elk Streets in New York City, and certain lands as necessary for the care and management of the historic and scientific objects therein, as the African Burial Ground National Monument;

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the African Burial Ground National Monument for the purpose of protecting the objects described above, all lands and interests in lands owned or controlled by the Government of the United States with the boundaries described on the accompanying land description, which is attached and forms a part of this proclamation. The Federal land and interests in land reserved consist of approximately 15,000 square feet, which is the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests of lands within the boundaries of this monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or leasing or other disposition under the public land laws, including, but not limited to, withdrawal from location, entry, and patent under mining laws, and from disposition under all laws relating to mineral and geothermal leasing.

The Secretary of the Interior (Secretary), acting through the NPS, shall administer the national monument consistent with the purposes and provisions of this proclamation and applicable laws and regulations governing management of units of the national park system. For the purposes of preserving, interpreting, and enhancing public understanding and appreciation of the national monument and its meaning to society, the Secretary, acting through the NPS, shall develop an interagency agreement with the Administrator of General Services and, within 3 years of the date of this proclamation, prepare a management plan for the national monument. The management plan shall, among other provisions, set forth the desired relationship of the national monument to other related resources, programs, and organizations in New York City and other locations, provide for maximum public involvement in its development, and identify steps to be taken to provide

interpretive opportunities for the entirety of the National Historic Landmark and related sites in New York City. Further, to the extent authorized by law, the Secretary, acting through the NPS, shall promulgate any additional regulations needed for the proper care and management of the objects identified above.

The establishment of this monument is subject to valid existing rights.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

DESCRIPTION OF LANDS CONSTITUTING THE
AFRICAN BURIAL GROUND NATIONAL MONUMENT

This document describes the lands that are set apart and reserved as the African Burial Ground National Monument pursuant to the accompanying proclamation. A legal description of the tract is set out below. The tract also appears on the map entitled "African Burial Ground National Monument," dated December 2005, Map Number 762/80,000, which is attached to this document for reference purposes. The United States owns this tract in fee simple.

The national monument will also include all rights, hereditaments, easements, and appurtenances to property owned by the United States, belonging or otherwise appertaining, as well as any associated Federally owned property of historical interest.

All that certain tract or parcel of land lying and being situated in the Borough of Manhattan, City of New York, State of New York, and being more particularly described as follows:

BEGINNING at a point of intersection of the southerly line of Duane Street with the westerly line of Elk Street, said point having coordinates based on Sheet 5 of the Borough of Manhattan, Borough Survey of N 6,782.392, W 8,295.507, said point of beginning being South 03° 29' 30" West, 5.00 feet from an X-cut set in the concrete sidewalk and North 87° 14' 32" West, 5.00 feet from a cap set in the concrete sidewalk, running, thence;

1. Along the westerly line of Elk Street, South 03° 29' 30" West, 97.09 feet to a point where the same is intersected by the southerly right-of-way line of Republican Alley, thence;

2. Along said southerly line of Republican Alley, North 87° 32' 52" West, 151.90 feet to a point where the same is intersected by the northerly prolongation of the westerly wall of an existing five story block and brick building, thence;

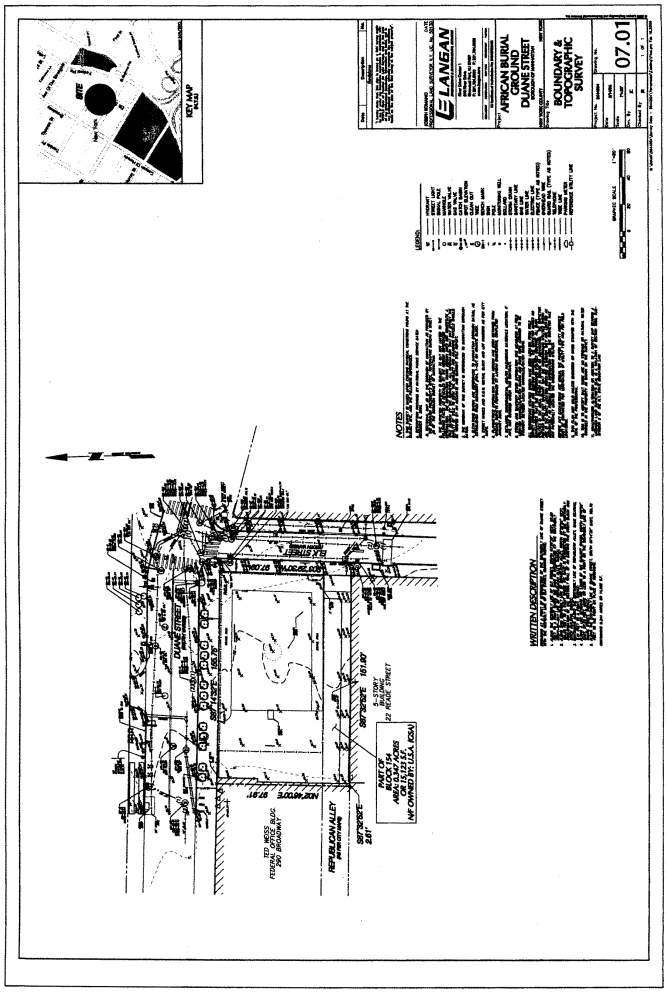
3. Continuing along the southerly line of Republican Alley, same bearing, 2.61 feet to a point, thence;

4. Along a line severing the lands of the subject owner, North 02° 46' East, 97 feet, more or less to a point on the southerly line of Duane Street, thence;

5. Along the southerly line of Duane Street, South 87° 14' 32" East, 155.75 feet to the point or place of BEGINNING.

Containing 0.35 of an acre, more or less.

Being a portion of a parcel called "Government Office Building Site" acquired by the United States of America included in a Final Judgment of Condemnation, 90 Civ. (HGM), dated December 13, 1990.


KEY MAP
NOTES
LEGEND
SCALE
LANGAN
AFRICAN BURIAL GROUND
DUANE STREET
BOUNDARY & TOPOGRAPHIC SURVEY
07.01
WRITTEN DESCRIPTION
REPUBLICAN ALLEY
DUANE STREET
BEEKMAN STREET
PARK ROW
TO WEST FEDERAL BLDG. 290 BROADWAY
PART OF ARBOR LOT NORTH OF 11/12 LLC. (NF OWNER TITLE LINE)
5-STORY 22 READE STREET
SITE

**Proclamation 7985 of February 27, 2006**

## Women's History Month

*By the President of the United States of America*
*A Proclamation*

For generations, women across our great land have helped make our country stronger and better. They have improved our communities and played a vital role in achieving justice and equal rights for all our citizens. During Women's History Month, we celebrate the many contributions women make to our society.

At the end of the 19th century, pioneers Jane Addams and Ellen Starr opened the doors of Hull House to serve impoverished and immigrant families in the Chicago community. Presidential Medal of Freedom winner Annie Dodge Wauneka worked to educate her native Navajo community about preventing and treating disease. In 1955, Rosa Parks refused to give up her seat on a city bus in Montgomery, Alabama, helping to inspire a nationwide movement for equal justice under the law. Recently, our Nation said goodbye to another remarkable American woman and courageous civil rights leader, Coretta Scott King, who helped call America to its founding ideals.

Today, the United States of America remains a country that offers the greatest freedom on Earth and believes in the promise of all individuals. Women continue to strengthen our Nation and the world by excelling as leaders in all walks of life, including business, law, politics, family life, education, community service, science, medicine, and the arts. The brave women who wear the uniform of the United States Armed Forces are helping to lay the foundations of peace and freedom for generations to come. This month, I encourage all Americans to join me in celebrating the extraordinary achievements and contributions of American women.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2006 as Women's History Month. I call upon all Americans to observe this month with appropriate ceremonies and activities to honor the history, accomplishments, and contributions of all American women.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7986 of February 27, 2006**

## Save Your Vision Week, 2006

*By the President of the United States of America*
*A Proclamation*

Many Americans suffer from diseases and disorders of the eye that can affect their vision and quality of life. During Save Your Vision Week, we highlight how basic eye care and protection can help citizens maintain and enjoy healthy eyesight.

An important part of ensuring physical well-being includes making healthy choices and adopting habits that can prevent disease and injury. Many of the problems that lead to blindness each year can be avoided with simple steps to protect the eyes, such as wearing sunglasses and using protective eyewear while working in hazardous environments or participating in sports.

Because the first noticeable symptom of many eye diseases is often vision loss, early detection is vital. As a result of the Medicare Modernization Act, diabetes screenings and glaucoma tests for eligible beneficiaries are now covered by Medicare as a part of an initial physical exam for new Medicare beneficiaries. Medicare also covers glaucoma screenings for beneficiaries with diabetes who are at high risk or have a family history of the disease. I encourage America's seniors to act to preserve their vision by taking advantage of this health care benefit. And I urge all Americans to have regular eye examinations as part of their health care routines.

By raising awareness about the importance of preventing eye problems and the measures citizens can take to protect their vision and by providing greater access for the detection and treatment of eye diseases, we can continue to work toward a healthier Nation where more Americans enjoy the gift of healthy vision.

The Congress, by joint resolution approved December 30, 1963, as amended (77 Stat. 629; 36 U.S.C. 138), has authorized and requested the President to proclaim the first week in March of each year as ''Save Your Vision Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 5 through March 11, 2006, as Save Your Vision Week. I encourage all Americans to make eye care and eye safety an important part of their lives.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7987 of February 28, 2006**

## To Implement the Dominican Republic-Central America-United States Free Trade Agreement

*By the President of the United States of America*

*A Proclamation*

1. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (the ''Agreement'') with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (the ''Agreement countries''). The Agreement was approved by the Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''Act'')(Public Law 109–53, 119 Stat. 462)(19 U.S.C. 4001 note).

2. Section 105(a) of the Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under Chapter Twenty of the Agreement.

3. Section 201 of the Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3 (including the schedule of United States duty reductions with respect to originating goods), 3.27, and 3.28 of the Agreement.

4. Consistent with section 201(a)(2) of the Act, each Agreement country is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP) on the date the Agreement enters into force with respect to that country.

5. Consistent with section 201(a)(3) of the Act, each Agreement country is to be removed from the enumeration of designated beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA)(19 U.S.C. 2701 *et seq.*) on the date the Agreement enters into force with respect to that country, subject to the exceptions set out in section 201(a)(3)(B) of the Act.

6. Consistent with section 213(b)(5)(D) of the CBERA, as amended by the United States-Caribbean Basin Trade Partnership Act (CBTPA)(Public Law 106–200), each Agreement country is to be removed from the enumeration of designated CBTPA beneficiary countries on the date the Agreement enters into force with respect to that country.

7. Section 203 of the Act provides certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment under the Agreement. I have decided that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the Harmonized Tariff Schedule of the United States (HTS).

8. Section 203(o) of the Act authorizes the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a

timely manner in the United States and those Agreement countries for which the Agreement has entered into force, and to add any such fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity; to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months after adding the fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted quantity; and to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, certain fabrics, yarns, or fibers.

9. Section 209 of the Act authorizes the President to take certain enforcement actions relating to trade with the Agreement countries in textile or apparel goods.

10. Sections 321–328 of the Act authorize the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles.

11. Executive Order 11651 of March 3, 1972, as amended, established the Committee for the Implementation of Textile Agreements (CITA) to supervise the implementation of textile trade agreements.

12. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 105(a), 201, 203, 209, and 321–328 of the Act, section 301 of title 3, United States Code, and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement to El Salvador, to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the Agreement, to provide certain other treatment to originating goods for the purposes of the Agreement, to provide tariff-rate quotas with respect to certain goods, to reflect the removal of El Salvador from the enumeration of designated beneficiary developing countries for purposes of the GSP, to reflect the removal of El Salvador from the enumeration of designated beneficiary countries for purposes of the CBERA and the CBTPA, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in Annex I of Publication No. 3829 of the United States International Trade Commission, entitled ''*Modifications to the Harmonized Tariff Schedule of the United States to Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to El Salvador*'' (''Publication 3829''), which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the Agreement, to provide tariff-rate quotas with respect to certain goods, and to provide for future staged reductions in duties for originating goods for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 3829, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3) The Secretary of Commerce is authorized to exercise my authority under section 105(a) of the Act to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section.

(4) The CITA is authorized to exercise my authority under section 203(o) of the Act to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the United States and those Agreement countries for which the Agreement has entered into force, and to add any such fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity; to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months after adding the fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted quantity; to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, certain fabrics, yarns, or fibers; and to establish procedures governing the submission of a request for any such determination and to ensure appropriate public participation in any such determination.

(5) The CITA is authorized to exercise my authority under section 209 of the Act to suspend or deny preferential tariff treatment to textile or apparel goods; to detain textile or apparel goods; and to deny entry to textile or apparel goods.

(6) The CITA is authorized to exercise my authority under sections 321–328 of the Act to review requests and to determine whether to commence consideration of such requests; to cause to be published in the **Federal Register** a notice of commencement of consideration of a request and notice seeking public comment; and to determine whether imports of a textile or apparel article of an Agreement country are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(7) The CITA, after consultation with the Commissioner of Customs (the ''Commissioner''), is authorized to consult with representatives of an Agreement country for the purpose of identifying particular textile or apparel goods of that country that are mutually agreed to be handloomed, handmade, or folklore articles as provided in Article 3.21 of the Agreement. The Commissioner shall take actions as directed by the CITA to carry out any such determination.

(8) The United States Trade Representative is authorized to exercise my authority under section 104 of the Act to obtain advice from the appropriate advisory committees and the United States International Trade Commission on the proposed implementation of an action by presidential proclamation; to submit a report on such proposed action to the appropriate congressional committees; and to consult with those congressional committees regarding the proposed action.

(9) The United States Trade Representative is authorized to modify U.S. note 20 to subchapter XXII of chapter 98 of the HTS in a notice published in the **Federal Register** to reflect modifications pursuant to paragraph (4) of this proclamation by the CITA to the list of fabrics, yarns, or fibers in Annex 3.25 of the Agreement.

(10)(a) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered,

or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex II to Publication 3829.

(b) Except as provided in paragraph (10)(a) of this proclamation, this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 1, 2006.

(11) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7988 of March 10, 2006**

## National Poison Prevention Week

*By the President of the United States of America*
*A Proclamation*

National Poison Prevention Week helps raise awareness about the dangers of poison exposure. Our Nation has made great progress in reducing the number of poison-related deaths and injuries since the first National Poison Prevention Week in 1962, yet poisonings remain a threat to the health and safety of many Americans.

Approximately 1 million of our Nation's children under the age of 5 are exposed to poisonous substances each year. Most of these instances are preventable and result from the ingestion of household products. The Consumer Product Safety Commission requires child-resistant packaging for many medicines and household chemicals, and it is important for parents and adults to remember to act responsibly by storing these substances out of the reach of children.

The most common cause of death due to accidental poisoning results from exposure to carbon monoxide, an odorless, colorless gas that is produced by products such as grills, gas stoves, water heaters, and automobiles. Every year, more than 500 Americans die from carbon monoxide poisoning, usually during winter months. Knowledge is the key to preventing this kind of poisoning. Placing a carbon monoxide alarm on each level of a home, and especially near bedrooms, is a good way to monitor air quality and remain alert to potentially high levels of carbon monoxide.

Information about poison exposure and how homes can be made safer is available at the Centers for Disease Control and Prevention website, www.cdc.gov/health/poisoning.html, and the Poison Prevention Week Council website, www.poisonprevention.org. In case of emergency, families can contact their nearest Poison Control Center, 24 hours a day, 7 days a week, by calling 1–800–222–1222. By working together and taking the appropriate precautions, we can help to prevent deaths and injuries caused by accidental poisonings.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventive measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681), has requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 19 through March 25, 2006, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate activities and by learning how to prevent poisonings, especially among children.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7989 of March 17, 2006**

## Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2006

*By the President of the United States of America*

*A Proclamation*

On Greek Independence Day, we celebrate the proud heritage of Greek Americans, recognize the longstanding friendship between the United States and Greece, and reaffirm our shared desire to spread freedom to people around the world.

Greece is the birthplace of democratic principles, and the story of modern Greek independence demonstrates the power of liberty. On March 25, 1821, Greek revolutionaries declared their independence from the Ottoman Empire after centuries of imperial rule. This bold action began an 11-year war to secure their freedom and gain recognition as a sovereign country. Americans at the time identified with the Greek struggle and provided support to aid the effort. Leaders such as John Adams, Thomas Jefferson, and James Madison encouraged the Greek cause and supported the desire for a representative government that would ensure liberty and justice for all its citizens, and they offered our Constitution as a model for consideration.

A strong cooperation and friendship has developed between Greece and America, and our Nation has benefited from the contributions of Greek immigrants. The hard work of Greek Americans has made our country stronger and influenced our literature, arts, businesses, politics, education, and entertainment. The faith, traditions, and patriotism of Greek Americans have enriched our society.

The United States and Greece are bound together by common values and a deep desire to protect and extend freedom and peace. On this special occasion, we celebrate our friendship and our commitment to advancing democracy, prosperity, and security.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 25, 2006, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all Americans to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7990 of March 23, 2006**

## Small Business Week, 2006

*By the President of the United States of America*
*A Proclamation*

The entrepreneurial spirit of America is robust and strong, and small businesses are thriving throughout our great Nation. The opportunity to own a business is an important part of the American dream. During Small Business Week, we celebrate small business owners and employees who are willing to take risks and work hard in pursuit of a better life for themselves and their families.

Our economy has created almost 5 million jobs since August 2003. Small businesses create most new jobs in our country, and small businesses have been a driving force behind America's tremendous economic growth and job creation. By adopting sound economic policies that help small businesses continue to grow and expand, we will keep our economy moving forward and create more jobs for American workers.

My Administration remains committed to fostering an environment where innovation succeeds and small businesses can flourish. We are working with the Congress to make the tax relief permanent and to pass Association Health Plans to allow small businesses to join together and buy insurance at the same discounts big businesses receive. We are encouraging small business owners and employees to consider health savings accounts, which help small businesses provide health insurance for their workers and give consumers greater flexibility in how they spend their dollars. We also are continuing to work to open new markets for American products and services abroad. Putting a stop to the frivolous lawsuits that drive up the cost of doing business will further help small businesses enhance the quality of life for their employees and their communities.

During Small Business Week, and throughout the year, we applaud the men and women who own and operate small businesses and spur economic growth. Through their entrepreneurial spirit and commitment to excellence, they help ensure that America remains a place where dreams are realized.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9 through April 15, 2006, as Small Business Week. I call upon the people of the United States to observe this week with appropriate ceremonies, activities, and programs that celebrate the achievements of small business owners and their employees and encourage the development of new small businesses.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7991 of March 24, 2006**

## To Implement Certain Provisions of the Dominican Republic-Central America-United States Free Trade Agreement With Respect to El Salvador

*By the President of the United States of America*
*A Proclamation*

1. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (Agreement) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The Agreement was approved by the Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''Act'') (Public Law 109–53, 119 Stat. 462) (19 U.S.C. 4001 note).

2. Section 201 of the Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Article 3.3 and Annex 3.3 (including the schedule of United States duty reductions with respect to originating goods) of the Agreement.

3. Presidential Proclamation 7987 of February 28, 2006, modified the Harmonized Tariff Schedule of the United States (HTS) to provide for the preferential tariff treatment being accorded under the Agreement for certain goods of El Salvador.

4. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 201 of the Act, section 301 of title 3, United States Code, and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide for the preferential tariff treatment being accorded under the Agreement for certain sugar and sugar-containing goods of El Salvador and to provide a tariff-rate quota for such goods of El Salvador, the HTS is modified as set forth in the Annex to this proclamation.

(2) The amendments to the HTS made by paragraph (1) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date of this proclamation.

(3) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**ANNEX**

Effective with respect to goods of El Salvador under the terms of general note 29 to the Harmonized Tariff Schedule of the United States (HTS) that are entered, or withdrawn from warehouse for consumption, on or after the date of signature of this proclamation, the HTS is modified as follows:

(1). The Rates of Duty 1-Special subcolumn is modified by inserting in such subcolumn, for each of the subheadings listed in Column A below, the phrase in Column B opposite such subheading.

| Column A | Column B |
|---|---|
| 1701.11.50 | See 9822.05.20 (P+) |
| 1701.12.50 | See 9822.05.20 (P+) |
| 1701.91.30 | See 9822.05.20 (P+) |
| 1701.91.48 | See 9822.05.20 (P+) |
| 1701.91.58 | See 9822.05.20 (P+) |
| 1701.99.50 | See 9822.05.20 (P+) |
| 1702.20.28 | See 9822.05.20 (P+) |
| 1702.30.28 | See 9822.05.20 (P+) |
| 1702.40.28 | See 9822.05.20 (P+) |
| 1702.60.28 | See 9822.05.20 (P+) |
| 1702.90.20 | See 9822.05.20 (P+) |
| 1702.90.58 | See 9822.05.20 (P+) |
| 1702.90.68 | See 9822.05.20 (P+) |
| 1704.90.68 | See 9822.05.20 (P+) |
| 1704.90.78 | See 9822.05.20 (P+) |
| 1806.10.15 | See 9822.05.20 (P+) |
| 1806.10.28 | See 9822.05.20 (P+) |
| 1806.10.38 | See 9822.05.20 (P+) |
| 1806.10.55 | See 9822.05.20 (P+) |
| 1806.10.75 | See 9822.05.20 (P+) |
| 1806.20.73 | See 9822.05.20 (P+) |
| 1806.20.77 | See 9822.05.20 (P+) |
| 1806.20.94 | See 9822.05.20 (P+) |
| 1806.20.98 | See 9822.05.20 (P+) |
| 1806.90.39 | See 9822.05.20 (P+) |
| 1806.90.49 | See 9822.05.20 (P+) |
| 1806.90.59 | See 9822.05.20 (P+) |
| 1901.20.25 | See 9822.05.20 (P+) |
| 1901.20.35 | See 9822.05.20 (P+) |
| 1901.20.60 | See 9822.05.20 (P+) |
| 1901.20.70 | See 9822.05.20 (P+) |
| 1901.90.54 | See 9822.05.20 (P+) |
| 1901.90.58 | See 9822.05.20 (P+) |
| 2101.12.38 | See 9822.05.20 (P+) |
| 2101.12.48 | See 9822.05.20 (P+) |
| 2101.12.58 | See 9822.05.20 (P+) |
| 2101.20.38 | See 9822.05.20 (P+) |
| 2101.20.48 | See 9822.05.20 (P+) |
| 2101.20.58 | See 9822.05.20 (P+) |
| 2103.90.78 | See 9822.05.20 (P+) |
| 2106.90.46 | See 9822.05.20 (P+) |

| Column A | Column B |
|---|---|
| 2106.90.72 | See 9822.05.20 (P+) |
| 2106.90.76 | See 9822.05.20 (P+) |
| 2106.90.80 | See 9822.05.20 (P+) |
| 2106.90.91 | See 9822.05.20 (P+) |
| 2106.90.94 | See 9822.05.20 (P+) |
| 2106.90.97 | See 9822.05.20 (P+) |

(2). Subchapter XXII to chapter 98 is modified by inserting the following new notes and provisions in numerical sequence, with the columnar material related to new subheading 9822.05.20 inserted in the columns labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1 Special", respectively:

"23. For purposes of this subchapter, the term "goods described in U.S. note 23 to this subchapter" means goods entered under subheading 9822.05.20. Such goods must satisfy the requirements of general note 29(a) to the tariff schedule, except that operations performed in, or material obtained from, the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement as defined in general note 29(a) to the tariff schedule. For purposes of determining which country-specific tariff-rate quota applies to such a good, the nonpreferential rules of origin used in the normal course of trade shall be applied.

25. (a) In the period of March 24, 2006 through December 31, 2006, the aggregate quantity of goods described in U.S. note 23 to this subchapter of each party to the Agreement as defined in general note 29(a) enumerated in the table below that is entered under subheading 9822.05.20 shall be limited to the aggregate quantity (set forth in metric tons) specified below for that country:

El Salvador 24,000

(b) (i) Beginning in 2007 and in successive years thereafter, the Office of the United States Trade Representative shall publish in the Federal Register a determination for that calendar year, using the most recent annual data available, of the amount of the trade surplus (the amount by which a country's exports to all destinations exceeds its imports from all sources), by volume, of each party to the Agreement as defined in general note 29(a) to the tariff schedule for goods classified in the following subheadings:

1701.11, 1701.12, 1701.91, 1701.99, 1702.40 and 1702.60,

except that a country's exports to the United States of goods classified under subheadings 1701.11, 1701.12, 1701.91 and 1701.99 and its imports of originating goods of the United States classified under subheadings 1702.40 and 1702.60 shall not be included in the calculation of a country's trade surplus.

(ii) The aggregate quantity of goods described in U.S. note 23 to this subchapter of each party to the Agreement as defined in general note 29(a) that may be entered under subheading 9822.05.20 in any calendar year set forth herein shall be the quantity of goods equal to the lesser of the amount of that country's trade surplus determined under subdivision (b)(i) of this note or the aggregate quantity of goods specified below for that country for that year.

| | 2007 | 2008 | 2009 | 2010 | |
|---|---|---|---|---|---|
| | | (metric tons) | | | |
| El Salvador | 24,480 | 24,960 | 28,000 | 28,560 | |
| | 2011 | 2012 | 2013 | 2014 | 2015 |
| | | (metric tons) | | | |
| El Salvador | 29,120 | 29,680 | 31,000 | 31,620 | 32,240 |

| | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|
| | | | (metric tons) | | |
| El Salvador | 32,860 | 34,000 | 34,680 | 35,360 | 36,040 |

| | 2021 (metric tons) |
|---|---|
| El Salvador | 36,720 |

In each successive calendar year after 2021, the aggregate quantity for each enumerated country shall be increased, from the aggregate quantity permitted in the prior calendar year, by the quantity set forth herein:

| | Quantity (metric tons) |
|---|---|
| El Salvador | 680 |

The quantities of goods of subheadings 1701.11.50, 1701.12.50, 1701.91.30, 1701.99.50, 1702.90.20 and 2106.90.46 that are entered under subheading 9822.05.20 shall be determined on a raw-value equivalent basis. For purposes of this note, the term "raw value" means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations or instructions issued by the Secretary of the Treasury. Such regulations or instructions may, among other things, provide: (i) for the entry of such articles pending a final determination of polarity; and (ii) that positive or negative adjustments for differences in preliminary and final raw values be made in the same or succeeding quota periods. The principal grades and types of sugar shall be translated into terms of raw value in the following manner--

(A) For articles described in subheadings 1701.11.50, 1701.12.50, 1701.91.30, 1701.99.50 and 2106.90.46 by multiplying the number of kilograms thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

(B) For articles described in subheading 1702.90.20, by multiplying the number of kilograms of the total sugars thereof (the sum of the sucrose and reducing or invert sugars) by 1.07.

| | | | |
|---|---|---|---|
| | Goods described in U.S. note 23 to this subchapter: | | |
| | Of a party to the Agreement as defined in general note 29(a) to the tariff schedule: | | |
| 9822.05.20 | Goods provided for in subheading 1701.11.50, 1701.12.50, 1701.91.30, 1701.91.48, 1701.91.58, 1701.99.50, 1702.20.28, 1702.30.28, 1702.40.28, 1702.60.28, 1702.90.20, 1702.90.58, 1702.90.68, 1704.90.68, 1704.90.78, 1806.10.15, 1806.10.28, 1806.10.38, 1806.10.55, 1806.10.75, 1806.20.73, 1806.20.77, 1806.20.94, 1806.20.98, 1806.90.39, 1806.90.49, 1806.90.59, 1901.20.25, 1901.20.35, 1901.20.60, 1901.20.70, 1901.90.54, 1901.90.58, 2101.12.38, 2101.12.48, 2101.12.58, 2101.20.38, 2101.20.48, 2101.20.58, 2103.90.78, 2106.90.46, 2106.90.72, 2106.90.76, 2106.90.80, 2106.90.91, 2106.90.94 or 2106.90.97, subject to the quantitative limits specified in U.S. note 25 to this subchapter . . . . | | Free (P+)" |

**Proclamation 7992 of March 29, 2006**

## Cancer Control Month, 2006

*By the President of the United States of America*
*A Proclamation*

During National Cancer Control Month, we continue the fight against cancer and work to reduce the risk of this deadly disease among our citizens.

Cancer survival rates are increasing, with approximately 10 million survivors in the United States. New understanding of diseases, better diagnostic tools, and innovative treatments help provide hope and healing to those who have been diagnosed with cancer. Across our country, cancer patients are living longer and fuller lives.

Despite these advances, cancer is still the second leading cause of death in our country, and some cancers, such as breast, prostate, lung, leukemia, and melanoma, continue to be too prevalent. By increasing public awareness and encouraging people to take appropriate steps to protect themselves, we can help prevent certain types of cancer. Individuals can reduce the risk of developing the disease by avoiding tobacco and excessive alcohol and by making healthy lifestyle choices. These include eating well, exercising regularly, and avoiding significant weight gain. I also encourage all Americans to get regular preventive screenings and speak with a health care provider about additional ways to reduce the risk of developing cancer.

My Administration is dedicated to furthering our progress in the fight against cancer. We lead the world in cutting-edge medical research, and I have requested $5.9 billion in my fiscal year 2007 Budget for cancer-related activities within the Department of Health and Human Services. America will continue to aggressively fight cancer, encourage innovative research, and spread hope to those affected.

As we observe Cancer Control Month, I commend the strength and courage of cancer survivors, whose perseverance is an inspiration to all Americans. Our Nation is grateful for the generosity and skill of our medical professionals. These healers, along with the loving family members and friends of cancer patients, reflect the compassionate spirit of our people and help build a healthier future for our citizens. Cancer can be prevented, treated, and defeated, and we will continue to strive to reach the day when the battle to beat cancer has been won.

In 1938, the Congress of the United States passed a joint resolution (52 Stat. 148; 36 U.S.C. 103) as amended, requesting the President to issue an annual proclamation declaring April as ''Cancer Control Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim April 2006 as Cancer Control Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that will increase awareness of how to prevent and control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord two thousand six, and of

the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7993 of March 29, 2006**

## National Child Abuse Prevention Month, 2006

*By the President of the United States of America*

*A Proclamation*

Our society has a responsibility to protect our children and help them thrive. During National Child Abuse Prevention Month, we underscore our strong commitment to preventing child abuse and neglect and to ensuring that all children have the opportunity to grow up in safe and nurturing environments.

Parents hold the primary responsibility for a child's health and well-being and provide a foundation of love and support for their children. Parents are not alone as they work to keep their children safe. Helping children requires a commitment from other family members, as well as individuals and organizations in every community. Educators, concerned citizens, faith-based and community organizations, and public officials all have vital roles in protecting our children and supporting families. When children are surrounded by positive relationships and experiences, they are more likely to grow into confident and caring adults.

My Administration remains dedicated to protecting our youth from child abuse and neglect. The Federal Interagency Workgroup on Child Abuse and Neglect, led by the Department of Health and Human Services, provides a forum for Federal agencies to share information and make policy and program recommendations regarding the prevention, intervention, and treatment of child abuse and neglect. Through the National Child Abuse Prevention Initiative, my Administration is partnering with organizations across our country to promote the well-being of children and families and to assist efforts to eradicate abuse.

The Department of Health and Human Services' Administration for Children and Families hosts the National Clearinghouse on Child Abuse and Neglect Information website at www.nccanch.acf.hhs.gov, which offers more information on how to prevent, recognize, and report signs of child abuse. By working together to provide America's young people the love, guidance, and protection they need, we can help protect our youth from abuse and give them the opportunity to achieve their dreams.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 2006 as National Child Abuse Prevention Month. I encourage all citizens to protect our children and help build strong communities where individuals, families, and children are valued and supported.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord two thousand six, and of

the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7994 of March 29, 2006**

## National Donate Life Month, 2006

*By the President of the United States of America*
*A Proclamation*

National Donate Life Month is an opportunity to celebrate the tremendous generosity of those who have saved lives by becoming organ, tissue, marrow, and blood donors and to encourage more Americans to follow their fine example.

Last year, more than 28,000 organ transplants took place in the United States—more than at any other time in history. Despite this progress, more than 90,000 of our fellow citizens remain on a waiting list for a donation, and many lives are lost each year while waiting for organ transplants. Through programs like the Workplace Partnership for Life, sponsored by the Department of Health and Human Services, my Administration remains committed to supporting organ, marrow, tissue, and blood donations. As public and private organizations work together, we will educate more Americans about the importance of giving life.

During National Donate Life Month, I urge more Americans to make the decision to donate the gift of life. Individuals can learn more about becoming an organ and tissue donor at www.organdonor.gov. By saying yes to organ and tissue donation on their driver's licenses, adding their name to donor registries, or talking about their decision with family and friends, citizens help save lives and contribute to a more compassionate and hopeful society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 2006 as National Donate Life Month. I call upon health care professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations to help raise awareness about the urgent need for organ and tissue donors throughout our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7995 of March 31, 2006**

## To Extend Nondiscriminatory Trade Treatment (Normal Trade Relations Treatment) to the Products of Ukraine, and For Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. Ukraine has demonstrated a strong desire to build a friendly and cooperative relationship with the United States and has been found to be in full compliance with the freedom of emigration requirements under Title IV of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2431 *et seq.*).

2. Pursuant to section 2(a) of Public Law 109–205, 120 Stat. 313 (19 U.S.C. 2434), and having due regard for the findings of the Congress in section 1(a) of said law, I hereby determine that chapter 1 of title IV of the 1974 Act (19 U.S.C. 2431–2439) should no longer apply to Ukraine.

3. Section 2103(a) of the Trade Act of 2002, 19 U.S.C. 3803(a), authorizes the President, under certain circumstances, to proclaim such modification of any existing duty as the President determines to be required or appropriate to carry out an agreement entered into in accordance with section 2103(a). The United States, a major producer and exporter of multi-chip integrated circuits, applies duties to imports of multi-chip integrated circuits of less than 5 percent *ad valorem*. On January 17, 2006, the United States entered into an agreement to cut to zero applied duties on certain multi-chip integrated circuits.

4. Section 604 of the 1974 Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule (HTS) of the United States the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 2(a) of Public Law 109–205, section 2103(a) of the Trade Act of 2002, and section 604 of the 1974 Act, do proclaim that:

(1) Nondiscriminatory treatment (normal trade relations treatment) shall be extended to the products of Ukraine, which shall no longer be subject to chapter 1 of title IV of the 1974 Act.

(2) The extension of nondiscriminatory treatment to the products of Ukraine shall be effective as of the date of signature of this proclamation.

(3) In order to implement the agreement on multi-chip integrated circuits, the HTS is modified to provide for application of zero duties to goods entered under tariff item 8543.89.96.

(4) The modification to the HTS made pursuant to paragraph 3 of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after April 1, 2006.

(5) All provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7996 of March 31, 2006**

## To Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Honduras and Nicaragua

*By the President of the United States of America*

*A Proclamation*

1. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (Agreement) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (Agreement countries). The Agreement was approved by the Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''Act'') (Public Law 109–53, 119 Stat. 462) (19 U.S.C. 4001 note).

2. Section 201 of the Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 3.3 and 3.28, and Annexes 3.3 (including the schedule of United States duty reductions with respect to originating goods) and 3.28 of the Agreement.

3. Consistent with section 201(a)(2) of the Act, each Agreement country is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP) on the date the Agreement enters into force with respect to that country.

4. Consistent with section 201(a)(3) of the Act, each Agreement country is to be removed from the enumeration of designated beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2701 *et seq.*) on the date the Agreement enters into force with respect to that country, subject to the exceptions set out in section 201(a)(3)(B) of the Act.

5. Consistent with section 213(b)(5)(D) of the CBERA, as amended by the United States-Caribbean Basin Trade Partnership Act (CBTPA) (Public Law 106–200), each Agreement country is to be removed from the enumeration of designated CBTPA beneficiary countries on the date the Agreement enters into force with respect to that country.

6. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 201 of the Act, section 301 of title 3, United States Code, and section 604 of the 1974 Act, and the Act having taken effect pursuant to section 107(a), do proclaim that:

(1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement to Honduras and Nicaragua, to provide certain other treatment to originating goods for the purposes of the Agreement, to provide tariff-rate quotas with respect to certain goods, to reflect the removal of Honduras and Nicaragua from the enumeration of designated beneficiary developing countries for purposes of the GSP, to reflect the removal of Honduras and Nicaragua from the enumeration of designated beneficiary countries for purposes of the CBERA and the CBTPA, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in Annex I of Publication 3845 of the United States International Trade Commission, entitled *Modifications to the Harmonized Tariff Schedule of the United States to Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Honduras and Nicaragua* (Publication 3845), which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the Agreement and to provide for future staged reductions in duties for originating goods for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 3845, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3)(a) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex I and Annex II to Publication 3845.

(b) Except as provided in paragraph (3)(a) of this proclamation, this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after April 1, 2006.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7997 of April 5, 2006**

## Education and Sharing Day, U.S.A., 2006

*By the President of the United States of America*

*A Proclamation*

A quality education is the cornerstone of a hopeful tomorrow for all our children. Education and Sharing Day highlights our strong support for our young people as they pursue lives of learning, prepare to become responsible leaders, and work to reach their full potential.

On Education and Sharing Day, we remember the efforts of Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, who promoted the importance of education and ethical teachings to every student's future. He sought to improve lives and communities through a vast network of education and outreach centers and social service programs around the world. We continue to be inspired by the Rebbe's good works and all those who dedicate their time, talents, and energy to helping our next generation grow into caring, responsible adults. Through devotion to faith, family, education, and community, we can continue building a better and more compassionate society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 9, 2006, as Education and Sharing Day, U.S.A. I call upon government officials, educators, volunteers, and all the people of the United States to reach out to young people and work to create a better, brighter, and more hopeful future for all.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7998 of April 5, 2006**

## National Former Prisoner of War Recognition Day, 2006

*By the President of the United States of America*

*A Proclamation*

In every generation, America's Armed Forces have answered the call to duty with dedication and valor. On National Former Prisoner of War Recognition Day, we pay tribute to the brave patriots of the United States military who endured captivity because of war. These heroes sacrificed their personal liberty to secure a future of freedom for all Americans.

While held as prisoners of war, American POWs have reflected the best of our country, acting with resourcefulness, bravery, and strength. Former POWs, such as Corporal Tibor ''Ted'' Rubin, USA, continue to inspire new generations to acts of courage and compassion. Liberated by U.S. forces from a Nazi concentration camp, Rubin enlisted in the

Army after immigrating to the United States. He was captured and held as a POW during the Korean War even before he became an American citizen. His incredible bravery and service to his fellow POWs saved many lives and has left a legacy of hope and honor, and for his heroism, I had the great privilege to present him our Nation's highest military award, the Medal of Honor.

The sacrifices of those taken as prisoners of war have helped bring security to American citizens and freedom to the world. With determination and courage, America's former POWs, their fallen and missing comrades, and their families have demonstrated the true spirit of our Nation, and they will never be forgotten.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 2006, as National Former Prisoner of War Recognition Day. I call upon the people of the United States to join me in remembering and honoring the sacrifices of all American prisoners of war. I call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 7999 of April 7, 2006**

## Pan American Day and Pan American Week, 2006

*By the President of the United States of America*

*A Proclamation*

During Pan American Day and Pan American Week, we honor the commitment to liberty and common values we share with our Pan American neighbors.

The love of freedom has deep roots in the Pan American community. Not long after the United States won independence from Britain, patriots throughout the Americas were inspired to take their own stand. Today, there are more than 30 democratic countries in the region, and through the Organization of American States, leaders in the Western Hemisphere have an opportunity to discuss shared goals, promote prosperity, and strengthen democratic governance and institutions.

One of the surest ways to make opportunity real for all our citizens is through free and fair trade. In August 2005, I signed legislation to implement the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR). Our investment and trade through the CAFTA–DR will help build a better life for our citizens, and by reducing trade barriers, we can make our region more competitive in the global economy. Strong economic ties with democracies in our hemisphere foster stability and security and help lay the foundation for peace for generations to come.

The people of the Western Hemisphere are united by history, geography, and shared ideals. We will continue our important work to build a region that lives in liberty and grows in prosperity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 14, 2006, as Pan American Day and April 9 through April 15, 2006, as Pan American Week. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8000 of April 7, 2006**

## National D.A.R.E. Day, 2006

*By the President of the United States of America*

*A Proclamation*

On National D.A.R.E. Day, we honor the dedicated police officers and all those involved in the Drug Abuse Resistance Education (D.A.R.E.) program and underscore our commitment to helping young people say no to drugs and violence. By promoting positive youth development, D.A.R.E. programs across our country are helping our children make the right choices and build lives of purpose.

Since 1983, D.A.R.E. has taught young people how to recognize and resist the pressure to be involved in drugs, gangs, and violent activities. The D.A.R.E. program brings police officers into the classroom to answer tough questions about drugs and crime, teaches students how to avoid temptation, and encourages communication between young people and law enforcement. This program strengthens our communities and provides our children with a strong foundation for success.

My Administration remains committed to helping our young people overcome the dangers of violence and the use of illegal substances. The Helping America's Youth initiative, led by First Lady Laura Bush, encourages local partnerships that empower families, schools, and communities to help young people reach their full potential. We are also strengthening youth drug prevention efforts on the State and local levels with the Strategic Prevention Framework and the Drug Free Communities program. These initiatives tailor prevention strategies to local needs and give community organizations the power to identify challenges and take actions to overcome them.

In 2005, the National Youth Anti-Drug Media Campaign and the Partnership for a Drug-Free America launched Above the Influence, an advertising and online campaign to encourage teens to reject drug use and other negative pressures. My Administration has also hosted a se-

ries of summits to educate community leaders and school officials on successful student drug testing.

The struggle against alcohol abuse, drugs, and violence is a national, state, and local effort. Parents, teachers, volunteers, D.A.R.E. officers, and all those who help our young people grow into responsible, successful adults are strengthening our country and contributing to a future of hope for everyone.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 11, 2006, as National D.A.R.E. Day. I call upon young people and all Americans to fight drug use and violence in our communities. I also urge our citizens to support the law enforcement officials, volunteers, teachers, health care professionals, and all those who work to help our children avoid drug use and violence.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8001 of April 13, 2006**

## Thomas Jefferson Day, 2006

*By the President of the United States of America*

*A Proclamation*

Today, we celebrate the birthday of Thomas Jefferson. Few individuals have shaped the course of human events as much as this proud son of Virginia. His achievements are extraordinary: Governor of Virginia, author of the Statute of Virginia for Religious Freedom, Secretary of State, third President of the United States, and founder of the University of Virginia. Thomas Jefferson was also a scholar, author, farmer, inventor, and architect. As President, Thomas Jefferson secured the purchase of the Louisiana Territory from France, which doubled the size of the United States and extended opportunity and prosperity to many more Americans.

Thomas Jefferson was an eloquent and powerful champion of liberty. He captured the American creed when he wrote in a private letter: ''I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.'' And in one of the most important public documents in history, Jefferson wrote these words: ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'' The Declaration of Independence has become a cornerstone for those who love freedom and justice.

More than eight decades later, Abraham Lincoln returned to the words and meaning of the Declaration of Independence. Lincoln knew that in the distant future people would look upon it and ''take courage to

renew the battle which their fathers began—so that truth, and justice, and mercy . . . might not be extinguished from the land.'' A century after Lincoln, Martin Luther King, Jr., called the Declaration of Independence a ''promissory note to which every American was to fall heir.''

The Declaration of Independence has become a standard by which other nations and peoples measure their progress in the effort to advance human freedom. Even nations that are not yet free pay homage to freedom, and it is seen as a universal human good.

Our Nation is vastly different than it was during the days of our founding—yet our commitment to America's founding truths remains strong and steady. Our duty is to continue to fulfill the promise of Thomas Jefferson's words and vision of a better life for all people. Meeting that responsibility is the best way we can honor the memory of the man who was an architect of the freest Nation on Earth.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States of America, do hereby proclaim April 13, 2006, as Thomas Jefferson Day. I encourage all Americans to join in celebrating Thomas Jefferson's achievements, reflecting on his words, and learning more about this extraordinary man's influence on American history and ideals.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8002 of April 18, 2006**

## National Park Week, 2006

*By the President of the United States of America*

*A Proclamation*

In America's national parks, the magnificent beauty of our country and important examples of our Nation's cultural heritage are preserved and made available to Americans and visitors from all over the world. Each year, as we observe National Park Week, we underscore our commitment to conserve our natural and historical treasures and encourage more Americans to enjoy, learn from, and protect these important parts of our heritage.

Our Nation has a long legacy of conservation. In 1872, Yellowstone National Park became our country's first national park, and more than four decades later, the National Park Service was created. Today, the national park system includes almost 400 sites, with parks in nearly every state. From Yosemite National Park in California to Acadia National Park in Maine, and from Independence Hall to the Martin Luther King, Jr., National Historic Site, America's national parks are home to some of our Nation's most beautiful landscapes and richest history.

This year's theme, ''Connecting our Children to America's National Parks,'' reflects the National Park Service's commitment to encouraging young people to enjoy outdoor recreation and better appreciate our Nation's beauty and history. The National Park Service Junior Rangers program develops interest in our national parks by teaching children and their families about the importance of the national park sites. Young people can visit our national parks online by going to the Junior Rangers website at www.nps.gov/WebRangers. As Honorary Chair of the National Park Foundation, First Lady Laura Bush helps raise awareness about preservation of the parks and encourages support for programs like the Junior Rangers. Through initiatives like this, the National Park Service is promoting good stewardship of the environment and appreciation of our Nation's heritage.

With the opportunity to live in America comes a responsibility to ensure that our national parks remain a source of pride, pleasure, and education for all our citizens. During National Park Week and throughout the year, we pay tribute to the employees and volunteers of the National Park Service. For the past 90 years, these dedicated men and women have worked to maintain and enhance our national parks and to ensure that they are preserved and enjoyed for generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 22 through April 30, 2006, as National Park Week. I call upon the people of the United States to join me in celebrating America's national parks and becoming active participants in park conservation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8003 of April 19, 2006**

## National Physical Fitness and Sports Month, 2006

*By the President of the United States of America*

*A Proclamation*

For 50 years, the President's Council on Physical Fitness and Sports has helped individuals, schools, communities, businesses, and organizations promote healthy lifestyles. During this year's National Physical Fitness and Sports Month, we celebrate the Council's 50th anniversary and underscore our Nation's strong commitment to health, physical activity, and fitness.

President Dwight D. Eisenhower founded the President's Council on Youth Fitness in 1956 to encourage America's youth to make fitness a priority. He wrote that year, ''Our young people must be physically as well as mentally and spiritually prepared for American citizenship.'' The Council later became the President's Council on Physical Fitness and Sports, including people of all ages and abilities and promoting fitness through sports and games.

Today, the Council continues to play an important role in promoting fitness and healthy living in America. My HealthierUS Initiative provides simple steps to help citizens live longer and better lives, and millions of young people and adults have participated in the President's Challenge awards program. The Council's website, fitness.gov, has information about these programs and other ways Americans can improve their health through physical activity. By exercising regularly and maintaining healthy eating habits, individuals can feel better and reduce their risk of chronic health conditions like obesity, diabetes, heart disease, and cancer. An active lifestyle also creates opportunities for friends and family to spend time together and enjoy various forms of exercise, such as biking, hiking, and team sports. The medical benefits, increased self-confidence, and stress reduction that can come from athletic activity help contribute to a healthier, more productive Nation.

I urge children, teens, and all Americans to make time every day for exercise and to encourage family, friends, and neighbors to live healthier lives by participating in physical fitness activities. As President Kennedy said at the 1961 Youth Fitness Conference, ''We do not want in the United States a nation of spectators. We want a nation of participants in the vigorous life.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2006 as National Physical Fitness and Sports Month. I call upon the people of the United States to make daily exercise a priority. I encourage individuals, community organizations, and schools to celebrate with physical and athletic activities and to work toward the great national goal of an active, fit America.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8004 of April 19, 2006**

## National Volunteer Week, 2006

*By the President of the United States of America*

*A Proclamation*

Throughout our country, volunteers make America stronger and better by reaching out to help their neighbors in need. During National Volunteer Week, we recognize the millions of individuals who dedicate their time, talents, and energy to making a difference in the lives of others and reaffirm our commitment to supporting these soldiers in the armies of compassion.

In the 1830s, a Frenchman named Alexis de Tocqueville visited our Nation and saw that the secret to America's success was our talent for bringing people together for the common good and our willingness to serve a cause greater than self. Today, the great strength of America is still found in the hearts and souls of our people. By making a commit-

ment to service, integrity, and good citizenship, our Nation's volunteers show their gratitude for the blessings of freedom and help build a more hopeful future for our children and grandchildren.

Since we created USA Freedom Corps in 2002, my Administration has matched millions of willing volunteers with opportunities to serve in their communities. These kind-hearted individuals help people who hurt, mentor children who need love, feed those who are hungry, and shelter those who need homes. In the aftermath of the devastating hurricanes of 2005, people throughout our great Nation opened their hearts to help the Gulf Coast recover and rebuild. We will continue to foster the efforts of the millions who care deeply about the future of our country and the plight of their fellow citizens. Americans can find more information about volunteer service opportunities in their own hometowns by visiting the USA Freedom Corps website at volunteer.gov.

Our Nation is a force for freedom and prosperity, and our greatness is measured by our character and how we treat one another. During National Volunteer Week, and throughout the year, we appreciate the millions of volunteers across America and strive to be a more compassionate and decent society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 23 through April 29, 2006, as National Volunteer Week. I call upon all Americans to recognize and celebrate the important work that volunteers do every day throughout our country. I also encourage citizens to explore ways to help their neighbors in need and serve a cause greater than themselves.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8005 of April 20, 2006**

## Jewish American Heritage Month, 2006

*By the President of the United States of America*

*A Proclamation*

When the first Jewish settlers came to this land, they sought a place of promise where they could practice their faith in freedom and live in liberty. During Jewish American Heritage Month, we celebrate the rich history of the Jewish people in America and honor the great contributions they have made to our country.

As a nation of immigrants, the United States is better and stronger because Jewish people from all over the world have chosen to become American citizens. Since arriving in 1654, Jewish Americans have achieved great success, strengthened our country, and helped shape our way of life. Through their deep commitment to faith, family, and

community, Jewish Americans remind us of a basic belief that guided the founding of this Nation: that there is an Almighty who watches over the affairs of men and values every life. The Jewish people have enriched our culture and contributed to a more compassionate and hopeful America.

Jewish American Heritage Month is also an opportunity to remember and thank the many Jewish Americans who defend our ideals as members of the United States Armed Forces. These courageous men and women risk their lives to protect their fellow citizens and to advance the cause of freedom. By helping to bring the promise of liberty to millions around the world, they lay the foundation of peace for generations to come.

NOW, THEREFORE, I GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2006 as Jewish American Heritage Month. I call upon all Americans to observe this month with appropriate programs and activities that honor the significant contributions Jewish Americans have made to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8006 of April 20, 2006**

## National Crime Victims' Rights Week, 2006

*By the President of the United States of America*

*A Proclamation*

During National Crime Victims' Rights Week, we underscore our commitment to safeguarding the rights of the victims of crime and their families, and we honor those who bring them hope and comfort.

Behind each crime victim there is a story of trauma, a story of suffering, and a story of lost security. This year's theme, ''Victims' Rights: Strength in Unity,'' emphasizes the importance of joining together to support these individuals and to promote victims' rights and services. With the help of victim service providers, faith-based and community groups, justice professionals, and volunteers, we can work to improve the lives of crime victims across our country.

Violent crime rates have fallen to their lowest levels since the 1970s, and we must continue our progress in the fight against crime and remain dedicated to protecting the rights of crime victims. The Office for Victims of Crime at the Department of Justice (DOJ) provides funding to States for victim assistance programs and supports training on victims' rights for criminal justice professionals. To increase access to comprehensive support and services for victims of domestic violence, the DOJ awarded more than $20 million to support the creation of 15 Family Justice Centers across the country. Several of these centers have

opened and are making a difference in victims' lives. To further ensure basic rights for all victims, we must also ratify a Crime Victims' Rights Amendment to the Constitution.

To learn more about victims' rights and how to make a difference, visit crimevictims.gov. All Americans share a responsibility to help victims of crime, and our Nation will continue to work together to achieve justice for victims and build a more hopeful society for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 23 through April 29, 2006, as National Crime Victims' Rights Week. I encourage all Americans to promote awareness of victims' rights and advance this important cause.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8007 of April 26, 2006**

## National Charter Schools Week, 2006

*By the President of the United States of America*

*A Proclamation*

Education is the gateway to a brighter future for our children and our Nation. During National Charter Schools Week, we celebrate charter schools' commitment to academic achievement, accountability, and innovation. We recognize the vital role charter schools play in fostering an America where children have the knowledge and skills they need to grow, succeed, and achieve their dreams.

As a publicly funded alternative to traditional public schools, charter schools have expanded our understanding of public education by embracing the spirit of discovery and providing innovative avenues for success. Almost 15 years after the founding of the first charter school, more than 3,600 charter schools in 40 states and the District of Columbia are teaching more than one million students. These institutions reflect our belief in the promise of America's youth and help fulfill our moral obligation to make sure that every child has a quality education.

This year marks the fourth anniversary of the signing of the No Child Left Behind Act, which is helping schools close the achievement gap among America's youth. Using the same principles that guide No Child Left Behind, we are achieving educational excellence through charter schools by providing greater flexibility with Federal dollars and curriculum control at the local level. We are also providing parents with more information about school performance and school options and insisting on results through assessment and accountability.

In the aftermath of the devastating hurricanes that struck our Nation's Gulf Coast last year, charter schools are playing a major role in welcoming back school children affected by the storms. Because of their

unique flexibility, many Gulf Coast charter schools were able to reopen quickly, and many of the public schools that have reopened in New Orleans now operate as charter schools. By enabling these children to continue their education, charter schools are helping families and demonstrating a deep compassion for America's students.

We must give every child the best opportunity to learn and succeed in life. Charter schools help prepare our next generation of leaders and help ensure that America continues to succeed in the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 30 through May 6, 2006, as National Charter Schools Week. I appreciate our Nation's charter schools, teachers, and administrators, and I call on parents of charter school students to share their successes and help all Americans understand more about the important work of charter schools.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8008 of April 28, 2006**

## Asian/Pacific American Heritage Month, 2006

*By the President of the United States of America*

*A Proclamation*

During Asian/Pacific American Heritage Month, we honor and celebrate the millions of Asian/Pacific Americans whose contributions have helped make America a strong, vibrant, and free society.

Asian/Pacific Americans represent many nations and ethnicities, each with its own culture, heritage, language, and experience. Across our country, this diverse group of people has excelled in all walks of life. Their talent and hard work have added to the success and prosperity of our Nation and helped make America a leader in the world. They have helped shape America's character and identity through their strong values, love of family, and commitment to community. America is especially grateful to the many Asian/Pacific Americans who have courageously answered the call to defend freedom as members of our Armed Forces. The sacrifices of these brave men and women help preserve the ideals of our country's founding and make the world a safer place.

To honor the achievements and contributions of Asian/Pacific Americans, the Congress, by Public Law 102–450 as amended, has designated the month of May each year as ''Asian/Pacific American Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 2006 as Asian/Pacific American Heritage Month. I call upon the people of the United States

to learn more about the history of Asian/Pacific Americans and their role in our national story and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8009 of April 28, 2006**

## Older Americans Month, 2006

*By the President of the United States of America*
*A Proclamation*

Older Americans represent the finest qualities of our Nation. During Older Americans Month, we honor our older citizens, celebrate their many accomplishments, and learn from their experiences.

Across our country, older Americans are demonstrating personal strength and compassion and are redefining the experience of aging. They are leading active lives, serving in their communities, and reaching out to their fellow Americans. Through organizations like Senior Corps, they are mentoring children, helping victims of natural disasters, and caring for citizens with disabilities. Their good works are changing the lives of many individuals and contributing to the strength of America.

This year's theme, ''Choices for Independence,'' reflects the importance of our citizens making retirement, lifestyle, and health choices that enhance their quality of life as they grow older. My Administration is committed to strengthening senior programs and ensuring the health and retirement security of older Americans. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 provides for the biggest improvement in health care for our seniors in nearly 40 years. In addition, the Medicare Prescription Drug Benefit, Medicare Part D, is helping seniors receive the prescription drugs they need at reduced costs.

Our Nation is blessed by our seniors. These individuals teach us lessons of the past, set an example for younger generations, and demonstrate the generosity and love for which Americans are known. This month, I encourage all our citizens to spend time with America's seniors.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2006 as Older Americans Month. I appreciate our senior citizens for their achievements and contributions to our Nation. I also commend the Federal, State, local, and tribal organizations, service and health care providers, caregivers, and volunteers who dedicate their time and talents to our seniors. I urge all citizens to honor their elders and reaf-

firm our country's commitment to their well-being this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8010 of April 28, 2006**

## Law Day, U.S.A.

*By the President of the United States of America*

*A Proclamation*

America's legal system is central to protecting the constitutional principles on which our Nation was founded. As we observe Law Day, we celebrate our heritage of freedom, justice, and equality under the law.

This year's Law Day theme, ''Liberty Under Law: Separate Branches, Balanced Powers,'' honors the wisdom of the separation of powers that the Framers of our Constitution established for the Federal Government. Delegates to the Constitutional Convention recognized the risks that accompany the concentration of power and devised a system in which the Federal Government's authorities are divided among three independent branches. James Madison highlighted the importance of our Constitution's separation of powers when he wrote, ''the accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.''

Throughout our Nation's history, we have been reminded repeatedly of the wisdom of the Framers' design. Our system of separation of powers has safeguarded our liberties and helped ensure that we remain a government of laws. Law Day is an occasion for us to celebrate our Constitution and to honor those in the judiciary and legal profession who work to uphold and serve its principles.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, in accordance with Public Law 87–20, as amended, do hereby proclaim May 1, 2006, as Law Day, U.S.A. I call upon all the people of the United States to observe this day with appropriate ceremonies and activities. I also call upon Government officials to display the flag of the United States in support of this national observance.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8011 of April 28, 2006**

## Loyalty Day, 2006

*By the President of the United States of America*
*A Proclamation*

Our Nation is blessed and bound together by a creed of freedom and equality that is entrusted to all Americans. Preserving the ideals of our founding requires the service and sacrifice of every generation, and on Loyalty Day, we celebrate the gift of liberty and remember our own obligation to this great Nation.

The dedication and selflessness of America's soldiers and their families inspire us all. Some of our Nation's finest men and women have given their lives in freedom's cause. By their sacrifices they have given us a legacy of liberty and brought honor to the uniform, our flag, and our country. The American people are grateful to the brave men and women of our military for their service and we will always stand behind them. I encourage all Americans to learn more about opportunities to thank and support our troops, from sending a care package to writing a message, by visiting www.americasupportsyou.mil.

Loyalty Day is also a time for us to reflect on our responsibilities to our country as we work to show the world the meaning and promise of liberty. The right to vote is one of our most cherished rights and voting is one of our most fundamental duties. By making a commitment to be good citizens, flying the American flag, or taking the time to learn about our Nation's history, we show our gratitude for the blessings of freedom.

The greatest strength of America is in the heart and soul of its people, and every time a volunteer reaches out to a neighbor in need, our Nation grows stronger and more hopeful. Thousands of Americans are serving a higher calling by mentoring, coaching, serving in Senior Corps, and by participating in many other programs that enrich lives and help build a better tomorrow. The light of freedom shines brightly because of compassionate people who care about others. Their dedication to a cause greater than self gives all Americans confidence in the future of our Nation.

The Congress, by Public Law 85–529, as amended, has designated May 1 of each year as ''Loyalty Day.'' I ask all Americans to join me in this day of celebration and in reaffirming our allegiance to our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 1, 2006, as Loyalty Day. I call upon all the people of the United States to join in support of this national observance, and to display the flag of the United States on Loyalty Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8012 of May 3, 2006**

## National Day of Prayer, 2006

*By the President of the United States of America*

*A Proclamation*

Throughout our Nation's history, our citizens have prayed and come together before God to offer Him gratitude, reflect on His will, seek His aid, and respond to His grace. On this National Day of Prayer, we thank God for His many blessings and His care of our country.

God has greatly blessed the American people, and in 1789, George Washington proclaimed: ''It is the duty of all nations to acknowledge the Providence of Almighty God, to obey His will, to be grateful for His benefits, and to humbly implore His protection and favor.'' Americans remain a prayerful and thankful people. We pray for the safety of our troops as they carry out dangerous missions with courage and compassion, and we remember the strength and sacrifice of their families. We pray for the good people of the Gulf Coast region as they work to rebuild their communities after the devastating hurricanes of 2005, and we thank God for the volunteers who have opened their hearts to help their neighbors in a time of need. We pray for the protection of innocent lives and for the expansion of peace and liberty throughout the world.

Through prayer, our faith is strengthened, our hearts are humbled, and our lives are transformed. May our Nation always have the humility to trust in the goodness of God's plans.

The Congress, by Public Law 100–307, as amended, has called on our Nation to reaffirm the role of prayer in our culture and to respect the freedom of religion by recognizing each year a ''National Day of Prayer.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 4, 2006, as a National Day of Prayer. I ask the citizens of our Nation to give thanks, each according to his or her own faith, for the freedoms and blessings we have received and for God's continued guidance and protection. I urge all Americans to join in observing this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8013 of May 4, 2006**

## Mother's Day, 2006

*By the President of the United States of America*

*A Proclamation*

On Mother's Day, we honor our mothers and pay tribute to their devoted work and selfless gift of love.

America's mothers are women of determination and vision. They serve as caregivers and guides, helping to build the foundation for our children's success and nurturing them as they grow and explore the great promise of our Nation. Through their mothers' examples, children come to understand the virtue of kindness, the blessing of compassion, and the importance of principle. A mother's support encourages children to make right choices, set high goals, and become good citizens. A mother's love inspires children to achieve their full potential and strengthens the character of our country. The commitment and love of mothers reflect the best of America.

On this special day, we remember the many mothers whose sons and daughters serve in harm's way. The determination and courage of these women demonstrate the spirit of our Nation, and America will always be grateful for their unfailing devotion. We also recognize the dedication of the many mothers who serve in America's Armed Forces. These brave women protect the safety and security of our Nation and help ensure a peaceful future for our children.

To honor mothers, the Congress, by a joint resolution approved May 8, 1914, as amended (38 Stat. 770), has designated the second Sunday in May each year as ''Mother's Day'' and has requested the President to call for its appropriate observance. May God bless all mothers across our country on this special day, and throughout the year.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 14, 2006, as Mother's Day. I encourage all Americans to show their gratitude and love to mothers for making a difference in the lives of their children and communities. I call upon citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8014 of May 11, 2006**

## Peace Officers Memorial Day and Police Week, 2006

*By the President of the United States of America*
*A Proclamation*

Every day, our Nation's dedicated law enforcement officers put themselves at risk to keep their fellow Americans safe. As we observe Peace Officers Memorial Day and Police Week, we pay tribute to the courageous men and women who have lost their lives protecting us, and we honor all those who wear the badge and keep the peace.

The law enforcement officers of today carry on the long and proud tradition of service built by their predecessors. With valor and distinction, these citizens stand watch over us all and work hard to fight crime, violence, and terrorism in communities across America. We are a country built on the rule of law, and our Nation is grateful to the

men and women who enforce those laws and uphold the fairness and peace we treasure.

Law enforcement officers deserve our appreciation for the work they do, and citizens fulfill an important civic responsibility by supporting their work to protect our communities. Through organizations like Citizen Corps, men and women are assisting their local police force, fire department, and neighborhood watch program. More information about Citizen Corps volunteer opportunities can be found at citizencorps.gov. I encourage all Americans to help fight crime in their communities by volunteering and participating in crime prevention organizations. By working together, we can achieve a better and more secure future for our children and grandchildren.

On Peace Officers Memorial Day and during Police Week, we honor the heroism of all our law enforcement officers, especially those who have given their lives so that others might live. They performed their jobs with extraordinary distinction, and a proud and grateful Nation will always remember their service and sacrifice. We ask God's blessings for the families and friends they left behind.

By a joint resolution approved October 1, 1962, as amended, (76 Stat. 676), the Congress has authorized and requested the President to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week,'' and by Public Law 103–322, as amended, (36 U.S.C. 136), has directed that the flag be flown at half staff on Peace Officers Memorial Day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 15, 2006, as Peace Officers Memorial Day and May 14 through May 20, 2006, as Police Week. I call on all Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, as well as appropriate officials of all units of government, to direct that the flag be flown at half staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8015 of May 12, 2006**

## Suspension of Entry as Immigrants and Nonimmigrants of Persons Responsible for Policies or Actions That Threaten the Transition to Democracy in Belarus

*By the President of the United States of America*

*A Proclamation*

In light of the importance to the United States of fostering democratic institutions in Belarus in order to help the Belarusian people achieve their aspirations for democracy and to help complete the trans-

formation to a Europe whole, free, and at peace and given the suppression of human rights and democracy in Belarus, the fraud perpetrated during the recent Belarusian presidential campaign and election, the detention of peaceful protesters in Belarus, the persistent acts of corruption by Belarusian government officials in the performance of public functions, and the continued failure of Alyaksandr Lukashenka, Belarusian government officials, and others to support the rule of law, human rights commitments, and other principles of high priority to the United States, I have determined that it is in the interest of the United States to take all available measures to restrict the international travel and to suspend the entry into the United States, as immigrants or nonimmigrants, of members of the government of Alyaksandr Lukashenka and others detailed below who formulate, implement, participate in, or benefit from policies or actions, including electoral fraud, human rights abuses, and corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including section 212(f) of the Immigration and Nationality Act of 1952, 8 U.S.C. 1182(f), and section 301 of title 3, United States Code, hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of persons described in section 1 of this proclamation would, except as provided for in sections 2 and 3 of this proclamation, be detrimental to the interests of the United States.

I therefore hereby proclaim that:

**Section 1.** The entry into the United States, as immigrants or nonimmigrants, of the following persons is hereby suspended:

(a) Members of the government of Alyaksandr Lukashenka and other persons who formulate, implement, participate in, or benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus;

(b) Persons who through their business dealings with Belarusian government officials derive significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus; and (c) The spouses of persons described in paragraphs (a) and (b) above.

**Sec. 2.** Section 1 of this proclamation shall not apply with respect to any person otherwise covered by section 1 where entry of such person would not be contrary to the interest of the United States.

**Sec. 3.** Persons covered by sections 1 and 2 of this proclamation shall be identified by the Secretary of State or the Secretary's designee, in his or her sole discretion, pursuant to such procedures as the Secretary may establish under section 5 of this proclamation.

**Sec. 4.** Nothing in this proclamation shall be construed to derogate from United States Government obligations under applicable international agreements.

**Sec. 5.** The Secretary of State shall have responsibility for implementing this proclamation pursuant to such procedures as the Secretary may establish.

**Sec. 6.** This proclamation is effective immediately and shall remain in effect until such time as the Secretary of State determines that it is no longer necessary and should be terminated, either in whole or in part. Any such termination by the Secretary of State shall be published in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8016 of May 12, 2006**

## National Defense Transportation Day and National Transportation Week, 2006

*By the President of the United States of America*

*A Proclamation*

On National Defense Transportation Day and during National Transportation Week, we thank all those who contribute to a sound transportation infrastructure that keeps our country moving, advances our economic growth, and strengthens our national defense.

President Dwight D. Eisenhower recognized the importance of having the world's most efficient and reliable transportation system. In a message to the Congress, he wrote of ''a vast system of inter-connected highways criss-crossing the Country and joining at our national borders with friendly neighbors to the north and south.'' Fifty years after he signed the Federal-Aid Highway Act of 1956, the Interstate Highway System is a vital part of America's transportation infrastructure.

My Administration remains committed to providing the American people with the best possible transportation system. In August 2005, I signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, to upgrade our Nation's network of roads, bridges, and mass transit systems, introduce new safety standards, and fund needed road improvements that will ease traffic congestion in communities across our country. My Administration is also increasing research in advanced transportation technologies that will improve our environment, help us end our reliance on foreign sources of energy, and strengthen our economic and national security.

Modern transportation also enables our Armed Forces to quickly deploy troops, move crucial supplies and equipment, and assist with emergency situations. Whether on land, over water, or in the air, our citizens rely on the safety and efficiency of our transportation systems to arrive at work, deliver goods and services, and travel with family and friends. America is grateful to the dedicated transportation professionals and military service members for their tireless efforts to make America's transportation network the best in the world.

To recognize the men and women who work in the transportation industry and who contribute to our Nation's well being and defense, the Congress, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), has designated the third Friday in May each year as ''Na-

tional Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), declared that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Friday, May 19, 2006, as National Defense Transportation Day and May 14 through May 20, 2006, as National Transportation Week. I encourage all Americans to learn how our modern transportation system contributes to the security of our citizens and the prosperity of our country and to celebrate these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8017 of May 12, 2006**

## National Safe Boating Week, 2006

*By the President of the United States of America*

*A Proclamation*

By providing an opportunity to experience our Nation's scenic waterways, recreational boating is one of our country's most popular activities. During National Safe Boating Week, we underscore the importance of taking safety precautions before going out on the water and encourage all Americans to make responsible decisions while boating.

This year marks the 35th anniversary of the enactment of the Federal Boat Safety Act, which has helped reduce the number of recreational boating deaths in our country. Yet despite significant progress, recreational boating accidents still occur and, tragically, the majority of them are preventable. Operator inattention and inexperience, careless and reckless navigation, and excessive speed are the leading contributing factors of all reported accidents. An estimated 70 percent of reported boating fatalities in 2004 occurred on boats where the operator had not received safety instruction, and of those victims who drowned, nearly 90 percent were not wearing life jackets.

America's boat owners and operators play a large role in helping ensure passenger safety. The United States Coast Guard initiative ''You're in Command'' serves to educate boaters about how to enjoy our Nation's waters safely and responsibly. For more information about being safe while on the water, boaters can visit uscgboating.org and safeboatingcampaign.com. By taking simple precautions such as wearing a life jacket, taking a boating safety course, getting a Vessel Safety Check, and never boating under the influence of alcohol or drugs, we can continue to save lives and reduce the number of accidents and injuries that occur each year.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the

7-day period prior to Memorial Day weekend as ''National Safe Boating Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 20 through May 26, 2006, as National Safe Boating Week. I encourage the Governors of the 50 States and the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States, to join in observing this week. I also urge all Americans to learn more about safe boating practices and always engage in proper and responsible conduct while on the water.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8018 of May 12, 2006**

## Death of G.V. Sonny Montgomery

*By the President of the United States of America*

*A Proclamation*

As a mark of respect for the memory of G. V. Sonny Montgomery, I hereby order, by the authority vested in me by the Constitution and laws of the United States of America, that on the day of his interment, the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on such day. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8019 of May 16, 2006**

## Prayer for Peace, Memorial Day, 2006

*By the President of the United States of America*

*A Proclamation*

Throughout our history, the men and women who have worn the uniform of the United States have placed the security of our Nation before their own safety. America will be forever grateful for their service and sacrifice. On Memorial Day, we honor those who have paid the ultimate price for our freedom.

Defending the ideals of our Nation has required the service and sacrifice of those from every generation. From Valley Forge, across Europe and Asia, and in Afghanistan and Iraq, courageous Americans have given their lives so that others could live in freedom. These Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen took an oath to defend America, and they upheld that oath with bravery and decency. They have liberated the oppressed, spread freedom and peace, and set a standard of courage and compassion for our Nation. All who enjoy the blessings of liberty live in their debt.

This debt of gratitude extends also to the families who stood by our servicemen and women in times of war and times of peace. Each of the fallen has left behind loved ones who carry a burden of grief, and all Americans are inspired by the strength of these families.

At this important time in the history of freedom, a new generation of Americans is defending our flag and our liberty. These men and women carry on the legacy of our Nation's fallen heroes and demonstrate that the United States Armed Forces remain the greatest force for freedom in human history.

Those who lost their lives in the defense of freedom helped protect our citizens and lay the foundation of peace for people everywhere. On Memorial Day, a grateful Nation pays tribute to their personal courage, love of country, and dedication to duty.

In respect for their devotion to America, the Congress, by a joint resolution approved on May 11, 1950, as amended (64 Stat. 158), has requested the President to issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated the minute beginning at 3:00 p.m. local time on that day as a time for all Americans to observe the National Moment of Remembrance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Memorial Day, May 29, 2006, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3 p.m., local time, on Memorial Day. I encourage the media to participate in these observances. I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States, and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8020 of May 19, 2006**

## National Hurricane Preparedness Week, 2006

*By the President of the United States of America*

*A Proclamation*

During National Hurricane Preparedness Week, private organizations, public officials, and government agencies will highlight the preparations necessary for the new hurricane season that begins on June 1.

Last year, a record number of hurricanes caused unprecedented devastation across an entire region of our country. Our citizens along the Gulf Coast demonstrated their strength and resilience, and individuals across America revealed their compassion and resolve by opening their hearts, homes, and communities to those in need.

After these storms, Federal, State, and local governments have worked to enhance our Nation's ability to respond to large-scale natural disasters. The Federal Government has conducted an extensive review of preparedness and response efforts, and actions are being taken at all levels of government to improve communications and strengthen emergency response capabilities.

To help individuals, families, and businesses prepare for the future, the Department of Homeland Security provides checklists and information on natural disasters and other threats at ready.gov. By working together, government, private entities, and civic and charitable organizations can help increase preparedness for this year's hurricane season.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 21 through May 27, 2006, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, media, and residents in the coastal areas of our Nation to share information about hurricane preparedness and response to help save lives and protect communities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8021 of May 19, 2006**

## National Maritime Day, 2006

*By the President of the United States of America*

*A Proclamation*

The United States Merchant Marine plays an important role in ensuring our national security and strengthening our economy. As we celebrate National Maritime Day and the 70th anniversary of the Merchant Marine Act, we pay tribute to merchant mariners and their faithful service to our Nation.

Since 1775, merchant mariners have bravely served our country, and in 1936, the Merchant Marine Act officially established their role in our military as a wartime naval auxiliary. During World War II, merchant mariners were critical to the delivery of troops and supplies overseas, and they helped keep vital ocean supply lines operating. President Franklin D. Roosevelt praised these brave merchant mariners for persevering ''despite the perils of the submarine, the dive bomber, and the surface raider.'' Today's merchant mariners follow those who courageously served before them as they continue to provide crucial support for our Nation's service men and women. America is grateful for their commitment to excellence and devotion to duty.

In addition to helping defend our country, merchant mariners facilitate commerce by importing and exporting goods throughout the world. They work with our Nation's transportation industry to share their valuable skills and experience in ship maintenance, navigation, and cargo transportation. This past year, the good work and compassion of merchant mariners also played an important role in hurricane relief efforts. Ships brought urgently needed supplies to the devastated areas, provided assistance for oil spill cleanup, generated electricity, and provided meals and lodging for recovery workers and evacuees.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by joint resolution approved on May 20, 1933, as amended, has designated May 22 of each year as ''National Maritime Day,'' and has authorized and requested that the President issue an annual proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 22, 2006, as National Maritime Day. I call upon all the people of the United States to mark this observance by honoring the service of merchant mariners and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8022 of May 19, 2006**

## World Trade Week, 2006

*By the President of the United States of America*

*A Proclamation*

Free and fair trade is a powerful engine for growth and job creation in the United States and in countries throughout the world. World Trade Week is an opportunity to celebrate the benefits of trade for people everywhere.

America is a great force for prosperity, and our country's economic and national security interests are advanced through strong economic ties

with our friends and allies. Since 2001, my Administration has concluded or implemented free trade agreements with 15 countries. We are working toward agreements with 11 additional countries, and we will continue to pursue further opportunities.

Last August, I was pleased to sign legislation implementing the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR). CAFTA–DR will reduce tariffs on American goods and expand export opportunities for American businesses. When the rules are fair, American people and businesses can compete with anyone in the world. CAFTA–DR will also advance our commitment to democracy and prosperity for our neighbors.

Studies have shown that the elimination of global trade barriers could help lift hundreds of millions of the world's poor out of poverty and boost economic growth around the world. An important opportunity to deliver the full benefits of trade to people around the world is the Doha Round of trade negotiations at the World Trade Organization. An ambitious Doha agreement could bring benefits to all nations, especially the developing world, and my Administration is working for a successful conclusion to these negotiations.

During World Trade Week and throughout the year, the United States remains committed to increasing free and fair trade and to improving the standard of living for our citizens. By working with our friends and allies, we will continue to help build a world that lives in liberty, trades in freedom, and grows in prosperity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 21 through May 27, 2006, as World Trade Week. I encourage all Americans to observe this week with appropriate events, trade shows, and educational programs that celebrate the benefits of trade to our Nation and people around the world.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8023 of May 23, 2006**

## Great Outdoors Month, 2006

*By the President of the United States of America*

*A Proclamation*

Great Outdoors Month is an opportunity to celebrate and experience America's natural splendor and renew our commitment to conserve our air, water, and land. During this month, we also honor the dedicated men and women who volunteer to help protect our natural resources.

Americans live amid many wonders of nature. Our Nation's varied landscapes include sandy beaches, expansive forests, emerald waters,

and towering mountains. Through biking, swimming, skiing, hiking, and many other activities, Americans are enjoying our country's magnificent scenery and the healthy benefits of outdoor recreation.

To ensure that our natural heritage remains a source of pride for all our citizens, my Administration is committed to conserving America's public lands and natural resources and pursuing environmentally responsible initiatives. We are working to accelerate research into cleaner sources of energy, protect our water sources, and encourage the use of hybrid cars. We have put in place a series of clean air regulations that will help us to meet air quality standards. Through efforts like these, we will continue our Nation's economic growth and protect the environment.

Our citizens play an important role in protecting our natural spaces. Throughout our country, Americans are volunteering in their communities for environmental education programs, local parks, nature conservancies, and other stewardship opportunities. These devoted individuals are working to maintain park trails, restore wildlife habitats, plant trees, and clear overgrowth. I appreciate these volunteers for their efforts to keep America beautiful, and I encourage all Americans to demonstrate good stewardship and an appreciation for the outdoors. Individuals interested in volunteering can visit the Department of the Interior's Take Pride in America website at takepride.gov.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2006 as Great Outdoors Month. I call on all Americans to observe this month with appropriate programs and activities and to spend time enjoying the outdoors.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8024 of May 24, 2006**

## National Homeownership Month, 2006

*By the President of the United States of America*

*A Proclamation*

Owning a home is an important part of the American dream. During National Homeownership Month, we raise awareness of homeownership and encourage more Americans to consider the benefits of owning their own home.

Nearly 70 percent of Americans enjoy the satisfaction of owning their own home, and my Administration continues to promote an ownership society where the promise of America reaches all our citizens. The American Dream Downpayment Act of 2003 is helping thousands of low to moderate income and minority families with downpayment and closing costs, which represent the greatest barrier to homeownership.

Since 2002, when I announced our goal to help 5.5 million minorities become homeowners by the end of this decade, the rate of minority homeownership has climbed above 50 percent, and more than 2.5 million minority families have become new homeowners. My Administration will continue to provide counseling and assistance for new homebuyers and expand homeownership opportunities for all Americans.

During National Homeownership Month and throughout the year, we applaud the men and women who work to achieve the dream of homeownership, and we are grateful for those who provide counseling, lending, real estate, construction, and other services to these individuals. The hard work, financial discipline, and personal responsibility of our country's homeowners help transform neighborhoods throughout our Nation and reflect the best qualities of America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution of the United States of America, do hereby proclaim June 2006 as National Homeownership Month. I call upon the people of the United States to join me in building a more hopeful society and recognizing the importance of expanding the ownership of homes across our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8025 of May 25, 2006**

## Black Music Month, 2006

*By the President of the United States of America*

*A Proclamation*

African-American musicians have added to the rich culture of our country and of countries around the world. During Black Music Month, we recognize the African-American artists who have enhanced our lives and created some of our Nation's most treasured art forms.

Throughout history, African-American artists have produced music with the power to change hearts and shape our national conscience. From gospel to blues, from jazz to rock and roll, the songs of America's black musicians have defined our times and enriched our culture. Performers such as Count Basie and Dizzy Gillespie and vocalists such as Lizzie Miles and gospel singer Mahalia Jackson have made their mark as great American musicians, strengthening our Nation's diversity and lifting the human spirit.

In 2005, Americans witnessed the power of music to help bring our country together. Following the devastation of the Gulf Coast by Hurricane Katrina, the musicians of that great region sought to preserve their unique musical style and culture and share it with the rest of the Nation. The soulful music of New Orleans and the Gulf Coast remains one of our national treasures, a symbol of creativity and hope.

Black Music Month recognizes some of the brightest lights of American creativity and honors the African-American men and women whose art entertains and inspires us. The incredible talents of black musicians continue to speak to every heart, reflecting the beauty and pride of our great Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2006 as Black Music Month. I encourage all Americans to learn more about the history of black music and to enjoy the great contributions of African-American musicians.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8026 of June 1, 2006**

## National Child's Day, 2006

*By the President of the United States of America*
*A Proclamation*

A hopeful society ensures that its children are provided with the knowledge, skills, and opportunities to succeed. On National Child's Day, we reaffirm our commitment to America's children and recognize the power that each of us has to make a difference in a young person's life.

The character of a child is formed in the earliest years through the love and guidance of family members and other caring individuals. A parent, teacher, or mentor can help improve a child's academic achievement, encourage right choices, and help them to understand the importance of serving a cause greater than self.

Through USA Freedom Corps, my Administration is providing opportunities for volunteers to work with children in schools, after-school programs, and through community groups and organizations. By volunteering, these adults set an example of service and good citizenship for our young people and provide youth with the stability and encouragement they need to achieve their dreams. My Administration has also launched the *Community Guide to Helping America's Youth* at helpingamericasyouth.gov. This web-based tool is part of the Helping America's Youth initiative, led by First Lady Laura Bush, and assists communities in identifying ways to lend a hand to children in need. In addition, my Administration is working through No Child Left Behind and the American Competitiveness Initiative to ensure every child has a quality education and the opportunity to succeed. By investing in the lives of our young people, we can help develop their personal character, teach them to be responsible citizens, and enable them to realize their full potential.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim June 4, 2006, as National Child's Day. I call upon citizens to observe this day with appropriate ceremonies and activities. I also urge all the people of the United States to take an active role in helping nurture the minds and character of our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8027 of June 2, 2006**

## National Oceans Week, 2006

*By the President of the United States of America*

*A Proclamation*

During National Oceans Week, we recognize the importance of the oceans to our national heritage, economy, and security and reaffirm our commitment to protecting them through wise stewardship and sensible management.

The magnificent beauty of the oceans is a blessing to our country and the world. The oceans also sustain an abundance of natural and historical treasures, enable the transportation of vital goods, and provide food and recreation for millions of people. My Administration is working with State, tribal, and local governments, the private sector, and international partners to foster more effective conservation of our oceans, coasts, and Great Lakes resources and to advance the environmental, economic, and security interests of our Nation.

On December 17, 2004, I established the Committee on Ocean Policy to implement the United States Ocean Action Plan. Through this plan, we are building an integrated ocean observing system, promoting ocean education, embarking on deep oceans research, supporting our maritime transportation system, and enhancing our international leadership role in ocean science and policy. We are also advancing legislation to strengthen the National Oceanic and Atmospheric Administration, establish a system of sustainable aquaculture, and maintain protections for marine mammals. To fulfill my commitment to end overfishing, we are working with the Congress to build an improved, market-based system to better manage our fisheries and keep our commercial and recreational fishing industries strong.

I appreciate all those who are dedicated to making the oceans, coasts, and Great Lakes cleaner, healthier, and more productive. By working together, all Americans can help sustain the oceans for generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim June 4 through June 10, 2006, as National Oceans Week. I call upon the people of the United States to learn more about the vital role the oceans play in the life of our country and how we can conserve their many natural treasures. I en-

courage all our citizens to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8028 of June 5, 2006**

## Caribbean-American Heritage Month, 2006

*By the President of the United States of America*

*A Proclamation*

During Caribbean-American Heritage Month, we celebrate the great contributions of Caribbean Americans to the fabric of our Nation, and we pay tribute to the common culture and bonds of friendship that unite the United States and the Caribbean countries.

Our Nation has thrived as a country of immigrants, and we are more vibrant and hopeful because of the talent, faith, and values of Caribbean Americans. For centuries, Caribbean Americans have enriched our society and added to the strength of America. They have been leaders in government, sports, entertainment, the arts, and many other fields.

During the month of June, we also honor the friendship between the United States and the Caribbean countries. We are united by our common values and shared history, and I join all Americans in celebrating the rich Caribbean heritage and the many ways in which Caribbean Americans have helped shape this Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2006 as Caribbean-American Heritage Month. I encourage all Americans to learn more about the history of Caribbean Americans and their contributions to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8029 of June 6, 2006**

## Flag Day and National Flag Week, 2006

*By the President of the United States of America*

*A Proclamation*

From our Nation's earliest days, Old Glory has stood for America's strength, unity, and liberty. During Flag Day and National Flag Week,

we honor this enduring American symbol and celebrate the hope and ideals that it embodies.

In 1777, the Second Continental Congress established the flag of a young Nation, whose 13 original states were represented in the flag's 13 stars and 13 alternating red and white stripes. Today, the Stars and Stripes commemorate the revolutionary truths of our Declaration of Independence and Constitution. As Americans, we revere freedom and equality, the rights and dignity of every individual, and the supremacy of the rule of law. These fundamental beliefs have guided our country and lifted the fortunes of all Americans, and we have seen their power to transform other nations and deliver hope to people around the world.

During Flag Day and National Flag Week, we also honor the men and women who carry our flag into battle. Through their bravery and sacrifice, they help keep America safe and advance peace and freedom around the globe. By flying the flag, we express our gratitude to these heroes and all those who help ensure that the many blessings of our great country continue for generations to come.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949, as amended (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested that the President issue an annual proclamation calling for its observance and for the display of the flag of the United States on all Federal Government buildings. The Congress also requested, by joint resolution approved June 9, 1966, as amended (80 Stat. 194), that the President issue annually a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim June 14, 2006, as Flag Day and the week beginning June 11, 2006, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during that week, and I urge all Americans to observe Flag Day and National Flag Week by flying the Stars and Stripes from their homes and other suitable places. I also call upon the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor America, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8030 of June 6, 2006**

## Father's Day, 2006

*By the President of the United States of America*
*A Proclamation*

By offering guidance, support, and unconditional love, a father is one of the most important influences in a child's life. On Father's Day, we honor our fathers and celebrate the special bond between a father and a child.

Fathers play a significant role in shaping the character of their children and the future of our country. By spending time with their sons and daughters and listening to their experiences, fathers can have a profound impact on their children's lives. As advisors, role models, and friends, fathers help their children to understand the difference between right and wrong and to recognize how the decisions they make today can affect the rest of their lives. Fathers instill important values and prepare young people for the challenges and opportunities ahead. Through their daily sacrifices, fathers provide a loving and secure home in which their children can grow to become successful adults and good citizens. Their love and dedication inspire the next generation of Americans to achieve their dreams and demonstrate the true spirit of our Nation.

Father's Day also gives us an opportunity to remember the fathers who are currently serving in our Armed Forces. Our Nation is grateful for the courage and sacrifice of the many proud fathers wearing our country's uniform. By advancing freedom and protecting our way of life, these brave individuals are helping to lay the foundation of peace for our children and grandchildren.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972, as amended (36 U.S.C. 109), do hereby proclaim June 18, 2006, as Father's Day. I encourage all Americans to express admiration and appreciation to fathers for their many contributions to our Nation's children. I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on this day. I also call upon State and local governments and citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8031 of June 15, 2006**

## Establishment of the Northwestern Hawaiian Islands Marine National Monument

*By the President of the United States of America*
*A Proclamation*

In the Pacific Ocean northwest of the principal islands of Hawaii lies an approximately 1,200 nautical mile stretch of coral islands, seamounts, banks, and shoals. The area, including the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, the Midway National Wildlife Refuge, the Hawaiian Islands National Wildlife Refuge, and the Battle of Midway National Memorial, supports a dynamic reef ecosystem with more than 7,000 marine species, of which approximately half are unique to the Hawaiian Island chain. This diverse ecosystem is home to many species of coral, fish, birds, marine mammals, and other flora and fauna including the endangered Hawaiian monk seal, the threatened green sea turtle, and the endangered leatherback and hawksbill sea turtles. In addition, this area has great cultural significance to Native Hawaiians and a connection to early Polynesian culture worthy of protection and understanding.

WHEREAS Executive Order 13089 of June 11, 1998, Executive Order 13178 of December 4, 2000, and Executive Order 13196 of January 18, 2001, as well as the process for designation of a National Marine Sanctuary undertaken by the Secretary of Commerce, have identified objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States in the area of the Northwestern Hawaiian Islands;

WHEREAS section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431) (the ''Antiquities Act'') authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS it would be in the public interest to preserve the marine area of the Northwestern Hawaiian Islands and certain lands as necessary for the care and management of the historic and scientific objects therein,

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by the authority vested in me by section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Northwestern Hawaiian Islands Marine National Monument (the ''monument'' or ''national monument'') for the purpose of protecting the objects described above, all lands and interests in lands owned or controlled by the Government of the United States within the boundaries described on the accompanying map entitled ''Northwestern Hawaiian Islands Marine National Monument'' attached to and forming a part of this proclamation. The Federal land and interests in land reserved includes approximately 139,793 square miles of emergent and submerged lands and waters of

the Northwestern Hawaiian Islands, which is the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of this monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or leasing or other disposition under the public land laws, including, but not limited to, withdrawal from location, entry, and patent under mining laws, and from disposition under all laws relating to mineral and geothermal leasing.

The Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA), will have primary responsibility regarding management of the marine areas, in consultation with the Secretary of the Interior. The Secretary of the Interior, through the Fish and Wildlife Service (FWS), will have sole responsibility for management of the areas of the monument that overlay the Midway Atoll National Wildlife Refuge, the Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge, in consultation with the Secretary of Commerce.

The Secretary of Commerce and the Secretary of the Interior (collectively, the ''Secretaries'') shall review and, as appropriate, modify the interagency agreement developed for coordinated management of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, signed on May 19, 2006. To manage the monument, the Secretary of Commerce, in consultation with the Secretary of the Interior and the State of Hawaii, shall modify, as appropriate, the plan developed by NOAA's National Marine Sanctuary Program through the public sanctuary designation process, and will provide for public review of that plan. To the extent authorized by law, the Secretaries, acting through the FWS and NOAA, shall promulgate any additional regulations needed for the proper care and management of the objects identified above.

The Secretary of State, in consultation with the Secretaries, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of the monument and to promote the purposes for which the monument is established. The Secretary of State, in consultation with the Secretaries, shall seek the cooperation of other governments and international organizations in furtherance of the purposes of this proclamation and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas. Furthermore, this proclamation shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

Nothing in this proclamation shall be deemed to diminish or enlarge the jurisdiction of the State of Hawaii.

The establishment of this monument is subject to valid existing rights and use of the monument shall be administered as follows:

**Access to the Monument**

The Secretaries shall prohibit entering the monument except pursuant to permission granted by the Secretaries or their designees. Any person passing through the monument without interruption must notify an official designated by the Secretaries at least 72 hours, but no longer than

1 month, prior to the entry date. Notification of departure from the monument must be provided within 12 hours of leaving. A person providing notice must provide the following information, as applicable: (i) position when making report; (ii) vessel name and International Maritime Organization identification number; (iii) name, address, and telephone number of owner and operator; (iv) United States Coast Guard (USCG) documentation, State license, or registration number; (v) home port; (vi) intended and actual route through the monument; (vii) general categories of any hazardous cargo on board; and (viii) length of vessel and propulsion type (e.g., motor or sail).

**Vessel Monitoring Systems**

1. As soon as possible but not later than 30 days following the issuance of this proclamation, NOAA shall publish in the **Federal Register** a list of approved transmitting units and associated communications service providers for purposes of this proclamation. An owner or operator of a vessel that has been issued a permit for accessing the monument must ensure that such a vessel has an operating vessel monitoring system (VMS) on board, approved by the Office of Legal Enforcement in the National Oceanic and Atmospheric Administration in the Department of Commerce (OLE) when voyaging within the monument. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and OLE as provided by an OLE-approved communication service provider.

2. Only a VMS that has been approved by OLE may be used. When installing and activating the OLE-approved VMS, or when reinstalling and reactivating such VMS, the vessel owner or operator must:

a. Follow procedures indicated on an installation and activation checklist, which is available from OLE; and

b. Submit to OLE a statement certifying compliance with the checklist, as prescribed on the checklist.

3. No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

4. When a vessel's VMS is not operating properly, the owner or operator must immediately contact OLE, and follow instructions from that office. If notified by OLE that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by OLE the vessel's positions or returning to port until the VMS is operable.

5. As a condition of authorized access to the monument, a vessel owner or operator subject to the requirements for a VMS in this section must allow OLE, the USCG, and their authorized officers and designees access to the vessels position data obtained from the VMS. Consistent with applicable law, including the limitations on access to, and use, of VMS data collected under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the Secretaries may have access to, and use of, collected data for scientific, statistical, and management purposes.

6. OLE has authority over the installation and operation of the VMS unit. OLE may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit, when deemed appropriate by OLE.

7. The Secretaries shall prohibit any person from conducting or causing to be conducted:

a. Operating any vessel without an approved transmitting device within the monument area 45 days after the publication of the list of approved transmitting devices described in paragraph (1) above;

b. Failing to install, activate, repair, or replace a mobile transceiver unit prior to leaving port;

c. Failing to operate and maintain a mobile transceiver unit on board the vessel at all times;

d. Tampering with, damaging, destroying, altering, or in any way distorting, rendering useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel;

e. Failing to contact OLE or follow OLE instructions when automatic position reporting has been interrupted;

f. Registering a VMS or mobile transceiver unit registered to more than one vessel at the same time;

g. Connecting or leaving connected additional equipment to a VMS unit or mobile transceiver unit without the prior approval of OLE;

h. Making a false statement, oral or written, to an authorized officer regarding the installation, use, operation, or maintenance of a VMS unit or mobile transceiver unit or communication service provider.

**Restrictions**

*Prohibited Activities*

The Secretaries shall prohibit persons from conducting or causing to be conducted the following activities:

1. Exploring for, developing, or producing oil, gas, or minerals within the monument;

2. Using or attempting to use poisons, electrical charges, or explosives in the collection or harvest of a monument resource;

3. Introducing or otherwise releasing an introduced species from within or into the monument; and

4. Anchoring on or having a vessel anchored on any living or dead coral with an anchor, anchor chain, or anchor rope.

*Regulated Activities*

Except as otherwise provided in this proclamation, the Secretaries shall prohibit any person from conducting or causing to be conducted within the monument the following activities:

1. Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving monument resource;

2. Drilling into, dredging, or otherwise altering the submerged lands other than by anchoring a vessel; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands;

3. Anchoring a vessel;

4. Deserting a vessel aground, at anchor, or adrift;

5. Discharging or depositing any material or other matter into Special Preservation Areas or the Midway Atoll Special Management Area except vessel engine cooling water, weather deck runoff, and vessel engine exhaust;

6. Discharging or depositing any material or other matter into the monument, or discharging or depositing any material or other matter outside of the monument that subsequently enters the monument and injures any resources of the monument, except fish parts (i.e., chumming material or bait) used in and during authorized fishing operations, or discharges incidental to vessel use such as deck wash, approved marine sanitation device effluent, cooling water, and engine exhaust;

7. Touching coral, living or dead;

8. Possessing fishing gear except when stowed and not available for immediate use during passage without interruption through the monument;

9. Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or the Midway Atoll Special Management Area; and

10. Attracting any living monument resources.

**Emergencies and Law Enforcement Activities**

The prohibitions required by this proclamation shall not apply to activities necessary to respond to emergencies threatening life, property, or the environment, or to activities necessary for law enforcement purposes.

**Armed Forces Actions**

1. The prohibitions required by this proclamation shall not apply to activities and exercises of the Armed Forces (including those carried out by the United States Coast Guard) that are consistent with applicable laws.

2. Nothing in this proclamation shall limit agency actions to respond to emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution.

3. All activities and exercises of the Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on monument resources and qualities.

4. In the event of threatened or actual destruction of, loss of, or injury to a monument resource or quality resulting from an incident, including but not limited to spills and groundings, caused by a component of the Department of Defense or the USCG, the cognizant component shall promptly coordinate with the Secretaries for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the monument resource or quality.

**Commercial Fishing**

1. The Secretaries shall ensure that any commercial lobster fishing permit shall be subject to a zero annual harvest limit.

2. Fishing for bottomfish and pelagic species. The Secretaries shall ensure that:

a. Commercial fishing for bottomfish and associated pelagic species may continue within the monument for not longer than 5 years from the date of this proclamation provided that:

**(I) THE FISHING IS CONDUCTED IN ACCORDANCE WITH A VALID COMMERCIAL BOTTOMFISH PERMIT ISSUED BY NOAA; AND**

**(II) SUCH PERMIT IS IN EFFECT ON THE DATE OF THIS PROCLAMATION AND IS SUBSEQUENTLY RENEWED PURSUANT TO NOAA REGULATIONS AT 50 CFR PART 660 SUBPART E AS NECESSARY.**

b. Total landings for each fishing year may not exceed the following amounts:

**(I) 350,000 POUNDS FOR BOTTOMFISH SPECIES; AND**

**(II) 180,000 POUNDS FOR PELAGIC SPECIES.**

c. Commercial fishing for bottomfish and associated pelagic species is prohibited in the monument after 5 years from the date of this proclamation.

**General Requirements**

The Secretaries shall ensure that any commercial fishing within the monument is conducted in accordance with the following restrictions and conditions:

1. A valid permit or facsimile of a valid permit is on board the fishing vessel and is available for inspection by an authorized officer;

2. No attempt is made to falsify or fail to make, keep, maintain, or submit any logbook or logbook form or other required record or report;

3. Only gear specifically authorized by the relevant permit issued under the Magnuson-Stevens Fishery Conservation and Management Act is allowed to be in the possession of a person conducting commercial fishing under this section;

4. Any person conducting commercial fishing notifies the Secretaries by telephone, facsimile, or electronic mail at least 72 hours before entering the monument and within 12 hours after leaving the monument;

5. All fishing vessels must carry an activated and functioning VMS unit on board at all times whenever the vessel is in the monument;

6. All fishing vessels must carry an observer when requested to do so by the Secretaries; and

7. The activity does not take place within any Ecological Reserve, any Special Preservation Area, or the Midway Atoll Special Management Area.

**Permitting Procedures and Criteria**

Subject to such terms and conditions as the Secretaries deem appropriate, a person may conduct an activity regulated by this proclamation if such activity is specifically authorized by a permit. The Secretaries, in their discretion, may issue a permit under this proclamation if the Secretaries find that the activity: (i) is research designed to further understanding of monument resources and qualities; (ii) will further the educational value of the monument; (iii) will assist in the conservation

and management of the monument; (iv) will allow Native Hawaiian practices; (v) will allow a special ocean use; or (vi) will allow recreational activities.

**Findings**

1. The Secretaries may not issue any permit unless the Secretaries find:

a. The activity can be conducted with adequate safeguards for the resources and ecological integrity of the monument;

b. The activity will be conducted in a manner compatible with the management direction of this proclamation, considering the extent to which the conduct of the activity may diminish or enhance monument resources, qualities, and ecological integrity, any indirect, secondary, or cumulative effects of the activity, and the duration of such effects;

c. There is no practicable alternative to conducting the activity within the monument;

d. The end value of the activity outweighs its adverse impacts on monument resources, qualities, and ecological integrity;

e. The duration of the activity is no longer than necessary to achieve its stated purpose;

f. The applicant is qualified to conduct and complete the activity and mitigate any potential impacts resulting from its conduct;

g. The applicant has adequate financial resources available to conduct and complete the activity and mitigate any potential impacts resulting from its conduct;

h. The methods and procedures proposed by the applicant are appropriate to achieve the proposed activity's goals in relation to their impacts to monument resources, qualities, and ecological integrity;

i. The applicant's vessel has been outfitted with a mobile transceiver unit approved by OLE and complies with the requirements of this proclamation; and

j. There are no other factors that would make the issuance of a permit for the activity inappropriate.

2. *Additional Findings for Native Hawaiian Practice Permits.* In addition to the findings listed above, the Secretaries shall not issue a permit to allow Native Hawaiian practices unless the Secretaries find:

a. The activity is non-commercial and will not involve the sale of any organism or material collected;

b. The purpose and intent of the activity are appropriate and deemed necessary by traditional standards in the Native Hawaiian culture (pono), and demonstrate an understanding of, and background in, the traditional practice, and its associated values and protocols;

c. The activity benefits the resources of the Northwestern Hawaiian Islands and the Native Hawaiian community;

d. The activity supports or advances the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the Northwestern Hawaiian Islands; and

e. Any monument resource harvested from the monument will be consumed in the monument.

3. *Additional Findings, Criteria, and Requirements for Special Ocean Use Permits*

a. In addition to the findings listed above, the following requirements apply to the issuance of a permit for a special ocean use:

**(I) ANY PERMIT FOR A SPECIAL OCEAN USE ISSUED UNDER THIS SECTION:**

**(A) SHALL AUTHORIZE THE CONDUCT OF AN ACTIVITY ONLY IF THAT ACTIVITY IS COMPATIBLE WITH THE PURPOSES FOR WHICH THE MONUMENT IS DESIGNATED AND WITH PROTECTION OF MONUMENT RESOURCES;**

**(B) SHALL NOT AUTHORIZE THE CONDUCT OF ANY ACTIVITY FOR A PERIOD OF MORE THAN 5 YEARS UNLESS RENEWED BY THE SECRETARIES;**

**(C) SHALL REQUIRE THAT ACTIVITIES CARRIED OUT UNDER THE PERMIT BE CONDUCTED IN A MANNER THAT DOES NOT DESTROY, CAUSE THE LOSS OF, OR INJURE MONUMENT RESOURCES; AND**

**(D) SHALL REQUIRE THE PERMITTEE TO PURCHASE AND MAINTAIN COMPREHENSIVE GENERAL LIABILITY INSURANCE, OR POST AN EQUIVALENT BOND, AGAINST CLAIMS ARISING OUT OF ACTIVITIES CONDUCTED UNDER THE PERMIT AND TO AGREE TO HOLD THE UNITED STATES HARMLESS AGAINST SUCH CLAIMS; AND**

**(II) EACH PERSON ISSUED A PERMIT FOR A SPECIAL OCEAN USE UNDER THIS SECTION SHALL SUBMIT AN ANNUAL REPORT TO THE SECRETARIES NOT LATER THAN DECEMBER 31 OF EACH YEAR THAT DESCRIBES ACTIVITIES CONDUCTED UNDER THAT PERMIT AND REVENUES DERIVED FROM SUCH ACTIVITIES DURING THE YEAR.**

b. The Secretaries may not issue a permit for a special ocean use unless they determine that the proposed activity will be consistent with the findings listed above for the issuance of any permit.

c. Categories of special ocean use being permitted for the first time under this section will be restricted in duration and permitted as a special ocean use pilot project. Subsequent permits for any category of special ocean use may be issued only if a special ocean use pilot project for that category has been determined by the Secretaries to meet the criteria in this proclamation and any terms and conditions placed on the permit for the pilot project.

d. The Secretaries shall provide public notice prior to requiring a special ocean use permit for any category of activity not previously identified as a special ocean use.

e. The following requirements apply to permits for a special ocean use for an activity within the Midway Atoll Special Management Area.

**(I) THE SECRETARIES MAY ISSUE A PERMIT FOR A SPECIAL OCEAN USE FOR ACTIVITIES WITHIN THE MIDWAY ATOLL SPECIAL MANAGEMENT AREA PROVIDED:**

**(A) THE SECRETARIES FIND THE ACTIVITY FURTHERS THE CONSERVATION AND MANAGEMENT OF THE MONUMENT; AND**

**(B) THE DIRECTOR OF THE UNITED STATES FISH AND WILDLIFE SERVICE OR HIS OR HER DESIGNEE HAS DETERMINED THAT THE ACTIVITY IS COMPATIBLE WITH THE PURPOSES FOR WHICH THE MIDWAY ATOLL NATIONAL WILDLIFE REFUGE WAS DESIGNATED.**

**(II) AS PART OF A PERMIT, THE SECRETARIES MAY ALLOW VESSELS TO TRANSIT THE MONUMENT AS NECESSARY TO ENTER THE MIDWAY ATOLL SPECIAL MANAGEMENT AREA.**

f. The Secretaries may issue a permit for a special ocean use for activities outside the Midway Atoll Special Management Area provided:

**(I) THE SECRETARIES FIND THE ACTIVITY WILL DIRECTLY BENEFIT THE CONSERVATION AND MANAGEMENT OF THE MONUMENT;**

**(II) THE SECRETARIES DETERMINE THE PURPOSE OF THE ACTIVITY IS FOR RESEARCH OR EDUCATION RELATED TO THE RESOURCES OR QUALITIES OF THE MONUMENT;**

**(III) THE SECRETARIES PROVIDE PUBLIC NOTICE OF THE APPLICATION AND AN OPPORTUNITY TO PROVIDE COMMENTS AT LEAST 30 DAYS PRIOR TO ISSUING THE PERMIT; AND**

**(IV) THE ACTIVITY DOES NOT INVOLVE THE USE OF A COMMERCIAL PASSENGER VESSEL.**

4. *Additional Findings for Recreation Permits*. The Secretaries may issue a permit only for recreational activities to be conducted within the Midway Atoll Special Management Area. In addition to the general findings listed above for any permit, the Secretaries may not issue such permit unless the Secretaries find:

a. The activity is for the purpose of recreation as defined in regulation;

b. The activity is not associated with any for-hire operation; and

c. The activity does not involve any extractive use.

**Sustenance Fishing**

Sustenance fishing means fishing for bottomfish or pelagic species that are consumed within the monument, and is incidental to an activity permitted under this proclamation. The Secretaries may permit sustenance fishing outside of any Special Preservation Area as a term or condition of any permit issued under this proclamation. The Secretaries may not permit sustenance fishing in the Midway Atoll Special Management Area unless the activity has been determined by the Director of the United States Fish and Wildlife Service or his or her designee to be compatible with the purposes for which the Midway Atoll National Wildlife Refuge was established. Sustenance fishing must be conducted in a manner compatible with this proclamation, including considering the extent to which the conduct of the activity may diminish monument resources, qualities, and ecological integrity, as well as any indirect, secondary, or cumulative effects of the activity and the duration of such effects. The Secretaries will develop procedures for systematic reporting of sustenance fishing.

**Definitions** For purposes of this proclamation:

*Attract or Attracting* means luring or attempting to lure a living resource by any means, except the mere presence of human beings (e.g., swimmers, divers, boaters).

*Bottomfish Species* means bottomfish management unit species as defined at 50 CFR 660.12.

*Commercial Bottomfishing* means commercial fishing for bottomfish species.

*Commercial Passenger Vessel* means a vessel that carries individuals who have paid for such carriage.

*Commercial Pelagic Trolling* means commercial fishing for pelagic species.

*Deserting* a vessel means:

1. Leaving a vessel aground or adrift:

**(I) WITHOUT NOTIFYING THE SECRETARIES OF THE VESSEL GOING AGROUND OR ADRIFT WITHIN 12 HOURS OF ITS DISCOVERY AND DEVELOPING AND PRESENTING TO THE SECRETARIES A PRELIMINARY SALVAGE PLAN WITHIN 24 HOURS OF SUCH NOTIFICATION;**

**(II) AFTER EXPRESSING OR MANIFESTING INTENTION TO NOT UNDERTAKE OR TO CEASE SALVAGE EFFORTS; OR**

**(III) WHEN THE SECRETARIES ARE UNABLE, AFTER REASONABLE EFFORTS, TO REACH THE OWNER/OPERATOR WITHIN 12 HOURS OF THE VESSELS CONDITION BEING REPORTED TO AUTHORITIES.**

2. Leaving a vessel at anchor when its condition creates potential for a grounding, discharge, or deposit and the owner/operator fails to secure the vessel in a timely manner.

*Ecological Reserve* means an area of the monument consisting of contiguous, diverse habitats that provide natural spawning, nursery, and permanent residence areas for the replenishment and genetic protection of marine life, and also to protect and preserve natural assemblages of habitats and species within areas representing a broad diversity of resources and habitats found within the monument.

*Ecological Integrity* means a condition determined to be characteristic of an ecosystem that has the ability to maintain the function, structure, and abundance of natural biological communities, including rates of change in response to natural environmental variation.

*Fishing Year* means the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31.

*Introduced Species* means:

1. A species (including, but not limited to, any of its biological matter capable of propagation) that is non-native to the ecosystem(s) protected by the monument; or

2. Any organism into which genetic matter from another species has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

*Landing* means offloading fish from a fishing vessel or causing fish to be offloaded from a fishing vessel.

*Midway Atoll Special Management Area* means the area of the monument surrounding Midway Atoll out to a distance of 12 nautical miles, established for the enhanced management, protection, and preservation of monument wildlife and historical resources.

*Mobile Transceiver Unit* means a vessel monitoring system or VMS device installed on board a vessel that is used for vessel monitoring and transmitting the vessel's position as required by this proclamation.

*Native Hawaiian Practices* means cultural activities conducted for the purposes of perpetuating traditional knowledge, caring for and protecting the environment, and strengthening cultural and spiritual connections to the Northwestern Hawaiian Islands that have demonstrable benefits to the Native Hawaiian community. This may include, but is not limited to, the non-commercial use of monument resources for direct personal consumption while in the monument.

*Ocean-Based Ecotourism* means a class of fee-for-service activities that involves visiting the monument for study, enjoyment, or volunteer assistance for purposes of conservation and management.

*Pelagic Species* means Pacific Pelagic Management Unit Species as defined at 50 CFR 660.12.

*Pono* means appropriate, correct, and deemed necessary by traditional standards in the Hawaiian culture.

*Recreational Activity* means an activity conducted for personal enjoyment that does not result in the extraction of monument resources and that does not involve a fee-for-service transaction. This includes, but is not limited to, wildlife viewing, SCUBA diving, snorkeling, and boating.

*Special Preservation Area (SPA)* means discrete, biologically important areas of the monument within which uses are subject to conditions, restrictions, and prohibitions, including but not limited to access restrictions. SPAs are used to avoid concentrations of uses that could result in declines in species populations or habitat, to reduce conflicts between uses, to protect areas that are critical for sustaining important marine species or habitats, or to provide opportunities for scientific research.

*Special Ocean Use* means an activity or use of the monument that is engaged in to generate revenue or profits for one or more of the persons associated with the activity or use, and does not destroy, cause the loss of, or injure monument resources. This includes ocean-based ecotourism and other activities such as educational and research activities that are engaged in to generate revenue, but does not include commercial fishing for bottomfish or pelagic species conducted pursuant to a valid permit issued by NOAA.

*Stowed and Not Available for Immediate Use* means not readily accessible for immediate use, e.g., by being securely covered and lashed to a deck or bulkhead, tied down, unbaited, unloaded, or partially disassembled (such as spear shafts being kept separate from spear guns).

*Sustenance Fishing* means fishing for bottomfish or pelagic species in which all catch is consumed within the monument, and that is incidental to an activity permitted under this proclamation.

*Vessel Monitoring System or VMS* means a vessel monitoring system or mobile transceiver unit approved by the Office for Law Enforcement

for use on vessels permitted to access the monument, as required by this subpart.

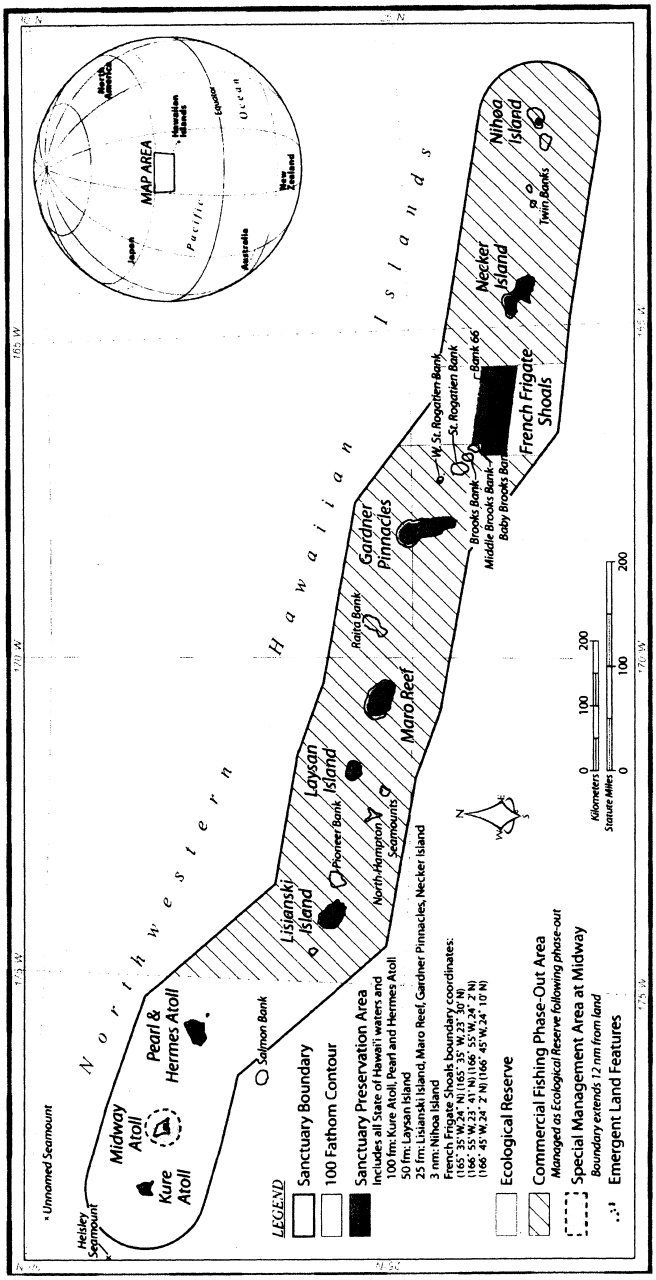
Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

Northwestern Hawaiian Islands Marine National Monument



**Northwestern Hawaiian Islands Marine National Monument Boundary Coordinates**

[Coordinates listed are unprojected (Geographic) and based on the North American Datum of 1983.]

| Point | Latitude | Longitude |
|---|---|---|
| 1 | 28.437480 | -175.177660 |
| 2 | 28.267840 | -175.000000 |
| 3 | 26.848220 | -173.513200 |
| 4 | 26.600050 | -171.628460 |
| 5 | 26.591570 | -171.564050 |
| 6 | 26.584980 | -171.514000 |
| 7 | 26.567910 | -171.458490 |
| 8 | 26.555880 | -171.419340 |
| 9 | 26.237590 | -170.384040 |
| 10 | 25.842570 | -167.964750 |
| 11 | 25.816640 | -167.805960 |
| 12 | 25.784980 | -167.612000 |
| 13 | 25.664070 | -167.441430 |
| 14 | 25.585060 | -167.329980 |
| 15 | 25.173930 | -166.750000 |
| 16 | 24.681970 | -166.056000 |
| 17 | 24.594130 | -165.583330 |
| 18 | 24.399760 | -164.537400 |
| 19 | 23.880420 | -161.742420 |
| 20 | 23.868390 | -161.686790 |
| 21 | 23.853160 | -161.632100 |
| 22 | 23.834780 | -161.578570 |
| 23 | 23.813320 | -161.526420 |
| 24 | 23.788880 | -161.475860 |
| 25 | 23.761550 | -161.427080 |
| 26 | 23.731440 | -161.380290 |
| 27 | 23.698680 | -161.335660 |
| 28 | 23.663380 | -161.293370 |
| 29 | 23.625700 | -161.253600 |
| 30 | 23.585780 | -161.216500 |
| 31 | 23.543790 | -161.182210 |
| 32 | 23.499890 | -161.150870 |
| 33 | 23.454250 | -161.122600 |
| 34 | 23.407070 | -161.097510 |
| 35 | 23.358510 | -161.075690 |
| 36 | 23.308790 | -161.057240 |
| 37 | 23.258090 | -161.042210 |
| 38 | 23.206620 | -161.030670 |
| 39 | 23.154580 | -161.022660 |
| 40 | 23.102170 | -161.018200 |
| 41 | 23.049610 | -161.017300 |

| | | |
|---|---|---|
| 42 | 22.997110 | -161.019980 |
| 43 | 22.944850 | -161.026200 |
| 44 | 22.893070 | -161.035950 |
| 45 | 22.841950 | -161.049190 |
| 46 | 22.791700 | -161.065840 |
| 47 | 22.742520 | -161.085860 |
| 48 | 22.694600 | -161.109150 |
| 49 | 22.648120 | -161.135620 |
| 50 | 22.603270 | -161.165160 |
| 51 | 22.560230 | -161.197660 |
| 52 | 22.519160 | -161.232980 |
| 53 | 22.480220 | -161.270990 |
| 54 | 22.443560 | -161.311530 |
| 55 | 22.409340 | -161.354440 |
| 56 | 22.377670 | -161.399560 |
| 57 | 22.348690 | -161.446710 |
| 58 | 22.322500 | -161.495710 |
| 59 | 22.299220 | -161.546350 |
| 60 | 22.278920 | -161.598460 |
| 61 | 22.261680 | -161.651810 |
| 62 | 22.247580 | -161.706210 |
| 63 | 22.236670 | -161.761450 |
| 64 | 22.228990 | -161.817300 |
| 65 | 22.224580 | -161.873560 |
| 66 | 22.223430 | -161.930000 |
| 67 | 22.225570 | -161.986410 |
| 68 | 22.230990 | -162.042570 |
| 69 | 22.238520 | -162.090980 |
| 70 | 22.239660 | -162.098260 |
| 71 | 22.753090 | -164.860380 |
| 72 | 22.837820 | -165.583330 |
| 73 | 22.925010 | -166.327230 |
| 74 | 22.932210 | -166.388720 |
| 75 | 22.956970 | -166.600000 |
| 76 | 23.062650 | -166.750000 |
| 77 | 23.091440 | -166.790850 |
| 78 | 24.211550 | -168.380720 |
| 79 | 24.211630 | -168.380830 |
| 80 | 24.211670 | -168.381050 |
| 81 | 24.596330 | -170.739990 |
| 82 | 24.604970 | -170.793000 |
| 83 | 24.619830 | -170.839640 |
| 84 | 24.629360 | -170.869580 |
| 85 | 24.937290 | -171.836510 |
| 86 | 25.276970 | -174.414000 |
| 87 | 25.830690 | -175.000000 |
| 88 | 27.246110 | -176.497940 |
| 89 | 27.415860 | -177.555230 |

| | | |
|---|---|---|
| 90 | 27.597840 | -178.498430 |
| 91 | 27.610780 | -178.565510 |
| 92 | 27.625520 | -178.622110 |
| 93 | 27.643380 | -178.677580 |
| 94 | 27.664280 | -178.731700 |
| 95 | 27.688140 | -178.784270 |
| 96 | 27.714880 | -178.835070 |
| 97 | 27.744380 | -178.883910 |
| 98 | 27.776540 | -178.930610 |
| 99 | 27.811230 | -178.974960 |
| 100 | 27.848320 | -179.016810 |
| 101 | 27.887650 | -179.055990 |
| 102 | 27.929090 | -179.092340 |
| 103 | 27.972460 | -179.125720 |
| 104 | 28.017600 | -179.155980 |
| 105 | 28.064330 | -179.183020 |
| 106 | 28.112470 | -179.206730 |
| 107 | 28.161840 | -179.226990 |
| 108 | 28.212230 | -179.243740 |
| 109 | 28.263450 | -179.256890 |
| 110 | 28.315300 | -179.266400 |
| 111 | 28.367580 | -179.272220 |
| 112 | 28.412080 | -179.274000 |
| 113 | 28.420080 | -179.274320 |
| 114 | 28.430370 | -179.274000 |
| 115 | 28.472580 | -179.272690 |
| 116 | 28.524900 | -179.267320 |
| 117 | 28.576810 | -179.258240 |
| 118 | 28.628110 | -179.245480 |
| 119 | 28.678610 | -179.229070 |
| 120 | 28.728090 | -179.209090 |
| 121 | 28.776360 | -179.185600 |
| 122 | 28.823240 | -179.158700 |
| 123 | 28.868520 | -179.128480 |
| 124 | 28.912040 | -179.095060 |
| 125 | 28.953610 | -179.058580 |
| 126 | 28.993080 | -179.019170 |
| 127 | 29.030280 | -178.977000 |
| 128 | 29.065060 | -178.932220 |
| 129 | 29.097280 | -178.885010 |
| 130 | 29.126820 | -178.835570 |
| 131 | 29.153560 | -178.784090 |
| 132 | 29.177380 | -178.730770 |
| 133 | 29.198200 | -178.675830 |
| 134 | 29.215930 | -178.619490 |
| 135 | 29.230490 | -178.561970 |
| 136 | 29.241830 | -178.503520 |
| 137 | 29.249910 | -178.444360 |

| | | |
|---|---|---|
| 138 | 29.254680 | -178.384730 |
| 139 | 29.256140 | -178.324870 |
| 140 | 29.254270 | -178.265030 |
| 141 | 29.249080 | -178.205450 |
| 142 | 29.240600 | -178.146360 |
| 143 | 29.057970 | -177.201300 |
| 144 | 29.042570 | -177.121570 |
| 145 | 28.649370 | -175.591270 |
| 146 | 28.644570 | -175.572600 |
| 147 | 28.581980 | -175.329000 |
| 148 | 28.437480 | -175.177660 |

**Ecological Reserves Boundary Coordinates**

[Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

Table B-1 Ecological Reserve West of 175 degrees West Longitude

| Point ID | Latitude | Longitude |
|---|---|---|
| 1 | 29.042570 | -177.121570 |
| 2 | 28.649370 | -175.591270 |
| 3 | 28.644570 | -175.572600 |
| 4 | 28.581980 | -175.329000 |
| 5 | 28.437480 | -175.177660 |
| 6 | 28.267840 | -175.000000 |
| 7 | 25.830690 | -175.000000 |
| 8 | 27.246110 | -176.497940 |
| 9 | 27.415860 | -177.555230 |
| 10 | 27.610780 | -178.565510 |
| 11 | 27.625520 | -178.622110 |
| 12 | 27.643380 | -178.677580 |
| 13 | 27.664280 | -178.731700 |
| 14 | 27.688140 | -178.784270 |
| 15 | 27.714880 | -178.835070 |
| 16 | 27.744380 | -178.883910 |
| 17 | 27.776540 | -178.930610 |
| 18 | 27.811230 | -178.974960 |
| 19 | 27.848320 | -179.016810 |
| 20 | 27.887650 | -179.055990 |

| | | |
|---|---|---|
| 21 | 27.929090 | -179.092340 |
| 22 | 27.972460 | -179.125720 |
| 23 | 28.017600 | -179.155980 |
| 24 | 28.064330 | -179.183020 |
| 25 | 28.112470 | -179.206730 |
| 26 | 28.161840 | -179.226990 |
| 27 | 28.212230 | -179.243740 |
| 28 | 28.263450 | -179.256890 |
| 29 | 28.315300 | -179.266400 |
| 30 | 28.367580 | -179.272220 |
| 31 | 28.412080 | -179.274000 |
| 32 | 28.430370 | -179.274000 |
| 33 | 28.472580 | -179.272690 |
| 34 | 28.524900 | -179.267320 |
| 35 | 28.576810 | -179.258240 |
| 36 | 28.628110 | -179.245480 |
| 37 | 28.678610 | -179.229070 |
| 38 | 28.728090 | -179.209090 |
| 39 | 28.776360 | -179.185600 |
| 40 | 28.823240 | -179.158700 |
| 41 | 28.868520 | -179.128480 |
| 42 | 28.912040 | -179.095060 |
| 43 | 28.953610 | -179.058580 |
| 44 | 28.993080 | -179.019170 |
| 45 | 29.030280 | -178.977000 |
| 46 | 29.065060 | -178.932220 |
| 47 | 29.097280 | -178.885010 |
| 48 | 29.126820 | -178.835570 |
| 49 | 29.153560 | -178.784090 |
| 50 | 29.177380 | -178.730770 |
| 51 | 29.198200 | -178.675830 |
| 52 | 29.215930 | -178.619490 |
| 53 | 29.230490 | -178.561970 |
| 54 | 29.241830 | -178.503520 |
| 55 | 29.249910 | -178.444360 |

| | | |
|---|---|---|
| 56 | 29.254680 | -178.384730 |
| 57 | 29.256140 | -178.324870 |
| 58 | 29.254270 | -178.265030 |
| 59 | 29.249080 | -178.205450 |
| 60 | 29.240600 | -178.146360 |
| 61 | 29.057970 | -177.201300 |
| 62 | 29.042570 | -177.121570 |

Table B-2 French Frigate Shoals Ecological Reserve

| Point ID | Latitude | Longitude |
|---|---|---|
| 1 | 24.594130 | -165.583330 |
| 2 | 23.499970 | -165.583330 |
| 3 | 23.999970 | -165.583330 |
| 4 | 24.166640 | -166.750000 |
| 5 | 25.173930 | -166.750000 |
| 6 | 24.681970 | -166.056000 |
| 7 | 24.594130 | -165.583330 |
| 8 | 23.740820 | -166.927560 |
| 9 | 23.687790 | -166.928170 |
| 10 | 23.666640 | -166.750000 |
| 11 | 23.499970 | -165.583330 |
| 12 | 22.837820 | -165.583330 |
| 13 | 22.956970 | -166.600000 |
| 14 | 23.062650 | -166.750000 |
| 15 | 23.196210 | -166.938090 |
| 16 | 23.740960 | -166.929090 |
| 17 | 23.740820 | -166.927560 |

**Special Preservation Areas Boundary Coordinates**

[Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

Table C-1 French Frigate Shoals Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 23.999970 | -165.583330 |
| 2 | 23.499970 | -165.583330 |
| 3 | 23.666640 | -166.750000 |
| 4 | 23.687790 | -166.928170 |

| | | |
|---|---|---|
| 5 | 23.740820 | -166.927560 |
| 6 | 24.036510 | -166.924170 |
| 7 | 24.034000 | -166.752270 |
| 8 | 24.166640 | -166.750000 |
| 9 | 23.999970 | -165.583330 |

Table C-2 Gardner Pinnacles Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 25.069550 | -167.932070 |
| 2 | 25.041750 | -167.925060 |
| 3 | 25.013260 | -167.941650 |
| 4 | 24.941640 | -167.941660 |
| 5 | 24.906030 | -167.922730 |
| 6 | 24.881740 | -167.901230 |
| 7 | 24.849970 | -167.891660 |
| 8 | 24.747630 | -167.897660 |
| 9 | 24.629080 | -167.872660 |
| 10 | 24.590720 | -167.873600 |
| 11 | 24.563150 | -167.866590 |
| 12 | 24.491640 | -167.875000 |
| 13 | 24.448290 | -167.890630 |
| 14 | 24.428440 | -167.901840 |
| 15 | 24.411150 | -167.954400 |
| 16 | 24.419790 | -167.989680 |
| 17 | 24.438010 | -168.003690 |
| 18 | 24.508310 | -168.016660 |
| 19 | 24.574980 | -168.050000 |
| 20 | 24.591640 | -168.083330 |
| 21 | 24.699970 | -168.125000 |
| 22 | 24.774970 | -168.133330 |
| 23 | 24.816640 | -168.150000 |
| 24 | 24.883310 | -168.150000 |
| 25 | 24.949970 | -168.225000 |
| 26 | 25.008310 | -168.266660 |
| 27 | 25.065400 | -168.277990 |
| 28 | 25.093010 | -168.267940 |
| 29 | 25.103750 | -168.250890 |
| 30 | 25.165870 | -168.225750 |
| 31 | 25.181750 | -168.196320 |
| 32 | 25.191640 | -168.141660 |
| 33 | 25.192730 | -168.086360 |
| 34 | 25.174040 | -168.041280 |
| 35 | 25.124980 | -167.983330 |
| 36 | 25.069550 | -167.932070 |

Table C-3 Kure Atoll Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 28.392840 | -178.429820 |

| | | |
|---|---|---|
| 2 | 28.399910 | -178.436410 |
| 3 | 28.415160 | -178.446280 |
| 4 | 28.432200 | -178.448290 |
| 5 | 28.455370 | -178.441200 |
| 6 | 28.478140 | -178.430830 |
| 7 | 28.496460 | -178.413240 |
| 8 | 28.500820 | -178.406980 |
| 9 | 28.506480 | -178.398860 |
| 10 | 28.514860 | -178.380810 |
| 11 | 28.519980 | -178.357030 |
| 12 | 28.521950 | -178.334820 |
| 13 | 28.521950 | -178.334800 |
| 14 | 28.525880 | -178.330960 |
| 15 | 28.529600 | -178.322670 |
| 16 | 28.546060 | -178.307530 |
| 17 | 28.544020 | -178.296510 |
| 18 | 28.522790 | -178.285740 |
| 19 | 28.502900 | -178.282050 |
| 20 | 28.502890 | -178.282030 |
| 21 | 28.499380 | -178.276340 |
| 22 | 28.487070 | -178.260900 |
| 23 | 28.475690 | -178.250260 |
| 24 | 28.471030 | -178.245900 |
| 25 | 28.450220 | -178.238690 |
| 26 | 28.416860 | -178.231260 |
| 27 | 28.397060 | -178.232420 |
| 28 | 28.378270 | -178.238260 |
| 29 | 28.363050 | -178.245720 |
| 30 | 28.362280 | -178.246630 |
| 31 | 28.362270 | -178.246650 |
| 32 | 28.351660 | -178.238800 |
| 33 | 28.343860 | -178.228570 |
| 34 | 28.341350 | -178.214180 |
| 35 | 28.328300 | -178.211250 |
| 36 | 28.320980 | -178.215800 |
| 37 | 28.318750 | -178.226820 |
| 38 | 28.326780 | -178.233600 |
| 39 | 28.332160 | -178.261690 |
| 40 | 28.342560 | -178.262560 |
| 41 | 28.346030 | -178.266850 |
| 42 | 28.343860 | -178.269830 |
| 43 | 28.336310 | -178.286080 |
| 44 | 28.335300 | -178.315410 |
| 45 | 28.340220 | -178.363860 |
| 46 | 28.344070 | -178.381090 |
| 47 | 28.323940 | -178.406220 |
| 48 | 28.321250 | -178.428370 |
| 49 | 28.367630 | -178.432740 |

| | | |
|---|---|---|
| 50 | 28.392840 | -178.429820 |

Table C-4 Pearl and Hermes Atoll Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 27.757750 | -176.036520 |
| 2 | 27.768320 | -176.040880 |
| 3 | 27.768320 | -176.040880 |
| 4 | 27.770100 | -176.048300 |
| 5 | 27.782320 | -176.065490 |
| 6 | 27.840940 | -176.037040 |
| 7 | 27.855580 | -176.034410 |
| 8 | 27.874110 | -176.034890 |
| 9 | 27.892740 | -176.027240 |
| 10 | 27.899910 | -176.012850 |
| 11 | 27.910770 | -175.983500 |
| 12 | 27.910800 | -175.983470 |
| 13 | 27.919710 | -175.976620 |
| 14 | 27.927980 | -175.967410 |
| 15 | 27.935100 | -175.956890 |
| 16 | 27.939420 | -175.946360 |
| 17 | 27.943320 | -175.937810 |
| 18 | 27.950350 | -175.926920 |
| 19 | 27.963550 | -175.906130 |
| 20 | 27.974710 | -175.888940 |
| 21 | 27.981650 | -175.875480 |
| 22 | 27.987800 | -175.860460 |
| 23 | 27.997110 | -175.839520 |
| 24 | 28.004660 | -175.823330 |
| 25 | 28.008440 | -175.813830 |
| 26 | 28.010980 | -175.803790 |
| 27 | 28.011520 | -175.793180 |
| 28 | 28.011060 | -175.781740 |
| 29 | 28.010310 | -175.770160 |
| 30 | 28.009350 | -175.764210 |
| 31 | 28.009350 | -175.764180 |
| 32 | 28.011110 | -175.761890 |
| 33 | 28.021650 | -175.734510 |
| 34 | 28.007620 | -175.715020 |
| 35 | 27.989730 | -175.708650 |
| 36 | 27.989710 | -175.708630 |
| 37 | 27.982190 | -175.698330 |
| 38 | 27.976630 | -175.691710 |
| 39 | 27.973990 | -175.688570 |
| 40 | 27.967780 | -175.681600 |
| 41 | 27.962560 | -175.676580 |
| 42 | 27.955580 | -175.672400 |
| 43 | 27.945870 | -175.667950 |
| 44 | 27.935150 | -175.664330 |

| | | |
|---|---|---|
| 45 | 27.923930 | -175.662390 |
| 46 | 27.914190 | -175.661560 |
| 47 | 27.899720 | -175.661860 |
| 48 | 27.883490 | -175.664100 |
| 49 | 27.869160 | -175.669150 |
| 50 | 27.859160 | -175.672680 |
| 51 | 27.848250 | -175.675300 |
| 52 | 27.836260 | -175.678940 |
| 53 | 27.828010 | -175.682580 |
| 54 | 27.818010 | -175.688990 |
| 55 | 27.811250 | -175.690970 |
| 56 | 27.805500 | -175.693210 |
| 57 | 27.805240 | -175.693310 |
| 58 | 27.795260 | -175.697130 |
| 59 | 27.783750 | -175.704120 |
| 60 | 27.776490 | -175.709430 |
| 61 | 27.771010 | -175.713510 |
| 62 | 27.770990 | -175.713520 |
| 63 | 27.763470 | -175.710490 |
| 64 | 27.755510 | -175.719930 |
| 65 | 27.755160 | -175.725020 |
| 66 | 27.749210 | -175.729550 |
| 67 | 27.744440 | -175.735410 |
| 68 | 27.739890 | -175.743640 |
| 69 | 27.735130 | -175.754680 |
| 70 | 27.732590 | -175.766400 |
| 71 | 27.731290 | -175.779240 |
| 72 | 27.730230 | -175.795430 |
| 73 | 27.731050 | -175.816390 |
| 74 | 27.732360 | -175.825560 |
| 75 | 27.733580 | -175.833100 |
| 76 | 27.734560 | -175.837560 |
| 77 | 27.735040 | -175.841750 |
| 78 | 27.732280 | -175.845940 |
| 79 | 27.727480 | -175.852770 |
| 80 | 27.722740 | -175.861850 |
| 81 | 27.717130 | -175.874800 |
| 82 | 27.709340 | -175.894910 |
| 83 | 27.702570 | -175.913780 |
| 84 | 27.699260 | -175.929970 |
| 85 | 27.697450 | -175.945320 |
| 86 | 27.697660 | -175.956490 |
| 87 | 27.699370 | -175.966810 |
| 88 | 27.703320 | -175.976850 |
| 89 | 27.710260 | -175.989680 |
| 90 | 27.720440 | -176.003340 |
| 91 | 27.732370 | -176.017010 |
| 92 | 27.741820 | -176.025930 |

| | | |
|---|---|---|
| 93 | 27.746800 | -176.029970 |
| 94 | 27.749030 | -176.031780 |

Table C-5 Lisianski Island Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 25.940390 | -173.790690 |
| 2 | 25.910770 | -173.795060 |
| 3 | 25.910770 | -173.795060 |
| 4 | 25.871480 | -173.850890 |
| 5 | 25.879490 | -173.891610 |
| 6 | 25.879980 | -173.943990 |
| 7 | 25.963710 | -174.108790 |
| 8 | 25.979580 | -174.120000 |
| 9 | 26.000210 | -174.142570 |
| 10 | 26.040550 | -174.157290 |
| 11 | 26.122730 | -174.154820 |
| 12 | 26.174970 | -174.133330 |
| 13 | 26.212150 | -174.085540 |
| 14 | 26.217240 | -174.050590 |
| 15 | 26.212430 | -173.982900 |
| 16 | 26.183310 | -173.933330 |
| 17 | 26.142200 | -173.896560 |
| 18 | 26.119380 | -173.861860 |
| 19 | 26.085600 | -173.822290 |
| 20 | 26.041640 | -173.799990 |
| 21 | 26.008310 | -173.766660 |
| 22 | 25.988250 | -173.752100 |
| 23 | 25.971020 | -173.752830 |

Table C-6 Laysan Island Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 25.716670 | -171.650000 |
| 2 | 25.700000 | -171.666670 |
| 3 | 25.691670 | -171.700000 |
| 4 | 25.700000 | -171.708330 |
| 5 | 25.700000 | -171.733330 |
| 6 | 25.691670 | -171.750000 |
| 7 | 25.691670 | -171.783330 |
| 8 | 25.708330 | -171.816670 |
| 9 | 25.758330 | -171.850000 |
| 10 | 25.791670 | -171.866670 |
| 11 | 25.833330 | -171.875000 |
| 12 | 25.866670 | -171.850000 |
| 13 | 25.883330 | -171.833330 |
| 14 | 25.900000 | -171.800000 |
| 15 | 25.900000 | -171.766670 |
| 16 | 25.883330 | -171.675000 |
| 17 | 25.866670 | -171.625000 |

| | | |
|---|---|---|
| 18 | 25.833330 | -171.600000 |
| 19 | 25.791670 | -171.591670 |
| 20 | 25.766670 | -171.600000 |
| 21 | 25.741670 | -171.616670 |
| 22 | 25.725000 | -171.633330 |
| 23 | 25.716670 | -171.650000 |

Table C-7 Maro Reef Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 25.566690 | -170.517140 |
| 2 | 25.466690 | -170.408800 |
| 3 | 25.375020 | -170.350470 |
| 4 | 25.258350 | -170.408800 |
| 5 | 25.250020 | -170.425470 |
| 6 | 25.258350 | -170.542140 |
| 7 | 25.283350 | -170.592140 |
| 8 | 25.300020 | -170.650470 |
| 9 | 25.316690 | -170.767140 |
| 10 | 25.333350 | -170.800470 |
| 11 | 25.358350 | -170.808800 |
| 12 | 25.391690 | -170.867140 |
| 13 | 25.450020 | -170.892140 |
| 14 | 25.525020 | -170.900470 |
| 15 | 25.550020 | -170.900470 |
| 16 | 25.583350 | -170.875470 |
| 17 | 25.625020 | -170.808810 |
| 18 | 25.633350 | -170.775470 |
| 19 | 25.633350 | -170.708800 |
| 20 | 25.616690 | -170.683810 |
| 21 | 25.591690 | -170.575470 |
| 22 | 25.566690 | -170.517140 |

Table C-8 Necker Island Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 23.642160 | -164.551780 |
| 2 | 23.613240 | -164.535150 |
| 3 | 23.588260 | -164.530180 |
| 4 | 23.550990 | -164.527340 |
| 5 | 23.522830 | -164.509770 |
| 6 | 23.490850 | -164.451480 |
| 7 | 23.480450 | -164.441650 |
| 8 | 23.462880 | -164.393270 |
| 9 | 23.463220 | -164.368120 |
| 10 | 23.449040 | -164.327110 |
| 11 | 23.431280 | -164.304620 |
| 12 | 23.396860 | -164.282330 |
| 13 | 23.357080 | -164.270620 |
| 14 | 23.308700 | -164.250210 |

| | | |
|---|---|---|
| 15 | 23.289700 | -164.256760 |
| 16 | 23.279120 | -164.267160 |
| 17 | 23.256820 | -164.275850 |
| 18 | 23.235370 | -164.298150 |
| 19 | 23.232530 | -164.336710 |
| 20 | 23.238010 | -164.369100 |
| 21 | 23.256190 | -164.395600 |
| 22 | 23.263000 | -164.457020 |
| 23 | 23.270370 | -164.470630 |
| 24 | 23.291640 | -164.483330 |
| 25 | 23.308310 | -164.525000 |
| 26 | 23.308870 | -164.596130 |
| 27 | 23.299420 | -164.630360 |
| 28 | 23.300400 | -164.641120 |
| 29 | 23.313770 | -164.639170 |
| 30 | 23.323870 | -164.629710 |
| 31 | 23.326810 | -164.618950 |
| 32 | 23.342460 | -164.621560 |
| 33 | 23.353870 | -164.609170 |
| 34 | 23.406430 | -164.588630 |
| 35 | 23.444900 | -164.579500 |
| 36 | 23.455990 | -164.605580 |
| 37 | 23.466750 | -164.609170 |
| 38 | 23.479950 | -164.622600 |
| 39 | 23.490020 | -164.651170 |
| 40 | 23.496910 | -164.695970 |
| 41 | 23.496540 | -164.733520 |
| 42 | 23.484440 | -164.769800 |
| 43 | 23.502770 | -164.782090 |
| 44 | 23.509200 | -164.799290 |
| 45 | 23.523370 | -164.810810 |
| 46 | 23.537360 | -164.832550 |
| 47 | 23.567430 | -164.847030 |
| 48 | 23.600880 | -164.834360 |
| 49 | 23.616190 | -164.819810 |
| 50 | 23.622430 | -164.801100 |
| 51 | 23.621480 | -164.768400 |
| 52 | 23.631120 | -164.738540 |
| 53 | 23.650580 | -164.687890 |
| 54 | 23.663250 | -164.624580 |
| 55 | 23.656440 | -164.575820 |
| 56 | 23.642160 | -164.551780 |

Table C-9 Nihoa Island Special Preservation Area

| Point ID | Latitude | Longitude` |
|---|---|---|
| 1 | 23.099610 | -161.971310 |
| 2 | 23.100370 | -161.970570 |
| 3 | 23.101120 | -161.969810 |

| | | |
|---|---|---|
| 4 | 23.101850 | -161.969040 |
| 5 | 23.102580 | -161.968250 |
| 6 | 23.103290 | -161.967450 |
| 7 | 23.103990 | -161.966630 |
| 8 | 23.104680 | -161.965800 |
| 9 | 23.105350 | -161.964950 |
| 10 | 23.106020 | -161.964090 |
| 11 | 23.106670 | -161.963220 |
| 12 | 23.107310 | -161.962340 |
| 13 | 23.107930 | -161.961440 |
| 14 | 23.108540 | -161.960530 |
| 15 | 23.109140 | -161.959610 |
| 16 | 23.109720 | -161.958670 |
| 17 | 23.110290 | -161.957730 |
| 18 | 23.110850 | -161.956770 |
| 19 | 23.111390 | -161.955800 |
| 20 | 23.111910 | -161.954820 |
| 21 | 23.112420 | -161.953830 |
| 22 | 23.112920 | -161.952830 |
| 23 | 23.113400 | -161.951820 |
| 24 | 23.113870 | -161.950800 |
| 25 | 23.114320 | -161.949770 |
| 26 | 23.114750 | -161.948740 |
| 27 | 23.115170 | -161.947690 |
| 28 | 23.115580 | -161.946640 |
| 29 | 23.115970 | -161.945570 |
| 30 | 23.116340 | -161.944500 |
| 31 | 23.116700 | -161.943420 |
| 32 | 23.117040 | -161.942340 |
| 33 | 23.117360 | -161.941250 |
| 34 | 23.117670 | -161.940150 |
| 35 | 23.117960 | -161.939050 |
| 36 | 23.118240 | -161.937940 |
| 37 | 23.118500 | -161.936820 |
| 38 | 23.118740 | -161.935700 |
| 39 | 23.118970 | -161.934580 |
| 40 | 23.119170 | -161.933450 |
| 41 | 23.119370 | -161.932320 |
| 42 | 23.119540 | -161.931180 |
| 43 | 23.119700 | -161.930040 |
| 44 | 23.119840 | -161.928900 |
| 45 | 23.119960 | -161.927750 |
| 46 | 23.120070 | -161.926610 |
| 47 | 23.120160 | -161.925460 |
| 48 | 23.120230 | -161.924310 |
| 49 | 23.120290 | -161.923150 |
| 50 | 23.120320 | -161.922000 |
| 51 | 23.120350 | -161.920850 |

| | | |
|---|---|---|
| 52 | 23.120350 | -161.919690 |
| 53 | 23.120340 | -161.918540 |
| 54 | 23.120300 | -161.917390 |
| 55 | 23.120260 | -161.916240 |
| 56 | 23.120190 | -161.915090 |
| 57 | 23.120110 | -161.913940 |
| 58 | 23.120010 | -161.912790 |
| 59 | 23.119890 | -161.911640 |
| 60 | 23.119760 | -161.910500 |
| 61 | 23.119610 | -161.909360 |
| 62 | 23.119440 | -161.908230 |
| 63 | 23.119250 | -161.907090 |
| 64 | 23.119050 | -161.905970 |
| 65 | 23.118830 | -161.904840 |
| 66 | 23.118600 | -161.903720 |
| 67 | 23.118350 | -161.902610 |
| 68 | 23.118080 | -161.901500 |
| 69 | 23.117790 | -161.900400 |
| 70 | 23.117490 | -161.899300 |
| 71 | 23.117170 | -161.898210 |
| 72 | 23.116840 | -161.897130 |
| 73 | 23.116490 | -161.896050 |
| 74 | 23.116190 | -161.895200 |
| 75 | 23.116120 | -161.894980 |
| 76 | 23.115770 | -161.894010 |
| 77 | 23.115740 | -161.893920 |
| 78 | 23.115340 | -161.892870 |
| 79 | 23.114930 | -161.891820 |
| 80 | 23.114500 | -161.890790 |
| 81 | 23.114050 | -161.889760 |
| 82 | 23.113590 | -161.888740 |
| 83 | 23.113110 | -161.887740 |
| 84 | 23.112620 | -161.886740 |
| 85 | 23.112120 | -161.885750 |
| 86 | 23.111600 | -161.884770 |
| 87 | 23.111070 | -161.883810 |
| 88 | 23.110520 | -161.882850 |
| 89 | 23.109950 | -161.881910 |
| 90 | 23.109380 | -161.880970 |
| 91 | 23.108780 | -161.880050 |
| 92 | 23.108180 | -161.879150 |
| 93 | 23.107560 | -161.878250 |
| 94 | 23.106930 | -161.877370 |
| 95 | 23.106280 | -161.876500 |
| 96 | 23.105630 | -161.875640 |
| 97 | 23.104950 | -161.874800 |
| 98 | 23.104270 | -161.873970 |
| 99 | 23.103580 | -161.873160 |

| | | |
|---|---|---|
| 100 | 23.102870 | -161.872360 |
| 101 | 23.102150 | -161.871570 |
| 102 | 23.101420 | -161.870800 |
| 103 | 23.100670 | -161.870040 |
| 104 | 23.099920 | -161.869300 |
| 105 | 23.099160 | -161.868580 |
| 106 | 23.098380 | -161.867870 |
| 107 | 23.097960 | -161.867500 |
| 108 | 23.097590 | -161.867180 |
| 109 | 23.096790 | -161.866500 |
| 110 | 23.095990 | -161.865840 |
| 111 | 23.095170 | -161.865200 |
| 112 | 23.094350 | -161.864570 |
| 113 | 23.093510 | -161.863960 |
| 114 | 23.092670 | -161.863370 |
| 115 | 23.091810 | -161.862790 |
| 116 | 23.090950 | -161.862240 |
| 117 | 23.090080 | -161.861700 |
| 118 | 23.089200 | -161.861170 |
| 119 | 23.088320 | -161.860670 |
| 120 | 23.087420 | -161.860180 |
| 121 | 23.086530 | -161.859720 |
| 122 | 23.085620 | -161.859270 |
| 123 | 23.084700 | -161.858840 |
| 124 | 23.083780 | -161.858420 |
| 125 | 23.082860 | -161.858030 |
| 126 | 23.081930 | -161.857660 |
| 127 | 23.080990 | -161.857300 |
| 128 | 23.080040 | -161.856970 |
| 129 | 23.079100 | -161.856650 |
| 130 | 23.078140 | -161.856350 |
| 131 | 23.077190 | -161.856080 |
| 132 | 23.076220 | -161.855820 |
| 133 | 23.075260 | -161.855580 |
| 134 | 23.074290 | -161.855360 |
| 135 | 23.073320 | -161.855160 |
| 136 | 23.072350 | -161.854990 |
| 137 | 23.071370 | -161.854830 |
| 138 | 23.070390 | -161.854690 |
| 139 | 23.069410 | -161.854570 |
| 140 | 23.068430 | -161.854470 |
| 141 | 23.067440 | -161.854390 |
| 142 | 23.066450 | -161.854330 |
| 143 | 23.065470 | -161.854290 |
| 144 | 23.064480 | -161.854280 |
| 145 | 23.063490 | -161.854280 |
| 146 | 23.062510 | -161.854300 |
| 147 | 23.061520 | -161.854340 |

| | | |
|---|---|---|
| 148 | 23.060530 | -161.854400 |
| 149 | 23.059550 | -161.854490 |
| 150 | 23.058570 | -161.854590 |
| 151 | 23.057580 | -161.854710 |
| 152 | 23.056600 | -161.854850 |
| 153 | 23.055630 | -161.855020 |
| 154 | 23.054650 | -161.855200 |
| 155 | 23.053670 | -161.855400 |
| 156 | 23.052710 | -161.855620 |
| 157 | 23.051740 | -161.855860 |
| 158 | 23.050780 | -161.856120 |
| 159 | 23.049820 | -161.856410 |
| 160 | 23.048870 | -161.856710 |
| 161 | 23.047910 | -161.857030 |
| 162 | 23.046970 | -161.857360 |
| 163 | 23.046030 | -161.857720 |
| 164 | 23.045100 | -161.858100 |
| 165 | 23.044170 | -161.858500 |
| 166 | 23.043240 | -161.858910 |
| 167 | 23.042330 | -161.859350 |
| 168 | 23.041420 | -161.859800 |
| 169 | 23.040510 | -161.860270 |
| 170 | 23.039620 | -161.860760 |
| 171 | 23.038730 | -161.861260 |
| 172 | 23.037850 | -161.861790 |
| 173 | 23.036980 | -161.862330 |
| 174 | 23.036110 | -161.862890 |
| 175 | 23.035250 | -161.863470 |
| 176 | 23.034400 | -161.864070 |
| 177 | 23.033570 | -161.864680 |
| 178 | 23.032740 | -161.865310 |
| 179 | 23.031910 | -161.865960 |
| 180 | 23.031100 | -161.866620 |
| 181 | 23.030310 | -161.867300 |
| 182 | 23.029510 | -161.868000 |
| 183 | 23.028730 | -161.868710 |
| 184 | 23.027960 | -161.869430 |
| 185 | 23.027200 | -161.870180 |
| 186 | 23.026460 | -161.870940 |
| 187 | 23.025720 | -161.871710 |
| 188 | 23.025000 | -161.872500 |
| 189 | 23.024280 | -161.873300 |
| 190 | 23.023580 | -161.874120 |
| 191 | 23.022900 | -161.874950 |
| 192 | 23.022220 | -161.875790 |
| 193 | 23.021560 | -161.876650 |
| 194 | 23.020910 | -161.877520 |
| 195 | 23.020270 | -161.878410 |

| | | |
|---|---|---|
| 196 | 23.019650 | -161.879310 |
| 197 | 23.019030 | -161.880220 |
| 198 | 23.018440 | -161.881140 |
| 199 | 23.017860 | -161.882070 |
| 200 | 23.017290 | -161.883020 |
| 201 | 23.016730 | -161.883980 |
| 202 | 23.016190 | -161.884940 |
| 203 | 23.015670 | -161.885920 |
| 204 | 23.015150 | -161.886910 |
| 205 | 23.014660 | -161.887910 |
| 206 | 23.014170 | -161.888920 |
| 207 | 23.013710 | -161.889940 |
| 208 | 23.013260 | -161.890970 |
| 209 | 23.012820 | -161.892010 |
| 210 | 23.012400 | -161.893060 |
| 211 | 23.012000 | -161.894110 |
| 212 | 23.011610 | -161.895170 |
| 213 | 23.011230 | -161.896240 |
| 214 | 23.010880 | -161.897320 |
| 215 | 23.010540 | -161.898410 |
| 216 | 23.010210 | -161.899500 |
| 217 | 23.009900 | -161.900590 |
| 218 | 23.009610 | -161.901700 |
| 219 | 23.009340 | -161.902810 |
| 220 | 23.009080 | -161.903920 |
| 221 | 23.008840 | -161.905040 |
| 222 | 23.008610 | -161.906170 |
| 223 | 23.008400 | -161.907300 |
| 224 | 23.008210 | -161.908430 |
| 225 | 23.008160 | -161.908750 |
| 226 | 23.008030 | -161.909560 |
| 227 | 23.007880 | -161.910700 |
| 228 | 23.007740 | -161.911850 |
| 229 | 23.007610 | -161.912990 |
| 230 | 23.007550 | -161.913660 |
| 231 | 23.007510 | -161.914140 |
| 232 | 23.007420 | -161.915290 |
| 233 | 23.007340 | -161.916440 |
| 234 | 23.007290 | -161.917590 |
| 235 | 23.007250 | -161.918740 |
| 236 | 23.007230 | -161.919900 |
| 237 | 23.007230 | -161.921050 |
| 238 | 23.007240 | -161.922210 |
| 239 | 23.007270 | -161.923360 |
| 240 | 23.007270 | -161.923360 |
| 241 | 23.007320 | -161.924510 |
| 242 | 23.007380 | -161.925660 |
| 243 | 23.007470 | -161.926810 |

| | | |
|---|---|---|
| 244 | 23.007570 | -161.927960 |
| 245 | 23.007680 | -161.929100 |
| 246 | 23.007820 | -161.930240 |
| 247 | 23.007970 | -161.931380 |
| 248 | 23.008140 | -161.932520 |
| 249 | 23.008320 | -161.933650 |
| 250 | 23.008520 | -161.934780 |
| 251 | 23.008740 | -161.935900 |
| 252 | 23.008980 | -161.937020 |
| 253 | 23.009230 | -161.938140 |
| 254 | 23.009500 | -161.939240 |
| 255 | 23.009780 | -161.940350 |
| 256 | 23.010080 | -161.941440 |
| 257 | 23.010400 | -161.942530 |
| 258 | 23.010740 | -161.943620 |
| 259 | 23.011090 | -161.944690 |
| 260 | 23.011460 | -161.945760 |
| 261 | 23.011840 | -161.946820 |
| 262 | 23.012240 | -161.947880 |
| 263 | 23.012650 | -161.948920 |
| 264 | 23.013080 | -161.949960 |
| 265 | 23.013520 | -161.950980 |
| 266 | 23.013990 | -161.952000 |
| 267 | 23.014460 | -161.953010 |
| 268 | 23.014950 | -161.954010 |
| 269 | 23.015460 | -161.955000 |
| 270 | 23.015980 | -161.955970 |
| 271 | 23.016510 | -161.956940 |
| 272 | 23.017060 | -161.957900 |
| 273 | 23.017620 | -161.958840 |
| 274 | 23.018200 | -161.959770 |
| 275 | 23.018790 | -161.960690 |
| 276 | 23.019400 | -161.961600 |
| 277 | 23.019480 | -161.961720 |
| 278 | 23.019600 | -161.961890 |
| 279 | 23.020010 | -161.962500 |
| 280 | 23.020650 | -161.963380 |
| 281 | 23.021290 | -161.964250 |
| 282 | 23.021950 | -161.965100 |
| 283 | 23.022620 | -161.965950 |
| 284 | 23.023300 | -161.966770 |
| 285 | 23.024000 | -161.967590 |
| 286 | 23.024710 | -161.968390 |
| 287 | 23.025430 | -161.969170 |
| 288 | 23.026160 | -161.969950 |
| 289 | 23.026900 | -161.970700 |
| 290 | 23.027650 | -161.971440 |
| 291 | 23.028420 | -161.972170 |

| | | |
|---|---|---|
| 292 | 23.029200 | -161.972870 |
| 293 | 23.029980 | -161.973570 |
| 294 | 23.030780 | -161.974240 |
| 295 | 23.031590 | -161.974900 |
| 296 | 23.032400 | -161.975550 |
| 297 | 23.033230 | -161.976170 |
| 298 | 23.034060 | -161.976780 |
| 299 | 23.034910 | -161.977380 |
| 300 | 23.035760 | -161.977950 |
| 301 | 23.036620 | -161.978510 |
| 302 | 23.037490 | -161.979050 |
| 303 | 23.038370 | -161.979570 |
| 304 | 23.039260 | -161.980080 |
| 305 | 23.040150 | -161.980560 |
| 306 | 23.041050 | -161.981030 |
| 307 | 23.041960 | -161.981480 |
| 308 | 23.042870 | -161.981910 |
| 309 | 23.043790 | -161.982320 |
| 310 | 23.044720 | -161.982710 |
| 311 | 23.045650 | -161.983090 |
| 312 | 23.046590 | -161.983440 |
| 313 | 23.047530 | -161.983780 |
| 314 | 23.048480 | -161.984090 |
| 315 | 23.049430 | -161.984390 |
| 316 | 23.050390 | -161.984670 |
| 317 | 23.051350 | -161.984930 |
| 318 | 23.052320 | -161.985160 |
| 319 | 23.053290 | -161.985380 |
| 320 | 23.054260 | -161.985580 |
| 321 | 23.055230 | -161.985760 |
| 322 | 23.056210 | -161.985920 |
| 323 | 23.057190 | -161.986060 |
| 324 | 23.058170 | -161.986180 |
| 325 | 23.059150 | -161.986280 |
| 326 | 23.060130 | -161.986350 |
| 327 | 23.061120 | -161.986410 |
| 328 | 23.062110 | -161.986450 |
| 329 | 23.063090 | -161.986470 |
| 330 | 23.064080 | -161.986470 |
| 331 | 23.065070 | -161.986450 |
| 332 | 23.066060 | -161.986400 |
| 333 | 23.067040 | -161.986340 |
| 334 | 23.068030 | -161.986260 |
| 335 | 23.069010 | -161.986160 |
| 336 | 23.069990 | -161.986030 |
| 337 | 23.070970 | -161.985890 |
| 338 | 23.071950 | -161.985730 |
| 339 | 23.072930 | -161.985550 |

| | | |
|---|---|---|
| 340 | 23.073900 | -161.985350 |
| 341 | 23.074870 | -161.985120 |
| 342 | 23.075830 | -161.984880 |
| 343 | 23.076800 | -161.984620 |
| 344 | 23.077760 | -161.984340 |
| 345 | 23.078710 | -161.984040 |
| 346 | 23.079660 | -161.983720 |
| 347 | 23.080610 | -161.983380 |
| 348 | 23.081550 | -161.983020 |
| 349 | 23.082480 | -161.982650 |
| 350 | 23.083410 | -161.982250 |
| 351 | 23.084330 | -161.981830 |
| 352 | 23.085250 | -161.981400 |
| 353 | 23.086160 | -161.980950 |
| 354 | 23.087060 | -161.980480 |
| 355 | 23.087960 | -161.979990 |
| 356 | 23.088850 | -161.979480 |
| 357 | 23.089730 | -161.978960 |
| 358 | 23.090600 | -161.978410 |
| 359 | 23.091470 | -161.977850 |
| 360 | 23.092320 | -161.977270 |
| 361 | 23.093170 | -161.976680 |
| 362 | 23.094010 | -161.976060 |
| 363 | 23.094840 | -161.975430 |
| 364 | 23.095660 | -161.974790 |
| 365 | 23.096470 | -161.974130 |
| 366 | 23.097270 | -161.973450 |
| 367 | 23.098060 | -161.972750 |
| 368 | 23.098840 | -161.972040 |

**Midway Atoll Special Management Area Boundary Coordinates**

[Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

| Point | Latitude | Longitude |
|---|---|---|
| 1 | 27.997920 | -177.312670 |
| 2 | 27.991240 | -177.363420 |
| 3 | 27.992160 | -177.417620 |
| 4 | 27.999620 | -177.470820 |
| 5 | 28.015160 | -177.518750 |
| 6 | 28.036610 | -177.553930 |
| 7 | 28.068170 | -177.594240 |
| 8 | 28.105720 | -177.620360 |
| 9 | 28.148620 | -177.643950 |
| 10 | 28.201340 | -177.655070 |
| 11 | 28.214300 | -177.656000 |
| 12 | 28.236740 | -177.650280 |

| | | |
|---|---|---|
| 13 | 28.258770 | -177.651870 |
| 14 | 28.297350 | -177.637040 |
| 15 | 28.316240 | -177.625190 |
| 16 | 28.338040 | -177.607680 |
| 17 | 28.369970 | -177.595290 |
| 18 | 28.404180 | -177.565440 |
| 19 | 28.436280 | -177.526610 |
| 20 | 28.460440 | -177.490130 |
| 21 | 28.475910 | -177.445680 |
| 22 | 28.482310 | -177.424090 |
| 23 | 28.484800 | -177.378720 |
| 24 | 28.481280 | -177.324120 |
| 25 | 28.464920 | -177.265700 |
| 26 | 28.442740 | -177.218650 |
| 27 | 28.412680 | -177.172550 |
| 28 | 28.376800 | -177.137820 |
| 29 | 28.332440 | -177.115740 |
| 30 | 28.268790 | -177.089450 |
| 31 | 28.214270 | -177.087250 |
| 32 | 28.179270 | -177.084890 |
| 33 | 28.156690 | -177.093630 |
| 34 | 28.125950 | -177.109140 |
| 35 | 28.097800 | -177.124810 |
| 36 | 28.067810 | -177.150600 |
| 37 | 28.039860 | -177.186770 |
| 38 | 28.021050 | -177.222070 |
| 39 | 28.005720 | -177.264920 |
| 40 | 27.997920 | -177.312670 |

**Proclamation 8032 of June 26, 2006**

## Independence Day, 2006

*By the President of the United States of America*

*A Proclamation*

On July 4, 1776, our Nation's Founders declared ''That these United Colonies are, and of Right, ought to be free and Independent States.'' This declaration marked a great milestone in the history of human freedom. On the 230th anniversary of the signing of the Declaration of Independence, we pay tribute to the courage and dedication of those who created this country, and we celebrate the values of liberty and equality that make our country strong.

The patriots of the Revolutionary War acted on the beliefs that ''all men are created equal'' and ''that they are endowed by their Creator with certain unalienable Rights.'' By advancing these ideals, generations of Americans have unleashed the hope of freedom for people in every corner of the world.

As we celebrate our independence, Americans can take pride in our history and look to the future with confidence. We offer our gratitude to all the American patriots, past and present, who have sought to advance freedom and lay the foundations of peace. Because of their sacrifice, this country remains a beacon of hope for all who dream of liberty and a shining example to the world of what a free people can achieve. May God continue to bless the United States of America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 4, 2006, as Independence Day. I call upon the people of the United States to observe with all due ceremony our Independence Day as a time to honor our Founders and their legacy of freedom and remember with thankfulness the sacrifice of our men and women in uniform.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8033 of June 30, 2006**

## To Modify Duty-Free Treatment Under the Generalized System of Preferences

*By the President of the United States of America*

*A Proclamation*

1. Pursuant to section 503(c)(2)(A) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as pro-

vided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the Generalized System of Preferences (GSP) to eligible articles.

2. Section 503(c)(2)(C) of the 1974 Act (19 U.S.C. 2463(c)(2)(C)) provides that a country that is no longer treated as a beneficiary developing country with respect to an eligible article may be redesignated as a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the competitive need limitations in section 503(c)(2)(A) of the 1974 Act during the preceding calendar year.

3. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) (19 U.S.C. 2463(c)(2)(F)(ii)).

4. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that certain beneficiary developing countries have exported certain eligible articles in quantities exceeding the applicable competitive need limitation in 2005, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

5. Pursuant to section 503(c)(2)(C) of the 1974 Act, and subject to the considerations set forth in sections 501 and 502 of the 1974 Act, I have determined to redesignate certain countries as beneficiary developing countries with respect to certain eligible articles that previously had been imported in quantities exceeding the competitive need limitations of section 503(c)(2)(A) of the 1974 Act.

6. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act should be disregarded with respect to certain eligible articles from certain beneficiary developing countries, as set forth in Annex II to this proclamation.

7. In Proclamation 7758 of March 1, 2004, I determined that Barbados had become a ''high income'' country, and terminated the designation of Barbados as a beneficiary developing country for purposes of the GSP, effective January 1, 2006. I have determined that an additional change should be made to general note 4(d) of the Harmonized Tariff Schedule of the United States (HTS) to reflect that determination.

8. Section 604 of the 1974 Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including title V and section 604 of the 1974 Act, do hereby proclaim:

(1) In order to provide that one or more countries that have not been treated as beneficiary developing countries with respect to one or more eligible articles should be redesignated as beneficiary developing countries with respect to such article or articles for purposes of the GSP, and, in order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, general note 4(d) to the HTS is modified as provided in section A of Annex I to this proclamation.

(2) In order to designate certain articles as eligible articles for purposes of the GSP when imported from any beneficiary developing country, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as provided in section B(1) of Annex I to this proclamation.

(3) In order to provide that one or more countries should not be treated as beneficiary developing countries with respect to certain eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for such HTS subheadings is modified as provided for in section B(2) of Annex I to this proclamation.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

Annex I
Modifications to the Harmonized Tariff
Schedule of the United States (HTS)

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2006, general note 4(d) to the HTS is modified by:

(i). deleting the following subheadings and the countries set out opposite such subheading:

| | |
|---|---|
| 2207.10.30 | Barbados |
| 2804.29.00 | Ukraine |

(ii). adding, in numerical sequence, the following subheadings and countries set out opposite them:

| | | | |
|---|---|---|---|
| 0306.24.20 | Venezuela | 3201.90.50 | Peru |
| 0713.90.80 | India | 3923.21.00 | Thailand |
| 0904.20.20 | Peru | 6406.10.85 | Dominican Republic |
| 0904.20.76 | India | 7010.90.30 | Panama |
| 1102.90.30 | Thailand | 7307.21.10 | India |
| 1703.90.30 | India | 7413.00.90 | Turkey |
| 1806.90.05 | Colombia | 7606.12.30 | Russia |
| 2008.99.35 | Thailand | 7615.19.30 | Thailand |
| 2305.00.00 | Argentina | 8402.12.00 | Indonesia |
| 2515.12.20 | Turkey | 8402.20.00 | Romania |
| 2843.90.00 | Russia | 8503.00.95 | Brazil |
| 2930.90.44 | India | 8536.20.00 | Dominican Republic |
| 2933.39.21 | Brazil | 9613.80.40 | Brazil |

(iii). adding, in alphabetical order, the countries set out opposite the following subheadings:

| | | | |
|---|---|---|---|
| 1701.12.05 | Bosnia | 1806.10.65 | Colombia |
| 1702.90.10 | Brazil | 2202.90.36 | Panama |
| 1702.90.35 | Brazil | 2805.40.00 | Peru |

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2006, each enumerated article's preferential tariff treatment under the Generalized System of Preferences (GSP) in the HTS is modified as provided in this section.

(1). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof:

2207.10.30
2804.29.00

(2). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting an "A*" in lieu thereof:

| | | |
|---|---|---|
| 0306.24.20 | 0904.20.20 | 1102.90.30 |
| 0713.90.80 | 0904.20.76 | 1703.90.30 |
| 1806.90.05 | 3201.90.50 | 7615.19.30 |
| 2008.99.35 | 3923.21.00 | 8402.12.00 |
| 2305.00.00 | 6406.10.85 | 8402.20.00 |
| 2515.12.20 | 7010.90.30 | 8503.00.95 |
| 2843.90.00 | 7307.21.10 | 8536.20.00 |
| 2930.90.44 | 7413.00.90 | 9613.80.40 |
| 2933.39.21 | 7606.12.30 | |

Annex II

HTS subheadings and countries for which the competitive need limitation provided in section 503(c)(2)(A)(i)(II) is disregarded:

| | |
|---|---|
| 0202.30.02 | Uruguay |
| 0302.69.10 | Indonesia |
| 0410.00.00 | Indonesia |
| 0711.20.18 | Turkey |
| 0711.30.00 | Turkey |
| 0711.40.00 | India |
| 0712.90.70 | Egypt |
| 0713.90.60 | India |
| 0802.50.20 | Turkey |
| 0804.10.60 | Pakistan |
| 0810.60.00 | Thailand |
| 0813.40.10 | Thailand |
| 0813.40.80 | Thailand |
| 1102.30.00 | Thailand |
| 1401.90.40 | Argentina |
| 1602.50.09 | Argentina |
| 1806.10.43 | Venezuela |
| 1901.20.45 | Argentina |
| 2001.90.45 | India |
| 2006.00.70 | Thailand |
| 2008.30.10 | Brazil |
| 2008.99.50 | Thailand |
| 2009.39.20 | Brazil |
| 2306.50.00 | Thailand |
| 2516.22.00 | India |
| 2804.29.00 | Russia |
| 2830.30.00 | Russia |
| 2831.90.00 | India |
| 2834.29.05 | India |
| 2840.11.00 | Turkey |
| 2840.19.00 | Turkey |
| 2841.50.10 | Kazakhstan |
| 2850.00.20 | Russia |
| 2903.19.10 | India |
| 2909.50.40 | Indonesia |
| 2912.49.10 | India |
| 2913.00.50 | India |
| 2915.35.00 | Brazil |
| 2917.14.10 | Brazil |
| 2918.21.50 | Brazil |
| 2921.22.05 | Brazil |
| 2921.42.15 | India |
| 2921.42.21 | India |
| 2921.42.55 | India |
| 2934.20.35 | India |
| 2935.00.06 | India |
| 3301.24.00 | India |
| 3703.10.30 | Brazil |
| 3808.40.10 | Argentina |
| 4012.12.40 | Turkey |
| 4101.20.40 | Serbia and Montenegro |
| 4101.90.35 | Uruguay |
| 4104.11.50 | Argentina |
| 4106.21.90 | India |
| 4107.11.40 | India |
| 4107.11.60 | Brazil |
| 4107.12.40 | India |
| 4107.19.40 | Pakistan |
| 4107.91.40 | India |
| 4202.92.04 | Philippines |
| 5007.10.30 | India |
| 5102.19.60 | Argentina |
| 5208.31.20 | India |
| 5208.41.20 | India |
| 5208.42.10 | India |
| 5209.31.30 | India |
| 5209.41.30 | India |
| 6302.99.10 | India |
| 6304.99.25 | India |
| 7113.20.21 | India |
| 7202.99.20 | Argentina |
| 7403.22.00 | Kazakhstan |
| 8112.12.00 | Kazakhstan |
| 8112.59.00 | Russia |
| 8506.30.50 | Indonesia |
| 8528.12.44 | Thailand |
| 8528.12.80 | India |
| 8528.30.50 | India |
| 9016.00.40 | Thailand |
| 9027.40.00 | Philippines |
| 9507.20.40 | Philippines |
| 9614.20.60 | Turkey |

**Proclamation 8034 of June 30, 2006**

## To Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Guatemala, and For Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (Agreement) with Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (Agreement countries). The Agreement was approved by the Congress in section 101(a) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''Act'') (Public Law 109–53, 119 Stat. 462) (19 U.S.C. 4001 note).

2. Section 201 of the Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Article 3.3 and Annex 3.3 (including the schedule of United States duty reductions with respect to originating goods) of the Agreement.

3. Consistent with section 201(a)(2) of the Act, each Agreement country is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP) on the date the Agreement enters into force with respect to that country.

4. Consistent with section 201(a)(3) of the Act, each Agreement country is to be removed from the enumeration of designated beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2701 *et seq.*) on the date the Agreement enters into force with respect to that country, subject to the exceptions set out in section 201(a)(3)(B) of the Act.

5. Consistent with section 213(b)(5)(D) of the CBERA, as amended by the United States-Caribbean Basin Trade Partnership Act (CBTPA) (Public Law 106–200), each Agreement country is to be removed from the enumeration of designated CBTPA beneficiary countries on the date the Agreement enters into force with respect to that country.

6. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 201 of the Act and section 604 of the 1974 Act, and the Act having taken effect pursuant to section 107(a), do proclaim that:

(1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement to Guatemala, to provide certain

other treatment to originating goods for the purposes of the Agreement, to provide tariff-rate quotas with respect to certain goods, to reflect the removal of Guatemala from the enumeration of designated beneficiary developing countries for purposes of the GSP, to reflect the removal of Guatemala from the enumeration of designated beneficiary countries for purposes of the CBERA and the CBTPA, to implement statistical monitoring relating to tariff provisions that the President previously proclaimed to implement the Agreement, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in the Annex of Publication 3861 of the United States International Trade Commission, entitled ''*Modifications to the Harmonized Tariff Schedule of the United States to Implement the Dominican Republic-Central America-United States Free Trade Agreement With Respect to Guatemala*'' (Publication 3861), which is incorporated by reference into this proclamation.

(2)(a) The amendments to the HTS made by paragraph (1) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in the Annex to Publication 3861.

(b) Except as provided in paragraph (2)(a) of this proclamation, this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2006.

(3) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH

**Proclamation 8035 of July 12, 2006**

## Parents' Day, 2006

*By the President of the United States of America*

*A Proclamation*

As a child's first teachers, mentors, and role models, parents shape the character of those who will help to build the future of our Nation. On Parents' Day, we pay tribute to the hard work and sacrifice of the millions of devoted parents who provide guidance, support, and unconditional love to their children.

Mothers and fathers help kindle imaginations, inspire a love of learning, nurture the formation of young minds, and give children the courage and the drive to realize their dreams. By instilling in children the difference between right and wrong, parents guide their children toward developing into successful adults and responsible citizens who lead lives of purpose. In addition, the commitment of parents to the welfare of young people strengthens families and communities throughout our great country.

My Administration supports grants and programs to promote healthy marriages and responsible fatherhood. The No Child Left Behind Act is helping us ensure that every child has the opportunity to learn, and recognizes that parental involvement is a vital part of the success of schools across America. Federal, State, and local programs, and faith-based and community groups provide additional resources to help parents as they work to raise children of conviction and character.

On this special day, we express our deep gratitude to parents for their dedication to a bright and hopeful future for their children. We also pray for parents in the military who stand up for America, and we resolve that their sacrifice will always be honored by a grateful Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States and consistent with Public Law 103–362, as amended, do hereby proclaim Sunday, July 23, 2006, as Parents' Day. I call upon citizens, private organizations, and governmental bodies at all levels to engage in activities and educational efforts that recognize, support, and honor parents, and I encourage American sons and daughters to convey their love, respect, and appreciation to their parents.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of July, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8036 of July 13, 2006**

## Captive Nations Week, 2006

*By the President of the United States of America*

*A Proclamation*

The best hope for peace is the expansion of freedom throughout the world. During Captive Nations Week, we reaffirm our commitment to advancing liberty, protecting human rights, and helping people realize the great promise of democracy.

In proclaiming the first Captive Nations Week in 1959, President Dwight Eisenhower said that ''the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent.'' Over the past five decades, the force of human freedom has overcome hatred and resentment and overthrown tyrants in nations around the globe. Freedom is on the march, and today more people live in liberty than ever before.

The advance of freedom is the story of our time, and we have witnessed remarkable democratic progress in recent years. The people of Afghanistan elected their first democratic parliament in more than a generation. The people of Kyrgyzstan drove a corrupt regime from power and voted for democratic change. Ending 16 years of civil war and interim governments, the people of Liberia were able to go to the polls, electing Africa's first female president. The courageous citizens of Iraq reached yet another important milestone in their journey to-

wards democracy by forming a national unity government based upon the constitution they approved last October. In Lebanon, citizens recovered their independence and chose their members of parliament in free elections. That newfound independence has come under attack in recent days from terrorists and their state sponsors, who see freedom and democracy as a threat. The United States and its allies will stand with those in Lebanon who continue to struggle for their independence and sovereignty and who refuse to give over their country to extremism and terror.

At this critical time in the history of freedom, no nation can evade the demands of human dignity. In countries like Iran, North Korea, Belarus, Burma, Syria, Zimbabwe, and Cuba, governments must become accountable to their citizens and embrace democracy. The desire for freedom is written in every human heart, and we can be confident that in this century freedom will continue to prevail.

This week is also an opportunity to honor those who have stood against oppression and advanced the fundamental right of all to live in liberty. The courage and sacrifice of these men and women reflect the fact that tyranny can never destroy the desire to be free. Inspired by their example, we will carry on their work to help others realize the universal gift of liberty and to spread the light of democracy to every corner of the world.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as ''Captive Nations Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim July 16 through July 22, 2006, as Captive Nations Week. I call upon the people of the United States to reaffirm their commitment to all those seeking liberty, justice, and self-determination.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of July, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8037 of July 25, 2006**

## Anniversary of the Americans With Disabilities Act, 2006

*By the President of the United States of America*

*A Proclamation*

The Americans with Disabilities Act (ADA) has helped fulfill the promise of America for millions of individuals living with disabilities. The anniversary of this landmark legislation is an important opportunity to celebrate our progress over the last 16 years and the many contributions individuals with disabilities make to our country.

When President George H. W. Bush signed the ADA into law on July 26, 1990, he called this legislation a ''dramatic renewal not only for

those with disabilities but for all of us, because along with the precious privilege of being an American comes a sacred duty to ensure that every other American's rights are also guaranteed.'' The ADA's far-reaching reforms have played a significant role in enhancing the quality of life for millions of Americans who must overcome considerable challenges each day in order to participate fully in all aspects of American life.

My Administration continues to build on the progress of the ADA through the New Freedom Initiative. We have established an online connection to the Federal Government's disability-related information and resources at DisabilityInfo.gov, and the job training and placement services of the ''Ticket to Work'' program and One-Stop Career Centers are promoting greater employment opportunities. We are also expanding educational opportunities for children with disabilities, providing them with the tools they need for success in their classrooms, homes, and communities. In addition, we are fostering technological advancement and encouraging increased distribution of assistive technology to help people with disabilities live and work with greater independence. My Administration will continue its efforts to remove barriers confronting Americans with disabilities and their families so that every individual can realize their full potential.

On this anniversary of the ADA, we underscore our commitment to ensuring that the fundamental promises of our democracy are accessible to all our citizens. As we strive to be a more caring and hopeful society, let us continue to show the character of America in our compassion for one another.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 2006, as a day in celebration of the 16th Anniversary of the Americans with Disabilities Act. I call on all Americans to celebrate the many contributions of individuals with disabilities as we work towards fulfilling the promise of the ADA to give all our citizens the opportunity to live with dignity, work productively, and achieve their dreams.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of July, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8038 of July 27, 2006**

## 50th Anniversary of Our National Motto, ''In God We Trust,'' 2006

*By the President of the United States of America*

*A Proclamation*

On the 50th anniversary of our national motto, ''In God We Trust,'' we reflect on these words that guide millions of Americans, recognize the

blessings of the Creator, and offer our thanks for His great gift of liberty.

From its earliest days, the United States has been a Nation of faith. During the War of 1812, as the morning light revealed that the battle-torn American flag still flew above Fort McHenry, Francis Scott Key penned, ''And this be our motto: 'In God is our trust!' '' His poem became our National Anthem, reminding generations of Americans to ''Praise the Power that hath made and preserved us a nation.'' On July 30, 1956, President Dwight Eisenhower signed the law officially establishing ''In God We Trust'' as our national motto.

Today, our country stands strong as a beacon of religious freedom. Our citizens, whatever their faith or background, worship freely and millions answer the universal call to love their neighbor and serve a cause greater than self.

As we commemorate the 50th anniversary of our national motto and remember with thanksgiving God's mercies throughout our history, we recognize a divine plan that stands above all human plans and continue to seek His will.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim July 30, 2006, as the 50th Anniversary of our National Motto, ''In God We Trust.'' I call upon the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of July, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8039 of July 27, 2006**

## To Implement the United States-Bahrain Free Trade Agreement, and for Other Purposes

*By the President of the United States of America*

*A Proclamation*

1. On September 14, 2004, the United States entered into the United States-Bahrain Free Trade Agreement (USBFTA). The USBFTA was approved by the Congress in section 101(a) of the United States-Bahrain Free Trade Agreement Implementation Act (the ''USBFTA Implementation Act'') (Public Law 109–169, 119 Stat. 3581) (19 U.S.C. 3805 note).

2. Section 105(a) of the USBFTA Implementation Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under Chapter 19 of the USBFTA.

3. Section 201 of the USBFTA Implementation Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to

carry out or apply Articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and the schedule of reductions with respect to Bahrain set forth in Annex 2–B of the USBFTA.

4. Consistent with section 201(a)(2) of the USBFTA Implementation Act, Bahrain is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP). Further, consistent with section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, I have determined that other technical and conforming changes to the Harmonized Tariff Schedule of the United States (HTS) are necessary to reflect that Bahrain is no longer eligible to receive benefits of the GSP.

5. Section 202 of the USBFTA Implementation Act provides certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment under the USBFTA. I have decided that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the HTS.

6. Section 204 of the USBFTA Implementation Act authorizes the President to take certain enforcement actions relating to trade with Bahrain in textile and apparel goods.

7. Sections 321–328 of the USBFTA Implementation Act authorize the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles.

8. Executive Order 11651 of March 3, 1972, as amended, establishes the Committee for the Implementation of Textile Agreements (CITA) to supervise the implementation of textile trade agreements.

9. Presidential Proclamation 7747 of December 30, 2003, implemented the United States-Singapore Free Trade Agreement (the ''USSFTA'') with respect to the United States and, pursuant to the United States-Singapore Free Trade Agreement Implementation Act (the ''USSFTA Implementation Act'') (Public Law 108–78, 117 Stat. 948) (19 U.S.C. 3805 note), incorporated in the HTS the tariff modifications and rules of origin necessary or appropriate to carry out the USSFTA.

10. Section 202 of the USSFTA Implementation Act provides rules for determining whether goods imported into the United States originate in the territory of a USSFTA party and thus are eligible for the tariff and other treatment contemplated under the USSFTA. Section 202(o) of the USSFTA Implementation Act authorizes the President to proclaim, as a part of the HTS, the rules of origin set out in the USSFTA and to proclaim modifications to such previously proclaimed rules of origin, subject to the consultation and layover requirements of section 103(a) of the USSFTA Implementation Act.

11. The United States and Singapore have agreed to modifications to certain USSFTA rules of origin. Modifications to the USSFTA rules of origin set out in Proclamation 7747 are therefore necessary.

12. Section 604 of the 1974 Act, as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other Acts affecting import treatment, and of actions taken there-

under, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 604 of the 1974 Act; sections 105(a), 201, 202, 204, and 321–328 of the USBFTA Implementation Act; section 202 of the USSFTA Implementation Act; and section 301 of title 3, United States Code, do hereby proclaim:

(1) In order to provide generally for the preferential tariff treatment being accorded under the USBFTA, to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the USBFTA, to provide certain other treatment to originating goods for the purposes of the USBFTA, to provide tariff-rate quotas with respect to certain originating goods, to reflect Bahrain's removal from the enumeration of designated beneficiary developing countries for purposes of the GSP, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in Annex I of Publication 3830 of the United States International Trade Commission, entitled, *Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Bahrain Free Trade Agreement* (Publication 3830), which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the USBFTA and to provide for future staged reductions in duties for products of Bahrain for purposes of the USBFTA, the HTS is modified as provided in Annex II of Publication 3830, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3) The Secretary of Commerce is authorized to exercise my authority under section 105(a) of the USBFTA Implementation Act to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section.

(4) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex II to Publication 3830.

(5) The CITA is authorized to exercise my authority under section 204 of the USBFTA Implementation Act to exclude textile and apparel goods from the customs territory of the United States; to determine whether an enterprise's production of, and capability to produce, goods are consistent with statements by the enterprise; to find that an enterprise has knowingly or willfully engaged in circumvention; and to deny preferential tariff treatment to textile and apparel goods.

(6) The CITA is authorized to exercise my authority under subtitle B of title III of the USBFTA Implementation Act to review requests, and to determine whether to commence consideration of such requests; to cause to be published in the **Federal Register** a notice of commencement of consideration of a request and notice seeking public comment; to determine whether imports of a Bahraini textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with,

the imported article; and to provide relief from imports of an article that is the subject of such a determination.

(7) In order to modify the rules of origin under the USSFTA, general note 25 to the HTS is modified as provided in Annex I to this proclamation.

(8) The modifications made by Annex I to this proclamation shall be effective with respect to goods of Singapore that are entered, or withdrawn from warehouse for consumption, on or after August 1, 2006.

(9) In order to make technical corrections to the HTS, the HTS is modified as provided in Annex II to this proclamation.

(10) The modifications made by Annex II to this proclamation shall be effective with respect to articles entered, or withdrawn for consumption, on or after the dates provided in that Annex.

(11) All provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of July, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

## ANNEX I

## UNITED STATES-SINGAPORE FREE TRADE AGREEMENT
**Textile and Apparel Goods**
**Amendments**

**Rule Applicable to Certain Apparel Made From Certain Ring Spun Yarns**

A change to women's and girls' knit blouses, shirts, lingerie, and underwear from ring spun single yarn of nm 51 and 85, containing 50 percent or more, but less than 85 percent, by weight of 0.9 denier or finer micro modal fiber, mixed solely with U.S. origin extra long pima cotton, classified in subheading 5510.30.0000 of the HTS

**Rule Applicable to Apparel Other than Gloves Made From Certain Cotton Flannel**

A change to apparel, other than gloves, from 100 percent cotton woven flannel fabrics, of yarns of different colors, containing ring-spun yarns of nm 21 through nm 36, of 2 X 2 twill weave construction, classified in subheading 5208.43.0000 of the HTS

**Rule Applicable to Women's and Girls' Blouses Made From Certain Cotton/MMF Fabrics**

A change to women's and girls' blouses of heading 6206 from fabrics classified in subheadings 5210.21 and 5210.31 of the HTS, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 nm

**Rule Applicable to Apparel Made From Certain Viscose Yarns**

A change to apparel from micro-denier 30 singles and 36 singles solution dyed, open-end spun, staple spun viscose yarn, classified in subheading 5510.11.0000

## ANNEX II

## TECHNICAL CORRECTIONS

Section A. Effective with respect to goods entered or withdrawn from warehouse for consumption on or after January 10, 2002, tariff classification rules 77, 79, 79A, 80(c), 82, 83, 84, 92B and 94 to chapter 85 as set forth in general note 12(t) to the HTS are each modified by striking "8529.90.23" and by inserting in lieu thereof "8529.90.22".

Section B. Effective with respect to goods entered or withdrawn from warehouse for consumption on or after April 1, 2006, heading 9902.85.43 is modified by deleting "8543.89.96" and by inserting in lieu thereof "8543.89.97".

Section C. Effective with respect to goods of Singapore, under the terms of general note 25 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after January 1, 2004, the HTS is modified for headings 8510.20.10, 8510.20.90, 8510.90.30, 8510.90.40, in the Rates of Duty 1 Special subcolumn, by inserting in the parentheses following the "Free" rate in such subcolumn the symbol "SG" in alphabetical order.

Section D. Effective with respect to goods of Chile, under the terms of general note 26 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after January 1, 2004, the HTS is modified for headings 8510.20.10, 8510.20.90, 8510.90.30, 8510.90.40, in the Rates of Duty 1 Special subcolumn, by inserting in the parentheses following the "Free" rate in such subcolumn the symbol "CL" in alphabetical order.

**Proclamation 8040 of August 21, 2006**

## Women's Equality Day, 2006

*By the President of the United States of America*

*A Proclamation*

The ratification of our Constitution's 19th Amendment on August 26, 1920, marked a turning point for America as women were guaranteed the right to vote. On Women's Equality Day, we celebrate this milestone and pay tribute to the inspiring individuals who stepped forward and asked our Nation to live up to its founding principle of equality for all.

The struggle for women's rights is a story of strong women joining together to break down the barriers to equality. With courage and determination, Lucretia Mott, Elizabeth Cady Stanton, Susan B. Anthony, and other suffragists inspired generations of women and helped change the path of our Nation's history. The Seneca Falls Convention of 1848 sparked a mass movement for women's voting rights that gained support from women of all ages and backgrounds. In 1890, Wyoming became the first State whose constitution allowed women to vote, and by 1918, women could vote in 14 additional States. Two years later, women secured nationwide suffrage with the passage of the 19th Amendment. By demanding participation in the democratic process, these visionaries helped spread freedom, justice, and hope for generations to come.

Women today are continuing the suffragists' legacy of leadership and strength. They are shaping the future through their contributions to all aspects of American life, including science, law, business, education, athletics, and the arts. They are serving our Nation with honor and distinction in our Armed Forces. American women have served as examples for women in other countries in their efforts to increase their participation in civic and political life. Our Nation remains committed to advancing the equality of women in the world's newest democracies and fighting threats to women around the globe.

The courage of American suffragists made our Nation a stronger and more hopeful place, and we will continue to build an America where the dignity of every person is respected and where opportunity is within reach of all our citizens. On Women's Equality Day, we honor the contributions and accomplishments of women throughout our history, and we pay tribute to all those who helped bring equality to women in America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 26, 2006, as Women's Equality Day. I call upon the people of the United States to celebrate the achievements of women and observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of August, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8041 of August 22, 2006**

## Minority Enterprise Development Week, 2006

*By the President of the United States of America*
*A Proclamation*

During Minority Enterprise Development Week, we celebrate the outstanding progress made by minority business owners, recognize their important contributions to our Nation's vibrant economy, and emphasize our commitment to helping them succeed.

Throughout our country, minority entrepreneurs strengthen our economic growth and keep our Nation moving forward. As Ronald Reagan said, entrepreneurs are the ''explorers of the modern era,'' and minority business owners help expand opportunities for their communities and their fellow citizens. A free society in which people have the opportunity to pursue their goals, no matter who they are or where they are from, is a stronger and more just society.

Over the past 3 years, our economy has grown by nearly $1.3 trillion, and minority businesses have contributed to that growth. Since 2001, my Administration has worked with the Congress to deliver the largest tax relief in two decades, leaving more money for minority business owners to reinvest. We are also undertaking initiatives to widen the ownership of businesses. With these resources, minority enterprises are hiring more employees, improving their communities, and helping fuel our country's economic resurgence.

Minority businesses throughout our Nation remain strong, and our country benefits from the positive impact they have on our economy. Minority business owners represent the hopeful spirit of America, and all across this land, Americans continue to achieve their dreams and build better futures for themselves and their families. During Minority Enterprise Development Week, we underscore our commitment to helping entrepreneurs realize the promise of our great Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 27 through September 2, 2006, as Minority Enterprise Development Week. I call upon all Americans to celebrate this week with appropriate programs, ceremonies, and activities to recognize the many contributions of our Nation's minority enterprises.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of August, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8042 of August 25, 2006**

## National Alcohol and Drug Addiction Recovery Month, 2006

*By the President of the United States of America*

*A Proclamation*

Alcohol and drug abuse disrupts families, threatens the safety of our neighborhoods, and ruins the lives of countless men, women, and youth. During National Alcohol and Drug Addiction Recovery Month, we recognize the damaging effects of substance abuse and renew our support for individuals battling to overcome addiction. The theme for 2006, ''Join the Voices for Recovery: Build a Stronger, Healthier Community,'' urges all Americans to help prevent alcohol and drug abuse and to promote treatment and recovery options.

While drug use among youth is down since 2001, we must continue our efforts to help our next generation avoid substance abuse. This work begins with understanding that youth are less likely to engage in risky behaviors when they are connected to strong families and communities. To assist our children in learning to make healthy choices, the Helping America's Youth initiative, led by First Lady Laura Bush, is encouraging local partnerships that empower families, schools, and communities to help our young people reach their full potential.

In order to effectively battle alcohol and drug addiction, we must ensure that Americans in need can readily access services and programs. Over the past 3 years, my Administration has provided nearly $300 million for the Access to Recovery program so that individuals who desire treatment have the ability to seek the form of treatment most suitable for their needs, including assistance from faith-based and community providers. My fiscal year 2007 budget proposes to build upon the success of this initiative by providing $98 million to further expand individual choice.

My Administration is also committed to protecting our citizens and our young people from the scourge of methamphetamine. This substance is highly addictive and is a continuing and devastating threat in too many communities across our Nation. While the number of teens who have ever tried this deadly drug has decreased since 2001, we remain focused on keeping methamphetamine from reaching more Americans. Through the Access to Recovery program, $25 million will be targeted in fiscal year 2007 to help individuals recover from methamphetamine abuse. Additionally, earlier this year I signed into law the USA PATRIOT Improvement and Reauthorization Act of 2005, which increases penalties for smuggling and selling methamphetamine and introduces commonsense safeguards to make many of the ingredients used in manufacturing it harder to obtain and easier to track.

These efforts are helping in the fight against substance abuse in America, yet government action is not the only answer. We are making progress because there are millions of our fellow citizens answering the universal call to love a neighbor. To find out how to join the armies of compassion and be a part of building a stronger, healthier community, interested volunteers should visit recoverymonth.gov and usafreedomcorps.gov. By working together, we can make a difference

in the life of someone in need and help fulfill the promise of a more hopeful tomorrow for generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2006 as National Alcohol and Drug Addiction Recovery Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8043 of August 25, 2006**

## National Day of Remembrance of Hurricane Katrina, 2006

*By the President of the United States of America*

*A Proclamation*

One year ago, a vast coastline of towns and communities was virtually destroyed; one of America's great cities was submerged; and many lives were lost in one of the worst natural disasters in our Nation's history. On this National Day of Remembrance of Hurricane Katrina, we honor those who did not survive the fury of the storm and those who continue to put their lives back together in its aftermath. We also remember the heroism of ordinary citizens who touched our hearts with their bravery and compassion and moved our whole Nation to action.

Hurricane Katrina brought many days of struggle and sorrow; yet, we also witnessed extraordinary acts of courage and kindness. Rescue workers, other first responders, and concerned citizens from around the country risked their lives to save others and performed heroically under the most difficult of circumstances. Many were victims themselves, acting on a sense of duty greater than their own suffering. Men, women, and children across America rallied to help their neighbors in desperate need, providing food, water, shelter, and hope to the victims of Hurricane Katrina. Those days tested our Nation, and they revealed a resilience more powerful than any storm.

Millions of lives were changed in a day by that cruel and destructive storm. America accepted the challenge to restore broken communities and disrupted lives not as a burden, but as our responsibility to help our fellow citizens. Victims and volunteers continue to demonstrate a spirit that cannot be broken—a core of strength that survives all hurt, a faith in God that no storm can take away, and an unyielding determination to clear the wreckage and build anew.

In the past year, Federal, State, and local governments have worked to enhance our Nation's ability to prepare for and respond to natural disasters. The Federal Government has conducted an extensive review of preparedness and response efforts, and actions are being taken at every

level to improve communications and coordination and strengthen emergency response capabilities. The American people can know that our government is working hard to be prepared to protect life and property should we face another such challenge.

In the life of our Nation, we have often been reminded that nature is an awesome force, and that all life is fragile. However, Americans have always summoned the will and compassion to persevere and rebuild. Guided by our enduring American spirit, we know that a bright new dawn will rise over the great city of New Orleans, and the entire Gulf Coast region will reemerge stronger and more vibrant than ever.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 29, 2006, as a National Day of Remembrance of Hurricane Katrina. I call upon State and local governments, places of worship, and all Americans to mark this day with services and appropriate observances. I also encourage all Americans to remember and support the continued effort to rebuild our Nation's great Gulf Coast.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of August, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8044 of August 29, 2006**

## National Ovarian Cancer Awareness Month, 2006

*By the President of the United States of America*

*A Proclamation*

National Ovarian Cancer Awareness Month provides an opportunity to raise awareness of risk factors, prevention, and treatment of this deadly disease. Our Nation is committed to fighting ovarian cancer, finding its cure, and providing hope and healing to those who are affected by it.

While ovarian cancer remains one of the leading causes of cancer-related death among women in our country, scientists have made significant progress in understanding the factors associated with it. Women of all ages can develop this cancer, but studies have shown risk increases with age. Other factors associated with ovarian cancer include family history, obesity, use of fertility drugs, and a prior occurrence of certain cancers. Because the chances of surviving ovarian cancer are higher when it is diagnosed and treated in its early stages, women should talk to their doctors about risk factors and screenings for this disease.

America leads the world in medical research, and we are committed to continuing progress in research for prevention, better treatments, and a cure for ovarian cancer. This year, the National Institutes of Health will invest an estimated $106 million in ovarian cancer research, and the National Cancer Institute is sponsoring clinical trials to explore new ways to improve ovarian cancer treatment. The Depart-

ment of Defense will also dedicate an estimated $10 million for its Ovarian Cancer Research Program, and the Centers for Disease Control and Prevention (CDC) will invest an estimated $5 million to ovarian cancer research. The CDC is additionally partnering with private organizations to sponsor ovarian cancer survivor courses for patients, as well as their friends and loved ones, following successful cancer treatment.

During National Ovarian Cancer Awareness Month, we honor the victims and survivors of this disease for their courage, hope, and perseverance, and we thank the families and friends who provide these individuals with comfort and care. Our Nation is grateful to medical professionals, researchers, and all those whose tireless efforts are making a positive difference in the lives of countless women in our country. By working together, we can continue to fight ovarian cancer and help more of our citizens defeat this devastating disease.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2006 as National Ovarian Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, volunteers, and the people of the United States to continue our Nation's strong commitment to preventing and treating ovarian cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8045 of August 29, 2006**

## National Prostate Cancer Awareness Month, 2006

*By the President of the United States of America*

*A Proclamation*

The United States continues to move forward in its fight against cancer, yet an estimated 27,000 American sons, fathers, brothers, and husbands will be lost to prostate cancer this year. As we observe National Prostate Cancer Awareness Month, we underscore our commitment to defeating prostate cancer by raising awareness about its risk factors, promoting the importance of early detection and treatment, and advancing our understanding of the disease and how to stop it.

Medical research has shown that there are steps men can take to reduce their chance of developing prostate cancer. For many men, regular exercise and healthy eating habits may decrease the likelihood of developing this deadly disease. Men over the age of 50, African-American men, and men with family medical histories that include prostate cancer face the greatest risk—and they can realize the greatest benefits from early detection, when treatment is most effective. All men should discuss their risk of prostate cancer with their physicians, determine the best screening and early-detection options, and adopt healthy life-

styles. Young men are also encouraged to find out whether a family member has ever been diagnosed with prostate cancer and to seek medical advice at an earlier age if a medical history exists.

The progress we have made in the battle against prostate cancer is remarkable, yet more work remains. America leads the world in cutting-edge medical research, and the Federal Government will continue to do its part to support work that will lead to better diagnostic tools and innovative treatments for prostate cancer. By providing substantial funding for programs at the National Institutes of Health, National Cancer Institute, Centers for Disease Control and Prevention, and Department of Defense, my Administration aims to improve our ability to prevent, detect, treat, and ultimately cure prostate cancer.

During National Prostate Cancer Awareness Month, America honors the victims and survivors of prostate cancer and applauds the family members and friends who provide love and encouragement. We also commend the medical professionals and researchers who are working to administer care, improve treatments, and find cures. Prostate cancer can be defeated, and we will continue this fight until the day when the battle to beat prostate cancer has been won.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 2006 as National Prostate Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, and the people of the United States to reaffirm our Nation's strong and ongoing campaign against prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8046 of September 5, 2006**

## National Days of Prayer and Remembrance, 2006

*By the President of the United States of America*

*A Proclamation*

This year, we mark the fifth anniversary of the brutal and ruthless terrorist attacks carried out against our Nation on September 11, 2001. We will always remember the thousands of lives lost, and the innocent men, women, and children forever changed by those acts of evil. During these National Days of Prayer and Remembrance, we honor the heroism of the police officers, firefighters, rescue personnel, members of the military, and private citizens who responded selflessly in the face of terror. We also honor the courage and spirit of the mothers and fathers, sons and daughters, brothers and sisters, and husbands and wives who continue to grieve for their irreplaceable loss.

As we pray for the families of the victims and reflect upon that defining moment in our history, we are inspired by the knowledge that from

the pain and sorrow of that September morning rose a Nation united by our love for freedom. We remember that we are a people determined to defend our way of life and to care for our neighbors in need. The scenes of distress and devastation we witnessed in the heart of New York City, at the Pentagon, and in Pennsylvania were overcome by sacrifice, bravery, and compassion. We resolved to answer history's call to bring justice to our enemies and to ensure the survival and success of liberty. Since that day, we have confronted a murderous ideology by taking the fight to our adversaries and by spreading the universal hope of freedom to millions around the world.

We are grateful for the service and sacrifice of the men and women of our Armed Forces who are advancing liberty and protecting our country, and we pray for their safety. We ask that God continue to comfort the families of those who have lost their lives or who have been injured while defending our freedom. We will succeed in this struggle against evil, and the legacy of peace we leave behind will be the greatest memorial to the victims of September 11, 2001, and all those who have paid the ultimate price while wearing our Nation's uniform.

On these Days of Prayer and Remembrance, we mourn with those who still mourn, and find comfort through faith. We give thanks to the Almighty for our liberty, and we pray for His blessing on all those who were lost and for strength in the work ahead. May God continue to watch over the United States of America, and may His will guide us in the days to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, September 8, through Sunday, September 10, 2006, as National Days of Prayer and Remembrance. I ask that the people of the United States and their places of worship mark these National Days of Prayer and Remembrance with memorial services, the ringing of bells, and evening candlelight remembrance vigils. I also invite the people of the world to share in these Days of Prayer and Remembrance.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8047 of September 7, 2006**

## Patriot Day, 2006

*By the President of the United States of America*
*A Proclamation*

On the fifth anniversary of the attacks of September 11, 2001, we recall the fire and horror at the twin towers of the World Trade Center, the Pentagon, and a Pennsylvania field. America will always remember the thousands of innocent lives taken by the enemies of freedom that morning.

In the face of these unspeakable attacks, we were reminded that the great strength of America is found in the hearts and souls of our citizens. We witnessed firefighters, police officers, other public safety officials, and ordinary Americans demonstrate extraordinary courage, risking their lives to save innocent victims. We saw our country united in compassion as Americans came together to provide relief and bring hope to others.

Today, America is fighting a war that is testing our Nation's resolve. We are once again answering history's call with confidence, and we know that freedom will prevail. Our brave men and women in uniform have stepped forward to fight our enemies abroad so that we do not have to face them here at home, and we are grateful for the courageous individuals bringing terrorists to justice around the world.

We are also confronting the extremists in the great ideological struggle of the 21st century. September the 11th made clear that, in the long run, the only way to secure our Nation is to advance liberty and democracy as the great alternatives to repression and radicalism. By working together with our friends and allies, we are helping spread the blessings of freedom and laying the foundations of peace for generations to come.

The events of September 11, 2001, will always be a defining moment in our history. We hold the victims and their families in our hearts, and we lift them up in our prayers.

By a joint resolution approved December 18, 2001 (Public Law 107–89), the Congress has designated September 11 of each year as ''Patriot Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 11, 2006, as Patriot Day. I call upon the Governors of the United States and the Commonwealth of Puerto Rico, as well as appropriate officials of all units of government, to direct that the flag be flown at half staff on Patriot Day. I also call upon the people of the United States to observe Patriot Day with appropriate ceremonies, activities, and remembrance services, to display the flag at half staff from their homes on that day, and to observe a moment of silence beginning at 8:46 a.m. eastern daylight time to honor the innocent Americans and people from around the world who lost their lives as a result of the terrorist attacks of September 11, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8048 of September 8, 2006**

## National Historically Black Colleges and Universities Week, 2006

*By the President of the United States of America*

*A Proclamation*

Education is the cornerstone of a prosperous and hopeful Nation. By providing a quality education, Historically Black Colleges and Universities (HBCUs) help students achieve their dreams and realize the promise of America. During National Historically Black Colleges and Universities Week, we recognize the significant contributions of HBCUs and underscore our commitment to helping these distinguished institutions in the pursuit of educational excellence.

Our Nation's Historically Black Colleges and Universities are places of higher learning and achievement that prepare new generations of Americans to become responsible leaders in their communities and around the world. HBCUs enable students to gain the skills necessary to compete for the jobs of the 21st century.

My Administration is dedicated to ensuring the continued success of HBCUs and securing the constitutional guarantees of liberty and equality to all Americans. The President's Board of Advisors on Historically Black Colleges and Universities has worked to help these institutions benefit from Federal programs, obtain private-sector support for their endowments, and build partnerships to strengthen faculty development and cooperative research. In addition, the HBCU Capital Financing Program provides HBCUs with access to funds for the repair, renovation, and construction of educational resources and facilities.

During National Historically Black Colleges and Universities Week, we celebrate the enduring importance of HBCUs, and resolve to continue to support their critical mission.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 10 through September 16, 2006, as National Historically Black Colleges and Universities Week. I call upon public officials, educators, librarians, and all the people of the United States to observe this week with appropriate programs, ceremonies, and activities in recognition of the vital contributions of HBCUs.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8049 of September 14, 2006**

## National Hispanic Heritage Month, 2006

*By the President of the United States of America*
*A Proclamation*

Americans are a diverse people, yet we are bound by common principles that teach us what it means to be American citizens. During National Hispanic Heritage Month, we recognize the many contributions of Hispanic Americans to our country.

Through hard work, faith in God, and a deep love of family, Hispanic Americans have pursued their dreams and contributed to the strength and vitality of our Nation. They have enriched the American experience and excelled in business, law, politics, education, community service, the arts, science, and many other fields. Hispanic entrepreneurs are also helping build a better, more hopeful future for all by creating jobs across our country. The number of Hispanic-owned businesses is growing at three times the national rate, and increasing numbers of Hispanic Americans own their own homes. We continue to benefit from a rich Hispanic culture and we are a stronger country because of the talent and creativity of the many Hispanic Americans who have shaped our society.

Throughout our history, Hispanic Americans have also shown their devotion to our country in their military service. Citizens of Hispanic descent have fought in every war since our founding and have taken their rightful place as heroes in our Nation's history. Today, Americans of Hispanic descent are serving in our Armed Forces with courage and honor, and their efforts are helping make America more secure and bringing freedom to people around the world.

As we celebrate National Hispanic Heritage Month, we applaud the accomplishments of Hispanic Americans and recognize the contributions they make to our great land. To honor the achievements of Hispanic Americans, the Congress, by Public Law 100–402, as amended, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as ''National Hispanic Heritage Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 15 through October 15, 2006, as National Hispanic Heritage Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8050 of September 14, 2006**

## Constitution Day and Citizenship Day, Constitution Week, 2006

*By the President of the United States of America*

*A Proclamation*

Americans are united by the principles embodied in the United States Constitution. On Constitution Day and Citizenship Day and during Constitution Week, we celebrate the establishment of the United States Constitution and honor the Framers of this groundbreaking document.

In 1787, the Framers of the Constitution met in Philadelphia and drafted a document that continues to be the foundation of our Nation's identity. The Constitution established the enduring governmental framework in which our free society has flourished for more than two centuries, and it is a testament to the wisdom and foresight of our Founders.

America is grateful to those who have worked to defend the Constitution and promote its ideals. During this observance, we also recognize the profound impact our Constitution has on the everyday lives of our citizens, and we call upon all Americans to help uphold its values of a free and just society.

In celebration of the signing of the Constitution and in recognition of the Americans who strive to uphold the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106, as amended), designated September 17 as ''Constitution Day and Citizenship Day,'' and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as ''Constitution Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim September 17, 2006, as Constitution Day and Citizenship Day, and September 17 through September 23, 2006, as Constitution Week. I encourage Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs that celebrate our Constitution and reaffirm our rights and responsibilities as citizens of our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8051 of September 14, 2006**

## National POW/MIA Recognition Day, 2006

*By the President of the United States of America*
*A Proclamation*

As a Nation, we look to our service men and women as examples of courage and sacrifice. When our country and the world have needed brave Americans to advance the cause of freedom, our men and women in uniform have proudly stepped forward and selflessly endured hardships to defend liberty. We are grateful to all who have served, and on National POW/MIA Recognition Day, we give special honor to the extraordinary patriots who have been prisoners of war and to those who are still missing in action. We take inspiration from their valor and loyalty and will not rest until we have accounted for them all.

On National POW/MIA Recognition Day, the National League of Families POW/MIA flag is flown over the White House, the Capitol, the Departments of State, Defense, and Veterans Affairs, the Vietnam Veterans Memorial, Korean War Veterans Memorial, World War II Memorial, U.S. military installations, national cemeteries, and other locations across our country. The POW/MIA flag is a symbol of our Nation's resolve never to forget the service and great sacrifice of the heroes who have carried out liberty's urgent and noble mission, even at the cost of their own freedom. On this day, we express our deep appreciation to each of our Soldiers, Sailors, Airmen, and Marines and our enduring commitment to achieve the fullest possible accounting for all of our men and women in uniform who have been prisoners of war or are missing in action.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States do hereby proclaim Friday, September 15, 2006, as National POW/MIA Recognition Day. I call upon the people of the United States to join me in paying solemn tribute to all former American prisoners of war and those missing in action who valiantly served our great country. I call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8052 of September 15, 2006**

## National Farm Safety and Health Week, 2006

*By the President of the United States of America*
*A Proclamation*

Generations of farmers and ranchers have strengthened our Nation and enriched our communities by providing us with food, raw materials, and energy. National Farm Safety and Health Week is an opportunity to celebrate their contributions to America and raise awareness about potential hazards these workers and their families face. This year's theme, ''Prepare to Prevent,'' underscores the importance of injury prevention, preparedness, and safety on farms and ranches.

Farming and ranching are challenging occupations. Agricultural workers often work long hours and are exposed to many dangers associated with heavy machinery, tools, livestock, chemicals, and extreme weather conditions. By identifying hazards and taking preventive measures, farmers and ranchers can create a safer environment for themselves and their employees. Wearing protective gear can help prevent injuries, and farm machinery can be equipped with safety devices to decrease accidents. Agricultural workers can also take steps to make their workplace safer by training family members and staff in first aid and other emergency response techniques.

Our country depends on farmers and ranchers to help provide an abundant and safe food supply for our citizens and for the world, and we are grateful to them for their significant contributions to the economic prosperity of our great Nation. By raising awareness about injury prevention and safety in the workplace, farmers and ranchers can protect their employees, families, and themselves, and continue their good work to help America stay productive and prosperous.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 17 through September 23, 2006, as National Farm Safety and Health Week. I call upon the agencies, organizations, and businesses that serve America's agricultural workers to continue to strengthen their commitment to promoting farm safety and health programs. I also urge all Americans to honor our agricultural heritage and to recognize our farmers and ranchers for their remarkable contributions to our Nation's prosperity and strength.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8053 of September 15, 2006**

## Literacy Day, 2006

*By the President of the United States of America*
*A Proclamation*

The ability to read is the gateway to educational excellence and a key to success in any democratic society. On Literacy Day, we recognize the vital importance of literacy to our Nation and affirm our commitment to helping improve the lives of the men, women, and children in America and around the world who cannot read.

Our society has a responsibility to ensure individuals have the educational opportunities to learn to read. Literacy is a basic requirement for healthy societies and enables people to better care for themselves and their families. Reading also encourages participation in the democratic process and helps people reach their full potential through self-reliance and independence.

My Administration is committed to helping children and adults gain the reading skills they need to succeed in life. Through No Child Left Behind programs such as Reading First, Early Reading First, and Striving Readers, we are challenging the soft bigotry of low expectations and helping to provide students with the foundation to achieve their dreams. Reading also helps adults to be better consumers, and wider literacy increases economic participation, which helps to create more stable and vibrant economies. The White House Conference on Global Literacy, led by First Lady Laura Bush, is working to promote literacy for individuals of all ages and help give people around the world the skills necessary for success. By increasing literacy, we can help change lives and equip all people with the knowledge and tools to excel in the 21st century.

On Literacy Day, we recognize the great value of reading and encourage individuals around the world to take an active role in promoting literacy. Together, we can build a stronger society and a bright future for people everywhere.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 18, 2006, as Literacy Day. I call upon the people of the United States to observe this day with programs and activities that advance literacy for Americans and all the people of the world. By donating books to local libraries, volunteering to tutor, supporting international literacy programs, and fostering a learning environment in the home, citizens across this great Nation can make a difference and help their fellow Americans and people throughout the world enjoy the benefits of literacy.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8054 of September 20, 2006**

## Gold Star Mother's Day, 2006

*By the President of the United States of America*
*A Proclamation*

Since America's founding, every generation has produced patriots willing to sacrifice for our great Nation. Many of these proud sons and daughters have given everything for our freedom, and America has mourned the loss of every life. On Gold Star Mother's Day, we pay special tribute to the mothers of those lost while defending our country and extending the blessings of liberty to others.

Gold Star Mothers have long borne the hardships of war with dignity and devotion. Through heartbreaking loss and unimaginable grief, they continue to support each other through difficult times, stand up for those wearing the uniform of the United States, and serve their communities in the best traditions of the American spirit. Their strength, compassion, and determination are an inspiration to all and a source of great pride for our Nation.

America lives in freedom because of the sacrifices of America's finest citizens and of the mothers who raised them. In the words of President Franklin D. Roosevelt in 1944, ''There is nothing adequate which anyone in any place can say to those who are entitled to display the gold star in their windows.'' Each year, this observance is an opportunity to offer our solemn respect to Gold Star Mothers and renew our ongoing pledge that America will always remember those who died while wearing the uniform of the United States and forever honor their families' sacrifice.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day'' and has authorized and requested the President to issue a proclamation in its observance. On this day, we express our deep gratitude to our Nation's Gold Star Mothers, and we ask God's blessings on them and on their families.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Sunday, September 24, 2006, as Gold Star Mother's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this solemn day. I also encourage the American people to display the flag and hold appropriate ceremonies as a public expression of our Nation's sympathy and respect for our Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8055 of September 21, 2006**

## National Employer Support of the Guard and Reserve Week, 2006

*By the President of the United States of America*

*A Proclamation*

In times of war or crisis, the citizen-soldiers of our National Guard and Reserve are ready and willing to answer the call of duty. During National Employer Support of the Guard and Reserve Week, we express our deep gratitude to these brave men and women and to the employers who support them and enable them to serve.

Members of the National Guard and Reserve put on the uniform of the United States when our country needs them most. In the war on terror, thousands of these civilians from all walks of life have been called away from their jobs and families and mobilized for duty around the world. They are performing many different missions, but all are working to deliver the blessings of freedom to people who have not known liberty.

Here at home, the National Guard is working to protect our borders, and National Guard personnel and Reservists help rebuild communities and bring comfort, security, and healing to individuals in the aftermath of hurricanes and other natural disasters. The dedicated service of our National Guard and Reserve personnel is vital to the security of our Nation, and these patriots are an inspiration and source of pride to all Americans.

We also appreciate the commitment of the civilian employers of these courageous men and women. By providing time off, pay, health care benefits, and job security, these employers help members of the National Guard and Reserve and their families serve our country and prepare for their return to civilian life. In offices, schools, factories, and small businesses across America, employers operate without some of their most talented people, and America appreciates their support and the support they provide to their employees in our National Guard and Reserve.

National Employer Support of the Guard and Reserve Week is an important opportunity to express our country's debt of gratitude to the men and women of the National Guard and Reserve and to all the employers who stand behind these dedicated individuals.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 24 through September 30, 2006, as National Employer Support of the Guard and Reserve Week. I encourage all Americans to join me in expressing our thanks to members of our National Guard and Reserve and their civilian employers for their patriotic sacrifice on behalf of our Nation. I also call upon State and local officials, private organizations, businesses, and all military commanders to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord two thousand six, and of the

Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8056 of September 22, 2006**

## Family Day, 2006

*By the President of the United States of America*

*A Proclamation*

Families instill values, shape character, and are the foundation of a hopeful society. On Family Day, we celebrate the rich traditions of family life and emphasize the importance of stable and loving relationships between children and parents.

Families are a source of inspiration and strength, and they provide hope and solace in the face of adversity. Children especially benefit from the bonds of family. During critical times in children's lives, family members encourage them to aim high and achieve their dreams, herald their successes, and promote positive behavior. Through their guidance and support, family members prepare young people for the challenges and opportunities ahead.

Parents, grandparents, aunts, uncles, and other caregivers are the first line of defense in helping young people avoid the dangers and temptations they face each day. By being attentive to children's activities and choices, families can help young people grow into successful adults.

My Administration remains committed to strengthening American families. We are working to protect the institution of marriage, promote responsible fatherhood, encourage parents to be involved in the education of their children, and provide every child with the opportunity to learn. By helping America's families thrive, we can build a brighter future for our country and give our young people the foundation they need to make good choices and build lives of purpose.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 25, 2006, as Family Day. I call on the people of the United States to observe this day by reflecting on the blessings of family and participating in family activities that strengthen relationships between children and parents.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8057 of September 28, 2006**

## Child Health Day, 2006

*By the President of the United States of America*
*A Proclamation*

America's young people enjoy a future of hope and promise, and we must be committed to supporting them through each opportunity and challenge they face ahead. Each year on Child Health Day, we emphasize the importance of keeping our children safe, encouraging them to practice healthy habits, and educating and empowering them to avoid risky behavior.

Parents are children's first teachers, and they play a crucial role in promoting good health and helping young people grow into responsible, moral, and productive adults. Violence, illegal drugs, alcohol, smoking, and early sexual activity are some of the top causes of disease and early death among our youth. By being vigilant and talking with their children about the issues they face, parents can teach children to make the right decisions when they are challenged by peer pressure or tempted to participate in dangerous activities.

My Administration recognizes the importance of investing in the health and well-being of our young people, and we remain committed to helping our children build healthy and successful lives. Through the Helping America's Youth Initiative, led by First Lady Laura Bush, we are encouraging children to make good choices, educating parents and communities on the importance of positive youth development, and supporting organizations that are dedicated to the success of America's children.

Every day, parents strive to raise their children to be strong and successful adults. By working together, families, teachers, mentors, and government and community leaders can help ensure young people enjoy the opportunity to have long and healthy lives.

The Congress, by a joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as ''Child Health Day'' and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Monday, October 2, 2006, as Child Health Day. I call upon families, schools, child health professionals, faith-based and community organizations, and State and local governments to reach out to our Nation's young people, encourage them to avoid dangerous behavior, and help make the right choices to achieve their dreams.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8058 of September 29, 2006**

## National Domestic Violence Awareness Month, 2006

*By the President of the United States of America*
*A Proclamation*

Domestic violence has no place in our society, and we have a moral obligation to help prevent it. The terrible tragedies that result from it destroy lives and insult the dignity of women, men, and children. National Domestic Violence Awareness Month is an opportunity to underscore our commitment to bringing an end to violence in the home.

A home should be a place of stability, comfort, and love. Domestic violence shatters this important foundation. My Administration is strongly committed to addressing domestic violence and helping those who have been victimized. In January, I was proud to sign legislation reauthorizing the Violence Against Women Act. Since I announced the Family Justice Center Initiative in 2003, we have opened 11 Family Justice Centers across the country. These centers offer services to victims and their families, including legal advice, counseling, and support. In addition, we are continuing to work with faith-based and community organizations to provide training, expertise, and funding to help deliver hope and healing to those who need it most.

During National Domestic Violence Awareness Month and throughout the year, we are grateful for the advocates, counselors, and others who provide care to those affected by these acts of cruelty and for the law enforcement personnel and others who work to bring offenders to justice. We extend our compassion to the victims of domestic violence and urge them to seek assistance through local Family Justice Centers, faith-based and community organizations, and the National Domestic Violence Hotline at 1–800–799–SAFE. By working together, we can build an America where every home honors the value and dignity of its loved ones.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2006 as National Domestic Violence Awareness Month. I urge all Americans to reach out to victims and help end domestic violence.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8059 of October 3, 2006**

## National Breast Cancer Awareness Month, 2006

*By the President of the United States of America*
*A Proclamation*

During National Breast Cancer Awareness Month, we underscore our commitment to advancing the fight against breast cancer and bringing hope to those affected by this deadly disease.

Breast cancer remains the second leading cause of cancer deaths among American women, and both men and women should be aware that age, obesity, genetics, and family history are factors that can contribute to the risk of developing this disease. Individuals may help reduce their personal risk of breast cancer through regular exercise and healthy lifestyle choices. Also, regular self-exams, clinical breast exams, and mammograms are vital since treatments are most effective when breast cancer is detected early.

Our Nation is making advances in the detection and treatment of breast cancer, and my Administration is committed to continuing this progress. In fiscal year 2007, the Department of Health and Human Services will spend nearly $844 million on breast cancer research and prevention activities. In addition, the Federal Government is promoting breast cancer screening services for low-income and uninsured women through outreach activities and educational materials.

Throughout our Nation, compassionate citizens provide love and encouragement to individuals living with breast cancer and their loved ones. Survivors of this disease show the world that life after breast cancer can be a reality, and we must continue to support these individuals and their families. Through medical advances, preventative programs, and quality health care, we can continue to make significant strides in the fight against this devastating disease and provide a brighter future for many Americans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2006 as National Breast Cancer Awareness Month. I call upon Government officials, businesses, communities, health care professionals, educators, volunteers, and all the people of the United States to continue our Nation's strong commitment to preventing and treating breast cancer and to finding a cure for this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8060 of October 3, 2006**

## National Disability Employment Awareness Month, 2006

*By the President of the United States of America*

*A Proclamation*

During National Disability Employment Awareness Month, we pay tribute to the accomplishments of the men and women with disabilities whose work helps keep America's economy strong, and we underscore our commitment to ensuring equal employment opportunity for all of our citizens.

Our country has made great progress to ensure that opportunities are accessible to everyone who is willing and able to work. Access to jobs was significantly expanded in 1990 when President George H. W. Bush signed the Americans with Disabilities Act (ADA) into law. This important legislation has served as a foundation for strengthening our Nation's workforce and advancing innovation and American leadership in a global marketplace.

In 2001, my Administration announced the New Freedom Initiative to build on the progress of the ADA and more fully integrate men and women with disabilities into all aspects of life. The New Freedom Initiative has helped expand access to technology, training, and education for citizens with disabilities. As a result, those who have a disability and seek employment are better able to compete for jobs. To assist in providing additional access to employment opportunities, we have also implemented the ''Ticket to Work'' program and strengthened training and employment services at One-Stop Career Centers. By visiting DisabilityInfo.gov, individuals and employers can learn more about the Federal Government's disability-related programs and receive information and resources they need to help achieve their personal and professional ambitions.

To recognize the contributions of Americans with disabilities and to encourage all citizens to ensure equal opportunity in the workforce, the Congress, by joint resolution approved as amended (36 U.S.C. 121), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2006 as National Disability Employment Awareness Month. I call upon Government officials, labor leaders, employers, and the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8061 of October 3, 2006**

## German-American Day, 2006

*By the President of the United States of America*
*A Proclamation*

Throughout our history, the spirit and hard work of German Americans have been an important part of the cultural fabric of our Nation. On German-American Day, we celebrate German Americans and their many contributions to the character of our country.

Germans were among the first to settle in this great land of promise, and their talent, faith, and strong values helped establish this country as a place of freedom and opportunity. Today, millions of German Americans are adding to the success and prosperity of our Nation as leaders in government, sports, business, science, the arts, and many other fields.

In every generation, German Americans have courageously stepped forward to serve in our country's hour of need. During the Revolutionary War, General Friedrich von Steuben helped train the Continental Army for battle, and in World War II, great men like General Dwight Eisenhower and Admiral Chester Nimitz helped lead the Allied Forces to victory. Our Nation will always be grateful to the many German Americans who have selflessly answered the call to defend liberty and advance the cause of freedom as members of our Armed Forces. The sacrifices of these heroes help preserve the ideals of our country's founding and make the world a safer place.

German-American Day is also an opportunity to recognize the friendship between Germany and the United States. By working together as partners in peace with a mutual commitment to liberty, the United States and Germany can lay the foundation for a more hopeful tomorrow.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 6, 2006, as German-American Day. I encourage all Americans to celebrate our Nation's German heritage and the many ways German Americans have enriched and strengthened our country.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8062 of October 4, 2006**

## Fire Prevention Week, 2006

*By the President of the United States of America*
*A Proclamation*

During Fire Prevention Week, we underscore our commitment to advancing fire safety and awareness, and we honor the brave firefighters and volunteers who work to protect our lives, homes, and communities.

Thousands of injuries and deaths occur each year as a result of fires, and Americans have a shared responsibility to help minimize the risk of fires that can cause harm to people and property. By installing and maintaining smoke alarms and having a plan of action in the event of an emergency, citizens can practice simple but effective fire safety measures. Unattended cooking is a leading cause of household fires, and this year's theme, ''Prevent Cooking Fires: Watch What You Heat,'' highlights the importance of practicing kitchen safety at all times. By keeping cooking areas clear of flammable items and closely monitoring children and appliances while in the kitchen, individuals can greatly reduce the number of fire-related accidents in the home.

Our Nation's firefighters selflessly risk their lives to protect their fellow citizens. These brave men and women play a critical role in safeguarding our families, our households, and our communities, and their courage and dedication are an inspiration to all Americans. Fire Prevention Week is an opportunity to reaffirm the importance of fire safety, celebrate those who devote their lives to protecting others, and honor the memory of our Nation's fallen heroes.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 8 through October 14, 2006, as Fire Prevention Week. On Sunday, October 8, 2006, in accordance with Public Law 107–51, the flag of the United States will be flown at half-staff on all Federal office buildings in honor of the National Fallen Firefighters Memorial Service. I call on all Americans to participate in this observance through appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8063 of October 4, 2006**

## Leif Erikson Day, 2006

*By the President of the United States of America*
*A Proclamation*

Leif Erikson Day honors a great son of Iceland and grandson of Norway who became one of the first Europeans known to reach North America. This day is also an opportunity to celebrate the generations of Nordic Americans who have contributed to our country and strengthened the ties that forever bind the United States with Denmark, Finland, Iceland, Norway, and Sweden.

Like the crew of risk takers that Leif Erikson boldly led on a quest to find new lands, Americans have always valued the ideals of exploration and discovery. A desire to seek and understand inspired their voyage more than a millennium ago, and it remains a central part of our national character as a new generation pursues great new goals today. Nordic Americans continue to make valuable contributions to our society that have expanded human knowledge and helped make our world a better place.

To honor Leif Erikson and to celebrate our citizens of Nordic-American heritage, the Congress, by joint resolution (Public Law 88–566) approved on September 2, 1964, has authorized the President to proclaim October 9 of each year as ''Leif Erikson Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 9, 2006, as Leif Erikson Day. I call upon all Americans to observe this day with appropriate ceremonies, activities, and programs to honor our rich Nordic-American heritage.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8064 of October 5, 2006**

## National School Lunch Week, 2006

*By the President of the United States of America*
*A Proclamation*

For 60 years, the National School Lunch Program has contributed to the health and well-being of America's youth. National School Lunch Week highlights the many achievements of the National School Lunch Program and the importance of helping children develop good nutrition habits.

Eating healthy foods and maintaining an active lifestyle are vital for children's health and reduce their risk of serious long-term health problems, such as obesity, asthma, and diabetes. The National School

Lunch Program, part of the United States Department of Agriculture (USDA), provides more than 29 million children with healthy meals each day. The program raises awareness about the importance of good food choices and trains food service professionals to prepare nutritious breakfasts, lunches, and snacks that include foods rich in vitamins, minerals, and fiber. In addition, the USDA offers educational resources for school nutrition directors, managers, and staff based on the requirements for healthy school meals established in the Dietary Guidelines for Americans. By promoting good nutrition and exercise, schools can help children develop well-balanced diets and lead healthier lives.

During National School Lunch Week, we recognize dedicated parents, school officials, community leaders, and food service professionals for their efforts to ensure that our children are provided with nutritious meals each day.

In recognition of the contributions of the National School Lunch Program to the health, education, and well-being of America's children, the Congress, by joint resolution of October 9, 1962 (Public Law 87–780), as amended, has designated the week beginning on the second Sunday in October of each year as ''National School Lunch Week,'' and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim the week of October 8 through October 14, 2006, as National School Lunch Week. I call upon all Americans to join the dedicated individuals who administer the National School Lunch Program in appropriate activities that support the health and well-being of our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8065 of October 5, 2006**

## Columbus Day, 2006

*By the President of the United States of America*

*A Proclamation*

More than five centuries ago, Christopher Columbus boldly set out on a long and challenging journey across the Atlantic that led the way for exploration of the Americas. On Columbus Day, we celebrate the historic voyages of the Italian explorer and honor his life, heritage, and lasting legacy.

Columbus' brave expeditions expanded the horizons of human knowledge and inspired generations of risk-takers and pioneers in America and around the world. Our Nation is built on the efforts of men and women who possess both the vision to see beyond what is and the desire to pursue what might be. Today, the same passion for discovery that drove Columbus is leading bold visionaries to explore the frontiers

of space, find new energy sources, and solve our most difficult medical challenges.

Columbus Day is also an opportunity to celebrate the heritage we share with the legendary explorer, the important relationship between the United States and Italy, and the proud Italian Americans who call our Nation home. Italian Americans have strengthened our country and enriched our culture, and through service in our Armed Forces, many have defended our Nation with courage and helped lay the foundation of peace for generations to come.

In commemoration of Columbus' journey, the Congress, by joint resolution of April 30, 1934, and modified in 1968 (36 U.S.C. 107), as amended, has requested that the President proclaim the second Monday of October of each year as ''Columbus Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 9, 2006, as Columbus Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8066 of October 11, 2006**

## General Pulaski Memorial Day, 2006

*By the President of the United States of America*

*A Proclamation*

On General Pulaski Memorial Day, we remember Casimir Pulaski, a Polish-born hero of the American Revolution who fought and died for the freedom and independence our country enjoys today.

General Casimir Pulaski entered into a campaign against tyranny in Poland in 1768, bravely fighting for the freedom of his native land. This patriotic spirit and thirst for freedom remained with Pulaski throughout his life and influenced his success in the American Revolutionary War. After meeting Benjamin Franklin in Paris, Pulaski traveled to America to join forces with General George Washington and assist in the fight for American independence. He was quickly commissioned as a Brigadier General and demonstrated such skill on the battlefield that he became known as the ''Father of the American Cavalry.'' In 1779, General Pulaski was mortally wounded at the siege of Savannah. By giving his life for our country, General Pulaski inspired many Americans and helped ensure a future of freedom for our citizens.

Through his service and dedication to liberty, General Pulaski demonstrated the strong will and patriotism that made our freedom possible, and the ties between the United States and Poland are strengthened by these common values. On General Pulaski Memorial Day, we

honor the courage and sacrifice of this great hero of the American Revolution, recognize the many contributions of Polish Americans to our country, and celebrate the lasting friendship between our two great nations.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 11, 2006, as General Pulaski Memorial Day. I encourage Americans to commemorate this occasion with appropriate programs and activities honoring General Casimir Pulaski and all those who defend our freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8067 of October 11, 2006**

## To Modify Rules of Origin Under the North American Free Trade Agreement

*By the President of the United States of America*

*A Proclamation*

1. Presidential Proclamation 6641 of December 15, 1993, implemented the North American Free Trade Agreement (the ''NAFTA'') with respect to the United States and, pursuant to the North American Free Trade Agreement Implementation Act (Public Law 103–182) (the ''NAFTA Implementation Act''), incorporated in the Harmonized Tariff Schedule of the United States (the ''HTS'') the tariff modifications and rules of origin necessary or appropriate to carry out the NAFTA.

2. Section 202 of the NAFTA Implementation Act (19 U.S.C. 3332) provides rules for determining whether goods imported into the United States originate in the territory of a NAFTA party and thus are eligible for the tariff and other treatment contemplated under the NAFTA. Section 202(q) of the NAFTA Implementation Act (19 U.S.C. 3332(q)) authorizes the President to proclaim, as a part of the HTS, the rules of origin set out in the NAFTA and to proclaim modifications to such previously proclaimed rules of origin, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313(a)).

3. The United States, Canada, and Mexico have agreed to modifications to certain NAFTA rules of origin. Modifications to the NAFTA rules of origin reflected in general note 12 to the HTS are therefore necessary.

4. Section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 604 of the 1974 Act and section 202 of the NAFTA Implementation Act, do hereby proclaim:

(1) In order to reflect in the HTS modifications to the rules of origin under the NAFTA, general note 12 to the HTS is modified as provided in the Annex to this proclamation.

(2) The modifications made by this proclamation shall be effective with respect to goods of Canada or of Mexico, under the terms of general note 12 to the HTS, that are entered, or withdrawn from warehouse for consumption, on or after July 1, 2006.

(3) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

ANNEX

MODIFICATIONS TO THE RULES OF ORIGIN FOR THE NORTH AMERICAN FREE TRADE AGREEMENT, AS REFLECTED IN THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods of Canada or of Mexico, under the terms of general note 12 to the Harmonized Tariff Schedule of the United States (HTS), that are entered, or withdrawn from warehouse for consumption, on or after July 1, 2006, general note 12(t) to the HTS is modified as follows:

1. Tariff classification rules (TCRs) 5 through 7 to chapter 18 are deleted and the following new TCR is inserted:

"5. A change to subheadings 1806.31 through 1806.90 from any other subheading, including another subheading within that group."

2. TCR 7 to chapter 20 is deleted and the following new TCR is inserted:

"7. (A) A change to subheading 2009.90 from any other chapter;

(B) A change to cranberry juice mixtures of subheading 2009.90 from any other subheading within chapter 20, except from subheadings 2009.11 through 2009.39 or cranberry juice of subheading 2009.80, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to any other good of subheading 2009.90 from any other subheading within chapter 20, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from a single non-Party, constitute in single strength form no more than 60 percent by volume of the good."

3. The TCR to chapter 26, set forth following the chapter designation, is deleted and the following new TCR is inserted:

"A change to headings 2601 through 2621 from any other heading, including another heading within that group."

4. TCRs 2 through 8, inclusive, to chapter 41 are deleted and the following new TCRs are inserted:

"2. A change to heading 4104 from any other heading, except from heading 4107.

3. A change to subheading 4105.10 from heading 4102 or any other chapter.

4. A change to subheading 4105.30 from heading 4102, subheading 4105.10 or any other chapter.

5. A change to subheading 4106.21 from subheading 4103.10 or any other chapter.

6. A change to subheading 4106.22 from subheadings 4103.10 or 4106.21 or any other chapter.

7. A change to subheading 4106.31 from subheading 4103.30 or any other chapter.

8. A change to subheading 4106.32 from subheadings 4103.30 or 4106.31 or any other chapter.

9. (A) A change to tanned hides or skins in the wet state (including wet-blue) of subheading 4106.40 from subheading 4103.20 or any other chapter; or

(B) A change to crust hides or skins of subheading 4106.40 from subheading 4103.20 or tanned hides or skins in the wet state (including wet-blue) of subheading 4106.40 or any other chapter.

10. A change to subheading 4106.91 from subheading 4103.90 or any other chapter.

11. A change to subheading 4106.92 from subheadings 4103.90 or 4106.91 or any other chapter.

12. A change to heading 4107 from heading 4101 or any other chapter.

13. A change to heading 4112 from heading 4102, subheading 4105.10 or any other chapter.

14. A change to heading 4113 from heading 4103, subheadings 4106.21 or 4106.31, tanned hides or skins in the wet state (including wet-blue) of subheading 4106.40, subheading 4106.91 or any other chapter.

15. A change to heading 4114 from headings 4101 through 4103 or any other chapter, except from hides or skins of headings 4101 through 4103 which have undergone a tanning (including pre-tanning) process which is reversible.

16. A change to subheadings 4115.10 through 4115.20 from headings 4101 through 4103 or any other chapter."

5. TCRs 1 and 2 to chapter 45 are deleted and the following new TCR is inserted immediately after the designation "Chapter 45."

"A change to headings 4501 through 4504 from any other heading, including another heading within that group."

6. TCRs 4 and 4A and the immediately superior Note to chapter 54 are deleted and the following new TCR is inserted immediately below TCR 3:

"4. A change to heading 5408 from filament yarns of viscose rayon of heading 5403 or any other chapter, except from headings 5106 through 5110, 5205 through 5206 or 5509 through 5510."

7. TCRs 1 through 3 and the accompanying Note and Heading rule to chapter 56 are deleted and the following new TCRs and Heading rule are inserted:

"1. (A) A change to sanitary towels or tampons of subheading 5601.10 from tri-lobal rayon staple fiber (38 mm, 3.3 decitex) of subheading 5504.10 or any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55; or

(B) A change to any other good of heading 5601 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

2. A change to headings 5602 through 5605 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

**Heading rule**: For the purposes of TCR 3 to this chapter, the term "flat yarns" means 7.8 decitex/5 filament, 11.1 decitex/7 filament or 13.3 decitex/5 filament, all of nylon 66, untextured (flat) semi-dull yarns, multifilament, untwisted or with a twist not exceeding 50 turns per meter, of subheading 5402.41.

3. A change to heading 5606 from flat yarns of subheading 5402.41 or any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55.

4. A change to headings 5607 through 5609 from any other chapter, except from headings 5106 through 5113, 5204 through 5212, 5307 through 5308 or 5310 through 5311 or chapters 54 through 55."

8. TCRs 1 through 5 to chapter 67 are deleted and the following new TCRs are inserted:

"1. (A) A change to heading 6701 from any other heading; or

(B) A change to a good of feathers or down of heading 6701from within that heading or any other heading.

2. A change to headings 6702 through 6704 from any other heading, including another heading within that group."

9. TCR 1 to chapter 70 is deleted and the following new TCRs are inserted:

"1. A change to heading 7001 from any other heading.

1A. A change to subheading 7002.10 from any other heading.

1B. A change to subheading 7002.20 from any other chapter.

1C. A change to subheading 7002.31 from any other heading.

1D. A change to subheadings 7002.32 through 7002.39 from any other chapter."

10. TCRs 1 and 2 to chapter 74 are deleted and the following new TCR is inserted:

"1. (A) A change to headings 7401 through 7403 from any other heading, including another heading within that group, except from heading 7404; or

(B) A change to headings 7401 through 7403 from heading 7404 whether or not there is also a change from any other heading, including another heading within that group, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

11. TCR 2 to chapter 78 is deleted and the following new TCRs are inserted:

"2. (A) A change to heading 7803 from any other heading; or

(B) A change to wire of heading 7803 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.

3. (A) A change to subheadings 7804.11 through 7804.20 from any other subheading, including another subheading within that group; or

(B) A change to foil of a thickness not exceeding 0.15 mm (excluding backing) of subheading 7804.11 from within that subheading, whether or not there is also a change from any other subheading.

4. A change to headings 7805 through 7806 from any other heading, including another heading within that group."

12. TCRs 1 and 2 to chapter 79 are deleted and the following new TCRs are inserted:

"1. A change to headings 7901 through 7902 from any other chapter.

2. A change to subheading 7903.10 from any other chapter.

3. A change to subheading 7903.90 from any other heading.

4. (A) A change to heading 7904 from any other heading; or

(B) A change to wire of heading 7904 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.

5. (A) A change to heading 7905 from any other heading; or

(B) A change to foil of a thickness not exceeding 0.15 mm (excluding backing) of heading 7905 from within that heading, whether or not there is also a change from any other heading.

6. A change to headings 7906 through 7907 from any other heading, including another heading within that group."

13. TCRs 2 and 3 to chapter 80 are deleted and the following new TCRs are inserted:

"2. (A) A change to heading 8003 from any other heading; or

(B) A change to wire of heading 8003 from within that heading, whether or not there is also a change from any other heading, provided that, if bar or rod is used, the cross-sectional area of the bar or rod is reduced by at least 50 percent.

3. A change to headings 8004 through 8007 from any other heading, including another heading within that group."

14. TCRs 1 through 25, inclusive, to chapter 81 are deleted and the following new TCRs are inserted:

"1. A change to subheadings 8101.10 through 8110.90 from any other subheading, including another subheading within that group.

2. (A) A change to manganese powders or articles of manganese of heading 8111 from any other good of heading 8111; or

(B) A change to any other good of heading 8111 from any other heading.

3. A change to subheadings 8112.12 through 8113.00 from any other subheading, including another subheading within that group."

15. TCR 85 to chapter 85 and the tariff item rule appearing immediately below it (applicable through the close of December 31, 1998) are deleted.

16. TCRs 90 and 92 to chapter 85 are deleted and the following new TCR is inserted:

"92. A change to subheading 8528.12 from tariff items 8528.12.04 or 8528.12.08 or any other heading."

17. TCR 92A to chapter 85 is deleted and the following new TCR is inserted:

"92A. A change to subheading 8528.13 from any other heading."

18. TCR 92C to chapter 85 is modified by deleting the tariff item rule and the TCR text (applicable through the close of December 31, 1998) immediately above it.

19. TCRs 92H and 92J to chapter 85 are deleted and the following new TCR is inserted:

"92J. A change to subheading 8528.21 from tariff items 8528.21.05 or 8528.21.10 or any other heading."

20. TCR 92K to chapter 85 is deleted and the following new TCR is inserted:

"92K. A change to subheading 8528.22 from any other heading."

21. TCRs 92O and 92Q to chapter 85 are deleted and the following new TCR is inserted:

"92Q. A change to subheading 8528.30 from tariff items 8528.30.10 or 8528.30.20 or any other heading."

22. TCR 78A to chapter 90 is deleted and the following new TCR is inserted:

"78A. (A) A change to subheadings 9032.20 through 9032.89 from any other heading; or

(B) A change to subheadings 9032.20 through 9032.89 from subheading 9032.90, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 45 percent where the transaction value method is used, or

(2) 35 percent where the net cost method is used."

Conforming change: The subheading rule immediately above TCR 78 to chapter 90 is modified by deleting "subdivision 78 pertains" and inserting in lieu thereof "tariff classification rules 78 and 78A pertain."

**Proclamation 8068 of October 12, 2006**

## National Energy Awareness Month, 2006

*By the President of the United States of America*
*A Proclamation*

Our Nation is moving toward remarkable technological advances that will make energy cleaner, more abundant, and more affordable for our citizens. During National Energy Awareness Month, we underscore our commitment to a more secure energy future.

My Administration is working to improve energy efficiency and conservation, increase our domestic supply of energy, and diversify our energy supply through advanced technologies. Since 2001, we have invested nearly $10 billion in the development of cleaner, less expensive, and more reliable energy sources. We developed a comprehensive National Energy Policy, and last year I signed into law the Energy Policy Act of 2005 -- the first comprehensive energy bill in more than a decade.

My Administration's Advanced Energy Initiative seeks to diversify energy resources by substantially increasing funding for clean-energy research. To change how we power our homes and offices, we will invest more in zero-emission coal-fired plants, revolutionary solar and wind technologies, and clean, safe nuclear energy. We will focus on improving hybrid and hydrogen technologies for our automobiles and increasing the use of biofuels. By harnessing the power of technology, we can grow our economy, protect our environment, and enhance our energy security.

Technology is also helping develop new energy-saving products that give our consumers better performance at a lower cost. At home, energy-efficient windows reduce the loss of hot and cold air, and high efficiency light-bulbs last longer than traditional bulbs while requiring less electricity. The Federal Government's Energy Savers website, energysavers.gov, offers more information about how to use less energy in homes, offices, and vehicles, and how consumers can save money on energy costs.

Meeting our growing energy needs will require creativity, determination, and discipline. By working together, we can foster economic growth, improve our environment, and leave behind a safer, cleaner, more prosperous world for future generations.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2006 as National Energy Awareness Month. I encourage Americans to take steps to conserve energy and develop responsible habits that will reduce energy consumption in their everyday lives.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8069 of October 12, 2006**

## White Cane Safety Day, 2006

*By the President of the United States of America*

*A Proclamation*

Our Nation believes in the promise of all our citizens, and we must work to ensure that the opportunities of America are more accessible to every person. Many Americans who are blind or visually impaired use white canes to enable them to enjoy greater mobility, engage in productive work, and participate fully in all aspects of life. On White Cane Safety Day, we celebrate the many achievements of Americans who are blind or visually impaired, and we recognize the white cane as an important symbol of their determination and independence.

My Administration remains committed to removing barriers that confront Americans with disabilities. Since we launched the New Freedom Initiative 5 years ago, we have worked to improve access to community life, expand educational opportunities, strengthen training and employment services, and promote the development of technology for people with disabilities. We are building on the progress of the Americans with Disabilities Act and working to make America a place where all citizens have the opportunity to realize their full potential.

The Congress, by joint resolution (Public Law 88–628) approved on October 6, 1964, as amended, has designated October 15 of each year as ''White Cane Safety Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 15, 2006, as White Cane Safety Day. I call upon public officials, business leaders, educators, librarians, and all the people of the United States to join as we work to ensure that the benefits and privileges of life in our great Nation are available to Americans who are blind or visually impaired, and to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8070 of October 13, 2006**

## National Character Counts Week, 2006

*By the President of the United States of America*

*A Proclamation*

America's strength is found in the spirit and character of our people. During National Character Counts Week, we renew our commitment to instilling values in our young people and to encouraging all Americans to remember the importance of good character.

As the primary teachers and examples of character, parents help create a more compassionate and decent society. And as individuals, we all

have an obligation to help our children become responsible citizens and realize their full potential. By demonstrating values such as integrity, courage, honesty, and patriotism, all Americans can help our children develop strength and character.

Countless individuals throughout our country demonstrate character by volunteering their time and energy to help neighbors in need. The men and women of our Armed Forces set an example of character by bravely putting the security of our Nation before their own lives. We also see character in the family members, teachers, coaches, and other dedicated individuals whose hearts are invested in the future of our children.

Our changing world requires virtues that sustain our democracy, make self-government possible, and help build a more hopeful future. National Character Counts Week is an opportunity to recognize the depth of America's character and appreciate those who pass on our values to future generations.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 15 through October 21, 2006, as National Character Counts Week. I call upon public officials, educators, librarians, parents, students, and all Americans to observe this week with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8071 of October 13, 2006**

## National Forest Products Week, 2006

*By the President of the United States of America*

*A Proclamation*

During National Forest Products Week, we take time to appreciate the natural splendor of our country's forests and acknowledge the importance of these woodlands to our economic and environmental vitality. It is also an opportunity to renew our commitment to conserving our natural resources and to using them responsibly.

Our forests are important to our economic well-being, supplying products that drive our economy and create jobs and opportunities.

America's forests are also an important part of our Nation's natural beauty, and we must continue to conserve and use these resources in a manner that preserves them for future generations. My Administration is committed to protecting our forests and woodlands against fire damage. Through the Healthy Forests Initiative, we have reduced the danger of fires by removing hazardous fuels from millions of acres of Federal land, making communities safer from catastrophic fire and improving wildlife habitat.

Recognizing the ''importance and heritage of our vast forest resources which are inseparably tied to our present and our future,'' the Congress, by Public Law 86–753 (36 U.S.C. 123), as amended, has designated the week beginning on the third Sunday in October of each year as ''National Forest Products Week'' and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 15 through October 21, 2006, as National Forest Products Week. I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8072 of October 18, 2006**

## 50th Anniversary of the Hungarian Revolution

*By the President of the United States of America*

*A Proclamation*

On the 50th anniversary of the Hungarian Revolution, we celebrate the Hungarians who defied an empire to demand their liberty, we recognize the friendship between the United States and Hungary, and we reaffirm our shared desire to spread freedom to people around the world.

The story of Hungarian democracy represents the triumph of liberty over tyranny. In the fall of 1956, the Hungarian people demanded change, and tens of thousands of students, workers, and other citizens bravely marched through the streets to call for freedom. Though Soviet tanks brutally crushed the Hungarian uprising, the thirst for freedom lived on, and in 1989 Hungary became the first communist nation in Europe to make the transition to democracy. The lesson of the Hungarian experience is clear: liberty can be delayed, but it cannot be denied. Today, this beautiful country has held democratic elections, established a free economy, and inspired millions around the world.

The United States is grateful for the warm relationship between our countries and for Hungary's efforts to expand freedom and democracy around the world in places such as the Balkans, Iraq, Afghanistan, and Cuba. By spreading the blessings of liberty, Hungary is helping to lay the foundation of peace for generations to come.

As we celebrate this anniversary, we also recognize the many ways Hungarian Americans have enriched and strengthened our country. Their spirit and hard work have contributed to the vitality, success, and prosperity of our Nation, and we continue to be inspired by their courage and conviction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 23, 2006, as a day of recognition in honor of the 50th Anniversary of the

Hungarian Revolution. I encourage all Americans to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8073 of October 20, 2006**

## United Nations Day, 2006

*By the President of the United States of America*

*A Proclamation*

On October 24, 1945, the United Nations was formed to promote peace and international security, further economic and social development, protect fundamental human dignity, and recognize the equal rights of men and women. On United Nations Day, we recognize the establishment of this important organization and underscore our commitment to making the world free and secure.

The United Nations was built on the idea that nations can act together to resolve conflict, and in the more than six decades since it was formed, the United Nations has addressed significant international challenges. With 192 member countries, the United Nations works to promote freedom, expand opportunity, and reach out to those in need.

Today, as we work to combat extremism and terror with justice and dignity, the efforts of the United Nations are as vital as ever. The world needs the members of the United Nations to stand together to help the organization live up to its founding ideals, fulfill its mission, and spread hope and liberty to people around the globe. Together, we can combat terrorism, help empower the voices of moderation, fight disease, and work for a world where all people are free to determine their own destinies.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 24, 2006, as United Nations Day. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8074 of October 30, 2006**

## National Adoption Month, 2006

*By the President of the United States of America*
*A Proclamation*

During National Adoption Month, we encourage the adoption of young people in need, and we honor the adoptive and foster families who have offered children a loving and supportive home.

The best of America is reflected in the many citizens who have adopted children as their own. Mothers and fathers are the most important influences in a child's life, and children with caring, involved parents can better realize the full promise of America. Parents help their children thrive by encouraging them to aim high, work hard, and make good choices that will lead to healthy, satisfying lives. On November 18, loving families across America will celebrate National Adoption Day by finalizing their adoptions of children from foster care. This day will also raise awareness of the many children still waiting to be adopted and encourage more Americans to choose adoption.

My Administration is committed to helping place children with caring families. Through the Collaboration to AdoptUsKids project at adoptuskids.org, we are working to provide guidance and support for parents considering adoption. We are also offering tax credits to ease the financial burden on adoptive families, and we are providing funding to help strengthen State adoption services through the Adoption Incentives Program and the Promoting Safe and Stable Families Program. Together, these efforts can help connect children with loving families and help provide greater hope and opportunity for America's children.

During National Adoption Month, we pay tribute to the parents who have opened their hearts and homes and helped provide love and stability for young people. By caring for the youngest members of our society, these families are helping our children grow into successful adults and building the future of our country.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2006 as National Adoption Month. I call upon all Americans to observe this month with appropriate programs and activities to honor adoptive families and to participate in efforts to find permanent homes for waiting children.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8075 of October 30, 2006**

## National Alzheimer's Disease Awareness Month, 2006

*By the President of the United States of America*
*A Proclamation*

During National Alzheimer's Disease Awareness Month, we renew our resolve in the fight against this devastating disease, and we take time to remember the loved ones taken from us by Alzheimer's. We also recognize the patients and family members who are affected by it, and we extend our gratitude to the caretakers and researchers who are pursuing better treatments and a cure.

Age is the greatest risk factor for Alzheimer's disease, so the need for prevention, improved treatments, and a cure becomes increasingly urgent as more Americans grow older. My Administration is pursuing the tremendous possibilities that science offers to improve the lives of the millions suffering from this disease. We continue to support Alzheimer's disease research through the National Institutes of Health and the Department of Veterans Affairs. New progress is being made as more is learned about this disease.

America is blessed by our seniors, and they have earned our greatest respect. Citizens living with Alzheimer's disease deserve the best possible care. National Alzheimer's Disease Awareness Month is an opportunity for Americans to offer our support to Alzheimer's patients and those who sacrifice to help them live with dignity and comfort. The strength and compassion of these individuals reflect the good heart of the American people.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2006 as National Alzheimer's Disease Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8076 of October 30, 2006**

## National American Indian Heritage Month, 2006

*By the President of the United States of America*
*A Proclamation*

During National American Indian Heritage Month, we honor the generations of American Indians and Alaska Natives who have added to the character of our Nation. This month is an opportunity to celebrate their many accomplishments and their rich ancestry and traditions.

America is blessed by the character and strength of American Indians and Alaska Natives, and our citizens are grateful for the countless ways Native Americans have enriched our country and lifted the spirit of our Nation. We are especially grateful for the Native Americans who have served and continue to serve in our Nation's military. These brave individuals have risked their lives to protect our citizens, defend our democracy, and spread the blessings of liberty to people around the world.

My Administration is working to ensure that American Indians and Alaska Natives have access to all the opportunities of this great land. My fiscal year 2007 budget proposes more than $12.7 billion for government programs for Native Americans. Education is vital to ensuring all citizens reach their full potential, and my budget includes funding to help Native-American schools succeed and meet the requirements of the No Child Left Behind Act. The Bureau of Indian Affairs is providing education for approximately 46,000 American-Indian and Alaska-Native children. To help keep Native Americans safe, I have also proposed to increase law enforcement personnel and improve law enforcement facilities in American-Indian communities. My Administration will continue to work on a government-to-government basis with tribal governments, honor the principles of tribal sovereignty and the right to self-determination, and help ensure America remains a land of promise for American Indians, Alaska Natives, and all our citizens.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2006 as National American Indian Heritage Month. I call upon all Americans to commemorate this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8077 of October 30, 2006**

## National Diabetes Month, 2006

*By the President of the United States of America*

*A Proclamation*

National Diabetes Month is an opportunity to raise awareness of risk factors, prevention, and treatment of this serious disease.

Diabetes is a chronic illness affecting nearly 21 million Americans of all ages and backgrounds. It can cause blindness, nontraumatic amputations, kidney disease, and increased risk of heart disease and stroke. Though diabetes affects Americans of all racial and ethnic backgrounds, certain groups are at higher risk, including Hispanic, Asian/Pacific, African, and Native Americans. A small percentage of people with the disease suffer from Type 1 diabetes, once known as juvenile diabetes. These individuals are usually children or young adults whose

bodies are unable to make insulin. Type 2 diabetes is more common and frequently occurs in individuals who have a family history of the disease and in people who are obese, inactive, or older. This form of diabetes stops a person's body from using insulin properly. By maintaining healthy eating habits and exercising daily, Americans can help prevent and reduce the effects of diabetes. Individuals should consult with their doctors and receive a preventive screening to help detect diabetes in its earliest stages.

My Administration has demonstrated a strong commitment to preventing and finding a cure for diabetes. We have supported funding for diabetes education programs and research initiatives, and this year the National Institutes of Health (NIH) estimates that more than $1 billion will be spent on diabetes research. The NIH and the Centers for Disease Control and Prevention are sponsoring the National Diabetes Education Program, which has helped inform millions of Americans about the risk factors of diabetes and the benefits of making healthy choices. By working together we can continue to make significant strides in the battle to beat this disease and provide a brighter future for many of our citizens.

As we observe National Diabetes Month, we recognize the medical professionals, researchers, and all those whose tireless efforts are making a positive difference in the lives of Americans suffering from this disease. This month we reaffirm our commitment to fighting diabetes, and through medical advances, preventive programs, and quality health care, we will help diabetes patients live longer, healthier, and happier lives.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2006 as National Diabetes Month. I call upon all Americans to learn more about the risk factors and symptoms associated with diabetes and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8078 of October 30, 2006**

## National Family Caregivers Month, 2006

*By the President of the United States of America*
*A Proclamation*

Our country is blessed to have millions of compassionate citizens who bring love and support to family members and friends who are chronically ill, elderly, or disabled. During National Family Caregivers Month, we recognize these kind individuals who give of their hearts, resources, and energy to assist loved ones in need.

Family caregivers exemplify the true spirit of compassion by providing support to their loved ones and assisting with their everyday activities and special needs. These selfless people must often make great personal sacrifices to maintain the care and support their family and friends require. Their assistance provides those who may be ill, aging, or disabled an opportunity to stay in familiar surroundings and remain a part of their community.

My Administration is committed to supporting family caregivers and their vital role in our Nation's communities. The National Family Caregiver Support Program continues to provide information, counseling, and services and encourages cooperation among agencies and other providers that work with caregivers. These efforts assist caregivers and help ensure that all Americans receive the care they need.

As we observe National Family Caregivers Month, we honor family caregivers who take time out of their lives to improve the lives of family and friends. Their efforts demonstrate the best of the American spirit.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2006 as National Family Caregivers Month. I encourage all Americans to honor the selfless service of caregivers who support their loved ones in need.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8079 of October 30, 2006**

## National Hospice Month, 2006

*By the President of the United States of America*
*A Proclamation*

Americans demonstrate the great compassion of our country by caring for those in need. During National Hospice Month, we recognize hospice caregivers for their dedication to providing comfort and peace to individuals in their last days and helping build a society that values the life and dignity of every person.

Hospice physicians, nurses, counselors, and volunteers bring care and support to the terminally ill through physical, psychological, social, and spiritual aid. By helping control pain and minimize other symptoms, these men and women bring relief to those who are terminally ill and show them the utmost respect. Hospice care enables many of our citizens to spend their final days in comfort and dignity surrounded by loved ones. This palliative care plays a vital role in our Nation's health care system, and the dedicated work of hospice caregivers helps ensure that our citizens receive the services and support

they need. Hospice caregivers also reach out to families and friends to provide guidance and counseling after the loss of a loved one.

Our Nation is grateful for the tireless efforts of hospice volunteers and medical professionals, and during National Hospice Month, we recognize the kindness of hospice caregivers and their devotion to making our country a more loving and caring place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2006 as National Hospice Month. I encourage all Americans to observe this month with appropriate programs and activities. I also ask Americans to recognize our health care professionals and volunteers for their contributions to helping provide comfort and care to those facing terminal illness.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8080 of October 31, 2006**

## Veterans Day, 2006

*By the President of the United States of America*
*A Proclamation*

Through the generations, America's men and women in uniform have defeated tyrants, liberated continents, and set a standard of courage and idealism for the entire world. On Veterans Day, our Nation pays tribute to those who have proudly served in our Armed Forces.

To protect the Nation they love, our veterans stepped forward when America needed them most. In conflicts around the world, their sacrifice and resolve helped destroy the enemies of freedom and saved millions from oppression. In answering history's call with honor, decency, and resolve, our veterans have shown the power of liberty and earned the respect and admiration of a grateful Nation.

All of America's veterans have placed our Nation's security before their own lives, creating a debt that we can never fully repay. Our veterans represent the best of America, and they deserve the best America can give them.

As we recall the service of our Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen, we are reminded that the defense of freedom comes with great loss and sacrifice. This Veterans Day, we give thanks to those who have served freedom's cause; we salute the members of our Armed Forces who are confronting our adversaries abroad; and we honor the men and women who left America's shores but did not live to be thanked as veterans. They will always be remembered by our country.

With respect for and in recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor veterans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim November 11, 2006, as Veterans Day and urge all Americans to observe November 5 through November 11, 2006, as National Veterans Awareness Week. I encourage all Americans to recognize the valor and sacrifice of our veterans through ceremonies and prayers. I call upon Federal, State, and local officials to display the flag of the United States and to support and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8081 of November 2, 2006**

## World Freedom Day, 2006

*By the President of the United States of America*

*A Proclamation*

On November 9, 1989, the Berlin Wall was torn down by the desire of a people to be free. On World Freedom Day, we commemorate this historic event and reflect on liberty's power to change lives and raise societies.

After decades of oppression, the fall of the Berlin Wall brought the light of liberty to the people of East Berlin, and the events that followed set the course for a new era of freedom in Germany and in much of Central and Eastern Europe. Today, we again face an ideological struggle with the enemies of freedom, democracy, and moderation. In this struggle, America will continue to stand with those who seek to build societies where people live in freedom and at peace with each other and the world.

The collapse of the Berlin Wall demonstrated that when liberty flourishes, nations become more tolerant, hopeful, and secure. On World Freedom Day, we celebrate the power of freedom and democracy. We are also reminded that free countries have the responsibility to work together to protect the fundamental rights of all people and help others realize the blessings of liberty.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 9, 2006, as World Freedom Day. I call upon the people of the United

States to observe this day with appropriate ceremonies and activities, reaffirming our dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8082 of November 8, 2006**

## National Farm-City Week, 2006

*By the President of the United States of America*
*A Proclamation*

Throughout our history, America's farmers and ranchers have demonstrated the values of determination, faith, love of family, and patriotism. The contributions of America's farmers and ranchers help keep our economy moving forward, and during National Farm-City Week we underscore the vital partnership between America's rural and urban industries.

By providing raw materials, energy, and a safe and healthy food supply, our farmers and ranchers help enrich our lives and create economic opportunities across our Nation. As good stewards of the land, they help preserve the farming industry and way of life for future generations.

Farmers are playing an increasingly important role in reducing our dependence on foreign oil by growing crops such as soybeans and corn that can be used as alternative sources of energy. Our agricultural sector also cooperates with shippers, processors, marketers, transporters, and others to make these vital goods available to the public. My Administration is committed to helping these dedicated individuals succeed, and we must continue investing in agricultural research programs, working to reduce tariffs and other trade barriers, and opening up markets for American products overseas.

During National Farm-City Week, and throughout the year, we honor the farmers, ranchers, and all those working to build strong relationships between our rural and urban communities. Our economy is strong and growing, and behind the numbers are the stories of hard-working Americans who help spur our economic prosperity and feed our country and the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 17 through November 23, 2006, as National Farm-City Week. I encourage all Americans to join in recognizing farmers, ranchers, and other professionals who work to produce our agricultural abundance.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord two thousand six, and of the

Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8083 of November 14, 2006**

## America Recycles Day, 2006

*By the President of the United States of America*
*A Proclamation*

Good stewardship of the environment is a personal responsibility and an important public value, and on America Recycles Day, we highlight the many benefits of recycling. By taking steps to reduce waste and re-use materials, we can save precious natural resources, enhance the beauty of our communities, and add to the health and prosperity of our Nation.

Our citizens play an important role in protecting our environment, and throughout our country, we are recycling, composting, and helping turn materials that would otherwise become waste into valuable resources. Recycling helps conserve energy, prevent greenhouse gas emissions and water pollutants, and decrease the need for new landfills and incinerators.

Recognizing the importance of recycling, my Administration is promoting cooperative efforts to conserve and maintain our natural resources. The Environmental Protection Agency is encouraging businesses, industries, and communities to work together to promote recycling through the Resource Conservation Challenge (RCC). Partnerships between government agencies, businesses, industries, and private organizations help us to improve practices of recycling, re-use, and waste reduction. In addition, my Administration is working with businesses through the Plug-In To eCycling Campaign to collect and re-use computers, cell phones, and other electronics that would otherwise become solid or hazardous waste. To further reduce greenhouse gas emissions and save energy, the EPA is also partnering with manufacturers, utility companies, and construction companies through the Industrial Materials Recycling effort to increase the safe re-use of industrial byproducts.

Americans are united in the belief that we have an obligation to be good stewards of the environment, and America Recycles Day is an opportunity to recommit ourselves to wisely managing our natural resources. By promoting responsibility and good citizenship, we can build a brighter future for our children and our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 15, 2006, as America Recycles Day. I call upon the people of the United States to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8084 of November 16, 2006**

## National Family Week, 2006

*By the President of the United States of America*

*A Proclamation*

Families are indispensable to a stable and free society. They pass along the traditions and principles that help make America compassionate, decent, and hopeful. During National Family Week, we honor our families and recognize their contributions to keeping our country strong.

Today's fast-changing world needs the anchor of values and virtues that families can provide. Strong families instill responsibility and character in our children and teach them the ideals that make us a great Nation. Through their love and sacrifice, America's parents, grandparents, aunts, uncles, siblings, and other family members help prepare our young people to realize the bright future America offers each child.

My Administration is committed to ensuring that our children grow up in loving, stable homes. Earlier this year, I signed legislation that creates new grants for faith-based and community organizations to support healthy marriages and responsible fatherhood. By reducing the marriage penalty and doubling the child tax credit, we have also provided important tax relief that helps parents to support and provide for their families.

During National Family Week and throughout the year, we also extend our appreciation and support to our courageous military families, who have borne the hardships of war with dignity and devotion. Our Nation has remained strong and free because the brave men and women of our Armed Forces defend this country and our beliefs. By supporting their loved ones in uniform, our military families are also serving our country, and America is grateful for their service and sacrifice.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 19 through November 25, 2006, as National Family Week. I invite the States, communities, and all the people of the United States to join together in observing this week with appropriate ceremonies and activities to honor our Nation's families.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8085 of November 16, 2006**

## Thanksgiving Day, 2006

*By the President of the United States of America*
*A Proclamation*

As Americans gather with family and friends to celebrate Thanksgiving Day, we give thanks for the many ways that our Nation and our people have been blessed.

The Thanksgiving tradition dates back to the earliest days of our society, celebrated in decisive moments in our history and in quiet times around family tables. Nearly four centuries have passed since early settlers gave thanks for their safe arrival and pilgrims enjoyed a harvest feast to thank God for allowing them to survive a harsh winter in the New World. General George Washington observed Thanksgiving during the Revolutionary War, and in his first proclamation after becoming President, he declared November 26, 1789, a national day of ''thanksgiving and prayer.'' During the Civil War, President Abraham Lincoln revived the tradition of proclaiming a day of thanksgiving, reminding a divided Nation of its founding ideals.

At this time of great promise for America, we are grateful for the freedoms guaranteed by our Constitution and defended by our Armed Forces throughout the generations. Today, many of these courageous men and women are securing our peace in places far from home, and we pay tribute to them and to their families for their service, sacrifice, and strength. We also honor the families of the fallen and lift them up in our prayers.

Our citizens are privileged to live in the world's freest country, where the hope of the American dream is within the reach of every person. Americans share a desire to answer the universal call to serve something greater than ourselves, and we see this spirit every day in the millions of volunteers throughout our country who bring hope and healing to those in need. On this Thanksgiving Day, and throughout the year, let us show our gratitude for the blessings of freedom, family, and faith, and may God continue to bless America.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Thursday, November 23, 2006, as a National Day of Thanksgiving. I encourage all Americans to gather together in their homes and places of worship with family, friends, and loved ones to reinforce the ties that bind us and give thanks for the freedoms and many blessings we enjoy.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8086 of November 27, 2006**

## National Methamphetamine Awareness Day, 2006

*By the President of the United States of America*
*A Proclamation*

Methamphetamine abuse shatters families and threatens our communities. On National Methamphetamine Awareness Day, we underscore the dangers of methamphetamine and reaffirm our collective responsibility to combat all forms of drug abuse.

Methamphetamine is a powerfully addictive drug that dramatically affects users' minds and bodies. Chronic use can lead to violent behavior, paranoia, and an inability to cope with the ordinary demands of life. Methamphetamine abusers can transform homes into places of danger and despair by neglecting or endangering the lives of their children, spouses, and other loved ones. Additionally, methamphetamine production exposes anyone near the process to toxic chemicals and the risk of explosion.

My Administration is committed to fighting the spread of methamphetamine abuse throughout our country. While the number of teens who have tried this deadly drug and the number of people testing positive for methamphetamine in the workplace have decreased in recent years, methamphetamine use is still a dangerous public health problem. In the Synthetic Drug Control Strategy released earlier this year, my Administration set goals of a 15 percent decrease in methamphetamine use and 25 percent reduction in domestic methamphetamine labs over the next 3 years. To help reach these objectives, my proposed 2007 budget includes $25 million to help ensure that Americans have access to effective methamphetamine abuse recovery services and programs. Earlier this year, I also signed into law the Combat Methamphetamine Epidemic Act of 2005, which makes manufacturing the drug more difficult and imposes tougher penalties on those who smuggle or sell it.

The struggle against methamphetamine is a national, State, and local effort. To find out how to raise awareness and to learn more about the battle against methamphetamine abuse, concerned citizens may visit theantidrug.com and methresources.gov. By working together, we can build a stronger, healthier America for generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 30, 2006, as National Methamphetamine Awareness Day. I call upon the people of the United States to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8087 of November 30, 2006**

## World AIDS Day, 2006

*By the President of the United States of America*

*A Proclamation*

HIV/AIDS is a global health crisis and a constant struggle for many of our families, friends, and neighbors. On World AIDS Day, we underscore our commitment to fight the AIDS pandemic with compassion and decisive action.

America leads the world in the fight against HIV/AIDS, and through the Emergency Plan for AIDS Relief we are combating the disease in countries around the world. Through the New Partners Initiative, we are supporting faith-based and community organizations that offer much of the health care in the developing world, so that we can reach more people more effectively. In addition, the United States and other concerned countries are promoting a comprehensive strategy to prevent the spread of HIV/AIDS. This includes the ABC approach—encouraging abstinence, being faithful, and using condoms, with abstinence as the only sure way to avoid the sexual transmission of HIV/AIDS.

As we work to fight HIV/AIDS globally, we must also ensure our citizens at home have the resources and support they need for treatment and prevention of this disease. Today, more than 1 million Americans are living with HIV/AIDS, and many of these individuals are unaware that they are infected. We will continue to provide medical care, counseling, and testing for those in greatest need of HIV/AIDS assistance, and I have asked the Congress to reform and reauthorize the Ryan White CARE Act and provide new funding to improve distribution of HIV/AIDS medicines in America. The Federal Government is also working closely with faith-based and other community organizations to provide services to individuals with HIV/AIDS and end the stigma of AIDS.

America is blessed with scientific knowledge and compassionate citizens, and we are guided by our founding conviction that each life has matchless value. On World AIDS Day and throughout the year, we stand with our friends and partners around the world in the urgent struggle to fight this virus, comfort those who are affected, and save lives.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 2006, as World AIDS Day. I urge the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and the American people to join me in appropriate activities to remember those who have lost their lives to AIDS, to work to prevent this deadly disease, and to comfort and support those living with HIV/AIDS.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8088 of December 1, 2006**

## National Drunk and Drugged Driving Prevention Month, 2006

*By the President of the United States of America*
*A Proclamation*

Each year, thousands of Americans lose their lives in accidents involving drunk and drugged driving. During National Drunk and Drugged Driving Prevention Month, we continue our efforts to promote awareness of the dangers of impaired driving and encourage fellow citizens to never drive under the influence of alcohol or drugs.

All Americans can play an important role in preventing drunk and drugged driving. Family members can discuss the dangers of impaired driving; businesses, schools, and organizations in our communities can help spread the message of awareness; and individuals can help protect family and friends by identifying a designated driver. During the holiday season, it is especially important to encourage responsible driving and to help ensure the safety of friends and loved ones.

My Administration is committed to saving lives by stopping drunk and drugged drivers before they put themselves and others at risk. We continue to work with communities across our Nation to increase public awareness and prevention of this serious offense. The Department of Transportation's National Highway Traffic Safety Administration has partnered with State and local law enforcement agencies to carry out the campaign, ''Drunk Driving. Over the Limit. Under Arrest.'' This program aims to keep impaired drivers off our Nation's roads by creating new public education programs and toughening enforcement. The Office of National Drug Control Policy works to warn young drivers and their parents about the dangers of driving under the influence of drugs. My Administration is also supporting community and faith-based programs that encourage others to avoid the devastating consequences of impaired driving.

Every person has a responsibility to drive free of alcohol and drugs and to insist that friends and family do the same. By helping fight drunk and drugged driving, Americans everywhere can save lives and send a strong message that driving under the influence is not acceptable.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 2006 as National Drunk and Drugged Driving Prevention Month. I encourage all Americans to make responsible decisions and to help prevent drunk and drugged driving.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8089 of December 1, 2006**

## National Pearl Harbor Remembrance Day, 2006

*By the President of the United States of America*

*A Proclamation*

Sixty-five years ago, more than 2,400 Americans lost their lives in a surprise attack on Pearl Harbor. On National Pearl Harbor Remembrance Day, we think of those who died on December 7, 1941, and honor all those who sacrificed for our liberty during World War II.

On that peaceful Sunday morning, our country suffered a vicious, unprovoked attack that changed the course of history. Though our Pacific Fleet was nearly destroyed, our citizens were inspired by the great acts of heroism from those who survived and from those who did not. In the days that followed, our grief turned to resolution, and America embarked on a mission to defeat two of the most ruthless regimes the world has ever known. We pledge to always remember the character and sacrifice of the brave individuals at Pearl Harbor. Their selfless service helped deliver a great victory for the cause of freedom and, ultimately, transformed adversaries into the closest of friends.

After the devastating attacks on Pearl Harbor, President Franklin D. Roosevelt declared, ''We are going to win the war and we are going to win the peace that follows.'' In the 21st century, freedom is again under attack, and young Americans have stepped forward to serve in a global war on terror that will secure our liberty and determine the destiny of millions around the world. Like generations before, we will answer history's call with confidence, confront threats to our way of life, and build a more peaceful world for our children and grandchildren.

The Congress, by Public Law 103–308, as amended, has designated December 7 of each year as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim December 7, 2006, as National Pearl Harbor Remembrance Day. I encourage all Americans to observe this solemn occasion with appropriate ceremonies and activities. I urge all Federal agencies, interested organizations, groups, and individuals to fly the flag of the United States at half-staff this December 7 in honor of those who died as a result of their service at Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

**Proclamation 8090 of December 8, 2006**

## Human Rights Day, Bill of Rights Day, and Human Rights Week, 2006

*By the President of the United States of America*

*A Proclamation*

Peace and justice prevail when people are free to speak, assemble, and worship, when their rights are protected, and when governments are accountable to their citizens. These blessings of freedom are guaranteed for Americans in the Bill of Rights of our Constitution. During Human Rights Day, Bill of Rights Day, and Human Rights Week, we celebrate the ideals of our founders and reaffirm the belief that freedom is the gift of God and the right of all mankind.

Just over six decades ago, the future of freedom seemed bleak, with only a small number of democracies around the world. Today, citizens of over 100 nations enjoy the blessings of democracy, and freedom is taking root in places where liberty had been unimaginable. The United States will continue to support the growth of democratic movements and institutions in every nation.

The advance of freedom is the story of our time, and new chapters are being written before our eyes. Around the world, freedom is replacing tyranny and giving men and women the opportunity to enjoy lives of purpose and dignity. Because Americans are committed to the God-given value of every life, we cherish the freedom of every person in every nation and strive to promote respect for human rights. By standing with those who desire liberty, we will help extend freedom to many who have not known it and lay the foundations of peace for generations to come.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 10, 2006, as Human Rights Day; December 15, 2006, as Bill of Rights Day; and the week beginning December 10, 2006, as Human Rights Week. I call upon the people of the United States to mark these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of December, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

GEORGE W. BUSH

Page

A

**Abraham Lincoln Commemorative Coin Act** ... 1215
**Adam Walsh Child Protection and Safety Act of 2006** ... 587
**Africa Investment Incentive Act of 2006** ... 3190
**Agricultural Reconciliation Act of 2005** ... 4
**Andean Trade Preferences Extension Act** ... 3194
**Animal Enterprise Terrorism Act** ... 2652
**Arabia Mountain National Heritage Area Act** ... 1795
**Atchafalaya National Heritage Area Act** ... 1791

B

**Belarus Democracy Reauthorization Act of 2006** ... 3666
**Betty Dick Residence Protection Act** ... 3705
**Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006** ... 3394
**Broadcast Decency Enforcement Act of 2005** ... 491
**Byron Nelson Congressional Gold Medal Act** ... 2044

C

**Cahaba River National Wildlife Refuge Expansion Act** ... 2078
**California Reclamation Groundwater Remediation Initiative** ... 1860
**Call Home Act of 2006** ... 3399
**Captain John Smith Chesapeake National Historic Trail Designation Act** ... 2882
**Carl D. Perkins Career and Technical Education Improvement Act of 2006** ... 683
**Champlain Valley National Heritage Partnership Act of 2006** ... 1819
**Cherry Valley National Wildlife Refuge Study Act** ... 2079
**Child and Family Services Improvement Act of 2006** ... 1233
**Children's Hospital GME Support Reauthorization Act of 2006** ... 1721
**City of Yuma Improvement Act** ... 3369
**Coast Guard and Maritime Transportation Act of 2006** ... 516
**Coastal Barrier Resources Reauthorization Act of 2005** ... 381
**Combat Methamphetamine Epidemic Act of 2005** ... 256

Page

**Combating Autism Act of 2006** ... 2821
**Combating Terrorism Financing Act of 2005** ... 243
**Community Service Senior Opportunities Act** ... 2563
**COMPETE Act** ... 3477
**Congressional Tribute to Dr. Norman E. Borlaug Act of 2006** ... 2708
**Continuing Appropriations Resolution, 2007** ... 1311
**Copyright Royalty Judges Program Technical Corrections Act** ... 1478
**Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006** ... 3477
**Credit Rating Agency Reform Act of 2006** ... 1327
**Crossroads of the American Revolution National Heritage Area Act of 2006** ... 1837

D

**Dam Safety Act of 2006** ... 3401
**Darfur Peace and Accountability Act of 2006** ... 1869
**Dawson Family Community Protection Act** ... 3524
**Death on the High Seas Act** ... 1511
**Deficit Reduction Act of 2005** ... 4
**Delaware National Coastal Special Resources Study Act** ... 1855
**Delaware River Protection Act of 2006** ... 553
**Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006** ... 3384
**Department of Defense Appropriations Act, 2007** ... 1257
**Department of Homeland Security Appropriations Act, 2007** ... 1355
**Department of State Authorities Act of 2006** ... 3554
**Department of Veterans Affairs Information Security Enhancement Act of 2006** ... 3450
**Dietary Supplement and Nonprescription Drug Consumer Protection Act** ... 3469
**Digital Television Transition and Public Safety Act of 2005** ... 21
**Dylan Lee James Act** ... 96

E

**Ed Fountain Park Expansion Act** ... 2077
**Electronic Duck Stamp Act of 2005** ... 670

NOTE: Part 1 contains pages 1–1256; Part 2 contains pages 1257–2521; Part 3 contains pages 2522–3925. Each part contains entire Popular Name and Subject Indexes.

Page

**Emergency Agricultural Disaster Assistance Act of 2006** ..... 474
**Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006** ..... 418
**Esther Martinez Native American Languages Preservation Act of 2006** ..... 2705
**Eugene Land Conveyance Act** ..... 3392
**Export-Import Bank Reauthorization Act of 2006** ..... 3268

**F**

**Fallen Firefighters Assistance Tax Clarification Act of 2006** ..... 3317
**Family Opportunity Act of 2005** ..... 96
**Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006** ..... 577
**Federal Deposit Insurance Reform Act of 2005** ..... 9
**Federal and District of Columbia Government Real Property Act of 2006** ..... 2711
**Federal Funding Accountability and Transparency Act of 2006** ..... 1186
**Fetus Farming Prohibition Act of 2006** ..... 570
**Financial Netting Improvements Act of 2006** ..... 2692
**Financial Services Regulatory Relief Act of 2006** ..... 1966
**Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006** ..... 2650
**Fourteenth Dalai Lama Congressional Gold Medal Act** ..... 1231
**Freedom's Frontier National Heritage Area Act** ..... 1807
**Freedom to Display the American Flag Act of 2005** ..... 572

**G**

**General Services Administration Modernization Act** ..... 1734
**Geneva Distinctive Emblems Protection Act of 2006** ..... 3673
**Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005** ..... 334
**Great Basin National Heritage Route Act** ..... 1824
**Great Lakes Fish and Wildlife Restoration Act of 2006** ..... 1761
**Gulf of Mexico Energy Security Act of 2006** ..... 3000

Page

**Gullah/Geechee Cultural Heritage Act** ..... 1832
**Gynecologic Cancer Education and Awareness Act of 2005** ..... 3565

**H**

**Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006** ..... 3181
**Health Opportunity Patient Empowerment Act of 2006** ..... 2948
**Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006** ..... 2726
**Heroes Earned Retirement Opportunities Act** ..... 385
**Higher Education Extension Act of 2006** ..... 321
**Higher Education Reconciliation Act of 2005** ..... 155
**Holloman Air Force Base Land Exchange Act** ..... 3550

**I**

**Idaho Land Enhancement Act** ..... 2645
**Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2006** ..... 1850
**Iran Freedom Support Act** ..... 1344
**Iraq Reconstruction Accountability Act of 2006** ..... 3286

**J**

**James Campbell National Wildlife Refuge Expansion Act of 2005** ..... 378
**Johanna's Law** ..... 3565
**John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006** ..... 1857
**John Warner National Defense Authorization Act for Fiscal Year 2007** ..... 2083
**Justice for Crime Victims Family Act** ..... 646

**K**

**Katrina Emergency Assistance Act** ..... 191

**L**

**Lake Mattamuskeet Lodge Preservation Act** ..... 2047
**Lewis and Clark Commemorative Coin Correction Act** ..... 395
**Lifespan Respite Care Act of 2006** ..... 3291
**Local Community Recovery Act of 2006** ..... 333

Page

**Long Island Sound Stewardship Act of 2006** ..... 2049
**Louis Braille Bicentennial--Braille Literacy Commemorative Coin Act** ..... 582
**Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005** ..... 2643

**M**

**Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006** ..... 3575
**Marine Debris Research, Prevention, and Reduction Act** ..... 3333
**Masha's Law** ..... 650
**Medicare Improvements and Extension Act of 2006** ..... 2975
**Mentoring Matches for Youth Act of 2006** ..... 631
**Michigan Lighthouse and Maritime Heritage Act** ..... 3264
**Military Commissions Act of 2006** ..... 2600
**Military Construction Authorization Act for Fiscal Year 2007** ..... 2444
**Military Personnel Financial Services Protection Act** ..... 1317
**Milk Regulatory Equity Act of 2005** ..... 328
**Mine Improvement and New Emergency Response Act of 2006** ..... 493
**MINER Act** ..... 493
**Miscellaneous Trade and Technical Corrections Act of 2006** ..... 1110
**Mormon Pioneer National Heritage Area Act** ..... 1800
**Musconetcong Wild and Scenic Rivers Act** ..... 3363

**N**

**National Fish Hatchery System Volunteer Act of 2006** ..... 2058
**National Fish and Wildlife Foundation Reauthorization Act of 2006** ..... 2075
**National Flood Insurance Program Enhanced Borrowing Authority Act of 2006** ..... 317
**National Heritage Areas Act of 2006** ..... 1783
**National Historic Preservation Act Amendments Act of 2006** ..... 3367
**National Institutes of Health Reform Act of 2006** ..... 3675
**National Integrated Drought Information System Act of 2006** ..... 2918

Page

**National Law Enforcement Officers Memorial Maintenance Fund Act of 2005** ..... 1739
**National Methamphetamine Information Clearinghouse Act of 2006** ..... 3537
**National Police Athletic League Youth Enrichment Reauthorization Act of 2006** ..... 632
**National Transportation Safety Board Reauthorization Act of 2006** ..... 3297
**Native American Technical Corrections Act of 2006** ..... 336
**Neotropical Migratory Bird Conservation Improvement Act of 2006** ..... 2075
**New England Wilderness Act of 2006** ..... 2673
**Newlands Project Headquarters and Maintenance Yard Facility Transfer Act** ..... 668
**North American Wetlands Conservation Reauthorization Act of 2006** ..... 1756
**North Korea Nonproliferation Act of 2006** ..... 2015
**Northern California Coastal Wild Heritage Wilderness Act** ..... 2064
**Northern Rio Grande National Heritage Area Act** ..... 1787
**Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005** ..... 2900

**O**

**Office of National Drug Control Policy Reauthorization Act of 2006** ..... 3502
**Older Americans Act Amendments of 2006** ..... 2522
**Ouachita National Forest Boundary Adjustment Act of 2006** ..... 2701

**P**

**Pacific Whiting Act of 2006** ..... 3644
**Pactola Reservoir Reallocation Authorization Act of 2005** ..... 2644
**Paint Bank and Wytheville National Fish Hatcheries Conveyance Act** ..... 2688
**Palestinian Anti-Terrorism Act of 2006** ..... 3318
**Pam White Wilderness Act of 2006** ..... 3030
**Pandemic and All-Hazards Preparedness Act** ..... 2831
**Partners for Fish and Wildlife Act** ..... 1351

Page

**Pension Protection Act of 2006** ..... 780
**Pets Evacuation and Transportation Standards Act of 2006** ..... 1725
**Physicians for Underserved Areas Act** ..... 3572
**Pine Springs Land Exchange Act** ..... 3562
**Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006** ..... 3486
**Pitkin County Land Exchange Act of 2006** ..... 2660
**Post-Katrina Emergency Management Reform Act of 2006** ..... 1394
**Postal Accountability and Enhancement Act** ..... 3198
**Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006** ..... 3249
**PREEMIE Act** ..... 3341
**Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act** ..... 3341
**Protecting American Goods and Services Act of 2005** ..... 288
**Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006** ..... 2666
**Pueblo de San Ildefonso Claims Settlement Act of 2005** ..... 1218

**R**

**Railroad Retirement Disability Earnings Act** ..... 3573
**Railroad Retirement Technical Improvement Act of 2006** ..... 1719
**Reclamation Rural Water Supply Act** ..... 3346
**Reducing Crime and Terrorism at America's Seaports Act of 2005** ..... 233
**Religious Liberty and Charitable Donation Clarification Act of 2006** ..... 3285
**Respect for America's Fallen Heroes Act** ..... 387
**Rio Arriba County Land Conveyance Act** ..... 1758
**Rio Grande Natural Area Act** ..... 1777
**River Raisin National Battlefield Study Act** ..... 2916
**Rural Health Care Capital Access Act of 2006** ..... 515
**Rural Water Supply Act of 2006** ..... 3345
**Ryan White HIV/AIDS Treatment Modernization Act of 2006** ..... 2767

Page

**S**

**Safe and Timely Interstate Placement of Foster Children Act of 2006** ..... 508
**SAFE Port Act** ..... 1884
**Salt Cedar and Russian Olive Control Demonstration Act** ..... 1748
**San Francisco Old Mint Commemorative Coin Act** ..... 391
**Schools Safely Acquiring Faculty Excellence Act of 2006** ..... 610
**Second Higher Education Extension Act of 2006** ..... 507
**Secret Service Authorization and Technical Modification Act of 2005** ..... 251
**Secure Fence Act of 2006** ..... 2638
**Security and Accountability For Every Port Act of 2006** ..... 1884
**Sex Offender Registration and Notification Act** ..... 590
**Sierra National Forest Land Exchange Act of 2006** ..... 2656
**Sober Truth on Preventing Underage Drinking Act** ..... 2890
**Social Security Trust Funds Restoration Act of 2006** ..... 3482
**Soda Ash Royalty Reduction Act of 2006** ..... 1786
**Southern Campaign of the Revolution Heritage Area Study Act** ..... 1848
**St. Croix National Heritage Area Study Act** ..... 1847
**Ste. Genevieve County National Historic Site Study Act of 2005** ..... 1746
**State High Risk Pool Funding Extension Act** ..... 185
**Stolen Valor Act of 2005** ..... 3266
**STOP Act** ..... 2890
**Stop Counterfeiting in Manufactured Goods Act** ..... 285
**Supreme Court Grounds Transfer Act of 2005** ..... 326
**Surface Mining Control and Reclamation Act Amendments of 2006** ..... 3006

**T**

**Tax Increase Prevention and Reconciliation Act of 2005** ..... 345
**Tax Relief and Health Care Act of 2006** ..... 2922
**Telephone Records and Privacy Protection Act of 2006** ..... 3568
**Terrorist Death Penalty Enhancement Act of 2005** ..... 230
**Third Higher Education Extension Act of 2006** ..... 1340

Page

**Tom Osborne Federal Youth Coordination Act** ..... 2594
**Trademark Dilution Revision Act of 2006** ..... 1730
**Tsunami Warning and Education Act** ..... 2902, 3653
**21st Century Emergency Communications Act of 2006** ..... 1433
**Twenty-First Century Water Works Act** ..... 3356
**2005 District of Columbia Omnibus Authorization Act** ..... 2019
**Tylersville Fish Hatchery Conveyance Act** ..... 2074

**U**

**Undertaking Spam, Spyware, and Fraud With Enforcers beyond Borders Act of 2006** ..... 3372
**United States Additional Protocol Implementation Act** ..... 2741
**United States-Mexico Transboundary Aquifer Assessment Act** ..... 3328
**United States-Oman Free Trade Agreement Implementation Act** ..... 1191
**United States-Russia Polar Bear Conservation and Management Act of 2006** ..... 3660
**Unlawful Internet Gambling Enforcement Act of 2006** ..... 1952
**Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005** ..... 290
**Upper Housatonic Valley National Heritage Area Act** ..... 1813
**U.S. SAFE WEB Act of 2006** ..... 3372
**USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006** ..... 278
**USA PATRIOT Improvement and Reauthorization Act of 2005** ..... 192

Page

**V**

**Valle Vidal Protection Act of 2005** ..... 2681
**Veterans Benefits, Health Care, and Information Technology Act of 2006** ..... 3403
**Veterans' Compensation Cost-of-Living Adjustment Act of 2006** ..... 2062
**Veterans' Housing Opportunity and Benefits Improvement Act of 2006** ..... 397
**Veterans Programs Extension Act of 2006** ..... 3304
**Violence Against Women Reauthorization Act of 2005** ..... 750

**W**

**Warning, Alert, and Response Network Act** ..... 1936
**Water Resources Research Act Amendments of 2006** ..... 3552
**Western and Central Pacific Fisheries Convention Implementation Act** ..... 3635
**Western Reserve Heritage Areas Study Act** ..... 1845
**White Pine County Conservation, Recreation, and Development Act of 2006** ..... 3028
**Wichita Project Equus Beds Division Authorization Act of 2005** ..... 1473
**Wool Suit Fabric Labeling Fairness and International Standards Conforming Act** ..... 2913
**Wright Amendment Reform Act of 2006** ..... 2011

**Y**

**YouthBuild Transfer Act** ..... 1173

Page

A

**Afghanistan**
Department of Defense counter-drug activities, authorization ..... 2382
Drug trafficking of heroin, prevention measures ..... 3543
Global war on terror, emergency supplemental appropriations ..... 2371, 2374

**Africa**
African Investment Incentive Act of 2006 ..... 3190

**Aged**
Nutrition services State incentive program, clarification of provisions ..... 2641
Older Americans Act Amendments of 2006 ..... 2522

**Agriculture**
Deficit Reduction Act of 2005 ..... 4
Emergency Agricultural Disaster Assistance Act of 2006 ..... 474
Farm Security and Rural Investment Act of 2002; guaranteed assistance, limitations to borrowers ..... 3485
Livestock Mandatory Reporting Act of 1999, reauthorization ..... 1464
Milk Regulatory Equity Act of 2005 ..... 328
Salt Cedar and Russian Olive Control Demonstration Act ..... 1748

**Aircraft and Aviation**
*See* Transportation

**Alabama**
Cahaba River National Wildlife Refuge Expansion Act ..... 2078
Gulf of Mexico Energy Security Act of 2006 ..... 3000
Hurricane Katrina and Hurricane Rita Recovery Offices, establishment ..... 1422
Trail of Tears National Historic Trail, study for additional routes and land components ..... 2664

**Alaska**
Alice R. Brusich Post Office Building, designation ..... 1475
Coast Guard and Maritime Transportation Act of 2006 ..... 516
Dorothy and Connie Hibbs Post Office Building, designation ..... 1476
Hydroelectric project, construction deadline ..... 1471
Settlement Common Stock availability, Alaska Native Claims Settlement Act amendment ..... 283
Tsunami Warning and Education Act ..... 2902

**Alaska Natives**
*See* Native Americans

Page

**Alcohol and Alcohol Abuse**
*See* Drugs and Drug Abuse

**Aliens and Nationality**
Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006 ..... 3477
Department of State Authorities Act of 2006 ..... 3554
Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 ..... 2900
Physicians for Underserved Areas Act ..... 3572
Secure Fence Act of 2006 ..... 2638
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections ..... 750

**American Samoa**
Department of Defense Appropriations Act, 2007 ..... 1286
Tax Relief and Health Care Act of 2006 ..... 2922

**Animals**
Animal Enterprise Terrorism Act ..... 2652
Department of Defense horses, authorization to adopt ..... 2160
Livestock Mandatory Reporting Act of 1999, reauthorization ..... 1464
Pets Evacuation and Transportation Standards Act of 2006 ..... 1725
United States-Russia Polar Bear Conservation and Management Act of 2006 ..... 3660

**Apparel**
*See* Textiles and Apparel

**Appropriations**
Authorizations
2005 District of Columbia Omnibus Authorization Act ..... 2019
Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006 ..... 3394
Call Home Act of 2006 ..... 3399
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Coastal Barrier Resources Reauthorization Act of 2005 ..... 381
Coast Guard and Maritime Transportation Act of 2006 ..... 516
Combating Autism Act of 2006 ..... 2821
Dam Safety Act of 2006 ..... 3401
Gynecologic Cancer Education and Awareness Act of 2005 ..... 3565
John F. Kennedy Center for the Performing Arts, fiscal year 2007 ..... 1720
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2083

Page

**Appropriations**—Continued
Lifespan Respite Care Act of 2006 ..... 3291
Long Island Sound Stewardship Act of 2006 ..... 2049
Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 ..... 3575
Marine Debris Research, Prevention, and Reduction Act..... 3333
Michigan Lighthouse and Maritime Heritage Act ..... 3264
National Heritage Areas Act of 2006 ..... 1783
National Historic Preservation Act Amendments Act of 2006 ..... 3367
National Integrated Drought Information System Act of 2006 ..... 2918
National Transportation Safety Board Reauthorization Act of 2006 ..... 3297
North American Wetlands Conservation Reauthorization Act of 2006 ..... 1756
Office of National Drug Control Policy Reauthorization Act of 2006 ..... 3502
Older Americans Act Amendments of 2006 ..... 2522
Pandemic and All-Hazards Preparedness Act ..... 2831
Partners for Fish and Wildlife Act..... 1351
Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 ..... 3486
Postal Accountability and Enhancement Act..... 3198
Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act ..... 3341
Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006 ..... 2666
Rehnquist, Chief Justice William H.; memorializing and honoring ..... 374
Rio Grande Natural Area Act ..... 1777
Rural Water Supply Act of 2006 ..... 3345
Ryan White HIV/AIDS Treatment Modernization Act of 2006 ..... 2767
Sober Truth on Preventing Underage Drinking Act..... 2890
Tax Relief and Health Care Act of 2006 ..... 2922
Tsunami Warning and Education Act..... 2902
Tuskegee Airmen, Congressional Gold Medal ..... 322
United States Additional Protocol Implementation Act ..... 2741
USA Patriot Improvement and Reauthorization Act of 2005 ..... 192
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3403
Water Resources Research Act Amendments of 2006..... 3552
Wichita Project Equus Beds Division Authorization Act of 2005 ..... 1473
Wildlife and conservation areas..... 2074
Continuing, 2007 ..... 1311, 2642, 2678
Defense, 2007 ..... 1257
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 ..... 418
Homeland Security, 2007 ..... 1355
Low-Income Home Energy Assistance Program, fiscal year 2006 ..... 312
Medicare Improvements and Extension Act of 2006 ..... 2975
Small Business Administration's disaster loans program, supplemental ..... 189
Social Security Trust Funds Restoration Act of 2006..... 3482

**Arizona**
City of Yuma Improvement Act..... 3369
Morris K. 'Mo' Udall Post Office Building, designation ..... 2755
Secure Fence Act of 2006 ..... 2638
Yuma Crossing National Heritage Area, boundary adjustment..... 1745

**Arkansas**
Hattie W. Caraway Station, AK; designation..... 661
John Paul Hammerschmidt Post Office Building, designation..... 774
Ouachita National Forest Boundary Adjustment Act of 2006 ..... 2701
Pine Bluff Arsenal, easement ..... 2481
Trail of Tears National Historic Trail, study for additional routes and land components ..... 2664

**Armed Forces**
*See also* Veterans
Call Home Act of 2006..... 3399
Captain William Wylie Galt Great Falls Armed Forces Readiness Center, MT; designation..... 2764
Coast Guard and Maritime Transportation Act of 2006..... 516
Deceased member; fees waiver for relative traveling abroad to grave or funeral..... 319
Department of Defense Appropriations Act, 2007..... 1257
Funerals of members or former members, prohibition of disruptions ..... 3480

Page
Heroes Earned Retirement Opportunities Act ..... 385
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2083
Military Commissions Act of 2006 ..... 2600
Military Personnel Financial Services Protection Act ..... 1317
Stolen Valor Act of 2005 ..... 3266
Title 10, U.S. Code; technical corrections ..... 1211
Tuskegee Airmen, Congressional Gold Medal ..... 322
World War II Bataan Death March, payment to survivors ..... 2277
**Armenia**
Department of Defense counter-drug activities, authorization ..... 2382
**Arms and Munitions**
Department of State Authorities Act of 2006 ..... 3554
Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 ..... 2726
United States Additional Protocol Implementation Act ..... 2741
**Arts and Recordings**
Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006 ..... 3477
John F. Kennedy Center for the Performing Arts authorization, additional appropriations ..... 1720
**Athletics**
*See* Sports
**Auerbach, Arnold 'Red'** ..... 3747
**Awards, Decorations, Medals, Etc.**
Byron Nelson Congressional Gold Medal Act ..... 2044
Congressional Tribute to Dr. Norman E. Borlaug Act of 2006 ..... 2708
Fourteenth Dalai Lama Congressional Gold Medal Act ..... 1231
Leroy "Satchel" Paige, posthumous Presidential Medal of Freedom Award; congressional support ..... 3746
Stolen Valor Act of 2005 ..... 3266
Tuskegee Airmen, Congressional Gold Medal ..... 322
**Azerbaijan**
Department of Defense counter-drug activities, authorization ..... 2382

**B**

**Bankruptcy**
Filing fees, increases ..... 184
Financial Netting Improvements Act of 2006 ..... 2692
Religious Liberty and Charitable Donation Clarification Act of 2006 ..... 3285

Page
**Banks and Banking**
Credit Rating Agency Reform Act of 2006 ..... 1327
Export-Import Bank Reauthorization Act of 2006 ..... 3268
Federal Deposit Insurance Reform Act of 2005 ..... 9
Financial Netting Improvements Act of 2006 ..... 2692
Financial Services Regulatory Relief Act of 2006 ..... 1966
Insured depository institutions, maximum asset increase ..... 3561
Rural Health Care Capital Access Act of 2006 ..... 515
**Belarus**
Democracy and human rights efforts ..... 3666
**Belize**
Department of Defense counter-drug activities, authorization ..... 2382
**Birds**
*See* Wildlife and Wilderness Areas
**Bish, Molly** ..... 590
**Blind Persons**
*See* Individuals With Disabilities
**Borlaug, Norman E.** ..... 2708
**Braille, Louis** ..... 582
**Bridges**
*See also* Highways and Roads
Senator William V. Roth, Jr. Bridge, DE ..... 2672
**Brown, Amanda** ..... 590
**Brucia, Carlie** ..... 590
**Budget**
*See* Federal Budget
**Business and Industry**
*See* Commerce and Trade

**C**

**California**
Beverly J. Wilson Post Office Building, designation ..... 2724
C.W. 'Bill' Jones Pumping Plant, CA; redesignation ..... 2680
California Reclamation Groundwater Remediation Initiative ..... 1860
Coach John Wooden Post Office Building, designation ..... 773
Fallen Firefighters Assistance Tax Clarification Act of 2006 ..... 3317
Lillian Kinkella Keil Post Office, designation ..... 307
Mokelumne River, regional water storage feasibility study ..... 1854
Mt. Soledad Veterans Memorial, CA; U.S. acquisition ..... 770
Northern California Coastal Wild Heritage Wilderness Act ..... 2064
San Francisco Old Mint Commemorative Coin Act ..... 391

Page

**California**—Continued
Secure Fence Act of 2006 ..... 2638
Sierra National Forest Land Exchange Act of 2006..... 2656
Utu Utu Gwaitu Paiute Tribe, trust-held lands..... 2889
**Canals**
*See* Water and Waterways
**Cemeteries**
*See* National Parks, Memorials, Monuments, Etc.
**Charitable Organizations**
Fallen Firefighters Assistance Tax Clarification Act of 2006..... 3317
Pension Protection Act of 2006..... 780
Religious Liberty and Charitable Donation Clarification Act of 2006..... 3285
**Children, Youth, and Families**
Adam Walsh Child Protection and Safety Act of 2006 ..... 587
Child and Family Services Improvement Act of 2006 ..... 1233
Children's Hospital GME Support Reauthorization Act of 2006..... 1721
Dawson Family Community Protection Act ..... 3524
Disabled college students; section 8 rental assistance, prohibition exemption..... 651
District of Columbia School Choice Program, student eligibility ..... 3053
Family Opportunity Act of 2005 (Dylan Lee James Act)..... 96
Higher Education Reconciliation Act of 2005 ..... 155
Justice for Crime Victims Family Act ..... 646
Lifespan Respite Care Act of 2006..... 3291
Masha's Law, civil penalties for child pornography..... 650
Medicaid and SCHIP improvements ..... 54
Missing children, locating using penalty and franked mail ..... 2911
National Police Athletic League Youth Enrichment Reauthorization Act of 2006 ..... 632
Office of National Drug Control Policy Reauthorization Act of 2006..... 3502
Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act ..... 3341
Ryan White HIV/AIDS Treatment Modernization Act of 2006..... 2767
Safe and Timely Interstate Placement of Foster Children Act of 2006..... 508
Schools Safely Acquiring Faculty Excellence Act of 2006 ..... 610
Sober Truth on Preventing Underage Drinking Act ..... 2890

Page

Social Security Act amendments..... 135
Tom Osborne Federal Youth Coordination Act..... 2594
Veterans Programs Extension Act of 2006..... 3305
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections..... 750
YouthBuild Transfer Act ..... 1173
**China, People's Republic of**
Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006..... 2726
**Civil Rights**
*See* Equal Opportunity
**Coast Guard**
*See also* Maritime Affairs
Coast Guard and Maritime Transportation Act of 2006..... 516
Secure Fence Act of 2006 ..... 2638
**Coins**
Abraham Lincoln Commemorative Coin Act..... 1215
Lewis and Clark Commemorative Coin Correction Act ..... 395
San Francisco Old Mint Commemorative Coin Act..... 391
**Colombia**
Department of Defense counter-drug activities, authorization ..... 2382
**Colorado**
Jefferson County, clarification of land use ..... 3484
Northern Colorado Water Conservancy District, distribution facilities conveyances ..... 1753
Pitkin County Land Exchange Act of 2006..... 2660
Rio Grande Natural Area Act ..... 1777
William H. Emery Post Office, designation..... 506
**Commemorations and Observances**
*See* Patriotic Observances and Commemorations; Concurrent Resolutions; Proclamations
**Commerce and Trade**
Aerospace workforce development ..... 2886
Andean Trade Preferences Extension Act ..... 3194
Animal Enterprise Terrorism Act ..... 2652
Credit Rating Agency Reform Act of 2006..... 1327
Export-Import Bank Reauthorization Act of 2006..... 3270
National Integrated Drought Information System Act of 2006..... 2918
Postal Accountability and Enhancement Act ..... 3198
Shipping laws, reorganizing and restating title 46 of the U.S. Code..... 1485

Page

Small Business Administration authorities, temporary extension ..... 1742
Trade laws and certain rates of duty, modification ..... 3062
Trademark Dilution Revision Act of 2006 ..... 1730
Transatlantic slave trade; African descendants, achievements and contributions ..... 3741
Undertaking Spam, Spyware, and Fraud With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act of 2006) ..... 3372
United States-Oman Free Trade Agreement Implementation Act ..... 1191
Wool Suit Fabric Labeling Fairness and International Standards Conforming Act ..... 2913

**Communications and Telecommunications**
Broadcast Decency Enforcement Act of 2005 ..... 491
Call Home Act of 2006 ..... 3399
Colorado, Jefferson County; clarification of land use ..... 3484
Digital Television Transition and Public Safety Act of 2005 ..... 21
National Methamphetamine Information Clearinghouse Act of 2006 ..... 3538
Telephone Records and Privacy Protection Act of 2006 ..... 3568
Warning, Alert, and Response Network Act ..... 1936

**Computers**
*See* Information Technology

**Concurrent Resolutions**
Adjournment ..... 3709, 3713, 3719, 3726, 3731, 3735, 3740, 3744
America's National Negro Leagues Baseball Museum, designation ..... 3714
Arnold "Red" Auerbach, honoring ..... 3747
Capitol buildings and grounds
Days of remembrance of victims of the Holocaust commemoration ceremony, authorization ..... 3713
District of Columbia Special Olympics Law Enforcement Torch Run, authorization ..... 3723
National Peace Officers' Memorial Service, authorization ..... 3715
Soap box derby races, authorization ..... 3719
Commemorations
Alpha Phi Alpha Fraternity, 100th anniversary ..... 3742
American Jewish History Month, support ..... 3712
Caribbean-American Heritage, support ..... 3711
Food and Drug Administration, 100th anniversary ..... 3730
Hall of Famer Bob Feller, 1946 baseball season, 60th anniversary ..... 3735
Interstate Highway System, 50th anniversary ..... 3726
Minnesota National Guard, 150th anniversary ..... 3716
National Association for the Advancement of Colored People, 97th anniversary ..... 3724
National Cystic Fibrosis Awareness Month, support ..... 3725
National Purple Heart Hall of Honor, recognition and support ..... 3744
National Society of the Sons of the American Revolution, historic congressional charter, 100th anniversary ..... 3729
1976 Paris Wine Tasting, California victory, 30th anniversary ..... 3734
Space Shuttle Columbia, 25th anniversary ..... 3718
Thailand, King Bumibol Adulyadej ascension to the throne, 60th anniversary ..... 3728
Enrolled bills, corrections, etc.
Coast Guard and Maritime Transportation Act of 2006 (H.R. 889) ..... 3728
Darfur Peace and Accountability Act of 2006 (H.R. 3127) ..... 3739
Federal Funding Accountability and Transparency Act of 2006 (S. 2590) ..... 3737
Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (H.R. 5946) ..... 3748
National Heritage Areas Act of 2006 (S. 203) ..... 3739
To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India (H.R. 5682) ..... 3749
Joint session ..... 3709
Leroy "Satchel" Paige, posthumous Presidential Medal of Freedom Award; congressional support ..... 3746
Mexico, murders of young women; congressional condolences ..... 3720
National Aeronautics and Space Administration, space shuttle discovery mission, commendation ..... 3734
Palestinian Authority, restricting assistance ..... 3709
Publications, printing

Page

**Concurrent Resolutions**—Continued
House and Senate prints ..... 3732, 3743, 3749
State driver's license candidates, mandate regarding the visually impaired ..... 3738
Transatlantic slave trade; African descendants, achievements and contributions ..... 3741
West Virginia coal miners and volunteers, honoring sacrifice and courage ..... 3710

**Congo, Democratic Republic of the**
Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006 ..... 3384

**Congress**
*See also* Concurrent Resolutions
One Hundred Tenth Congress, convening of first session ..... 3327

**Connecticut**
Long Island Sound Stewardship Act of 2006 ..... 2049
Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005 ..... 2643
Upper Housatonic Valley National Heritage Area Act ..... 1813

**Conservation**
Alaska; hydroelectric project, construction deadline ..... 1471
Cahaba River National Wildlife Refuge Expansion Act ..... 2078
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Cherry Valley National Wildlife Refuge Study Act ..... 2079
Coastal Barrier Resources Reauthorization Act of 2005 ..... 381
Colonel James Barrett Farm, MA; designation as part of Minute Man National Historical Park ..... 2884
Electronic Duck Stamp Act of 2005 ..... 670
Elizabeth Hartwell Mason Neck National Wildlife Refuge, VA; designation ..... 682
Emergency Agricultural Disaster Assistance Act of 2006 ..... 474
Esther Martinez Native American Languages Preservation Act of 2006 ..... 2705
General Services Administration Modernization Act ..... 1734
Grayton Beach Unit, FL; Coastal Barrier Resources System map replacement ..... 2018
Great Lakes Fish and Wildlife Restoration Act of 2006 ..... 1761
Hydroelectric project, construction; project works extension period ..... 2704
Idaho Land Enhancement Act ..... 2645
James Campbell National Wildlife Refuge Expansion Act of 2005 ..... 378
Japanese American World War II confinement sites, preservation ..... 3288
John H. Chafee Coastal Barrier Resources System, Jekyll Island Unit, GA; revision of boundaries ..... 2017
Lake Mattamuskeet Lodge Preservation Act ..... 2047
Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005 ..... 2643
Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 ..... 3575
Michigan Lighthouse and Maritime Heritage Act ..... 3264
Musconetcong Wild and Scenic Rivers Act ..... 3363
National Fish and Wildlife Foundation Reauthorization Act of 2006 ..... 2075
National Fish Hatchery System Volunteer Act of 2006 ..... 2058
National Heritage Areas Act of 2006 ..... 1783
National Historic Preservation Act Amendments Act of 2006 ..... 3367
National Law Enforcement Officers Memorial Maintenance Fund Act of 2005 ..... 1739
Neotropical Migratory Bird Conservation Improvement Act of 2006 ..... 2075
New England Wilderness Act of 2006 ..... 2673
North American Wetlands Conservation Reauthorization Act of 2006 ..... 1756
Northern California Coastal Wild Heritage Wilderness Act ..... 2064
Ojito Wilderness Map, date correction ..... 1727
Ouachita National Forest Boundary Adjustment Act of 2006 ..... 2701
Pam White Wilderness Act of 2006 ..... 3030
Partners for Fish and Wildlife Act ..... 1351
Pitkin County Land Exchange Act of 2006 ..... 2660
Rio Grande Natural Area Act ..... 1777
River Raisin National Battlefield Study Act ..... 2916
Sierra National Forest Land Exchange Act of 2006 ..... 2656

Page

Ste. Genevieve County National Historic Site Study Act of 2005 ..... 1746
Tax Relief and Health Care Act of 2006 ..... 2922
Trail of Tears National Historic Trail, study for additional routes and land components ..... 2664
United States-Russia Polar Bear Conservation and Management Act of 2006 ..... 3660
White Pine County Conservation, Recreation, and Development Act of 2006 ..... 3028
Wyoming, hydroelectric project; construction deadline ..... 1472
Yuma Crossing National Heritage Area, AZ; boundary adjustment ..... 1745

**Consumer Protection**
Dietary Supplement and Nonprescription Drug Consumer Protection Act ..... 3469
Wool Suit Fabric Labeling Fairness and International Standards Conforming Act ..... 2913

**Contracts**
*See* Government Contracts

**Copyrights**
Copyright Royalty Judges Program Technical Corrections Act ..... 1478

**Corporations**
Tax Increase Prevention and Reconciliation Act of 2005 ..... 345

**Courts**
*See* Judiciary and Judicial Procedure

**Credit Rating Agencies**
Reforms ..... 1327

**Crime and Crime Prevention**
*See* Law Enforcement and Crime; Defense and National Security; Terrorism

**Customs Duties and Inspection**
Africa Investment Incentive Act of 2006 ..... 3190
Andean Trade Preferences Extension Act ..... 3194
Cotton shirting fabric, temporary duty reductions ..... 3054
Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 ..... 3181
Miscellaneous Trade and Technical Corrections Act of 2006 ..... 1110
Reliquidations, interest on duty entries ..... 3168
Shipping laws, reorganizing and restating title 46 of the U.S. Code ..... 1485
Trade laws and certain rates of duty, modification ..... 3062
Ukraine, extension of normal trade relations treatment ..... 313

Page

United States-Oman Free Trade Agreement Implementation Act ..... 1191
Vietnamese products, normal trade relations treatment ..... 3177

**D**

**Dairy Products**
Milk Regulatory Equity Act of 2005 ..... 328

**Dalai Lama** ..... 1231

**Dams**
*See* Water and Waterways

**Davis, Benjamin O., Jr.** ..... 322

**Dawson, Angela** ..... 3524

**Dawson, Carnell** ..... 3524

**Defense and National Security**
*See also* Terrorism
Burmese Freedom and Democracy Act of 2003; import restrictions, renewal ..... 654
Coast Guard and Maritime Transportation Act of 2006 ..... 516
Customs-Trade Partnership Against Terrorism, establishment of program ..... 1909
Department of Defense Appropriations Act, 2007 ..... 1257
Department of Homeland Security Appropriations Act, 2007 ..... 1355
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 ..... 418
Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 ..... 2726
Iran and Libya, sanctions against; extension ..... 680
Iran Freedom Support Act ..... 1344
Iraq Reconstruction Accountability Act of 2006 ..... 3286
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2083
Military Commissions Act of 2006 ..... 2600
North Korea Nonproliferation Act of 2006 ..... 2015
Post-Katrina Emergency Management Reform Act of 2006 ..... 1394
Reducing Crime and Terrorism at America's Seaports Act of 2005 ..... 233
Relocation expenses test programs for Federal employees, extension ..... 1760
Secure Fence Act of 2006 ..... 2638
Security and Accountability for Every Port Act of 2006 ..... 1884
United States Additional Protocol Implementation Act ..... 2741

Page

**Defense and National Security**—Continued
USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 ..... 278
USA PATRIOT ACT amendment ..... 3
USA PATRIOT Improvement and Reauthorization Act of 2005 .... 192, 194
**Delaware**
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Delaware National Coastal Special Resources Study Act ..... 1855
Senator William V. Roth, Jr. Bridge, designation ..... 2672
**Dick, Betty** ..... 3705
**Dick, Fred** ..... 3705
**Disabled Persons**
*See* Individuals With Disabilities
**Disadvantaged Areas**
Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 ..... 2900
**Disaster Assistance**
Coast Guard personnel, homeowners assistance for hurricane damage ..... 558
Elementary and secondary education hurricane relief waiver authority, extension ..... 1757
Emergency Agricultural Disaster Assistance Act of 2006 ..... 474
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 ..... 418
Hurricane Katrina relief, supplemental Federal payments ..... 132
Judicial branch Federal leave transfer program, disasters and emergencies; participation ..... 390
Katrina Emergency Assistance Act of 2006 ..... 191
Local Community Recovery Act of 2006 ..... 333
National Flood Insurance Program Enhanced Borrowing Authority Act of 2006 ..... 317
Pets Evacuation and Transportation Standards Act of 2006 ..... 1725
Small Business Administration's disaster loans program, supplemental appropriations ..... 189
Tsunami Warning and Education Act ..... 2902
**Diseases**
*See* Health and Health Care
**District of Columbia**
2005 District of Columbia Omnibus Authorization Act ..... 2019
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Federal and District of Columbia Government Real Property Act of 2006 ..... 2711
President Dwight D. Eisenhower; commemorative work honoring, location approval ..... 335
School Choice Program, student eligibility ..... 3053
Tax Relief and Health Care Act of 2006 ..... 2922
Ukrainian manmade famine in 1932–1933, memorial; establishment authorization ..... 1864
**Drugs and Drug Abuse**
Combat Methamphetamine Epidemic Act of 2005 ..... 256
Department of Defense counter-drug activities, authorization ..... 2382
Dietary Supplement and Nonprescription Drug Consumer Protection Act ..... 3469
Maritime drug law enforcement, codification ..... 1485
National Methamphetamine Information Clearinghouse Act of 2006 ..... 3537
Office of National Drug Control Policy Reauthorization Act of 2006 ..... 3502
Payment for prescription drugs ..... 54
Sober Truth on Preventing Underage Drinking Act ..... 2890
**Dylan Lee James Act (Family Opportunity Act of 2005)** ..... 96

**E**

**Economic Development**
African Investment Incentive Act of 2006 ..... 3190
Deficit Reduction Act of 2005 ..... 4
Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 ..... 3181
Pension Protection Act of 2006 ..... 780
Stop Counterfeiting in Manufactured Goods Act ..... 285
**Education**
Carl D. Perkins Career and Technical Education Improvement Act of 2006 ..... 683
District of Columbia School Choice Program, student eligibility ..... 3053
Education Flexibility Partnership Act of 1999; educational flexibility program, extension ..... 320
Elementary and secondary education hurricane relief waiver authority, extension ..... 1757
El Paso County, TX; U.S. reversionary interest lands ..... 2659

Page
Higher Education Extension Act of 2006 ..... 321
Higher Education Reconciliation Act of 2005 ..... 155
John F. Kennedy Center for the Performing Arts authorization, additional appropriations ..... 1720
Louis Braille Bicentennial--Braille Literacy Commemorative Coin Act ..... 582
Office of National Drug Control Policy Reauthorization Act of 2006 ..... 3536
Schools Safely Acquiring Faculty Excellence Act of 2006 ..... 610
Second Higher Education Extension Act of 2006 ..... 507
Third Higher Education Extension Act of 2006 ..... 1340
**Eisenhower, Dwight D.** ..... 335
**Emblems**
*See* Signs and Symbols
**Emergency Assistance**
*See* Disaster Assistance
**Emergency Preparedness**
Digital Television Transition and Public Safety Act of 2005 ..... 21
National Integrated Drought Information System Act of 2006 ..... 2918
Tsunami Warning and Education Act ..... 2902
**Employment and Labor**
Aerospace workforce development ..... 2886
Justice Department attorneys, compensatory time off for travel ..... 2911
Pension Protection Act of 2006 ..... 780
Self-employment retirement income, State taxation limitations ..... 667
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3403
Veterans' Housing Opportunity and Benefits Improvement Act of 2006 ..... 397
Whistleblower awards ..... 2958
YouthBuild Transfer Act ..... 1173
**Energy**
Alaska, hydroelectric project; construction deadline ..... 1471
Computer servers, energy efficient usage ..... 2920
Delaware River Protection Act of 2006 ..... 553
Gulf of Mexico Energy Security Act of 2006 ..... 3000
Hydroelectric project, construction; project works extension period ..... 2704
Low-income persons, financial assistance ..... 312
Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 ..... 3486
Tax Relief and Health Care Act of 2006 ..... 2922
Wyoming, hydroelectric project; construction deadline ..... 1472
**Entertainment**
*See* Arts and Recordings
**Environmental Protection**
Combat Methamphetamine Epidemic Act of 2005 ..... 256
Delaware River Protection Act of 2006 ..... 553
Marine Debris Research, Prevention, and Reduction Act ..... 3333
New Orleans, LA; Lake Pontchartrain Basin restoration reauthorization ..... 2703
Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 ..... 3486
**Equal Opportunity**
Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 ..... 577
Freedom to Display the American Flag Act of 2005 ..... 572
Sojourner Truth, women's suffrage efforts; bust placement in U.S. Capitol ..... 2912
**Exports and Imports**
Combat Methamphetamine Epidemic Act of 2005 ..... 256
Cotton shirting fabric, temporary duty reductions ..... 3054
Export-Import Bank Reauthorization Act of 2006 ..... 3268
Reliquidations, interest on duty entries ..... 3168
Title 46, U.S. Code (Shipping); codification ..... 1485
United States-Oman Free Trade Agreement Implementation Act ..... 1191

**F**

**Fabrics**
*See* Textiles and Apparel
**Families**
*See* Children, Youth, and Families
**Farming**
*See* Agriculture
**Federal Agencies and Entities**
*See* Government Organization; Federal Employees; Appropriations
**Federal Budget**
Tax Increase Prevention and Reconciliation Act of 2005 ..... 345
**Federal Buildings and Facilities**
*See also* Government Property; Government Organization; Concurrent Resolutions

Page

**Federal Buildings and Facilities**—Continued
Abraham Lincoln Birthplace Post Office Building, KY; designation ..... 297
Albert H. Quie Post Office, MN; designation ..... 306
Alice R. Brusich Post Office Building, AK; designation ..... 1475
Andres Toro Building, PR; designation ..... 1963
Ava Gardner Post Office, NC; designation ..... 300
Beverly J. Wilson Post Office Building, CA; designation ..... 2724
C.W. 'Bill' Jones Pumping Plant, CA; redesignation ..... 2680
Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building, VA; designation ..... 2760
Captain George A. Wood Post Office Building, NY; designation ..... 775
Captain William Wylie Galt Great Falls Armed Forces Readiness Center, MT; designation ..... 2764
Carroll A. Campbell, Jr. United States Courthouse, SC; designation ..... 1771
Chuck Fortenberry Post Office Building, TX; designation ..... 2759
Clayton J. Smith Memorial Post Office Building, PA; designation ..... 304
Coach John Wooden Post Office Building, CA; designation ..... 773
Congressman James Grove Fulton Memorial Post Office Building, PA; designation ..... 298
Corporal Jason L. Dunham Post Office, NY; designation ..... 284
Curt Gowdy Post Office Building, WY; designation ..... 1769
Dewey F. Bartlett Post Office, OK; designation ..... 2763
Dorothy and Connie Hibbs Post Office Building, AK; designation ..... 1476
Dr. Jose Celso Barbosa Post Office Building, PR; designation ..... 656
Dr. Leonard Price Stavisky Post Office, NY; designation ..... 2756
Dr. Robert E. Price Post Office Building, TX; designation ..... 2723
Earl D. Hutto Post Office Building, FL; designation ..... 777
Francisco 'Pancho' Medrano Post Office Building, TX; designation ..... 662
Gagetown Veterans Memorial Post Office, MI; designation ..... 299
General Services Administration Modernization Act ..... 1734
Gene Vance Post Office Building, IL; designation ..... 1883
Gerard A. Fiorenza Post Office Building, NY; designation ..... 658
Governor John Anderson, Jr. Post Office Building, KS; designation ..... 1768
Grant W. Green Post Office Building, IN; designation ..... 303
H. Gordon Payrow Post Office Building, PA; designation ..... 664
Hamilton H. Judson Post Office, MN; designation ..... 2761
Harry J. Parrish Post Office, VA; designation ..... 1477
Hattie W. Caraway Station, AK; designation ..... 661
Heinz Ahlmeyer, Jr. Post Office Building, NY; designation ..... 301
Hiram L. Fong Post Office Building, HI; designation ..... 311
Holly A. Charette Post Office, RI; designation ..... 190
J.M. Dietrich Northeast Annex, IL; designation ..... 296
Jack C. Montgomery Department of Veterans Affairs Medical Center, OK; designation ..... 394
Jacob Samuel Fletcher Post Office Building, NY; designation ..... 1741
John F. Seiberling Federal Building and United States Courthouse, OH; designation ..... 1775
John F. Whiteside Joliet Post Office Building, IL; designation ..... 293
John H. Bradley Department of Veterans Affairs Outpatient Clinic, WI; designation ..... 315
John J. Hainkel, Jr. Post Office Building, LA; designation ..... 294
John J. Sinde Post Office Building, IL; designation ..... 2757
John Milton Bryan Simpson United States Courthouse, FL; designation ..... 1863
John Paul Hammerschmidt Post Office Building, AR; designation ..... 774
Joshua A. Terando Morris Post Office Building, IL; designation ..... 1964
Katherine Dunham Post Office Building, IL; designation ..... 1773
Kika de la Garza Federal Building, TX; designation ..... 1868
Lance Corporal Robert A. Martinez Post Office Building, TX; designation ..... 2725
Larry Cox Post Office Building, OH; designation ..... 1965
Larry Winn, Jr. Post Office Building, KS; designation ..... 1770
Lieutenant Michael P. Murphy Post Office Building, NY; designation ..... 659

Page
Lillian Kinkella Keil Post Office, CA; designation ..... 307
Lillian McKay Post Office Building, TX; designation ..... 295
Major George Quamo Post Office Building, NY; designation ..... 1729
Malcolm Melville "Mac" Lawrence Post Office, IN; designation ..... 316
Maryland State Delegate Lena K. Lee Post Office Building, MD; designation ..... 308
Matthew Lyon Post Office Building, VT; designation ..... 666
Mayor John Thompson 'Tom' Garrison Memorial Post Office, NC; designation ..... 663
Mont and Mark Stephensen Veterans Memorial Post Office Building, UT; designation ..... 310
Morris K. 'Mo' Udall Post Office Building, AZ; designation ..... 2755
Morris W. Milton Post Office, FL; designation ..... 776
Paul Kasten Post Office Building, MT; designation ..... 655
Raymond J. Salmon Post Office, MA; designation ..... 309
Richard L. Cevoli Post Office, RI; designation ..... 1728
Robert J. Thompson Post Office Building, PA; designation ..... 1776
Robert Linn Memorial Post Office Building, PA; designation ..... 1882
Robert Silvey Department of Veterans Affairs Outpatient Clinic, MO; designation ..... 2766
Robert T. Ferguson Post Office Building, IL; designation ..... 292
Ronald Bucca Post Office, NY; designation ..... 665
Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building, GA; designation ..... 2765
Sergeant Jacob Dan Dones Post Office, TX; designation ..... 779
Staff Sergeant Michael Schafer Post Office Building, FL; designation ..... 302
State Senator Verda Welcome and Dr. Henry Welcome Post Office Building, MD; designation ..... 660
Thomas J. Manton Post Office Building, NY; designation ..... 1774
Title 40, U.S. Code; technical corrections ..... 1211
Tito Puente Post Office Building, NY; designation ..... 2722
U.S. Cleveland Post Office Building, FL; designation ..... 305
United States Representative Parren J. Mitchell Post Office, MD; designation ..... 1767
Vincent J. Whibbs, Sr. Post Office Building, FL; designation ..... 2754
Wallace W. Sykes Post Office Building, IL; designation ..... 2758
Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office, IN; designation ..... 778
William F. Clinger, Jr. Post Office Building, PA; designation ..... 657
William H. Emery Post Office, CO; designation ..... 506
William M. Steger Federal Building and United States Courthouse, TX; designation ..... 1772

**Financial Institutions**
*See* Banks and Banking

**Fish and Fishing**
Great Lakes Fish and Wildlife Restoration Act of 2006 ..... 1761
Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 ..... 3575
National Fish and Wildlife Foundation Reauthorization Act of 2006 ..... 2075
National Fish Hatchery System Volunteer Act of 2006 ..... 2058
North American Wetlands Conservation Reauthorization Act of 2006 ..... 1756
Pactola Reservoir Reallocation Authorization Act of 2005 ..... 2644
Paint Bank and Wytheville National Fish Hatcheries Conveyance Act ..... 2688
Partners for Fish and Wildlife Act ..... 1351
Tylersville Fish Hatchery Conveyance Act ..... 2074
Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005 ..... 290

**Flag, U.S.**
Freedom to Display the American Flag Act of 2005 ..... 572

**Florida**
Earl D. Hutto Post Office Building, designation ..... 777
Grayton Beach Unit, Coastal Barrier Resources System map replacement ..... 2018
Gullah/Geechee Cultural Heritage Act ..... 1832
John Milton Bryan Simpson United States Courthouse, designation ..... 1863
Morris W. Milton Post Office, designation ..... 776
Staff Sergeant Michael Schafer Post Office Building, designation ..... 302
U.S. Cleveland Post Office Building, designation ..... 305

Page

**Florida**—Continued
Vincent J. Whibbs, Sr. Post Office Building, designation ..... 2754
**Ford, Gerald R.**..... 2375
**Foreign Relations**
Belarus Democracy Reauthorization Act of 2006..... 3666
Darfur Peace and Accountability Act of 2006 ..... 1869
Deceased member of Armed Forces; passport fees waiver for relative traveling abroad to grave or funeral..... 319
Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006..... 3384
Department of State Authorities Act of 2006 ..... 3554
Drug trafficking of Afghan heroin, prevention measures ..... 3543
Emergency evacuation of U.S. citizens, funding authority to facilitate ..... 681
Geneva Distinctive Emblems Protection Act of 2006..... 3673
Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006..... 2726
Iran and Libya, sanctions against; extension ..... 680
Iran Freedom Support Act..... 1344
Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006..... 3575
Mexico, All American Canal Lining Project; implementation ..... 3046
Palestinian Anti-Terrorism Act of 2006..... 3318
Physicians for Underserved Areas Act ..... 3572
Postal Accountability and Enhancement Act ..... 3198
Title 46, U.S. Code (Shipping); codification..... 1485
Undertaking Spam, Spyware, and Fraud With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act of 2006)..... 3372
United States Additional Protocol Implementation Act..... 2741
United States-Mexico Transboundary Aquifer Assessment Act..... 3328
United States-Oman Free Trade Agreement Implementation Act ..... 1191
Unlawful Internet Gambling Enforcement Act of 2006..... 1952
Wright Amendment Reform Act of 2006..... 2011
**Foreign Service**
U.S. citizens, reentry from foreign countries; temporary funding increase ..... 652

Page

**Forests and Forest Products**
Idaho Land Enhancement Act..... 2645
Laona and Wabeno, WI; land conveyance ..... 2685
Ouachita National Forest Boundary Adjustment Act of 2006 ..... 2701
Pine Springs Land Exchange Act..... 3562
Pitkin County Land Exchange Act of 2006..... 2660
Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006..... 2666
Salt Cedar and Russian Olive Control Demonstration Act ..... 1748
Sierra National Forest Land Exchange Act of 2006..... 2656
Smyth County, VA; land conveyance of former Konnarock Lutheran Girls School ..... 2690
Valle Vidal Protection Act of 2005..... 2681
**Fornoff, Kristy Ann**..... 590
**Foster Children**
*See* Children, Youth, and Families
**Fraud**
Geneva Distinctive Emblems Protection Act of 2006..... 3673
Telephone Records and Privacy Protection Act of 2006..... 3568
Undertaking Spam, Spyware, and Fraud With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act of 2006)..... 3372
**Frost, Phillip**..... 331
**Frumin, Alan**..... 574

**G**

**Gage, Jetseta** ..... 590
**Galt, William Wylie**..... 2764
**Gambling**
Unlawful Internet Gambling Enforcement Act of 2006..... 1952
**Genocide**
*See* Human Rights
**Georgia**
Gullah/Geechee Cultural Heritage Act ..... 1832
John H. Chafee Coastal Barrier Resources System, Jekyll Island Unit; revision of boundaries ..... 2017
Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building, designation ..... 2765
Trail of Tears National Historic Trail, study for additional routes and land components ..... 2664
**Gonchar, Victor**..... 3669
**Government Contracts**
Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005..... 334

Page
Local Community Recovery Act of 2006 ..... 333
**Government Employees**
Department of State Authorities Act of 2006 ..... 3554
Judicial branch Federal leave transfer program for disasters and emergencies, participation ..... 390
Justice Department attorneys, compensatory time off for travel ..... 2910
Postal laws, reform ..... 3254
Relocation expenses test program, extension ..... 1760
U.S. citizens, reentry from foreign countries; temporary funding increase ..... 652
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3410
Whistleblower awards ..... 2958
**Government Organization**
2005 District of Columbia Omnibus Authorization Act ..... 2019
Acquisition Service, Federal (General Services Administration); establishment ..... 1734
Assistant Attorney General for National Security, designation ..... 247
Assistant Secretary for Preparedness and Response position (Health and Human Services Department), establishment ..... 2833
Biomedical Advanced Research and Development Authority (Health and Human Services Department), establishment ..... 2867
Boards, Commissions, Committees, etc.
Advisory Committee on Veterans Employment, Training, and Employer Outreach; name change ..... 403
Autism Coordinating Committee, Interagency; establishment ..... 2827
Blackstone River Valley National Heritage Corridor Commission, extension ..... 1858
Delaware River and Bay Oil Spill Advisory Committee, establishment ..... 556
Gullah/Geechee Cultural Heritage Corridor Commission, establishment ..... 1833
Historic Preservation, Advisory Council on; operations improvement ..... 3367
Homeland Security Science and Technology Advisory Committee, reauthorization ..... 1920
Long Island Sound Stewardship Advisory Committee, establishment ..... 2053
Marine Debris Coordinating Committee, Interagency; establishment ..... 3337
Mobile Service Alert Advisory Committee, Commercial; establishment ..... 1938
National Biodefense Science Board, establishment ..... 2872
Postal Rate Commission redesignated as Postal Regulatory Commission ..... 3241
Prematurity and Low Birthweight, Interagency Coordinating Council on; establishment ..... 3343
Rio Grande Natural Area Commission, establishment ..... 1777
Small Business Committee (Export-Import Bank), establishment ..... 3271
Sub-Saharan Africa Advisory Committee, extension of authority ..... 3268
Trade Data System, Interagency Steering Committee of the International; establishment ..... 1930
Tsunami Hazard Mitigation Program Coordinating Committee, National; establishment ..... 2906
Underage Drinking, Interagency Coordinating Committee on the Prevention of; formal establishment ..... 2891
Child Locator Center, National Emergency; establishment provisions ..... 1450
Coast Guard Boating Safety Office Director, appointment as Captain ..... 525
Coast Guard Judge Advocates, designation ..... 526
Communications Preparedness Center, Emergency; establishment ..... 1440
Deputy Director, Office of Thrift Supervision (Treasury Department); establishment ..... 1994
Director, Office of Thrift Supervision (Treasury Department); succession authority ..... 1994
Education Flexibility Partnership Act of 1999; educational flexibility program, extension ..... 320
Export-Import Bank, Small Business Division; establishment ..... 3270
Homeland Security Department
Cargo Security Policy, Office of; establishment ..... 1920

Page

**Government Organization**—
Continued
Communications, Office of
Emergency; establishment ..... 1433
Federal Emergency Management
Agency
Administrator, designation.....1396
Restructuring .....1395
Interoperability and Compatibility,
Office for; establishment..... 1441
Noble Training Center transferred
to Center for Domestic
Preparedness..... 1433
Nuclear Detection Office, Domestic;
establishment..... 1932
Regional Emergency
Communications Coordination
(RECC) Working Group, in each
regional office;
establishment..... 1439
Small State and Rural Advocate
(Federal Emergency
Management Agency),
designation of position ..... 1453
Hurricane Katrina and Hurricane
Rita Recovery Offices,
establishment ..... 1422
Interagency Aerospace Revitalization
Task Force, establishment ..... 2886
Internet Crimes Against Children
Task Forces, increase ..... 648
Iraq Reconstruction, Office of the
Special Inspector General for;
extension of termination date ..... 3286
John Warner National Defense
Authorization Act for Fiscal Year
2007..... 2126, 2172, 2222, 2234, 2320,
2338, 2350, 2507
Justice Department, miscellaneous
provisions..... 246
Magnuson-Stevens Fishery
Conservation and Management
Reauthorization Act of 2006..... 3575
Maritime Domain Awareness, Center
for Excellence for;
establishment ..... 1900
Military Commissions Act of
2006..... 2600
Multiple sclerosis centers of
excellence, designation ..... 3310, 3416
National Institutes of Health Reform
Act of 2006..... 3675
National Security Division (Justice
Department), establishment..... 249
National Transportation Safety Board
Reauthorization Act of 2006..... 3297
Office of National Drug Control Policy
Reauthorization Act of 2006..... 3502
Older Americans Act Amendments of
2006..... 2527
Parkinson's disease research,
education, and clinical centers;
designation..... 3308, 3414

Page

Pension Benefit Guaranty
Corporation, position of Director;
establishment ..... 935
Port security, interagency operational
centers for; establishment..... 1892
Postal Regulatory Commission,
Inspector General;
appointment..... 3242
Postal Regulatory Commission, Office
of the Inspector General of the;
establishment ..... 3242
Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and
Tracking, Office of (Justice
Department); establishment..... 607
Small State and Rural Advocate
(Federal Emergency Management
Agency), designation of
position..... 1453
Smithsonian Board of Regents,
appointment..... 331, 332
Socially and Economically
Disadvantaged Small Business
Concerns and Small Business
Concerns Owned By Women,
Office of Financing for;
establishment ..... 3280
State Department Liaison Office,
designation..... 1920
Thrift Supervision, Office of (Treasury
Department); representation on
Basel Committee on Banking
Supervision ..... 1995
Tom Osborne Federal Youth
Coordination Act..... 2594
Trade, Office of International (U.S.
Customs and Border Protection,
Homeland Security Department);
establishment ..... 1924
Trade Policy, Director of (Homeland
Security Department);
designation..... 1921
Transfer of functions from
Assistant Secretary for Public
Health Emergency
Preparedness (to Office of the
Assistant Secretary for
Preparedness and Response,
Health and Human Services
Department)..... 2834
Bureau of Land Management (to
Forest Service), administrative
jurisdiction over certain
lands)..... 3038
Bureau of Land Management (to
U.S. Fish and Wildlife Service),
administrative jurisdiction of
certain land in Nevada..... 3037
Federal Emergency Management
Agency (to Homeland Security
Department, Federal
Emergency Management
Agency)..... 1400

Page
Federal Supply Service (to Federal Acquisition Service, within the General Services Administration) ..... 1734
Federal Technology Service (to Federal Acquisition Service, within the General Services Administration) ..... 1734
Forest Service (to Bureau of Land Management), administrative jurisdiction over certain land parcels) ..... 3038
Housing and Urban Development Secretary (to Labor Department), certain functions under the Cranston-Gonzalez National Affordable Housing Act) ..... 1182
National Disaster Medical System, Homeland Security Department (to Secretary of Health and Human Services) ..... 2854
Noble Training Center (to Center for Domestic Preparedness, within the Homeland Security Department) ..... 1433
Strategic Trade Office (to International Trade Office, within the Homeland Security Department) ..... 1924
Tsunami warning centers, establishment ..... 2903
United States Secret Service
Maintenance as distinct entity ..... 256
Uniformed Division, provisions moved from 3 U.S.C. 202 to 18 U.S.C. 3056A ..... 253
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3403
Volunteer Medical Reserve Corps, establishment ..... 2856
**Government Property**
Supreme Court Grounds Transfer Act of 2005 ..... 326
**Granite Lady (Old Mint at San Francisco, CA)** ..... 391
**Guatemala**
Department of Defense counter-drug activities, authorization ..... 2382
**Gyatso, Tenzin** ..... 1231

**H**

**Haiti**
Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 ..... 3181
**Hawaii**
Hiram L. Fong Post Office Building, designation ..... 311
Japanese American World War II confinement sites, preservation ..... 3288
Tsunami Warning and Education Act ..... 2902
**Hazardous Substances**
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2143
Leaking Underground Storage Tank Trust Fund, permission of expenditures ..... 3196
Reducing Crime and Terrorism at America's Seaports Act of 2005 ..... 233
**Health and Health Care**
Children's Hospital GME Support Reauthorization Act of 2006 ..... 1721
Combating Autism Act of 2006 ..... 2821
Combat Methamphetamine Epidemic Act of 2005 ..... 256
Disease Control and Prevention, National Foundation for the Centers for; voluntary services funding ..... 575
Family Opportunity Act of 2005 (Dylan Lee James Act) ..... 96
Fetus Farming Prohibition Act of 2006 ..... 570
Gynecologic Cancer Education and Awareness Act of 2005 ..... 3565
Health Opportunity Patient Empowerment Act of 2006 ..... 2948
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2143
Lifespan Respite Care Act of 2006 ..... 3291
Medicaid and SCHIP improvements ..... 54
Medicare improvements ..... 28
Medicare Improvements and Extension Act of 2006 ..... 2975
National Institutes of Health Reform Act of 2006 ..... 3675
Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 ..... 2900
Nutrition services State incentive program, clarification of provisions ..... 2641
Older Americans Act Amendments of 2006 ..... 2522
Pandemic and All-Hazards Preparedness Act ..... 2831
Pension Protection Act of 2006 ..... 780
Physicians for Underserved Areas Act ..... 3572
Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act ..... 3341
Rural Health Care Capital Access Act of 2006 ..... 515

Page

**Health and Health Care**—Continued
Ryan White HIV/AIDS Treatment Modernization Act of 2006 ..... 2767
Tax Relief and Health Care Act of 2006 ..... 2922
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3403
Veterans Programs Extension Act of 2006 ..... 3308
**Hefley, Joel** ..... 2444
**Highways and Roads**
*See also* Bridges
Silver State Off-Highway Vehicle Trail, designation ..... 3040
Title 23, U.S. Code; technical corrections ..... 1211
**Historic Preservation**
*See* Conservation
**Homeland Security**
*See* Defense and National Security
**Homeless Persons**
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3403
**Hospitals**
*See* Health and Health Care
**Housing**
Betty Dick Residence Protection Act ..... 3705
Deficit Reduction Act of 2005 ..... 7
Disabled college students; section 8 rental assistance, prohibition exemption ..... 651
Veterans' Housing Opportunity and Benefits Improvement Act of 2006 ..... 397
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections ..... 750
**Humanities**
*See* Arts and Recordings
**Human Rights**
Darfur Peace and Accountability Act of 2006 ..... 1869
Fetus Farming Prohibition Act of 2006 ..... 570
Ukrainian manmade famine in 1932–1933, District of Columbia memorial; establishment ..... 1864
**Hurricanes**
*See* Disaster Assistance

**I**

**Ibanez, Manual L.** ..... 331
**Idaho**
Idaho Land Enhancement Act ..... 2645
**Illinois**
Gene Vance Post Office Building, designation ..... 1883
Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2006 ..... 1850
J.M. Dietrich Northeast Annex, Springfield; designation ..... 296
John F. Whiteside Joliet Post Office Building, designation ..... 293
John J. Sinde Post Office Building, designation ..... 2758
Joshua A. Terando Morris Post Office Building, designation ..... 1964
Katherine Dunham Post Office Building, designation ..... 1773
Robert T. Ferguson Post Office Building, designation ..... 292
Wallace W. Sykes Post Office Building, designation ..... 2758
**Immigration**
*See* Aliens and Nationality
**Imports**
*See* Exports and Imports
**India**
Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 ..... 2726
**Indiana**
Grant W. Green Post Office Building, designation ..... 303
Malcolm Melville "Mac" Lawrence Post Office, designation ..... 316
Wilfred Edward 'Cousin Willie' Sieg, Sr. Post Office, designation ..... 778
**Indians**
*See* Native Americans
**Individuals With Disabilities**
Carl D. Perkins Career and Technical Education Improvement Act of 2006 ..... 683
Combating Autism Act of 2006 ..... 2821
Disabled college students, section 8 rental assistance; prohibition exemption ..... 651
Family Opportunity Act of 2005 (Dylan Lee James Act) ..... 96
Louis Braille Bicentennial--Braille Literacy Commemorative Coin Act ..... 582
Railroad Retirement Disability Earnings Act ..... 3573
State driver's license candidates, mandate regarding the visually impaired ..... 3738
Veterans' Compensation Cost-of-Living Adjustment Act of 2006 ..... 2062
**Information Technology**
Adam Walsh Child Protection and Safety Act of 2006 ..... 587
Computer servers, energy efficient usage ..... 2920
Federal Funding Accountability and Transparency Act of 2006 ..... 1186

Page
Internet Crimes Against Children Task Forces, increase ..... 648
National Integrated Drought Information System Act of 2006 ..... 2918
National Methamphetamine Information Clearinghouse Act of 2006 ..... 3538
Undertaking Spam, Spyware, and Fraud With Enforcers beyond Borders Act of 2006 (U.S. SAFE WEB Act of 2006) ..... 3372
Unlawful Internet Gambling Enforcement Act of 2006 ..... 1952
Veterans Benefits, Health Care, and Information Technology Act of 2006 ..... 3403
**Insurance**
Military Personnel Financial Services Protection Act ..... 1317
National Flood Insurance Program Enhanced Borrowing Authority Act of 2006 ..... 317
Pension Protection Act of 2006 ..... 780
Rural Health Care Capital Access Act of 2006 ..... 515
State High Risk Pool Funding Extension Act of 2006 ..... 185
**Intergovernmental Relations**
Child and Family Services Improvement Act of 2006 ..... 1233
Pueblo de San Ildefonso Claims Settlement Act of 2005 ..... 1218
**Internet**
*See* Information Technology
**Investments**
Credit Rating Agency Reform Act of 2006 ..... 1327
Military Personnel Financial Services Protection Act ..... 1317
**Iran**
Iran Freedom Support Act ..... 1344
Sanctions authority, extension ..... 680
**Iraq**
Global war on terror, emergency supplemental appropriations ..... 2371, 2374
Special Inspector General for Iraq Reconstruction, Office of the; extension of termination date ..... 3286
**Israel**
Palestinian Anti-Terrorism Act of 2006 ..... 3318

**J**

**James, Daniel** ..... 323
**Johanna's Law (Gynecologic Cancer Education and Awareness Act of 2005)** ..... 3565
**Judiciary and Judicial Procedure**
Civil filing adjustments and bankruptcy fees ..... 183
Copyright Royalty Judges Program Technical Corrections Act ..... 1478
Military Commissions Act of 2006 ..... 2600
Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006 ..... 2666
Stop Counterfeiting in Manufactured Goods Act ..... 285
Title 28, U.S. Code; technical corrections ..... 1211
USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 ..... 278

**K**

**Kanka, Megan Nicole** ..... 590
**Kansas**
Freedom's Frontier National Heritage Area Act ..... 1807
Governor John Anderson, Jr. Post Office Building, designation ..... 1768
Larry Winn, Jr. Post Office Building, designation ..... 1770
Wichita Project Equus Beds Division Authorization Act of 2005 ..... 1473
**Kazakhstan**
Department of Defense counter-drug activities, authorization ..... 2382
**Kentucky**
Abraham Lincoln Birthplace Post Office Building, designation ..... 297
**Klaas, Polly** ..... 590
**Krasovsky, Anatoly** ..... 3669
**Kuwait**
Department of Defense Appropriations Act, 2007 ..... 1277
**Kyrgyzstan**
Department of Defense counter-drug activities, authorization ..... 2382

**L**

**Labeling**
*See* Consumer Protection
**Labor**
*See* Employment and Labor
**Land Conveyances**
*See also* Public Lands
Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006 ..... 3394
City of Yuma Improvement Act ..... 3369
El Paso County, TX; U.S. reversionary interest lands ..... 2659
Ely Shoshone Tribe, NV; transfer of trust-held land ..... 3042
Eugene Land Conveyance Act ..... 3392
Federal and District of Columbia Government Real Property Act of 2006 ..... 2711

Page

**Land Conveyances**—Continued
Frannie, WY; land withdrawn by Reclamation Commissioner ..... 2671
Holloman Air Force Base Land Exchange Act ..... 3550
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2481
Lake Mattamuskeet Lodge Preservation Act ..... 2047
Laona and Wabeno, WI; National Forest System land conveyance ..... 2685
Nevada, Newlands Project Headquarters and Maintenance Yard Facility ..... 668
Newlands Project Headquarters and Maintenance Yard Facility Transfer Act ..... 668
Paint Bank and Wytheville National Fish Hatcheries Conveyance Act ..... 2688
Pine Springs Land Exchange Act ..... 3562
Pitkin County Land Exchange Act of 2006 ..... 2645, 2660
Puyallup Indian tribe, Washington; land conveyance trust ..... 376
Rio Arriba County Land Conveyance Act ..... 1758
Sierra National Forest Land Exchange Act of 2006 ..... 2656
Smyth County, VA; former Konnarock Lutheran Girls School ..... 2690
Tylersville Fish Hatchery Conveyance Act ..... 2074
White Pine County Conservation, Recreation, and Development Act of 2006 ..... 3028

**Law Enforcement and Crime**
Adam Walsh Child Protection and Safety Act of 2006 ..... 587
Animal Enterprise Terrorism Act ..... 2652
Broadcast Decency Enforcement Act of 2005 ..... 491
Combat Methamphetamine Epidemic Act of 2005 ..... 270
Dawson Family Community Protection Act ..... 3524
Funerals of members or former members of Armed Forces, prohibition of disruptions ..... 3480
Geneva Distinctive Emblems Protection Act of 2006 ..... 3673
Justice for Crime Victims Family Act ..... 646
Maritime drug law enforcement, codification ..... 1485
Masha's Law; child pornography, civil penalties ..... 650
Military Commissions Act of 2006 ..... 2600
Missing children, locating using penalty and franked mail ..... 2911
National Law Enforcement Officers Memorial Maintenance Fund Act of 2005 ..... 1739
National Police Athletic League Youth Enrichment Reauthorization Act of 2006 ..... 632
Office of National Drug Control Policy Reauthorization Act of 2006 ..... 3502
Reducing Crime and Terrorism at America's Seaports Act of 2005 ..... 233
Sex Offender Registration and Notification Act ..... 590
Stolen Valor Act of 2005 ..... 3266
Stop Counterfeiting in Manufactured Goods Act ..... 285
Telephone Records and Privacy Protection Act of 2006 ..... 3568
Unlawful Internet Gambling Enforcement Act of 2006 ..... 1952
USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 ..... 278
USA PATRIOT ACT amendment ..... 3
USA PATRIOT Improvement and Reauthorization Act of 2005 ..... 192
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections ..... 750

**Lebanon**
Emergency evacuation of U.S. citizens, funding authority to facilitate ..... 681

**Libya**
Iran Freedom Support Act ..... 1344
Sanctions authority, extension ..... 680

**Licensing**
Electronic Duck Stamp Act of 2005 ..... 670

**Lighthouses**
Coast Guard and Maritime Transportation Act of 2006 ..... 548

**Lincoln, Abraham** ..... 1215

**Livestock**
*See* Animals

**Loan Programs**
Small Business Administration's disaster loans program, supplemental appropriations ..... 189

**Louisiana**
Gulf of Mexico Energy Security Act of 2006 ..... 3000
Hurricane Katrina and Hurricane Rita Recovery Offices, establishment ..... 1422
John J. Hainkel, Jr. Post Office Building, designation ..... 294
New Orleans, Lake Pontchartrain Basin restoration reauthorization ..... 2703

**Lunde, Sarah** ..... 590

Page
**Lunsford, Jessica** ..... 590
**Lychner, Pam** ..... 590

**M**

**Maine**
Coast Guard and Maritime Transportation Act of 2006 ..... 516
**Maps and Mapping**
Grayton Beach Unit, FL; Coastal Barrier Resources System map replacement ..... 2018
John H. Chafee Coastal Barrier Resources System, digital mapping ..... 382, 2017
**Maritime Affairs**
*See also* Vessels
Coast Guard and Maritime Transportation Act of 2006 ..... 516
Reducing Crime and Terrorism at America's Seaports Act of 2005 ..... 233
Secure Fence Act of 2006 ..... 2638
Security and Accountability for Every Port Act of 2006 ..... 1884
Shipping, title 46 of U.S. Code; codification as positive law ..... 1485
**Maryland**
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Dawson Family Community Protection Act ..... 3524
Maryland State Delegate Lena K. Lee Post Office Building, designation ..... 308
State Senator Verda Welcome and Dr. Henry Welcome Post Office Building, designation ..... 660
United States Representative Parren J. Mitchell Post Office, designation ..... 1767
**Massachusetts**
Colonel James Barrett Farm, designation as part of Minute Man National Historical Park ..... 2884
Colonel James Barrett Farm, Federal boundary study ..... 2884
John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006 ..... 1857
Raymond J. Salmon Post Office, designation ..... 309
Upper Housatonic Valley National Heritage Area Act ..... 1813
**Medals**
*See* Awards, Decorations, Medals, Etc.
**Medical Care**
*See* Health and Health Care
**Medicare**
*See* Health and Health Care

Page
**Memorials**
*See* National Parks, Memorials, Monuments, Etc.
**Mexico**
Canal Lining Project, All American; implementation ..... 3046
United States-Mexico Transboundary Aquifer Assessment Act ..... 3328
**Michigan**
Coast Guard Cutter Mackinaw, conveyance ..... 536
Gagetown Veterans Memorial Post Office, designation ..... 299
Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2006 ..... 1850
Michigan Lighthouse and Maritime Heritage Act ..... 3264
River Raisin National Battlefield Study Act ..... 2916
**Migratory Bird Hunting Stamp Act, renaming** ..... 679
**Minerals and Mining**
Mine Improvement and New Emergency Response Act of 2006 (MINER Act) ..... 493
National Coal Heritage Area, WV; amendments ..... 1862
Soda Ash Royalty Reduction Act of 2006 ..... 1786
Surface Mining Control and Reclamation Act Amendments of 2006 ..... 3006
Tax Relief and Health Care Act of 2006 ..... 2922
Valle Vidal Protection Act of 2005 ..... 2681
**Minnesota**
Albert H. Quie Post Office, designation ..... 306
Hamilton H. Judson Post Office, designation ..... 2761
Native American Technical Corrections Act of 2006 ..... 336
**Minorities**
*See also* Equal Opportunity; Native Americans; Women
America's National Negro Leagues Baseball Museum, designation ..... 3714
Transatlantic slave trade; African descendants, achievements and contributions ..... 3741
**Mississippi**
Gulf of Mexico Energy Security Act of 2006 ..... 3000
Hurricane Katrina and Hurricane Rita Recovery Offices, establishment ..... 1422
Native American Technical Corrections Act of 2006 ..... 336
**Missouri**
Freedom's Frontier National Heritage Area Act ..... 1807

Page

**Missouri**—Continued
Robert Silvey Department of Veterans Affairs Outpatient Clinic, designation ..... 2766
Ste. Genevieve County National Historic Site Study Act of 2005 ..... 1746
Surface Mining Control and Reclamation Act Amendments of 2006 ..... 3006
**Money and Finance**
Abraham Lincoln Commemorative Coin Act ..... 1215
Byron Nelson Congressional Gold Medal Act ..... 2044
Combating Terrorism Financing Act of 2005 ..... 243
Congressional Tribute to Dr. Norman E. Borlaug Act of 2006 ..... 2708
Credit Rating Agency Reform Act of 2006 ..... 1327
Federal Funding Accountability and Transparency Act of 2006 ..... 1186
Fourteenth Dalai Lama Congressional Gold Medal Act ..... 1231
Lewis and Clark Commemorative Coin Correction Act ..... 395
Louis Braille Bicentennial--Braille Literacy Commemorative Coin Act ..... 582
Military Personnel Financial Services Protection Act ..... 1317
Public debt, increasing statutory limit ..... 289
San Francisco Old Mint Commemorative Coin Act ..... 391
Unlawful Internet Gambling Enforcement Act of 2006 ..... 1952
**Montana**
Captain William Wylie Galt Great Falls Armed Forces Readiness Center, designation ..... 2764
Dry Prairie Rural Water Association, Inc.; conveyance of water rights to certain tribes ..... 2762
Paul Kasten Post Office Building, designation ..... 655
**Monuments**
*See* National Parks, Memorials, Monuments, Etc.
**Mullett, A.B.** ..... 391
**Museums**
Icebreaker Mackinaw Maritime Museum, Inc., MI; conveyance of Coast Guard Cutter Mackinaw ..... 536

**N**

**National Parks, Memorials, Monuments, Etc.**
Betty Dick Residence Protection Act ..... 3705
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Castle Nugent Farms, National Park System designation study ..... 1743
Colonel James Barrett Farm, MA; designation as part of Minute Man National Historical Park ..... 2884
Colonel James Barrett Farm, MA; inclusion in National Park System ..... 2884
District of Columbia; commemorative work honoring President Dwight D. Eisenhower, location approval ..... 335
Ed Fountain Park Expansion Act ..... 2077
Japanese American World War II confinement sites, preservation ..... 3288
Mt. Soledad Veterans Memorial, CA; U.S. acquisition ..... 770
National Heritage Areas Act of 2006 ..... 1783
National Law Enforcement Officers Memorial Maintenance Fund Act of 2005 ..... 1739
Rehnquist, Chief Justice William H.; marble bust honoring legacy ..... 374
Respect for America's Fallen Heroes Act ..... 387
Rio Grande Natural Area Act ..... 1777
River Raisin National Battlefield Study Act ..... 2916
Sojourner Truth bust, placement in U.S. Capitol ..... 2912
Ste. Genevieve County National Historic Site Study Act of 2005 ..... 1746
Trail of Tears National Historic Trail, study for additional routes and land components ..... 2664
Yuma Crossing National Heritage Area, AZ; boundary adjustment ..... 1745
**Native Americans**
Carl D. Perkins Career and Technical Education Improvement Act of 2006 ..... 683
Department of Defense Appropriations Act, 2007 ..... 1257
Dry Prairie Rural Water Association, Inc., MT; conveyance of water rights ..... 2762
Ely Shoshone Tribe, NV; transfer of trust-held land ..... 3042
Esther Martinez Native American Languages Preservation Act of 2006 ..... 2705
Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006 ..... 2650

Page
Great Basin National Heritage Route Act ..... 1824
Native American Technical Corrections Act of 2006..... 336
Older Americans Act Amendments of 2006..... 2522
Pueblo de San Ildefonso Claims Settlement Act of 2005..... 1218
Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006..... 2666
Puyallup Indian tribe, land conveyance trust..... 376
Rural Water Supply Act of 2006..... 3345
Surface Mining Control and Reclamation Act Amendments of 2006..... 3006
Trail of Tears National Historic Trail, study for additional routes and land components..... 2664
United States-Mexico Transboundary Aquifer Assessment Act..... 3328
Utu Utu Gwaitu Paiute Tribe, trust-held lands..... 2889
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections..... 750
**Native Hawaiians**
*See* Native Americans
**Navigation**
*See* Water and Waterways
**Nebraska**
Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005..... 334
Pick-Sloan Missouri Basin Program irrigation districts, revision of repayment contracts..... 2683
**Nelson, Byron** ..... 2044
**Nevada**
Ed Fountain Park Expansion Act..... 2077
Great Basin National Heritage Route Act ..... 1824
Newland Project Headquarters and Maintenance Yard Facility..... 668
Newlands Project Headquarters and Maintenance Yard Facility Transfer Act..... 668
Pam White Wilderness Act of 2006..... 3030
White Pine County Conservation, Recreation, and Development Act of 2006..... 3028
**New Hampshire**
New England Wilderness Act of 2006..... 2673
**New Jersey**
Crossroads of the American Revolution National Heritage Area Act of 2006..... 1837
Digital Television Transition and Public Safety Act of 2005..... 21
Page
Musconetcong Wild and Scenic Rivers Act ..... 3363
**New Mexico**
Holloman Air Force Base Land Exchange Act ..... 3550
Northern Rio Grande National Heritage Area Act..... 1787
Pine Springs Land Exchange Act..... 3562
Pueblo de San Ildefonso Claims Settlement Act of 2005..... 1218
Rio Arriba County Land Conveyance Act ..... 1758
Valle Vidal Protection Act of 2005..... 2681
**New York**
Captain George A. Wood Post Office Building, designation ..... 775
Champlain Valley National Heritage Partnership Act of 2006..... 1819
Corporal Jason L. Dunham Post Office, designation..... 284
Digital Television Transition and Public Safety Act of 2005..... 21
Dr. Leonard Price Stavisky Post Office, designation..... 2756
Gerard A. Fiorenza Post Office Building, designation ..... 658
Heinz Ahlmeyer, Jr. Post Office Building, designation ..... 301
Jacob Samuel Fletcher Post Office Building, designation ..... 1741
Lieutenant Michael P. Murphy Post Office Building, designation..... 659
Long Island Sound Stewardship Act of 2006..... 2049
Major George Quamo Post Office Building, designation ..... 1729
Ronald Bucca Post Office, designation..... 665
Thomas J. Manton Post Office Building, designation ..... 1774
Tito Puente Post Office Building, designation..... 2722
**North Carolina**
Ava Gardner Post Office, designation..... 300
Gullah/Geechee Cultural Heritage Act ..... 1832
John Warner National Defense Authorization Act for Fiscal Year 2007..... 2143
Lake Mattamuskeet Lodge Preservation Act ..... 2047
Mayor John Thompson 'Tom' Garrison Memorial Post Office, designation..... 663
Southern Campaign of the Revolution Heritage Area Study Act ..... 1848
Trail of Tears National Historic Trail, study for additional routes and land components..... 2664

Page

O

**Occupational Safety**
*See* Safety
**Ohio**
John F. Seiberling Federal Building and United States Courthouse, designation ... 1775
Larry Cox Post Office Building, designation ... 1965
Western Reserve Heritage Areas Study Act ... 1845
**Oil**
*See* Energy
**Oklahoma**
Dewey F. Bartlett Post Office, designation ... 2763
Jack C. Montgomery Department of Veterans Affairs Medical Center, designation ... 394
Ouachita National Forest Boundary Adjustment Act of 2006 ... 2701
Trail of Tears National Historic Trail, study for additional routes and land components ... 2664
**Older Americans**
*See* Aged
**Oman**
United States-Oman Free Trade Agreement Implementation Act ... 1191
**Oregon**
Eugene Land Conveyance Act ... 3392

P

**Pakistan**
Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 ... 2726
**Palestinian Authority**
Palestinian Anti-Terrorism Act of 2006 ... 3318
**Panama**
Department of Defense counter-drug activities, authorization ... 2382
**Parks**
*See* National Parks, Memorials, Monuments, Etc.
**Passports and Visas**
Department of State Authorities Act of 2006 ... 3554
Fees waiver; relative of deceased veteran traveling abroad to grave or funeral ... 319
**Patriotic Commemorations and Observances**
*See also* Concurrent Resolutions; Proclamations
Abraham Lincoln Commemorative Coin Act ... 1215
Lewis and Clark Commemorative Coin Correction Act ... 395
San Francisco Old Mint Commemorative Coin Act ... 391
Title 36, U.S. Code; technical corrections ... 1211
**Pennsylvania**
Cherry Valley National Wildlife Refuge Study Act ... 2079
Clayton J. Smith Memorial Post Office Building, designation ... 304
Congressman James Grove Fulton Memorial Post Office Building, designation ... 298
H. Gordon Payrow Post Office Building, designation ... 664
John F. Seiberling Federal Building and United States Courthouse, designation ... 1775
Robert J. Thompson Post Office Building, designation ... 1776
Robert Linn Memorial Post Office Building, designation ... 1882
Thomas J. Manton Post Office Building, designation ... 1774
Tylersville Fish Hatchery Conveyance Act ... 2074
William F. Clinger, Jr. Post Office Building, designation ... 657
**Pensions**
*See* Retirement and Pensions
**Pets**
*See* Animals
**Pipelines**
*See* Energy; Transportation
**Postal Service**
*See also* Federal Buildings and Facilities
Duck Stamp Act renamed Migratory Bird Hunting and Conservation Stamp Act ... 679
Electronic Duck Stamp Act of 2005 ... 670
Missing children, locating using penalty and franked mail ... 2911
Postal Accountability and Enhancement Act ... 3198
**Prescription Drugs**
*See* Drugs and Drug Abuse
**Prettyman, E. Barrett** ... 2083
**Printing**
House and Senate prints ... 3732, 3743, 3749
"Riddick's Senate Procedure," supplement; printing and binding authorization ... 574
**Privacy**
Telephone Records and Privacy Protection Act of 2006 ... 3568
USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 ... 278
**Proclamations**
Belarus, suspension of entry of persons threatening democracy ... 3803

Page
Deaths
King, Coretta Scott ..... 3760
Montgomery, G.V. Sonny ..... 3807
National Monuments
African American Burial Ground, establishment ..... 3763
Northwestern Hawaiian Islands Marine, establishment ..... 3819
Special Observances
Adoption Month ..... 3909
African American History Month ..... 3755
Alcohol and Drug Addiction Recovery Month ..... 3872
Alzheimer's Disease Awareness Month ..... 3910
American Heart Month ..... 3757
American Indian Heritage Month ..... 3910
American Red Cross Month ..... 3761
Americans with Disabilities Act, anniversary ..... 3862
America Recycles Day ..... 3917
Asian/Pacific American Heritage Month ..... 3797
Black Music Month ..... 3813
Breast Cancer Awareness Month ..... 3890
Cancer Control Month ..... 3781
Captive Nations Week ..... 3861
Caribbean-American Heritage Week ..... 3816
Character Counts Week ..... 3905
Child Abuse Prevention Month ..... 3782
Child Health Day ..... 3888
Child's Day ..... 3814
Columbus Day ..... 3895
Constitution Day and Citizenship Day, Constitution Week ..... 3881
Consumer Protection Week ..... 3759
Crime Victims' Rights Week ..... 3795
D.A.R.E. Day ..... 3789
Day of Prayer ..... 3801
Day of Remembrance of Hurricane Katrina ..... 3873
Days of Prayer and Remembrance ..... 3876
Defense Transportation Day and National Transportation Week ..... 3805
Diabetes Month ..... 3911
Disability Employment Awareness Month ..... 3891
Domestic Violence Awareness Month ..... 3889
Donate Life Month ..... 3783
Drunk and Drugged Driving Prevention Month ..... 3922
Education and Sharing Day, U.S.A. ..... 3787
Employer Support of the Guard and Reserve Week ..... 3886
Energy Awareness Month ..... 3904
Family Caregivers Month ..... 3912
Family Day ..... 3887
Family Week ..... 3918
Farm-City Week ..... 3916
Farm Safety and Health Week ..... 3883
Father's Day ..... 3818
Fire Prevention Week ..... 3893
Flag Day and National Flag Week ..... 3816
Forest Products Week ..... 3906
Former Prisoner of War Recognition Day ..... 3787
General Pulaski Memorial Day ..... 3896
German-American Day ..... 3892
Gold Star Mother's Day ..... 3885
Great Outdoors Month ..... 3811
Greek Independence Day: A National Day of Celebration of Greek and American Democracy ..... 3774
Hispanic Heritage Month ..... 3880
Historically Black Colleges and Universities Week ..... 3879
Homeownership Month ..... 3812
Hospice Month ..... 3913
Human Rights Day, Bill of Rights Day, and Human Rights Week ..... 3924
Hungarian Revolution, 50th anniversary ..... 3907
Hurricane Preparedness Week ..... 3809
Independence Day ..... 3854
Irish-American Heritage Month ..... 3762
Jewish American Heritage Month ..... 3794
Law Day, U.S.A. ..... 3799
Leif Erikson Day ..... 3894
Literacy Day ..... 3884
Loyalty Day ..... 3800
Maritime Day ..... 3809
Martin Luther King, Jr. Federal holiday ..... 3753
Methamphetamine Awareness Day ..... 3920
Minority Enterprise Development Week ..... 3871
Mother's Day ..... 3801
National Charter Schools Week ..... 3796
National Poison Prevention Week ..... 3773
Oceans Week ..... 3815
Older Americans Month ..... 3798
Our National Motto, In God We Trust; 50th anniversary ..... 3863
Ovarian Cancer Awareness Month ..... 3874
Pan American Day and Pan American Week ..... 3788
Parents' Day ..... 3860
Park Week ..... 3791
Patriot Day ..... 3877

Page

**Proclamations**—Continued
Peace Officers Memorial Day and Police Week ..... 3802
Pearl Harbor Remembrance Day..... 3923
Physical Fitness and Sports Month ..... 3792
POW/MIA Recognition Day ..... 3882
Prayer for Peace, Memorial Day..... 3807
Prostate Cancer Awareness Month ..... 3875
Religious Freedom Day ..... 3754
Safe Boating Week ..... 3806
Save Your Vision Week ..... 3769
School Lunch Week ..... 3894
Small Business Week ..... 3775
Thanksgiving Day ..... 3919
Thomas Jefferson Day..... 3790
United Nations Day ..... 3908
USA Freedom Corps, fourth anniversary ..... 3756
Veterans Day..... 3914
Volunteer Week..... 3793
White Cane Safety Day ..... 3905
Women's Equality Day..... 3870
Women's History Month ..... 3768
World AIDS Day..... 3921
World Freedom Day ..... 3915
World Trade Week..... 3810
Tariffs
Dominican Republic-Central American-United States Free Trade Agreement, implementation ..... 3770, 3776, 3785, 3859
Generalized System of Preferences, duty-free treatment; modifications ..... 3760, 3854
North American Free Trade Agreement, rules of origin; modification..... 3897
Ukraine, normal trade relations treatment; extension..... 3784
United States-Bahrain Free Trade Agreement, implementation..... 3864

**Public Lands**
*See also* Land Conveyances
Alaska Native Claims Settlement Act, Settlement Common Stock availability..... 283
Gulf of Mexico Energy Security Act of 2006..... 3000
Idaho Land Enhancement Act..... 2645
Reclamation Rural Water Supply Act of 2006 ..... 3346
Southern Nevada public lands management ..... 3045
White Pine County Conservation, Recreation, and Development Act of 2006 ..... 3028

**Public Welfare**
Child and Family Services Improvement Act of 2006 ..... 1233
Children's Hospital GME Support Reauthorization Act of 2006..... 1721
Combating Autism Act of 2006..... 2821
Combat Methamphetamine Epidemic Act of 2005..... 256
Deficit Reduction Act of 2005 ..... 4
Department of Homeland Security Appropriations Act, 2007..... 1355
Digital Television Transition and Public Safety Act of 2005 ..... 21
Disease Control and Prevention, National Foundation for the Centers for; voluntary services funding..... 575
Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006..... 577
Fetus Farming Prohibition Act of 2006..... 570
Gynecologic Cancer Education and Awareness Act of 2005..... 3565
Leaking Underground Storage Tank Trust Fund, permission of expenditures ..... 3196
Lifespan Respite Care Act of 2006..... 3291
Medicare Improvements and Extension Act of 2006 ..... 2975
National Institutes of Health Reform Act of 2006..... 3675
National Integrated Drought Information System Act of 2006..... 2918
National Police Athletic League Youth Enrichment Reauthorization Act of 2006 ..... 632
Older Americans Act Amendments of 2006..... 2522
Pandemic and All-Hazards Preparedness Act..... 2831
Pets Evacuation and Transportation Standards Act of 2006..... 1725
Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act ..... 3341
Ryan White HIV/AIDS Treatment Modernization Act of 2006..... 2767
Safe and Timely Interstate Placement of Foster Children Act of 2006..... 508
Schools Safely Acquiring Faculty Excellence Act of 2006 ..... 610
Sober Truth on Preventing Underage Drinking Act ..... 2890
Social Security Trust Funds Restoration Act of 2006..... 3482
State High Risk Pool Funding Extension Act of 2006 ..... 185
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections..... 750

Page
Warning, Alert, and Response Network Act ..... 1936
Water Resources Research Act Amendments of 2006 ..... 3552
**Puerto Rico**
Andres Toro Building, designation..... 1963
Dr. Jose Celso Barbosa Post Office Building, designation ..... 656
Tax Relief and Health Care Act of 2006..... 2922

**R**

**Radio**
*See* Communications and Telecommunications
**Railroads**
*See* Transportation
**Real Property**
*See also* Land Conveyances; Public Lands
Utu Utu Gwaitu Paiute Tribe, trust-held lands..... 2889
**Recreation and Recreational Areas**
*See* National Parks, Memorials, Monuments, Etc.
**Rehnquist, William H.** ..... 374
**Research and Development**
Fetus Farming Prohibition Act of 2006..... 570
Marine Debris Research, Prevention, and Reduction Act..... 3333
National Institutes of Health Reform Act of 2006..... 3675
Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act ..... 3341
Water Resources Research Act Amendments of 2006 ..... 3552
**Reservoirs**
*See* Water and Waterways
**Retirement and Pensions**
Heroes Earned Retirement Opportunities Act ..... 385
Pension Protection Act of 2006 ..... 780
Premium increases ..... 180
Railroad Retirement Disability Earnings Act ..... 3573
Railroad Retirement Technical Improvement Act of 2006 ..... 1719
Self-employment retirement income, State taxation limitations ..... 667
Social Security Trust Funds Restoration Act of 2006..... 3482
Veterans' Compensation Cost-of-Living Adjustment Act of 2006..... 2062
Veterans Programs Extension Act of 2006..... 3304
**Rhode Island**
Holly A. Charette Post Office, designation..... 190

Page
John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006..... 1857
Richard L. Cevoli Post Office, designation..... 1728
**Rivers**
*See* Water and Waterways
**Romania**
Reliquidations, interest on duty entries ..... 3168
**Royalties**
Copyright Royalty Judges Program Technical Corrections Act ..... 1478
**Runnion, Samantha** ..... 591
**Rural and Urban Areas**
Agricultural Reconciliation Act of 2005..... 6
Farm Security and Rural Investment Act of 2002; guaranteed assistance, limitations to borrowers ..... 3485
Rural Health Care Capital Access Act of 2006 ..... 515
Rural Water Supply Act of 2006 ..... 3345
**Russia**
United States-Russia Polar Bear Conservation and Management Act of 2006..... 3660
**Ryce, Jimmy** ..... 590

**S**

**Safety**
Adam Walsh Child Protection and Safety Act of 2006 ..... 587
Mine Improvement and New Emergency Response Act of 2006 (MINER Act) ..... 493
Safe and Timely Interstate Placement of Foster Children Act of 2006..... 508
Schools Safely Acquiring Faculty Excellence Act of 2006 ..... 610
**Schools**
*See* Education
**Science and Technology**
Aerospace workforce development ..... 2886
Carl D. Perkins Career and Technical Education Improvement Act of 2006..... 683
**Seaports**
*See* Maritime Affairs
Reducing Crime and Terrorism at America's Seaports Act of 2005..... 233
**Securities**
*See* Investments
**Senate, U.S.**
"Riddick's Senate Procedure," supplement; printing and binding authorization ..... 574

Page

**Sex Offenders**
*See* Law Enforcement and Crime
**Shipping**
*See* Maritime Affairs
**Signs and Symbols**
Geneva Distinctive Emblems Protection Act of 2006 ..... 3673
**Sjodin, Dru** ..... 590
**Small Business**
*See* Commerce and Trade
**Smart, Elizabeth** ..... 590
**Smith, John** ..... 2882
**Social Security**
*See* Retirement and Pensions
**South Carolina**
Carroll A. Campbell, Jr. United States Courthouse, designation ..... 1771
Gullah/Geechee Cultural Heritage Act ..... 1832
Southern Campaign of the Revolution Heritage Area Study Act ..... 1848
**South Dakota**
Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006 ..... 3394
Pactola Reservoir Reallocation Authorization Act of 2005 ..... 2644
**Space**
Aerospace workforce development ..... 2886
**Special Observances**
*See* Proclamations; Concurrent Resolutions; Patriotic Observances and Commemorations
**Spoon, Alan G.** ..... 332
**Sports**
America's National Negro Leagues Baseball Museum, designation ..... 3714
Byron Nelson Congressional Gold Medal Act ..... 2044
Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006 ..... 3477
National Police Athletic League Youth Enrichment Reauthorization Act of 2006 ..... 632
**Stamps**
*See* Postal Service
**Students**
*See* Education
**Sudan**
Darfur Peace and Accountability Act of 2006 ..... 1869
Department of Defense Appropriations Act, 2007 ..... 1309
**Supreme Court of the United States**
Rehnquist, Chief Justice William H.; marble bust honoring legacy ..... 376

Page

**T**

**Tariffs**
*See* Customs Duties and Inspection
**Taxes**
Fallen Firefighters Assistance Tax Clarification Act of 2006 ..... 3317
Health Opportunity Patient Empowerment Act of 2006 ..... 2948
Heroes Earned Retirement Opportunities Act ..... 385
Leaking Underground Storage Tank Trust Fund, permission of expenditures ..... 3196
Pension Protection Act of 2006 ..... 780
Self-employment retirement income, State taxation limitations ..... 667
Tax Increase Prevention and Reconciliation Act of 2005 ..... 345
Tax Relief and Health Care Act of 2006 ..... 2922
**Telecommunications**
*See* Communications and Telecommunications
**Television**
*See* Communications and Telecommunications
**Tennessee**
Surface Mining Control and Reclamation Act Amendments of 2006 ..... 3006
Trail of Tears National Historic Trail, study for additional routes and land components ..... 2664
**Terrorism**
*See also* Defense and National Security
Animal Enterprise Terrorism Act ..... 2652
Customs-Trade Partnership Against Terrorism, establishment of program ..... 1909
Global war on terror, emergency supplemental appropriations ..... 2371, 2374
Palestinian Anti-Terrorism Act of 2006 ..... 3318
Reducing Crime and Terrorism at America's Seaports Act of 2005 ..... 233
**Texas**
Chuck Fortenberry Post Office Building, designation ..... 2759
Dr. Robert E. Price Post Office Building, designation ..... 2723
El Paso County, U.S. reversionary interest lands ..... 2659
Francisco 'Pancho' Medrano Post Office Building, designation ..... 662
Gulf of Mexico Energy Security Act of 2006 ..... 3000
Hurricane Katrina and Hurricane Rita Recovery Offices, establishment ..... 1422

Page
Kika de la Garza Federal Building, designation ... 1868
Lance Corporal Robert A. Martinez Post Office Building, designation ... 2725
Lillian McKay Post Office Building, designation ... 295
Secure Fence Act of 2006 ... 2638
Sergeant Jacob Dan Dones Post Office, designation ... 779
William M. Steger Federal Building and United States Courthouse, designation ... 1772
Wright Amendment Reform Act of 2006 ... 2011
**Textiles and Apparel**
Africa Investment Incentive Act of 2006 ... 3190
Cotton shirting fabric, temporary duty reductions ... 3054
Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 ... 3181
United States-Oman Free Trade Agreement Implementation Act ... 1191
Wool Suit Fabric Labeling Fairness and International Standards Conforming Act ... 2913
**Theus, Lucius** ... 323
**Trade**
*See* Commerce and Trade
**Trademarks**
*See* Commerce and Trade
**Trails, National**
*See* National Parks, Memorials, Monuments, Etc.
**Transportation**
National Transportation Safety Board Reauthorization Act of 2006 ... 3297
Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 ... 3486
Railroad Retirement Technical Improvement Act of 2006 ... 1719
Wright Amendment Reform Act of 2006 ... 2011
**Treaties and Conventions**
*See* Foreign Relations
**Trees**
*See* Forests and Forest Products
**Truth, Sojourner** ... 2912

**U**

**Ukraine**
Manmade famine in 1932–33, District of Columbia memorial; establishment authorization ... 1864
Normal trade relations treatment, extension ... 313
**United States Code**
Technical corrections to certain titles ... 1211

Page
**USA PATRIOT ACT**
*See* Defense and National Security; Law Enforcement and Crime
**Utah**
Great Basin National Heritage Route Act ... 1824
Mont and Mark Stephensen Veterans Memorial Post Office Building, designation ... 310
Mormon Pioneer National Heritage Area Act ... 1800

**V**

**Vermont**
Champlain Valley National Heritage Partnership Act of 2006 ... 1819
Matthew Lyon Post Office Building, designation ... 666
**Vessels**
Coast Guard Cutter Mackinaw, conveyance ... 536
Virgin Islands; commercial vessels, departure and arrival reports ... 1900
**Veterans**
*See also* Armed Forces
Mt. Soledad Veterans Memorial, CA; U.S. acquisition ... 770
Respect for America's Fallen Heroes Act ... 387
Veterans Benefits, Health Care, and Information Technology Act of 2006 ... 3403
Veterans' Compensation Cost-of-Living Adjustment Act of 2006 ... 2062
Veterans' Housing Opportunity and Benefits Improvement Act of 2006 ... 397
Veterans Programs Extension Act of 2006 ... 3304
**Vietnam**
Normal trade relations treatment for products ... 3177
**Virginia**
Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building, designation ... 2760
Captain John Smith Chesapeake National Historic Trail Designation Act ... 2882
Elizabeth Hartwell Mason Neck National Wildlife Refuge, designation ... 682
Harry J. Parrish Post Office, designation ... 1477
Paint Bank and Wytheville National Fish Hatcheries Conveyance Act ... 2688
Smyth County, former Konnarock Lutheran Girls School ... 2690
**Virgin Islands**
Castle Nugent Farms, National Park System designation study ... 1743

Page

**Virgin Islands**—Continued
Commercial vessels, departure and arrival manifests; reports ..... 1900
St. Croix National Heritage Area Study Act ..... 1847
**Voluntarism**
National Fish Hatchery System Volunteer Act of 2006 ..... 2058
**Voting**
Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 ..... 577

**W**

**Walsh, Adam** ..... 587
**Warner, Sen. John** ..... 2083
**Washington**
Puyallup Indian tribe, land conveyance trust ..... 376
**Water and Waterways**
Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006 ..... 3394
Cahaba River National Wildlife Refuge Expansion Act ..... 2078
California Reclamation Groundwater Remediation Initiative ..... 1860
Canal Lining Project, All American; implementation ..... 3046
Captain John Smith Chesapeake National Historic Trail Designation Act ..... 2882
Dam Safety Act of 2006 ..... 3401
Delaware River Protection Act of 2006 ..... 553
Dry Prairie Rural Water Association, Inc., MT; conveyance of water rights to certain tribes ..... 2762
Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006 ..... 2650
Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005 ..... 334
Great Lakes Fish and Wildlife Restoration Act of 2006 ..... 1761
Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2006 ..... 1850
John H. Chafee Blackstone River Valley National Heritage Corridor Reauthorization Act of 2006 ..... 1857
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 2143
Long Island Sound Stewardship Act of 2006 ..... 2049
Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005 ..... 2643
Marine Debris Research, Prevention, and Reduction Act ..... 3333
Michigan Lighthouse and Maritime Heritage Act ..... 3264
Mokelumne River, CA; regional water storage feasibility study ..... 1854
Musconetcong Wild and Scenic Rivers Act ..... 3363
National Integrated Drought Information System Act of 2006 ..... 2918
New Orleans, LA; Lake Pontchartrain Basin restoration reauthorization ..... 2703
Northern Colorado Water Conservancy District, distribution facilities conveyances ..... 1753
Pactola Reservoir Reallocation Authorization Act of 2005 ..... 2644
Pick-Sloan Missouri Basin Program irrigation districts, revision of repayment contracts ..... 2683
Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006 ..... 2666
River Raisin National Battlefield Study Act ..... 2916
Rural Water Supply Act of 2006 ..... 3345
Tsunami Warning and Education Act ..... 2902
United States-Mexico Transboundary Aquifer Assessment Act ..... 3328
Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs Reauthorization Act of 2005 ..... 290
Water Resources Development Act of 2000; permit processing, extension ..... 318
Water resources projects, funds for expediting processing of permits ..... 3197
Water Resources Research Act Amendments of 2006 ..... 3552
Wichita Project Equus Beds Division Authorization Act of 2005 ..... 1473
**Weapons**
*See* Arms and Munitions
**Weather**
National Integrated Drought Information System Act of 2006 ..... 2918
Tsunami Warning and Education Act ..... 2902
**Websites**
*See* Information Technology
**West Virginia**
National Coal Heritage Area, amendments ..... 1862
**Wetterling, Jacob** ..... 590
**Whistleblowers**
Awards ..... 2958

Page

**Wildlife and Wilderness Areas**
Blunt Reservoir and Pierre Canal Land Conveyance Act of 2006 ..... 3394
Cahaba River National Wildlife Refuge Expansion Act ..... 2078
Cherry Valley National Wildlife Refuge Study Act ..... 2079
Electronic Duck Stamp Act of 2005 ..... 670
Elizabeth Hartwell Mason Neck National Wildlife Refuge, VA; designation ..... 682
Great Lakes Fish and Wildlife Restoration Act of 2006 ..... 1761
Idaho Land Enhancement Act ..... 2645
James Campbell National Wildlife Refuge Expansion Act of 2005 ..... 378
Lake Mattamuskeet Lodge Preservation Act ..... 2047
Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005 ..... 2643
Musconetcong Wild and Scenic Rivers Act ..... 3363
National Fish and Wildlife Foundation Reauthorization Act of 2006 ..... 2075
Neotropical Migratory Bird Conservation Improvement Act of 2006 ..... 2075
New England Wilderness Act of 2006 ..... 2673
North American Wetlands Conservation Reauthorization Act of 2006 ..... 1756
Northern California Coastal Wild Heritage Wilderness Act ..... 2064
Ojito Wilderness Map, date correction ..... 1727
Pactola Reservoir Reallocation Authorization Act of 2005 ..... 2644
Pam White Wilderness Act of 2006 ..... 3030
Partners for Fish and Wildlife Act ..... 1351
Silver-State Off-Highway Vehicle Trail, designation ..... 3040
**Williams, Yancy** ..... 322
**Wisconsin**
John H. Bradley Department of Veterans Affairs Outpatient Clinic, designation ..... 315
Laona and Wabeno, National Forest System land conveyance ..... 2685
**Women**
*See also* Equal Opportunity
Gynecologic Cancer Education and Awareness Act of 2005 ..... 3565
Mexico, murders of young women; congressional condolences ..... 3720
Ryan White HIV/AIDS Treatment Modernization Act of 2006 ..... 2767
Socially and Economically Disadvantaged Small Business Concerns and Small Business Concerns Owned By Women, Office of Financing for; establishment ..... 3280
Sojourner Truth, women's suffrage efforts; bust placement in U.S. Capitol ..... 2912
Violence Against Women and Department of Justice Reauthorization Act of 2005, technical corrections ..... 750
**Wyoming**
Curt Gowdy Post Office Building, designation ..... 1769
Frannie, land conveyance ..... 2671
Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005 ..... 334
Hydroelectric project, construction deadline ..... 1472

**Z**

**Zakharenka, Yuri** ..... 3669
**Zapp, Alexandra Nicole** ..... 590
**Zavadsky, Dmitry** ..... 3669
**Zyla, Amie** ..... 590